

TERCICA INC
Form DEF 14A
September 06, 2006
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant x
Filed by a Party other than the Registrant ..
Check the appropriate box:

- .. Preliminary Proxy Statement
- .. Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- .. Definitive Additional Materials
- .. Soliciting Material Pursuant to § 240.14a-12

Tercica, Inc.

(Name of Registrant as Specified In Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box)

- x No fee required.
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1. Title of each class of securities to which transaction applies:

2. Aggregate number of securities to which transaction applies:

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4. Proposed maximum aggregate value of transaction:

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6. Amount Previously Paid:

7. Form, Schedule or Registration Statement No.:

8. Filing Party:

9. Date Filed:

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TERCICA, INC.

2000 Sierra Point Parkway

Suite 400

Brisbane, California 94005

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD ON OCTOBER 12, 2006

Dear Stockholder:

You are cordially invited to attend a Special Meeting of Stockholders of **TERCICA, INC.**, a Delaware corporation (*Tercica*). The meeting will be held on Thursday, October 12, 2006 at 11:30 a.m. local time at 2000 Sierra Point Parkway, Brisbane, California for the following purposes:

1. To approve the issuance of the following securities to Ipsen, S.A. or its designated affiliate (*Ipsen*) in connection with the transactions contemplated by the Stock Purchase and Master Transaction Agreement, dated July 18, 2006, between Tercica and Ipsen (the *Purchase Agreement*), as described in Proposal 1 in the accompanying proxy statement:

12,527,245 shares of Tercica common stock for an aggregate purchase price of \$77,318,944;

a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as more fully described in Proposal 1 in the accompanying proxy statement, and the shares of Tercica common stock issuable upon exercise of the warrant;

a convertible promissory note in the principal amount of \$25,037,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note;

a convertible promissory note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of 5.92 per share, and the shares of Tercica common stock issuable upon conversion of the note; and

a convertible promissory note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note.

- 2.

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To approve amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws, as described in Proposal 2 in the accompanying proxy statement.

3. To approve additional amendments to Tercica's amended and restated certificate of incorporation, as described in Proposal 3 in the accompanying proxy statement.
4. To approve the adoption of a Rights Agreement implementing a stockholder rights plan, as described in Proposal 4 in the accompanying proxy statement.
5. To conduct any other business properly brought before the meeting.

These foregoing items of business are more fully described in the proxy statement accompanying this notice. All of the proposals relate to the transactions contemplated by the Purchase Agreement, and none would be implemented if such transactions are not consummated.

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The record date for the special meeting is August 28, 2006. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

/s/ Stephen N. Rosenfield

Stephen N. Rosenfield

Secretary

Brisbane, California

September 5, 2006

You are cordially invited to attend the special meeting in person. Whether or not you expect to attend the special meeting, please complete, date, sign and return the enclosed proxy card, or vote over the telephone or on the Internet as instructed in these materials, as promptly as possible in order to ensure your representation at the special meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the special meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the special meeting, you must obtain a proxy card issued in your name from that record holder.

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TERCICA, INC.

2000 Sierra Point Parkway

Suite 400

Brisbane, California 94005

PROXY STATEMENT

FOR THE SPECIAL MEETING OF STOCKHOLDERS

October 12, 2006

QUESTIONS AND ANSWERS ABOUT THESE PROXY SOLICITATION MATERIALS AND VOTING

Why am I receiving these materials?

Tercica, Inc. (Tercica) sent you this proxy statement and the enclosed proxy card because the Board of Directors (the Board) of Tercica is soliciting your proxy to vote at the special meeting of stockholders to be held on Thursday, October 12, 2006 at 11:30 a.m. local time at 2000 Sierra Point Parkway, Brisbane, California (the Special Meeting). You are invited to attend the Special Meeting to vote on the proposals described in this proxy statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions below to submit your proxy over the telephone or on the Internet.

Tercica intends to mail this proxy statement and accompanying proxy card on or about September 12, 2006 to all stockholders of record entitled to vote at the Special Meeting.

Who can vote at the Special Meeting?

Only stockholders of record at the close of business on August 28, 2006 will be entitled to vote at the Special Meeting. On this record date, there were 37,581,734 shares of common stock outstanding and entitled to vote.

