

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM428147

<b>SUBMISSION TYPE:</b>	RESUBMISSION		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>RESUBMIT DOCUMENT ID:</b>	900404692		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
DIADEXUS, INC.		07/21/2016	Corporation: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	GENERAL ATOMICS		
<b>Street Address:</b>	3550 GENERAL ATOMICS COURT		
<b>City:</b>	SAN DIEGO		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	92121		
<b>Entity Type:</b>	Corporation: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 4</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2259925	DIADEXUS	
<b>Registration Number:</b>	2878633	PLAC	
<b>Registration Number:</b>	3660379	PLAC	
<b>Registration Number:</b>	4100580	PLAC	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	6502127562		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	(650) 287-2162		
<b>Email:</b>	info@shayglenn.com		
<b>Correspondent Name:</b>	MARGARET M. POWERS, SHAY GLENN LLP		
<b>Address Line 1:</b>	2755 CAMPUS DRIVE, STE 210		
<b>Address Line 4:</b>	SAN MATEO, CALIFORNIA 94403		
<b>ATTORNEY DOCKET NUMBER:</b>	14381-600.TMG		
<b>NAME OF SUBMITTER:</b>	Margaret M. Powers		
<b>SIGNATURE:</b>	/margaret m. powers/		
<b>DATE SIGNED:</b>	05/18/2017		
<b>Total Attachments: 40</b>			



**BILL OF SALE AND ASSIGNMENT**

BILL OF SALE AND ASSIGNMENT, dated as of July 21, 2016, from Barry Milgrom, in his capacity as the Chapter 7 trustee for Diadexus, Inc., a Delaware corporation ("Seller"), to and in favor of General Atomics, a California corporation ("Buyer").

WHEREAS, Buyer and Seller have entered into an Asset Purchase Agreement dated as of the date hereof (the "Agreement"), providing for the sale by Seller to Buyer of the Purchased Assets (as defined in the Agreement); and

WHEREAS, the execution and delivery of this Bill of Sale and Assignment by Seller is a condition to Buyer's obligation to acquire the Purchased Assets from Seller pursuant to the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Any term used herein which is not defined herein, but is defined in the Agreement, shall have the meaning specified in the Agreement.

Subject to the terms and conditions of the Agreement, Seller does hereby sell, assign, transfer and convey unto Buyer, its successors and assigns, forever, its entire right, title and interest in, to and under the Purchased Assets, wherever located, to have and to hold forever.

This Bill of Sale and Assignment is intended to implement the provisions of the Agreement and shall not be construed to enhance, extend or limit the rights or obligations of Buyer or Seller thereunder. Nothing expressed or implied in this Bill of Sale and Assignment shall be deemed to be an assumption by Buyer of any liabilities of Seller.

Seller and Buyer each agree to take any and all actions, including without limitation the execution, acknowledgment and delivery of any and all documents, which Seller or Buyer, as the case may be, may reasonably request in order to effect the intent and purposes of this Bill of Sale and Assignment.

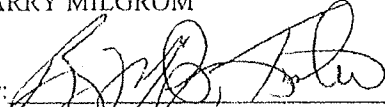
This Bill of Sale and Assignment shall be governed by and construed in accordance with the laws of the State of California (regardless of the Laws that might otherwise govern under applicable California principles of conflicts of Law).

This Bill of Sale and Assignment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Bill of Sale and Assignment to be duly executed as of the day and year first above written.

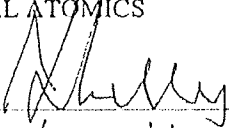
**SELLER:**

BARRY MILGROM

By:   
Solely in his capacity as Chapter 7 Trustee  
for the bankruptcy estate of Diadexus, Inc.,  
Case No. 16-30654-HLB

**BUYER:**

GENERAL ATOMICS

By:   
Name: LIAM J KELLY  
Title: SVP & CFO

Exh. 1

Execution Copy

**ASSET PURCHASE AGREEMENT**

**dated as of July 21, 2016**

**among**

**GENERAL ATOMICS,  
as Buyer,**

**and**

**BARRY MILGROM,  
TRUSTEE FOR THE BANKRUPTCY ESTATE OF DIADEXUS, INC.,**

**as Seller**

## **SUMMARY OF EXHIBITS AND SCHEDULES**

### **EXHIBITS**

- Exhibit A - Form of Sale Order
- Exhibit B - Form of Bill of Sale

### **SCHEDULES**

- Schedule 2.1(b) - Purchased Assets (Equipment Leases)
- Schedule 2.1(c) - Purchased Assets (Intellectual Property)
- Schedule 2.1(j) - Purchased Assets (Other)
- Schedule 2.2 - Excluded Assets

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT is made and entered into as of this 21st day of July, 2016, by and between General Atomics, a California corporation ("Buyer") and Barry Milgrom, in his capacity as the Chapter 7 trustee for Diadexus, Inc., a Delaware corporation ("Seller").

WHEREAS, on June 13, 2016 Diadexus, Inc., a Delaware corporation ("Debtor") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code"), administered as Case No. 16-30654, in the United States Bankruptcy Court for the Northern District of California (San Francisco Division) (the "Bankruptcy Court");

WHEREAS, Seller has been appointed as Chapter 7 trustee to administer the assets of the Estate;

WHEREAS, on the terms and subject to the conditions set forth herein, Seller desires to sell, transfer and assign to Buyer, and Buyer desires to purchase, acquire and assume from Seller, pursuant to Sections 363 and 365 of the Bankruptcy Code, all of the Purchased Assets and Assumed Liabilities.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

Unless otherwise defined herein, terms used herein shall have the meanings set forth below:

"Accounts Receivable" means all accounts receivable of the Estate outstanding as 12:01 a.m. on July 21, 2016.

"Affiliate" of any particular Person means any other Person controlling, controlled by or under common control with such particular Person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether by contract, through the ownership of voting securities or otherwise.

"Affiliated Group" means an "affiliated group" as defined in Section 1504 of the Code (or any analogous combined, consolidated or unitary group defined under state, local or foreign income Tax law) of which Debtor is or has been a member.

"Agreement" means this Asset Purchase Agreement, including all the Exhibits and the Schedules hereto, as the same may be amended from time to time in accordance with its terms.

"Allocation" has the meaning set forth in Section 9.3(a) hereof.

"Assumed Contracts" means the Assumed IP Contracts and Assumed Equipment Leases.

“Assumed Equipment Leases” has the meaning set forth in Section 2.1(b) hereof.

“Assumed IP Contracts” has the meaning set forth in Section 2.1(c) hereof.

“Assumed Liabilities” has the meaning set forth in Section 2.3 hereof.

“Bankruptcy Code” has the meaning set forth in the recitals hereto.

“Bankruptcy Court” has the meaning set forth in the recitals hereto.

“Books and Records” means the originals of all books, records and data of Debtor, including customer lists and records (except for personally identifiable information as defined in the Bankruptcy Code of a consumer, if any), referral sources, research and development reports and records, production reports and records, service and warranty records, equipment logs, operating guides and manuals, creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and records, in whatever form or medium, including electronic.

“Business” means the Debtor’s business of developing and commercializing products to deliver healthcare providers with important information to assist in the management of their patients throughout the course of cardiac disease.

“Buyer” has the meaning set forth in the preamble hereto.

“Claim” has the meaning set forth in section 101(5) of the Bankruptcy Code.