Stockholder of Record: Shares Registered in Your Name

If on August 28, 2006 your shares were registered directly in your name with Tercica's transfer agent, Computershare Limited, then you are a stockholder of record. As a stockholder of record, you may vote in person at the Special Meeting or vote by proxy. Whether or not you plan to attend the Special Meeting, Tercica urges you to fill out and return the enclosed proxy card, or vote by proxy over the telephone or on the Internet as instructed below, to ensure that your vote is counted.

Beneficial Owner: Shares Registered in the Name of a Broker or Bank

If on August 28, 2006 your shares were held, not in your name, but rather in an account at a brokerage firm, bank, dealer or other similar organization, then you are the beneficial owner of shares held in street name and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered to be the stockholder of record for purposes of voting at the Special Meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. You are also invited to attend the Special Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the Special Meeting unless you request and obtain a valid proxy card from your broker or other agent.

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What am I voting on?

There are four matters scheduled for a vote:

- Ø To approve the issuance of the following securities to Ipsen, S.A. or its designated affiliate (Ipsen) in connection with the transactions contemplated by the Stock Purchase and Master Transaction Agreement, dated July 18, 2006, between Tercica and Ipsen, as described in Proposal 1 in this proxy statement:

12,527,245 shares of Tercica common stock for an aggregate purchase price of \$77,318,944;

a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as more fully described in Proposal 1 in this proxy statement, and the shares of Tercica common stock issuable upon exercise of the warrant;

a convertible promissory note in the principal amount of \$25,037,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note;

a convertible promissory note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of 5.92 per share, and the shares of Tercica common stock issuable upon conversion of the note; and

a convertible promissory note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note.

- Ø To approve amendments to Tercica's amended and restated certificate of incorporation and Tercica's amended and restated bylaws, as described in Proposal 2 in this proxy statement.

- Ø To approve additional amendments to Tercica's amended and restated certificate of incorporation, as described in Proposal 3 in this proxy statement.

- Ø To approve the adoption of a Rights Agreement implementing a stockholder rights plan, as described in Proposal 4 in this proxy statement.

All of the proposals relate to the transactions contemplated by the Stock Purchase and Master Transaction Agreement, and none would be implemented if such transactions are not consummated.

Why is Tercica seeking stockholder approval of the issuance of securities to Ipsen as set forth in Proposal 1?

Tercica is subject to the rules of The NASDAQ Stock Market LLC because Tercica common stock is listed on the NASDAQ Global Market. These rules require stockholder approval prior to the issuance of securities when the issuance or potential issuance will result in a change of control of the issuer. In addition, the rules require stockholder approval prior to the issuance of securities in connection with a transaction other than a public offering, involving the sale, issuance or potential issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding prior to the issuance for less than

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the greater of book or market value. The issuances of securities to Ipsen pursuant to the Stock Purchase and Master Transaction Agreement may be deemed to result in a change of control under these rules. In addition, because of the potential for adjustments to the conversion prices and the exercise price of the convertible notes and warrant that would be issued to Ipsen, the issuance of these securities may be deemed an issuance at less than the greater of book or market value. Accordingly, Tercica is seeking stockholder approval to ensure compliance with these rules. To be approved by the stockholders, Proposal 1 must receive an affirmative vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 1 (which shares voting affirmatively also constitute at least a majority of the required quorum).

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Why is Tercica entering into this transaction with Ipsen?

Beginning in 2005, Tercica began to consider licensing the commercial rights to its Increlex[®] product outside of the United States. In the fall of 2005, Tercica's management and the Board undertook a comprehensive strategic review of Tercica's operations and business prospects on a going-forward basis. In order to meet the short-term and long-term goals of Tercica, Tercica's management and the Board recognized the need to raise significant additional capital and agreed to evaluate three strategic scenarios:

remain an independent public company and finance Tercica through the sale of additional equity in the capital markets;

sell a portion of Tercica's equity to a strategic partner while maintaining significant operational independence; and

sell all, or substantially all, of Tercica's equity and assets in an acquisition or merger to a company with greater financial resources. Tercica evaluated the likelihood of the sale of Tercica, and, in light of public market conditions, Tercica's ability to raise additional capital through the public markets. Further, Tercica met with several companies that operate in the endocrinology and/or pediatric markets, and such meetings did not result in concrete discussions regarding a possible transaction. After several meetings with Ipsen starting at the end of 2005, it became clear that there was a strong rationale for a broad commercial and strategic partnership through which Tercica and Ipsen would cross-license their respective Increlex[®] and Somatuline[®] Autogel[®] products, and Ipsen would make an equity investment in Tercica. The Board ultimately determined that the transactions with Ipsen are in the best interests of Tercica and its stockholders in light of:

Tercica's business prospects as a stand-alone business entity going forward;

the terms and conditions that Tercica would receive under the agreement providing for the license of Increlex[®] to Ipsen and the attractiveness of Ipsen as Tercica's commercial partner for the Increlex[®] product outside of the United States;

the terms and conditions that Tercica would receive under the agreement providing for the license of Somatuline[®] Autogel[®] to Tercica, and the expected impact of the projected cash flows from the sale of Somatuline[®] Autogel[®] on Tercica's long-term financial forecasts;

Tercica's need for immediate financing, and the fact that the licensing agreements and the equity investment by Ipsen would offer a comprehensive financing solution for Tercica's short-term and long-term operating goals;

the premium price to be paid for the securities to be purchased by Ipsen compared to the then-current and approximately 20-day historical volume-weighted average price of Tercica common stock;

the impact of the proposed transactions on Tercica's balance sheet and capital structure; and

the enhanced potential for strategic opportunities and alternatives that the proposed transactions would provide to Tercica for building upon the Ipsen relationship on a going-forward basis, such as expanding Tercica's commercial focus into the adult endocrinology market, accessing Ipsen's global commercial infrastructure for Tercica's future products in development, and gaining access to Ipsen's rich endocrine pipeline.

Why is Tercica seeking stockholder approval of the amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws as set forth in Proposal 2?

The amendments described in Proposal 2 of this proxy statement are being proposed to eliminate Tercica's classified board of directors and certain other anti-takeover protections in Tercica's amended and restated certificate of incorporation and amended and restated bylaws and to facilitate the proposed transactions with Ipsen. Tercica is seeking stockholder approval of Proposal 2 to amend certain provisions of Tercica's amended

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and restated certificate of incorporation and amended and restated bylaws pursuant to the requirements of the Delaware General Corporation Law and the supermajority voting requirements of Tercica's amended and restated certificate of incorporation and amended and restated bylaws. Under Tercica's amended and restated certificate of incorporation and amended and restated bylaws, Tercica may amend, alter, change or repeal these provisions only upon the affirmative vote of the holders of at least 80% of Tercica's issued and outstanding common stock on the record date.

Why is Tercica seeking stockholder approval of the amendment to Tercica's amended and restated certificate of incorporation as set forth in Proposal 3?

Stockholder approval of the amendment described in Proposal 3 of this proxy statement is a condition to the closing of the proposed transactions with Ipsen. Tercica is seeking stockholder approval of Proposal 3 to amend certain provisions of Tercica's amended and restated certificate of incorporation pursuant to the requirements of the Delaware General Corporation Law. Under the Delaware General Corporation Law, any amendment of Tercica's amended and restated certificate of incorporation must be approved by the holders of at least a majority of Tercica's issued and outstanding common stock on the record date.

Why is Tercica seeking stockholder approval of the adoption of the Rights Agreement as set forth in Proposal 4?

The Rights Agreement described in Proposal 4 is being proposed to facilitate the proposed transactions with Ipsen. None of Tercica's amended and restated certificate of incorporation, amended and restated bylaws or applicable law require stockholder approval of the Rights Agreement as described in Proposal 4 of this proxy statement or any similar arrangement. However, the Board has elected to submit the Rights Agreement to the stockholders for approval as a matter of good corporate practice, consistent with the 2006 Corporate Governance Policy issued by Institutional Shareholder Services. To be approved by the stockholders, Proposal 4 must receive an affirmative vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 4 (which shares voting affirmatively also constitute at least a majority of the required quorum).

What if one or more of the proposals are not approved?