“Closing” has the meaning set forth in Section 3.1 hereof.

“Closing Date” has the meaning set forth in Section 3.1 hereof.

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

“Contract” means any agreement, license, contract, commitment or other binding arrangement or understanding, whether written or oral, to which any Debtor is a party and which Seller is permitted under the Bankruptcy Code to assume and assign other than an Employee Benefit Plan.

“Debtor” has the meaning set forth in the recitals hereto.

“Employee Benefit Plan” means any “employee benefit plan” (as defined in ERISA § 3(3)) and any other benefit or compensation plan, program, agreement or arrangement maintained, sponsored, or contributed or required to be contributed to by the Estate or any ERISA Affiliate or with respect to which the Estate or any ERISA Affiliate has any Liability.

“Encumbrance” means the UCC Financing Statement or any other lien, claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind held or asserted by, or in favor of, Oxford Finance LLC or Cleveland HeartLab, Inc.



“ERISA Affiliate” means any Person that, at any relevant time, is or was treated as a single employer with Debtor for purposes of Code § 414.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and all Laws issued thereunder.

“Estate” means the Chapter 7 estate of Debtor.

“Excluded Assets” has the meaning set forth in Section 2.2 hereof.

“Exhibits” means the exhibits hereto.

“Final Order” means an Order as to which the time to file an appeal, a motion for rehearing or reconsideration or a petition for writ of certiorari has expired and no such appeal, motion or petition is pending.

“Good Faith Deposit” has the meaning set forth in Section 2.5 hereof.

“Governmental Authority” means any federal, state, local, municipal, foreign, supranational or other governmental or quasi-governmental authority of any nature (including any governmental agency, branch, commission, department, official or entity and any court or other tribunal), or any administrative, executive, judicial, legislative, police, regulatory or taxing authority, or arbitral body.

“Intellectual Property” means all of the following owned, licensed or used by the Debtor or the Estate in any jurisdiction throughout the world: (i) patents, patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, divisionals, extensions and reexaminations thereof, that now exist or may be secured hereafter, (ii) trademarks, service marks, designs, trade dress, logos, slogans, trade names, telephone numbers, internet domain names, URLs, websites, email addresses and corporate names, and all applications, registrations and renewals in connection therewith, together with all goodwill associated with any of the foregoing, that now exist or may be secured hereafter, (iii) copyrights, mask works and copyrightable works, and all applications, registrations and renewals in connection therewith, that now exist or may be secured hereafter, (iv) trade secrets and confidential business information (including ideas, research and development, know-how, inventions, formulas, compositions, manufacturing and production processes and techniques, technical data, customer and supplier lists, designs, drawings, plans and specifications), that now exist or may be secured hereafter, (v) computer software (including source code, executable code, data, databases and related documentation), that now exist or may be secured hereafter, (vi) copies and tangible embodiments of any of the foregoing items (i) through (v) in whatever form or medium, (vii) all income, royalties and payments due or payable as of the Closing or thereafter with respect to the foregoing items (i) through (vi), and (viii) the right to sue and collect income, royalties, payments and damages for past present and future infringements, misappropriations or other violations of the foregoing items (i) through (vi).

“Inventory” means all inventory of any kind or nature, whether or not prepaid, and wherever located, held or owned, including all raw materials, work in process, semi-finished and

finished products, replacement and spare parts, packaging materials, operating supplies, and fuels and other and similar items;

“Law” means any law, statute, regulation, code, constitution, ordinance, treaty or Order of, administered or enforced by or on behalf of, any Governmental Authority.

“Liability” means any duty, obligation or liability of any nature whatsoever whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due and regardless of when asserted and whether involving the payment of money or otherwise.

“Order” means any award, decision, decree, order, injunction, ruling, judgment, or consent of or entered, issued, made or rendered by any Governmental Authority.

“Person” means any corporation, partnership (including any limited partnership and any limited liability partnership), joint venture, limited liability company, organization, trust, entity, authority or natural person.

“Proceeding” means any claim, charge, complaint, dispute, demand, grievance, action, litigation, audit, investigation, review, inquiry, arbitration, liability, damage, suit in equity or at law, administrative, regulatory or quasi-judicial proceeding, account, cost, expense, setoff, contribution, attorney’s fee or causes of action of whatever kind or character.

“Purchase Price” has the meaning set forth in Section 3.2 hereof.

“Purchased Assets” has the meaning set forth in Section 2.1 hereof.

“Rehired Employees” means each employee of Debtor who accepts an offer of employment by Buyer as described in Section 9.1 hereof.

“Sale Order” means an order of the Bankruptcy Court, in substantially a form to be agreed upon by the Seller and the Buyer, which will become Exhibit A attached hereto, to be entered by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code.

“Schedules” means the schedules attached hereto.

“Seller” has the meaning set forth in the preamble hereto.

“Subsidiary” means, with respect to any Person, any corporation, partnership, limited liability company or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled to vote in the election of directors thereof is at the time owned or controlled, directly or indirectly, by that Person or (ii) if a partnership, limited liability company or other business entity, a majority of the partnership, limited liability company or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by such Person.

“Tax” and, with correlative meaning, “Taxes” mean with respect to any Person (i) all federal, state, local, county, foreign and other taxes, assessments or other government charges,

including any income, alternative or add-on minimum tax, estimated gross income, gross receipts, sales, use, *ad valorem*, value added, transfer, capital stock franchise, profits, license, registration, recording, documentary, intangibles, conveyancing, gains, withholding, payroll, employment, social security (or similar), unemployment, disability, excise, severance, stamp, occupation, premium, property (real and personal), environmental or windfall profit tax, custom duty or other tax, governmental fee or other like assessment, charge, or tax of any kind whatsoever, together with any interest, penalty, addition to tax or additional amount imposed by any Governmental Authority responsible for the imposition of any such tax (domestic or foreign) whether such Tax is disputed or not, (ii) Liability for the payment of any amounts of the type described in clause (i) above relating to any other Person as a result of being party to any agreement to indemnify such other Person, being a successor or transferee of such other Person, or being a member of the same affiliated, consolidated, combined, unitary or other group with such other Person, or (iii) Liability for the payment of any amounts of the type described in clause (i) arising as a result of being (or ceasing to be) a member of any Affiliated Group (or being included (or required to be included) in any Tax Return relating thereto).

“Tax Return” means any report, return, declaration, claim for refund or other information or statement supplied or required to be supplied by any Person relating to Taxes, including any schedules or attachments thereto and any amendments thereof.

“Transaction Documents” means this Agreement, and all other agreements, instruments, certificates and other documents to be entered into or delivered by any party in connection with the transactions contemplated to be consummated pursuant to this Agreement.

“UCC Financing Statement” means the UCC financing statement filed with the Delaware Secretary of State on August 15, 2014 as 20143295664 naming Oxford Finance LLC as the secured party and Diadexus, Inc. as the debtor, as amended by Amendment No. 20164051411 naming Cleveland HeartLab, Inc. as secured party.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, and all other similar Laws of any state, locality or other Governmental Authority.

## ARTICLE II PURCHASE AND SALE; ASSUMPTION OF CERTAIN LIABILITIES

2.1 Purchase and Sale of Assets. Subject to the terms and conditions set forth in this Agreement, at the Closing, Seller shall sell, assign, transfer, convey and deliver to Buyer, free and clear of any Encumbrance, and Buyer shall purchase, acquire and take assignment and delivery of, for the consideration specified in Article III, all of Seller’s right, title and interest of every kind and nature of the Estate in and to all of the properties, assets and rights (contractual or otherwise) of the Estate, whether tangible or intangible, real or personal and wherever located and by whomever possessed, including all of the following properties, assets and rights, but excluding the Excluded Assets (all of the assets to be sold, assigned, transferred, conveyed and delivered pursuant to this Section 2.1 shall be referred to herein as the “Purchased Assets”):

(a) all assets identified in Exhibit A to the UCC Financing Statement, which is the collateral description attached to the UCC Financing Statement, and which is attached as an exhibit to Schedule 2.1(j);

(b) the equipment leases set forth on Schedule 2.1(b) (the "Assumed Equipment Leases");

(c) all Intellectual Property, including without limitation (i) all of the Contracts of the Estate that constitute Intellectual Property, if any, set forth on Schedule 2.1(c) (the "Assumed IP Contracts") and (ii) the following property:

- LP-PLA2 (PLAC) mass assay;
- PLAC Test for Lp-PLA2 Activity reagent kits (diaDexus item number 10-0144);
- Diadexus' Lp-PLA2 diagnostic assays;
- Diadexus PLAC/LpPLA2 ELISA test;
- two FDA 510k registrations;
- Design history files;
- Bills of material;
- Vendor and customer lists;
- Manufacturing and testing documents;
- Any viable cell lines, perishable genetic clone material, or perishable antigens and proteins related to manufacturing of the products covered by the two 510k registrations;
- Two FDA-approved tests, specifically the: (1) PLAC Test ELISA Kit; and (2) PLAC Activity Test; and
- Intellectual Property not otherwise described above.

(d) all Accounts Receivable, customer lists and customer data (except for personally identifiable information as defined in the Bankruptcy Code of a consumer, if any);

(e) all Books and Records; provided, however, that Seller may retain copies of Books and Records to the extent necessary to perform his duties under the Bankruptcy Code. For the avoidance of doubt, and as set forth in the definition of Books and Records, personally identifiable information as defined in the Bankruptcy Code of a consumer is not included in Books and Records;

(f) all transferable permits, licenses, certifications and approvals from all permitting, licensing, accrediting and certifying agencies, and the rights to all data and records held by such permitting, licensing and certifying agencies, in each case, of the Estate;

(g) all information management systems and software of the Estate, including all data used in the normal operations of the Business;

(h) all goodwill and all other intangible property of the Estate;

(i) insurance proceeds related to the Purchased Assets (but not professional liability insurance policy proceeds, such as director and officer insurance policy proceeds);

(j) all assets listed on Schedule 2.1(j); and

(k) all Inventory.

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the assets of the Estate set forth on Schedule 2.2 (referred to collectively as the "Excluded Assets") are not being sold, assigned, transferred, conveyed or delivered to Buyer hereunder. These include but are not limited to any: (i) any and all claims and/or causes of action, including, but not limited to, claims or causes of action arising under Bankruptcy Code sections 544-553, claims or causes of action against Oxford Finance LLC and commercial tort claims, other than claims and/or causes of action included with the Purchased Assets or relating to Buyer's use or ownership of the Purchased Assets after the Closing Date; (ii) claims or causes of action against officers, directors, or management; (iii) professional liability insurance policy proceeds, such as director and officer insurance policy proceeds; (iv) securities; and (vi) assets not identified in the Agreement as a Purchased Asset.

2.3 Assumed Liabilities. Subject to the terms and conditions set forth in this Agreement, including Section 2.4 hereto, Buyer shall only assume from Seller or the Estate and thereafter be responsible for the payment, performance or discharge of the following Liabilities of Debtor (all such liabilities and obligations assumed pursuant to this Section 2.3 shall be referred to herein as the "Assumed Liabilities"):

Seller's administrative expense obligations to the landlord, Oyster Point Tech Center LLC, from and after entry of the Sale Order, pursuant to a written agreement entered into between Buyer and Oyster Point Tech Center LLC, and payment of \$20,000 to Oyster Point Tech Center LLC in satisfaction of its administrative claim for rent of Debtor's premises from 12:00 a.m. on July 12, 2016 to 11:59 p.m. on July 25, 2016.

2.4 Excluded Liabilities. To the extent permitted by applicable Law, Buyer shall not assume, and shall be deemed not to have assumed, any Liabilities of Debtor or Seller other than the Assumed Liabilities. Without limitation, Buyer shall not assume any WARN Act Liabilities of Debtor or Liabilities arising from a Proceeding by an equityholder or former equityholder of Debtor or Liabilities related to the Excluded Assets.

2.5 Good Faith Deposit. Upon or prior to the execution and delivery of this Agreement by the parties hereto, Buyer shall deposit \$360,000 (the sums deposited into the escrow account, together with any investment earnings thereon after the date of deposit thereof, are collectively referred to as the "Good Faith Deposit") by wire transfer of immediately available funds to the escrow account established by Seller. (Seller acknowledges receipt of \$360,000 to date.) Seller will not use any portion of the Good Faith Deposit before consummation of the transaction contemplated by this Agreement (i) except as necessary to preserve Buyer's collateral and (ii) subject to (a) prior consultation with Buyer and (b) prior approval of the Bankruptcy Court. Upon termination of this Agreement by Buyer or Seller pursuant to Section 8.1, within three business days following such termination the Good Faith Deposit and any other portion of the Purchase Price paid as of that date shall be returned to Buyer.

### ARTICLE III CLOSING

3.1 Closing. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, the closing of the transaction contemplated by this Agreement (the "Closing") will take place at the offices of Dentons US LLP, One Market Plaza, Spear Tower, 24<sup>th</sup> Floor, San Francisco, California 94105, at 10:00 a.m. local time as soon as practicable after the date on which the conditions set forth in Article VII have been satisfied or waived (but no later than three business days thereafter) or on such other date or at such other place and time as Buyer and Seller may mutually determine (the "Closing Date").

3.2 Purchase Price. The purchase price for the Purchased Assets shall be an amount equal to \$4,750,000, comprised of \$4,390,000 in cash plus the amount of the Good Faith Deposit (the "Purchase Price").

3.3 Closing Payments. At the Closing the Estate becomes the legal owner of the entirety of the Good Faith Deposit, which constitutes a portion of the Purchase Price as set forth in Section 3.2.

3.4 Deliveries by Seller. At the Closing, Seller shall deliver or procure delivery to Buyer of:

(a) as required by Buyer, one or more bills of sale, in the mutually acceptable form attached hereto as Exhibit B conveying in the aggregate all of the owned personal property of Debtor included in the Purchased Assets, duly executed by Seller; and

(b) such other documents or instruments as are required to be delivered by Seller at the Closing pursuant to the terms hereof or that any Buyer reasonably requests prior to the Closing Date to effect the transactions contemplated hereby.

3.5 Form of Instruments. To the extent that a form of any document to be delivered hereunder is not attached as an Exhibit hereto, such documents shall be in form and substance, and shall be executed and delivered in a manner, reasonably satisfactory to Buyer and Seller.

**ARTICLE IV  
REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Buyer as follows.

4.1 Power and Authority; Enforceability. Pursuant to the Sale Order, Seller has full power and authority to execute and deliver the Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby.