The approval of Proposal 1 by the stockholders is a condition to the closing of the proposed transactions with Ipsen as described in Proposal 1. If Proposal 1 is not approved by the stockholders, Tercica would not implement any of the other proposals set forth in this proxy statement and Tercica would be required to pay a termination fee to Ipsen. See *Proposal 1 Approval of the Securities Issuance Summary of the Purchase Agreement and Other Transaction Documents Stock Purchase and Master Transaction Agreement Effect of Termination*. If Proposal 2 is not approved by the stockholders, Tercica would not amend the provisions of Tercica's amended and restated certificate of incorporation and amended and restated bylaws as set forth under Proposal 2. Instead, Tercica has agreed to submit the amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws as described in Proposal 2 to the stockholders for approval at the next annual meeting of Tercica's stockholders. The approval of Proposal 2 is not a condition to the closing of the proposed transactions with Ipsen. If Proposal 3 is not approved by the stockholders, Tercica would not amend the provisions of Tercica's amended and restated certificate of incorporation as set forth in Proposal 3. The approval of Proposal 3 by the stockholders is a condition to the closing of the proposed transactions with Ipsen. Accordingly, Tercica would be required to pay a termination fee to Ipsen if Proposal 3 is not approved by the stockholders and, as a result, Ipsen exercises its right to terminate the proposed transactions. See *Proposal 1 Approval of the Securities Issuance Summary of the Purchase Agreement and Other Transaction Documents Stock Purchase and Master Transaction Agreement Effect of Termination*. The implementation of, but not stockholder approval of, the Rights Agreement is a condition to Ipsen's obligation to close the proposed transactions, as described in Proposal 1. Accordingly, Tercica has, and notwithstanding the solicitation of stockholder approval of the Rights Agreement in this proxy statement preserves, the ability to implement the Rights Agreement even if Proposal 4 is not approved by the stockholders.

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How do I vote?

You may vote either For or Against or abstain from voting with respect to each of the proposals. The procedures for voting are fairly simple:

Stockholder of Record: Shares Registered in Your Name

If you are a stockholder of record, you may vote in person at the Special Meeting or vote by proxy using the enclosed proxy card, vote by proxy over the telephone, or vote by proxy on the Internet. Whether or not you plan to attend the Special Meeting, Tercica urges you to vote by proxy to ensure that your vote is counted. You may still attend the Special Meeting and vote in person if you have already voted by proxy.

- Ø To vote in person, come to the Special Meeting and Tercica will give you a ballot when you arrive.
- Ø To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to Tercica before the Special Meeting, Tercica will vote your shares as you direct.
- Ø To vote over the telephone, dial toll-free 1-800-652-VOTE (8683) in the United States or Canada using a touch-tone phone and follow the recorded instructions. Your vote must be received by 1:00 a.m., Central Time, on October 12, 2006 to be counted.
- Ø To vote on the Internet, go to <http://www.computershare.com/expressvote> and enter the information requested on your computer screen and follow the simple instructions. Your vote must be received by 1:00 a.m., Central Time, on October 12, 2006 to be counted.

Beneficial Owner: Shares Registered in the Name of Broker or Bank

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from Tercica. Simply complete and mail the proxy card to ensure that your vote is counted. Alternatively, you may vote over the telephone or on the Internet as instructed by your broker or bank. To vote in person at the Special Meeting, you must obtain a valid proxy from your broker, bank or other agent. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a proxy form.

Tercica provides Internet proxy voting to allow you to vote your shares on-line, with procedures

designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers and telephone companies.

How many votes do I have?

On each matter to be voted upon, you have one vote for each share of common stock you owned as of August 28, 2006.

What if I return a proxy card but do not make specific choices?

If you return a signed and dated proxy card without marking any voting selections, your shares will be voted For each of the proposals. If any other matter is properly presented at the meeting, your proxy (i.e., one of the individuals named on your proxy card) will vote your shares using his or her best judgment.

Who is paying for this proxy solicitation?

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Tercica will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, Tercica's directors and employees may solicit proxies in person, by telephone or by other means of

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communication. Directors and employees will not be paid any additional compensation for soliciting proxies. Tercica has engaged Innisfree M&A Incorporated, a professional proxy solicitation firm, to assist in soliciting proxies and has agreed to pay Innisfree M&A Incorporated fees not expected to exceed \$7,000, plus out-of-pocket expenses. Tercica may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

What does it mean if I receive more than one proxy card?

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

Can I change my vote after submitting my proxy?

Yes. You can revoke your proxy at any time before the final vote at the Special Meeting. If you are the record holder of your shares, you may revoke your proxy in any one of three ways:

- Ø You may submit another properly completed proxy card with a later date.