4.2 "AS IS," "WHERE IS" Transaction. Buyer hereby acknowledges and agrees that, except as provided in Section 4.1, Seller makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the Business or the Purchased Assets, including, without limitation, income to be derived or expenses to be incurred in connection with the Purchased Assets, the physical condition of any personal property comprising a part of the Purchased Assets or which is the subject of any Assumed Contract, the environmental condition or other matter relating to the physical condition of any real property or improvements, the zoning of any such real property or improvements, the value or transferability of the Purchased Assets (or any portion thereof), the terms, amount, validity or enforceability of any Assumed Liabilities, the title of the Purchased Assets (or any portion thereof), the merchantability or fitness of the Purchased Assets (or any portion thereof for any particular purpose, or any other matter or thing relating to the Business or the Purchased Assets or any portion thereof). Without in any way limiting the foregoing, except as provided in Section 4.1, Seller hereby disclaims any warranty (express or implied) of merchantability or fitness for any particular purpose as to any portion of the Purchased Assets. Buyer further acknowledges that Buyer has conducted an independent inspection and investigation of the physical condition of the Purchased Assets and all such other matters relating to or affecting the Purchased Assets as Buyer deemed necessary or appropriate and that in proceeding with its acquisition of the Purchased Assets, Buyer is doing so based upon such independent inspection and investigation and the representations and warranties of Seller set forth herein. Accordingly, except as otherwise expressly provided in Section 4.1, Buyer will accept the Purchased Assets at the Closing "AS IS," "WHERE IS" and "WITH ALL FAULTS."

**ARTICLE V  
REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller as follows:

5.1 Organization; Standing. Buyer is a legal entity duly organized, validly existing and in good standing under the Laws of California.

5.2 Authority. Buyer has full power and authority to execute and deliver the Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. All Transaction Documents to which Buyer is a party have been duly executed and delivered by Buyer, except such Transaction Documents that are required by the terms hereof to be executed and delivered by Buyer after the date hereof, in which case such Transaction Documents will be duly executed and delivered by Buyer at or prior to the Closing, and all Transaction Documents constitute, or will constitute, as the case may be, the valid and

binding agreements of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other Laws affecting creditors' rights generally from time to time in effect, and to general equitable principles.

## ARTICLE VI PRE-CLOSING COVENANTS

6.1 Closing Efforts. Prior to Closing, Buyer and Seller shall use commercially reasonable efforts to (a) obtain all material consents and approvals of all Governmental Authorities and all other Persons required to be obtained by Buyer and Seller to effect the transactions contemplated by this Agreement and (b) take, or cause to be taken, all action, and to do, or cause to be done, all things necessary or proper, consistent with applicable Law, to consummate and make effective in an expeditious manner the transactions contemplated hereby. Seller shall not sell, license or transfer any of the Intellectual Property other than to Buyer.

6.2 Access to Information. Seller agrees that, prior to the Closing Date, Seller and its representatives shall, upon reasonable advance notice, cooperate with the Buyer in its efforts to obtain reasonable access during normal business hours to Debtor's premises, which are under the control of the landlord. Buyer shall be entitled to make such reasonable investigation of the properties, businesses and operations of Debtor and such examination of the Books and Records and financial condition of Debtor as it reasonably requests and to make extracts and copies to the extent necessary of the Books and Records; provided, that no investigation pursuant to this Section 6.2 shall affect representations or warranties, if any, made herein or the conditions to the obligations of the respective parties to consummate the transactions contemplated by this Agreement. Buyer agrees to repair at its sole cost any damage to Debtor's premises caused by Buyer's investigation and notwithstanding anything to the contrary in this Agreement, such obligations to repair shall survive the Closing or any termination of this Agreement.

6.3 Conduct of the Business Pending the Closing. Except (a) as required by Law, (b) as contemplated by this Agreement or (c) with the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), from the date hereof until the Closing Date, Seller:

(i) shall exercise commercially reasonable efforts in the manner presently in place to preserve the Purchased Assets under Seller's control; and

(ii) shall not intentionally take any action inconsistent with this Agreement.

6.4 Bankruptcy Actions.

(a) Seller shall use commercially reasonable efforts to: (i) obtain entry of the Sale Order by no later than July 29, 2016 and (ii) consummate the Closing as soon as practicable after the approval of the Sale Order.

(b) Buyer agrees to promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of



providing necessary assurances of performance by Buyer of its obligations under this Agreement and the Transaction Documents and demonstrating that Buyer is a good faith buyer under section 363(m) of the Bankruptcy Code.

(c) Buyer shall give reasonable notice to Seller sufficiently in advance of the deadline to assume or reject as to any executory contract or lease of the Estate the assumption and assignment of which Buyer seeks. Buyer shall be responsible for providing evidence and argument in order to establish its ability to provide "adequate assurance of future performance" (within the meaning of section 365(f)(2)(B) of the Bankruptcy Code) of any such executory contract or lease. Seller agrees to use commercially reasonable efforts to cooperate with Buyer in seeking the assumption and assignment of contracts and/or leases identified by the Buyer and in the presentation of evidence and argument related to same. The Bankruptcy Court's refusal to approve the assumption and assignment to Buyer of any Assumed Contract on the grounds that "adequate assurance of future performance" by Buyer of such Assumed Contract has not been provided shall not constitute grounds for termination pursuant to Section 8.1(c) hereof.

## ARTICLE VII CONDITIONS TO CLOSING

7.1 Conditions to Parties' Obligations. The obligations of Buyer and Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Buyer and Seller in whole or in part to the extent permitted by applicable Law):

(a) No Order or Proceeding. No Order shall be issued by any Governmental Authority enjoining, restraining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(b) Bankruptcy Condition. The Sale Order shall have been entered by the Bankruptcy Court.

7.2 Conditions to Buyer's Obligations. The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Buyer in whole or in part to the extent permitted by applicable Law):

(a) Performance of Covenants. Seller shall have performed and complied in all material respects with the obligations and covenants required by this Agreement to be performed or complied with by Seller on or prior to the Closing Date.

(b) Closing Deliveries. Seller shall have delivered, or caused to be delivered, to Buyer all of the items set forth in Section 3.4.

7.3 Conditions to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Seller in whole or in part to the extent permitted by applicable Law):

(a) Accuracy of Representations and Warranties. The representations and warranties of Buyer contained herein shall be true and correct in all material respects on and as of the Closing Date.

(b) Performance of Covenants. Buyer shall have performed and complied in all material respects with the obligations and covenants required by this Agreement to be performed or complied with by Buyer on or prior to the Closing Date.

(c) Consideration. Buyer shall have made the payments specified in Section 3.2.

#### ARTICLE VIII TERMINATION

8.1 Termination. This Agreement may be terminated prior to the Closing as follows:

(a) by mutual written agreement of Buyer and Seller;

(b) by either Buyer or Seller, if there shall be in effect a Final Order enjoining, restraining or otherwise prohibiting the consummation of the transactions contemplated hereby; and

(c) by either Buyer or Seller, if there shall have been a material breach of any of the representations, warranties, covenants or agreements set forth in this Agreement on the part of the other party, which breach is not cured within 10 days following written notice to the party committing such breach; provided that neither Buyer nor Seller may terminate this Agreement pursuant to this Section 8.1(c) if such party is then in material breach of any representation, warranty, covenant or agreement contained herein.

#### ARTICLE IX POST-CLOSING COVENANTS

9.1 Employees. Buyer may offer employment to certain former employees of Debtor as determined by Buyer in its sole and exclusive discretion (such employees who accept such offer of employment, the "Rehired Employees") on terms and conditions as determined by Buyer in its sole discretion. Nothing contained in this Agreement shall confer upon any Rehired Employee any right to any term or condition of employment or to continuance of employment by Buyer or any of its Affiliates, nor shall anything herein interfere with the right of Buyer or any of its Affiliates to terminate the employment of any employee, including any Rehired Employee, at any time, with or without notice and for any or no reason, or restrict Buyer or any of its Affiliates in modifying any of the terms or conditions of employment of any employee, including any Rehired Employee, after the Closing.

9.2 Employee Benefit Plans. Buyer shall not assume any Employee Benefit Plan or any Liability thereunder or related thereto and Buyer shall provide only those benefits to Rehired Employees as of or after the Closing as Buyer, in its sole discretion, shall determine. Nothing contained in this Agreement, express or implied: (a) shall be construed to establish, amend, or modify any benefit or compensation plan, program, agreement or arrangement; (b) shall alter or

limit the ability of any Buyer or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them; or (c) is intended to confer upon any Person (including employees, retirees, or dependents or beneficiaries of employees or retirees) any rights as a third-party beneficiary of this Agreement.

9.3 Tax Matters.

(a) Allocation of Purchase Price. Buyer and Seller shall cooperate as provided herein in determining (in accordance with all applicable Treasury Regulations promulgated under Section 1060 of the Code) the allocation of the final Purchase Price among the Purchased Assets (the "Allocation"). Within 120 days after the Closing, Buyer shall notify Seller in writing of Buyer's proposed Allocation of the Purchase Price among the Purchased Assets. Seller shall be deemed to have accepted such Allocation unless, within 30 days after the date Buyer provided the proposed Allocation to Seller, Seller notifies Buyer in writing of (a) each amount of the proposed Allocation with which Seller disagrees and (b) for each such amount, the amount that Seller proposes as the appropriate amount. If Seller provides such notice to Buyer, the parties shall proceed in good faith to resolve the amounts in dispute. Neither Buyer nor Seller shall take, nor shall they permit any Affiliate to take, any position inconsistent with the Allocation as finally determined hereunder (including in connection with the preparation and filing of any Tax Returns); provided, however, that (i) Buyer's cost for the Purchased Assets may differ from the Purchase Price to the extent necessary to reflect Buyer's capitalized acquisition costs other than the Purchase Price and (ii) the amount realized by Seller may differ from the Purchase Price to the extent necessary to reflect transaction costs that reduce the amount realized by Seller. Buyer and Seller agree to notify each other with respect to the initiation of any action by any Governmental Authority relating to such allocation and agree to consult with each other with respect to any such action by any Governmental Authority.

(b) Proration of Taxes. Seller shall bear all property and ad valorem Tax liability with respect to the Purchased Assets for taxable periods ending on or prior to the Closing Date. All real property taxes, personal property taxes, or ad valorem obligations and similar recurring Taxes and fees with respect to the Purchased Assets for taxable periods beginning before, and ending after, the Closing Date, will be prorated between Buyer and Seller as of the Closing Date. Seller shall be responsible for all such Taxes and fees on the Purchased Assets accruing during any period or portion thereof up to and including the Closing Date. Buyer shall be responsible for all such Taxes and fees on the Purchased Assets accruing during any period or portion thereof beginning after the Closing Date. With respect to the Taxes described in this Section 9.3(b), Seller shall timely file all Tax Returns due before the Closing Date with respect to such Taxes, and Buyer shall prepare and timely file all Tax Returns due after the Closing Date with respect to such Taxes. If one party remits to the appropriate Governmental Authority payment for Taxes, which are subject to proration under this Section 9.3(b) and such payment includes the other party's share of such Taxes, such other party will promptly reimburse the remitting party for its share of such Taxes.

9.4 Further Assurances. From time to time after the Closing and without further consideration, (i) Seller, upon the request of Buyer, shall take such actions and execute and deliver such documents and instruments of conveyance and transfer as Buyer may reasonably

request in order to consummate more effectively the purchase and sale of the Purchased Assets as contemplated hereby and to vest in the applicable Buyer title to the Purchased Assets transferred hereunder, or to otherwise more fully consummate the transactions contemplated by this Agreement and (ii) Buyer, upon the request of Seller, shall take such actions and execute and deliver such documents and instruments of contract or lease assumption as Seller may reasonably request in order to confirm Buyer's Liability for the Assumed Liabilities or otherwise to more fully consummate the transactions contemplated by this Agreement.

## ARTICLE X MISCELLANEOUS

10.1 Expenses. Each party hereto shall bear its own costs and expenses, including attorneys' fees, with respect to the transactions contemplated hereby. Notwithstanding the foregoing, in the event of any action or Proceeding to interpret or enforce this Agreement, the prevailing party in such action or Proceeding (i.e., the party who, in light of the issues contested or determined in the action or Proceeding, was more successful) shall be entitled to have and recover from the non-prevailing party such costs and expenses (including all court costs and reasonable attorneys' fees) as the prevailing party may incur in the pursuit or defense thereof, in an amount determined by the Bankruptcy Court upon properly noticed motion and hearing.

10.2 Amendments and Supplements. This Agreement may not be amended, modified or supplemented except by a written instrument signed by Seller and Buyer, which makes specific reference to this Agreement; provided, however that at any time prior to August 12, 2016, Buyer may in its sole and exclusive discretion amend and/or supplement any of the schedules referenced in Sections 2.1 and 2.2 to add items to or remove items from such schedules.

10.3 Notices. Any notice, request, instruction or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been given, (a) when received if delivered by hand (including by reputable overnight courier), (b) on the date of transmission if sent by facsimile (if the sender on the same day sends a confirming copy of such notice by reputable overnight courier) or (c) upon delivery, or refusal of delivery, if deposited in the U.S. mail, certified or registered mail, return receipt requested, postage prepaid:

To Seller:                    Barry Milgrom  
                                     Chapter 7 Trustee  
                                     60 29<sup>th</sup> Street PMB #661  
                                     San Francisco, California 94110  
                                     Fax: none

with copy to:                Dentons US LLP  
                                     One Market Plaza, Spear Tower, 24<sup>th</sup> Floor  
                                     San Francisco, California 94612-4709  
                                     Attn: Michael A. Isaacs  
                                     Fax: (415) 267-4000

To Buyer: General Atomics  
3550 General Atomics Court  
San Diego, CA 92121  
Attn: Law Department  
Fax: (858) 455 3213

with copy to: Patterson Belknap Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Attn: Dan Lowenthal  
Fax: (212) 336 2222

or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

10.4 Waivers. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing by Seller, in the case of a waiver by Seller, or Buyer, in the case of any waiver by Buyer, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach of other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty.

10.5 Counterparts and Execution. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any counterpart may be executed by facsimile signature and such facsimile signature shall be deemed an original.

10.6 SUBMISSION TO JURISDICTION. THE PARTIES HEREBY AGREE THAT ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTION, SUITS, AND PROCEEDINGS RELATING TO THIS AGREEMENT OR THE OTHER AGREEMENTS CONTEMPLATED HEREIN SHALL BE FILED AND MAINTAINED ONLY IN THE BANKRUPTCY COURT, AND THE PARTIES HEREBY CONSENT TO THE JURISDICTION OF SUCH COURT.