- Ø You may send a written notice that you are revoking your proxy to Tercica's Corporate Secretary at 2000 Sierra Point Parkway, Suite 400, Brisbane, California 94005.

- Ø You may attend the Special Meeting and vote in person. Simply attending the Special Meeting will not, by itself, revoke your proxy. If your shares are held by your broker or bank as a nominee or agent, you should follow the instructions provided by your broker or bank.

When are stockholder proposals due for Tercica's 2007 Annual Meeting of Stockholders?

To be considered for inclusion in the proxy materials for Tercica's 2007 Annual Meeting of Stockholders, your proposal must be submitted in writing by December 25, 2006 to Tercica's Corporate Secretary at 2000 Sierra Point Parkway, Suite 400, Brisbane, California 94005. However, if Tercica's 2007 Annual Meeting of Stockholders is not held between May 7, 2007 and July 6, 2007, then the deadline will be a reasonable time prior to the time that Tercica begins to print and mail its proxy materials.

If you wish to bring a proposal before the stockholders or nominate a director at Tercica's 2007 Annual Meeting of Stockholders, but you are not requesting that your proposal or nomination be included in Tercica's proxy materials for the 2007 Annual Meeting of Stockholders, you must notify Tercica's Corporate Secretary, in writing, not later than the close of business on March 8, 2007. However, if Tercica's 2007 Annual Meeting of Stockholders is not held between May 7, 2007 and July 6, 2007, then the deadline will be not later than the close of business on the tenth day following the date on which the notice of the date of the 2007 Annual Meeting of Stockholders is mailed, or the tenth day following the date on which public disclosure of the date of the 2007 Annual Meeting of Stockholders is made, whichever occurs first. Tercica also advises you to review its amended and restated bylaws, which contain additional requirements about advance notice of stockholder proposals and director nominations. The chairperson of the 2007 Annual Meeting of Stockholders may determine, if the facts warrant, that a matter has not been properly brought before the meeting and, therefore, may not be considered at the meeting. In addition, if you do not also comply with the requirements of Rule 14a-4(c)(2) under the Securities Exchange Act of 1934, as amended, Tercica's management will have discretionary authority to vote all shares for which it has proxies in opposition to any such stockholder proposal or director nomination.

How are votes counted?

Votes will be counted by the inspector of election appointed for the Special Meeting, who will separately count For and Against votes, abstentions and broker non-votes. A broker non-vote occurs when a nominee, such as a broker or bank, holding shares for a beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power with respect to that proposal and has not received instructions

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with respect to that proposal from the beneficial owner. In the event that a broker, bank, custodian, nominee or other record holder of Tercica common stock indicates on a proxy that it does not have discretionary authority to vote certain shares on a particular proposal, then those shares will be treated as broker non-votes with respect to that proposal. Accordingly, if you own shares through a nominee, such as a broker or bank, please be sure to instruct your nominee how to vote to ensure that your vote is counted on each of the proposals.

Abstentions and broker non-votes will be treated as shares present for the purpose of determining the presence of a quorum for the transaction of business at the Special Meeting. Abstentions will have the same effect as **Against** votes on each of the proposals. Broker non-votes will generally have no effect on each of Proposals 1 and 4, but will have the same effect as **Against** votes on each of Proposals 2 and 3. However, broker non-votes, together with abstentions, can have the effect of preventing the approval of either Proposals 1 or 4 where the number of **For** votes, though a majority of the votes cast on such Proposal, does not constitute a majority of the required quorum.

How many votes are needed to approve each proposal?

To be approved, **Proposal 1 Approval of the Securities Issuance** must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 1 (which shares voting **For** also constitute at least a majority of the required quorum).

To be approved, **Proposal 2 Approval of the Supermajority Charter Amendments** must receive a **For** vote at the Special Meeting from at least 80% of the issued and outstanding shares of Tercica common stock.

To be approved, **Proposal 3 Approval of the Majority Charter Amendment** must receive a **For** vote at the Special Meeting from at least a majority of the issued and outstanding shares of Tercica common stock.

To be approved, **Proposal 4 Approval of the Adoption of the Rights Agreement** must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 4 (which shares voting **For** also constitute at least a majority of the required quorum).

What is the quorum requirement?

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if at least a majority of the shares entitled to vote at the Special Meeting are represented by stockholders present at the meeting or by proxy. On the record date, there were 37,581,734 shares outstanding and entitled to vote.