10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the state of California (regardless of the Laws that might otherwise govern under applicable California principles of conflicts of Law) as to all matters, including matters of validity, construction, effect, performance and remedies.

10.8 Binding Nature; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without prior written consent of the other party (which shall not be unreasonably withheld or delayed), except that prior to Closing, Buyer may assign any of its rights and obligations hereunder to any Affiliate or Subsidiary of Buyer (whether wholly owned or otherwise).

10.9 No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and nothing contained herein, express or implied, is intended to confer on any Person other than the parties hereto or their successors and permitted assigns, any rights, remedies, obligations, Claims, or causes of action under or by reason of this Agreement.

10.10 Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to this Agreement to express their mutual intent, and no rule of strict construction shall be applied against any party. Any reference to any federal, state, local or foreign statute or Law shall be deemed also to refer to all rules and Laws promulgated thereunder, unless the context requires otherwise.

10.11 Specific Performance. The parties hereto agree that irreparable damage would occur in the event any of the provisions of this Agreement to be performed at or prior to the Closing were not performed in accordance with the terms hereof and that, prior to the Closing, the parties shall be entitled to specific performance of such provisions, in addition to any other remedy at law or in equity, unless pursuant to the overbid procedures governing sale of the assets, Seller, as trustee of the Estate, accepts an overbid as a higher or better bid, which decision is then approved by the Bankruptcy Court.

10.12 Entire Understanding. This Agreement, the Exhibits and the Schedules set forth the entire agreement and understanding of the parties hereto in respect to the transactions contemplated hereby and the Agreement, the Exhibits and the Schedules supersede all prior agreements, arrangements and understandings relating to the subject matter hereof and are not intended to confer upon any other Person any rights or remedies hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed and delivered on the date first above written.

**BUYER:**

GENERAL ATOMICS

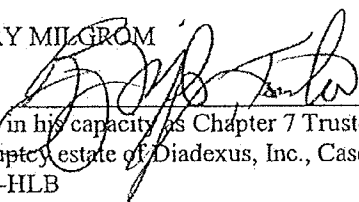
By:  \_\_\_\_\_

Name: Liam J Keenan

Its: SVP & CFO.

**SELLER:**

BARRY MILGROM

By:  \_\_\_\_\_

Solely in his capacity as Chapter 7 Trustee for the bankruptcy estate of Diadexus, Inc., Case No. 16-30654-HLB

Exhibit A

Form of Sale Order



Entered on Docket  
July 29, 2016  
EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



CHANGES MADE BY COURT  
Signed and Filed: July 29, 2016

HANNAH L. BLUMENSTIEL  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re:

DIADEXUS, INC.  
aka diaDexus, Inc.  
aka VaxGen, Inc.

Debtor.

Case No. 16-30654 HLB

Chapter 7

Hon. Hannah L. Blumenstiel

**ORDER AUTHORIZING CHAPTER 7 TRUSTEE TO SELL ESTATE'S RIGHT, TITLE, AND INTEREST IN ASSETS PURSUANT TO 11 U.S.C. §§ 363(b), (f), FREE AND CLEAR OF LIEN OF OXFORD FINANCE LLC AND ITS ASSIGNEE, CLEVELAND HEARTLAB, INC.**

Date: July 21, 2016

Time: 9:00 a.m.

Place: 450 Golden Gate Avenue, 16<sup>th</sup> Floor  
San Francisco, California

A final hearing on the Motion ( the "Motion") to Sell the Estate's Right, Title, and Interest in Assets Pursuant to 11 U.S.C. §§ 363(b), (f), Free and Clear of Lien of Oxford Finance LLC and Its Assignee, Cleveland HeartLab, Inc. ("CHL"), filed by Barry Milgrom, the Chapter 7 Trustee ("Trustee") for the above-captioned Debtor's Chapter 7 bankruptcy estate (the "Estate"), was held before this Court on July 21, 2016 at 9:00 a.m.; appearances were as noted on the record.

1 On July 7, 2016, the Trustee filed and served the Motion pursuant to the Court's July 6,  
2 2016 order approving a hearing on the Motion for July 13, 2016 pursuant to Local Rule 9014-  
3 1(d)(1).

4 On July 12, 2016, General Atomics and the Office of the United States Trustee each filed  
5 objections to the Motion.

6 The Court held an initial hearing on the Motion on July 13, 2016. At the conclusion of the  
7 hearing, the Court ordered the Trustee, General Atomics and CHL each to file by noon on  
8 July 18, 2016, a supplemental memorandum of law addressing CHL's asserted security interest in  
9 Debtor's intellectual property and the proceeds resulting from the Trustee's proposed sale of such  
10 intellectual property for purposes of credit bidding pursuant to Bankruptcy Code § 363(k), and  
11 scheduled a hearing for July 20, 2016, to determine whether, among other things, cause existed for  
12 the Court to deny CHL the right to credit bid for all of the Debtor's operational assets as  
13 contemplated by the Motion.

14 On July 20, 2016, the Court held a second hearing on the Motion. The Court did not rule  
15 on the validity, priority or extent of the lien asserted by CHL, but did find, for the reasons stated  
16 on the record, that "cause" existed to deny CHL the right to credit bid for all of the Purchased  
17 Assets (as defined in the Asset Purchase Agreement, dated as of July 13, 2016, entered into  
18 between the Trustee and CHL in connection with the Motion (the "CHL APA")). Further, the  
19 Court declined to approve the CHL APA, ruling instead that an auction would take place upon the  
20 following conditions, provided that both General Atomics and CHL agreed to such conditions on  
21 the record:

- 22 (i) All bids would be all cash;
- 23 (ii) All bids would be subject to a carve out in the amount of \$338,000, which would be  
24 set aside for the Estate free and clear of CHL's lien for the Trustee's payment of,  
25 among other things, allowed Trustee and professional fees and priority wage claims  
26 of Debtor's former employees;
- 27 (iii) CHL would waive its right to contest the \$338,000 carve out set forth in condition  
28 (ii) above in exchange for the Trustee waiving his right to commence an adversary

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proceeding under Rule 7001 of the Federal Rules of Bankruptcy Procedure and Bankruptcy Code Section 363(p) challenging the validity, priority or extent of the lien asserted by CHL ("Adversary Proceeding");

(iv) Notwithstanding the Trustee's decision not to pursue an Adversary Proceeding, any creditor of the Estate or other party in interest would have thirty (30) days following service of notice of the approved sale order to commence an Adversary Proceeding with respect to CHL's asserted security interest.

(v) All proceeds above \$338,000 received by the Trustee from the auction would be held by the Trustee for the benefit of CHL and subject to CHL's lien (defined as the Oxford Lien in the Motion), which would attach to such net proceeds with the same force, effect, validity and priority that previously existed against the Sale Assets unless and until this Court orders otherwise after the conclusion of an Adversary Proceeding or until after the thirty (30)-day notice period expired if no Adversary Proceeding is commenced.

(vi) The successful bidder would agree to satisfy the Estate's administrative expense obligations to the landlord, Oyster Point Tech Center LLC (the "Landlord"), from and after entry of this Order, pursuant to a written agreement entered into with the Landlord under which the buyer would, among other things, remove all Estate property from the Debtor's former premises located at 349 Oyster Point Blvd., South San Francisco, California, 94080 (the "Premises"), provide a security deposit to Landlord for the time in which the property removal process would take place at the Premises, pay for certain utility, garbage, and nitrogen canister refill services during the time of the removal process, engage a consultant to assist in the removal process and clean-up process at the Premises, provide a certificate of insurance satisfactory to the Landlord, and deliver the Premises in a "broom-clean" and cleaned-up condition to the Landlord (collectively, "Landlord Conditions");

Each of the Trustee, General Atomics and CHL agreed to all such conditions on the record.

Based on such agreements, following the conclusion of the hearing, the Trustee conducted the

1 auction pursuant to the terms approved by the Court, and General Atomics submitted the winning  
2 bid of \$4,750,000, which was approved as set forth above on July 21, 2016.

3 Having considered the Motion and all related pleadings, including the Declaration Of  
4 Buyer In Support Of Finding Under Bankruptcy Code §363(m) filed by General Atomics on July  
5 25, 2016, any opposition thereto, and the arguments of counsel,

6 THE COURT FINDS THAT:

7 A. Notice of the Motion was proper and adequate.

8 B. General Atomics has acted good faith and is entitled to the protections of Section  
9 363(m) of the Bankruptcy Code.

10 Based on the foregoing and the findings and conclusions stated orally in the record, and  
11 good cause appearing therefore,

12 IT IS HEREBY ORDERED THAT:

13 1. The notice of the Motion and the hearing thereon is approved as proper and adequate  
14 under the circumstances.

15 2. The Motion is granted and the sale to General Atomics is approved as the highest  
16 and best offer.

17 3. The Trustee is authorized and directed to sell, assign, transfer, convey and deliver all  
18 of the Estate's right, title and interest in the assets described herein below ("Sale Assets") to  
19 General Atomics for the purchase price of \$4,750,000, and in accordance with the terms and  
20 conditions that are set forth in the Purchase Agreement which is attached to the Motion, as  
21 modified by agreement between General Atomics and Trustee to reflect the successful bid of  
22 General Atomics at the auction authorized by the Court ("Purchase Agreement"),<sup>1</sup> capitalized  
23 terms not otherwise defined have the meanings ascribed to such terms in the Purchase Agreement:  
24 All right, title and interest of every kind and nature of the Estate in and to all of the following  
25 properties, assets and rights (contractual or otherwise) of the Estate, whether tangible or  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Any party in interest may obtain a copy of the Purchase Agreement by contacting the Trustee's  
counsel at the address set forth below.

1 intangible, real or personal and wherever located and by whomever possessed, but excluding the  
2 Excluded Assets:

3 (a) all Intellectual Property, including without limitation (i) all of the Intellectual  
4 Property set forth on Schedule 2.1(a) of the Purchase Agreement and (ii) the contracts of the  
5 Estate that constitute Intellectual Property, if any, set forth on Schedule 2.1(a) of the Purchase  
6 Agreement (the "Assumed Contracts"), which will be the subject of a separately noticed motion.

7 (b) The following property:

- 8 • LP-PLA2 (PLAC) mass assay;
- 9 • PLAC Test for Lp-PLA2 Activity reagent kits (diaDexus item number 10-0144);
- 10 • Diadexus' Lp-PLA2 diagnostic assays;
- 11 • Diadexus PLAC/LpPLA2 ELISA test;
- 12 • two FDA 510k registrations;
- 13 • Design history files;
- 14 • Bills of material;
- 15 • Vendor and customer lists, except for personally identifiable information as defined  
16 in the Bankruptcy Code of a consumer, if any;
- 17 • Manufacturing and testing documents;
- 18 • Any viable cell lines, perishable genetic clone material, or perishable antigens and  
19 proteins related to manufacturing of the products covered by the two 510k registrations;
- 20 • Two FDA-approved tests, specifically the: (1) PLAC Test ELISA Kit; and (2)  
21 PLAC Activity Test; and
- 22 • Property not otherwise described above.

23 (c) all transferable permits, licenses, certifications and approvals from all permitting,  
24 licensing, accrediting and certifying agencies, and the rights to all data and records held by such  
25 permitting, licensing and certifying agencies, in each case, of the Estate.

26 (d) the following personal property:

27 (i) all assets identified in Exhibit A to the UCC Financing Statement, which is  
28 the collateral description attached to the UCC Financing Statement, and which is attached as an

1 exhibit to Schedule 2.1(j) to the Purchase Agreement (and as described further in Paragraph 5  
2 below);

3 (ii) the equipment leases set forth on Schedule 2.1(b) to the Purchase  
4 Agreement;

5 (iii) all Accounts Receivable, customer lists and customer data (except for  
6 personally identifiable information as defined in the Bankruptcy Code of a consumer, if any);

7 (iv) all Books and Records; provided, however, that Trustee may retain copies of  
8 Books and Records to the extent necessary to perform his duties under the Bankruptcy Code;

9 (v) all information management systems and software of the Estate, including all  
10 data used in the normal operations of the Business;

11 (vi) all goodwill and all other intangible property of the Estate;

12 (vii) insurance proceeds related to the Sale Assets (but not professional liability  
13 insurance policy proceeds, such as director and officer insurance policy proceeds);

14 (viii) all assets listed on Schedule 2.1(j) of the Purchase Agreement; and

15 (ix) all Inventory

16 4. The Sale Assets shall not include: (i) any and all claims and/or causes of action,  
17 including, but not limited to claims or causes of action arising under Bankruptcy Code Sections  
18 544-553, other than claims and/or causes of action included with the Sale Assets or relating to  
19 General Atomics' use or ownership of the Sale Assets after the Closing Date; (ii) commercial tort  
20 claims or claims or causes of action against officers, directors, or management; (iii) professional  
21 liability insurance policy proceeds, such as director and officer insurance policy proceeds; and (iv)  
22 securities.

23 5. Pursuant to Section 363(f) of the Bankruptcy Code, effective upon closing, the sale  
24 of the Sale Assets will vest in General Atomics all right, title and interest of the Debtor and the  
25 Estate in the Sale Assets, free and clear of the liens, claims or interests listed below (collectively,  
26 the "Affected Interests"): the UCC financing statement filed with the Delaware Secretary of State  
27 on August 15, 2014 as 20143295664 naming Oxford Finance LLC as the secured party and  
28 Diadexus, Inc. as the debtor, as amended by Amendment No. 20164051411 naming Cleveland

1 HeartLab, Inc. as secured party, or any other lien, claim, mortgage, deed of trust, levy, charge,  
2 pledge, security interest or other encumbrance of any kind held by or asserted by Oxford Finance  
3 LLC or Cleveland HeartLab, Inc.

4 6. Not later than thirty (30) calendar days after the service of this Order, any creditor of  
5 the Estate or other party in interest may commence an adversary proceeding under Rule 7001 of  
6 the Federal Rules of Bankruptcy Procedure seeking to determine the validity, priority or extent of  
7 the lien or Affected Interest described in Paragraph 5 above.