Your shares will be counted towards the quorum only if you submit a valid proxy (or one is submitted on your behalf by your broker, bank or other nominee) or if you vote in person at the Special Meeting. Abstentions and broker non-votes will be counted towards the quorum requirement. If there is no quorum, the chairman of the meeting or a majority of the votes represented at the meeting, either in person or by proxy, may adjourn the meeting to another date.

Will representatives of Ernst & Young LLP be present at the Special Meeting?

Representatives of Ernst & Young LLP, Tercica's independent registered public accounting firm, are expected to be present at the Special Meeting. They will have an opportunity to make a statement if they so desire and will be available to respond to appropriate questions. Ernst & Young LLP has audited Tercica's financial statements since its inception in 2000.

How can I find out the results of the voting at the Special Meeting?

Preliminary voting results will be announced at the Special Meeting. Final voting results will be published in Tercica's annual report on Form 10-K for the fiscal year ending December 31, 2006.

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PROPOSAL 1

APPROVAL OF THE SECURITIES ISSUANCE

INTRODUCTION

On July 18, 2006, Tercica entered into the Stock Purchase and Master Transaction Agreement (the **Purchase Agreement**) with Ipsen. Under the terms of the Purchase Agreement, and subject to the conditions to closing provided by the Purchase Agreement, Tercica has agreed to issue to Ipsen: (i) 12,527,245 shares of Tercica common stock (the **Shares**) for an aggregate purchase price of \$77,318,944; (ii) a convertible note in the principal amount of \$25,037,000 (the **First Convertible Note**), which would be convertible into shares of Tercica common stock at an initial conversion price per share of \$7.41; (iii) a second convertible note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price per share of 5.92 (the **Second Convertible Note**); (iv) a third convertible note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price per share of \$7.41 (the **Third Convertible Note**; the First, Second and Third Convertible Notes, collectively, the **Convertible Notes**, and the shares of Tercica common stock issuable upon conversion of the Convertible Notes, collectively, the **Note Shares**); and (v) a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as described below (the **Warrant**, and the shares of Tercica common stock issuable upon exercise of the Warrant, the **Warrant Shares**).

At the first closing under the Purchase Agreement (the **First Closing**), subject to the satisfaction or waiver of the conditions thereto, Tercica would issue the Shares, the First Convertible Note and the Warrant, and Ipsen would deliver to Tercica \$77,318,944 for the Shares (the **Purchase Price**) and \$25,037,000 for the First Convertible Note. The Purchase Agreement provides that, simultaneously with the First Closing, Tercica and Ipsen (and/or affiliates thereof) would also enter into a Somatuline License and Collaboration Agreement, Increlex License and Collaboration Agreement (collectively, the **License Agreements**), Affiliation Agreement and Registration Rights Agreement, and Tercica would effect amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws and adopt a Rights Agreement, each as described in this proxy statement. The amount to be delivered to Tercica for the First Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as an upfront payment under the Somatuline License and Collaboration Agreement. At the second closing (the **Second Closing**), subject to the satisfaction or waiver of the conditions thereto, Tercica would issue the Second Convertible Note and the Third Convertible Note, and Ipsen would deliver to Tercica 30,000,000 and \$15,000,000. The amount to be delivered to Tercica for the Second Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as a milestone payment under the Somatuline License and Collaboration Agreement.

The holders of Tercica common stock are being asked to approve the issuance of the Shares, Convertible Notes, Note Shares, Warrant and Warrant Shares. To be approved, this Proposal 1 must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on this Proposal 1 (which shares voting **For** also constitute at least a majority of the required quorum).

BACKGROUND

Beginning in 2005, Tercica began to consider licensing the commercial rights to Tercica's Increlex product outside of the United States. In June 2005, Tercica's management had an initial meeting with Ipsen to discuss such a potential license arrangement. After additional meetings with Ipsen's senior management in August and September of 2005, it became clear that the two companies wanted to explore a broader commercial collaboration, through which, in addition to Ipsen licensing Increlex for markets outside of the United States, Ipsen would also license to Tercica the U.S. and Canadian rights to Ipsen's Somatulin® Autogel® product. In addition to the discussions with Ipsen, Tercica met with other companies to explore a possible transaction. This prompted Tercica's management and the Board to undertake a comprehensive strategic review of Tercica's operations and business prospects on a going-forward basis.