8 7. The Trustee has waived the Estate's right to commence an Adversary Proceeding or  
9 otherwise object to CHL's claimed lien in the proceeds from the auction. The Trustee shall hold  
10 all net proceeds from the auction in the amount of \$4,412,000 (\$4,750,000 less \$338,000) for the  
11 benefit of CHL and subject to CHL's lien (defined as the Oxford Lien in the Motion), which  
12 hereby attaches to such net proceeds with the same force, effect, validity and priority that  
13 previously existed against the Sale Assets unless and until this Court orders otherwise after the  
14 conclusion of an Adversary Proceeding; provided, however, that if General Atomics or any other  
15 party in interest has not initiated an Adversary Proceeding within thirty (30) days following the  
16 service of notice of this Order, then all such net proceeds shall be remitted promptly to CHL in  
17 partial satisfaction of its claim.

18 8. This Order is and shall be effective as a determination that, upon and subject to the  
19 occurrence of the closing of the sale, all Affected Interests have been and hereby are adjudged and  
20 declared to be unconditionally released as to the Sale Assets and the \$338,000 carve out for the  
21 Estate.

22 9. General Atomics has not assumed any liabilities of the Debtor, the Estate, or the  
23 Trustee.

24 10. The Trustee is authorized to execute any such releases, termination statements,  
25 assignments, consents or instruments on behalf of any third party, including the holders of any  
26 liens, claims or interests identified in Paragraph 5 of this Order, that are necessary or appropriate  
27 to effectuate or consummate the sale.

28 11. The Trustee's return of the \$335,000 deposit to CHL is approved.

- 1           12. The Trustee is authorized to disburse \$3,000 to MyCircleHealth.
- 2           13. The Trustee is hereby authorized to execute the Purchase Agreement, or other  
3 related documents that are reasonably necessary or appropriate to complete the sale, and to  
4 undertake such other actions as may be reasonably necessary or appropriate to complete the sale  
5 or otherwise necessary to transfer the Sale Assets to General Atomics.
- 6           14. The Estate's right, title and interest in the Sale Assets shall be sold, transferred, and  
7 delivered to General Atomics on an "as is, where is" or "with all faults" basis.
- 8           15. General Atomics is approved as a buyer in good faith in accordance with Section  
9 363(m) of the Bankruptcy Code, and General Atomics shall be entitled to all protections of  
10 Section 363(m) of the Bankruptcy Code.
- 11           16. This Order shall be effective immediately upon entry. No automatic stay of  
12 execution, pursuant to Rule 62(a) of the Federal Rules of Civil Procedure, or Bankruptcy Rule  
13 6004(h), applies with respect to this Order.
- 14           17. As a condition for approval of the sale, General Atomics shall address the Landlord  
15 Conditions pursuant to a written agreement entered into between General Atomics and the  
16 Landlord. In addition, General Atomics will pay \$20,000 to the Landlord in satisfaction of the  
17 Landlord's administrative claim for rent of the Premises from 12:00 a.m. on July 12, 2016 to  
18 11:59 p.m. on July 25, 2016.
- 19           18. The right of CHL to seek reimbursement of its expenses pursuant to the Expense  
20 Reimbursement provisions of the CHL APA as a substantial contribution to the Estate pursuant to  
21 Section 503(b)(3)(D) of the Bankruptcy Code or on other grounds is expressly preserved, as are  
22 the rights of the Trustee or any other party in interest to object to any such request for  
23 reimbursement.
- 24           19. This Court retains jurisdiction to enforce and implement the terms and provisions of  
25 this Order and the purchase agreement, all amendments thereto, any waivers and consents  
26 thereunder, and each of the documents executed in connection therewith in all respects, including  
27 retaining jurisdiction to (a) compel delivery of the Estate's right, title and interest in the Sale  
28 Assets to General Atomics, (b) resolve any disputes arising under or related to the purchase



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agreement, and (c) resolve any disputes regarding liens, claims, or interests asserted against the Sale Assets.

20. The Purchase Agreement and any related documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's Estate.

21. Within five days of entry of this Order, the Trustee shall serve this Order on all creditors or parties in interest upon which he served the Motion, and file a certificate of service.

**\*\*END OF ORDER\*\***

1 **SUBMITTED BY:**

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16 **APPROVED AS TO FORM:**

17 JONES DAY

18  
19  
20 By: /s/ Joshua D. Morse (with permission)  
21 Joshua D. Morse  
22 Attorneys for Cleveland HeartLab, Inc.

23 DENTONS US LLP

24  
25  
26 By: /s/ Jennifer C. Hayes (with permission)  
27 Jennifer C. Hayes  
28 Attorneys for Barry Milgrom, Chapter 7 Trustee

29 ALLEN MATKINS LECK GAMBLE MALLORY & NATSIS LLP

30  
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32 By: \_\_\_\_\_  
33 Yale K. Kim  
34 Attorneys for Oyster Point Tech Center LLC

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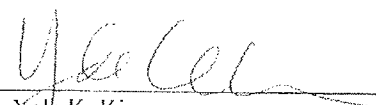
26 By:   
27 Yale K. Kim  
28 Attorneys for Oyster Point Tech Center LLC

Exhibit B

Form of Bill of Sale

**BILL OF SALE AND ASSIGNMENT**

BILL OF SALE AND ASSIGNMENT, dated as of July 21, 2016, from Barry Milgrom, in his capacity as the Chapter 7 trustee for Diadexus, Inc., a Delaware corporation ("Seller"), to and in favor of General Atomics, a California corporation ("Buyer").

WHEREAS, Buyer and Seller have entered into an Asset Purchase Agreement dated as of the date hereof (the "Agreement"), providing for the sale by Seller to Buyer of the Purchased Assets (as defined in the Agreement); and

WHEREAS, the execution and delivery of this Bill of Sale and Assignment by Seller is a condition to Buyer's obligation to acquire the Purchased Assets from Seller pursuant to the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Any term used herein which is not defined herein, but is defined in the Agreement, shall have the meaning specified in the Agreement.

Subject to the terms and conditions of the Agreement, Seller does hereby sell, assign, transfer and convey unto Buyer, its successors and assigns, forever, its entire right, title and interest in, to and under the Purchased Assets, wherever located, to have and to hold forever.

This Bill of Sale and Assignment is intended to implement the provisions of the Agreement and shall not be construed to enhance, extend or limit the rights or obligations of Buyer or Seller thereunder. Nothing expressed or implied in this Bill of Sale and Assignment shall be deemed to be an assumption by Buyer of any liabilities of Seller.

Seller and Buyer each agree to take any and all actions, including without limitation the execution, acknowledgment and delivery of any and all documents, which Seller or Buyer, as the case may be, may reasonably request in order to effect the intent and purposes of this Bill of Sale and Assignment.

This Bill of Sale and Assignment shall be governed by and construed in accordance with the laws of the State of California (regardless of the Laws that might otherwise govern under applicable California principles of conflicts of Law).

This Bill of Sale and Assignment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Bill of Sale and Assignment to be duly executed as of the day and year first above written.

**SELLER:**

BARRY MILGROM

By: \_\_\_\_\_  
Solely in his capacity as Chapter 7 Trustee  
for the bankruptcy estate of Diadexus, Inc.,  
Case No. 16-30654-HLB

**BUYER:**

GENERAL ATOMICS

By: \_\_\_\_\_  
Name:  
Title:

Schedule 2.1(b)

Purchased Assets (Equipment Leases)

Schedule 2.1(c)

Purchased Assets (Intellectual Property)



Schedule 2.1(j)

Purchased Assets (Other)

Schedule 2.2

Excluded Assets