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In order to meet the short-term and long-term goals of Tercica, Tercica's management and the Board recognized the need to raise significant additional capital and agreed to evaluate three strategic scenarios:

remain an independent public company and finance Tercica through the sale of additional equity in the capital markets;

sell a portion of Tercica's equity to a strategic partner while maintaining significant operational independence; and

sell all, or substantially all, of Tercica's equity and assets in an acquisition or merger to a company with greater financial resources. Tercica engaged the services of Lehman Brothers, JSB Partners and Keelin Reeds Partners to advise Tercica on the strategic alternatives. Together with these advisors, Tercica evaluated the likelihood of a sale of Tercica, and in light of public market conditions, Tercica's ability to raise additional capital through the public markets. Tercica's management and the Board acknowledged that, over the coming years, Tercica would likely need to access the capital markets on several occasions prior to it becoming cash flow positive. Lehman Brothers also explored whether certain companies interested in endocrinology or pediatrics would have a possible interest in a transaction with Tercica and arranged meetings between Tercica's management and those companies. These meetings did not, however, result in any concrete discussions regarding a possible transaction.

Tercica's management met again with representatives of Ipsen in late 2005 to discuss potential product licensing arrangements. Together with Tercica's advisors, Tercica also explored potential structures and terms that would make a broader commercial and strategic partnership, including an equity investment in Tercica by Ipsen, attractive to existing Tercica stockholders. On December 12, 2005, Tercica's management updated the Board on: (i) the commercial rights to Increlex outside of the United States potentially to be granted to Ipsen; (ii) the potential license of commercial rights to Somatuline® Autogel® in North America by Tercica; and (iii) the possibility of an equity investment in Tercica by Ipsen. Together, these three transactions would form the basis of a strategic endocrinology collaboration between Tercica and Ipsen. On December 19, 2005, representatives from both Ipsen and Tercica met again and decided to jointly develop business models for the potential commercialization of Somatuline® Autogel® in North America and Increlex in Europe and to more fully explore the potential alternatives for their strategic partnership. In that respect, Ipsen engaged the services of Goldman Sachs International to advise Ipsen on the alternatives for the strategic partnership.

In February 2006, representatives from Ipsen and Tercica agreed in concept on the business models for the potential commercialization of Somatuline® Autogel® in North America and Increlex in Europe and decided to commence negotiations with respect to the potential strategic partnership. Representatives from Ipsen and Tercica then met several times in the first half of 2006, conducting due diligence on the other's product, with Ipsen also conducting due diligence on Tercica's business prospects and personnel. In parallel, additional meetings between the management of the two companies were held for the purpose of reaching agreement on the specific terms for product cross-licensing as well as the purchase of equity and debt securities. During this time, Tercica's management regularly provided informal updates to members of the Board on the progress of the ongoing discussions with Ipsen. Tercica's management also provided formal updates to the full Board on March 15 and May 1, 2006.

As discussions reached an advanced stage, the Board met on June 7, 2006. At this meeting, the general terms of the strategic collaboration were reviewed and found to be in the best interests of Tercica and its stockholders. Tercica's officers were authorized to complete the negotiation of the transaction and to prepare the definitive agreements.

On July 11 and 13, 2006, the Board met again to review the progress of the negotiations and documentation and again reviewed the terms of the transaction. On July 13, 2006, Lehman Brothers summarized the basis of the fairness opinion that it expected to deliver. On July 17, 2006, Lehman Brothers orally delivered to the Board the basis for its opinion, which opinion was subsequently confirmed in writing as of July 18, 2006, to the effect that,

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as of such date and based upon and subject to specified factors and assumptions, from a financial point of view, the consideration to be received by Tercica for the issuance of the Shares, the Warrant and the Convertible Notes was fair to Tercica. The Board then approved the terms of the substantially completed documentation and authorized Tercica's officers to finalize the transaction and execute the transaction documents.

In considering the transaction with Ipsen, the Board took into account a number of factors, including:

Tercica's business prospects as a stand-alone business entity going forward;

the terms and conditions that Tercica would receive under the Increlex License and Collaboration Agreement and the attractiveness of Ipsen as Tercica's commercial partner for the Increlex product outside of the United States;

the terms and conditions that Tercica would receive under the Somatuline License and Collaboration Agreement and the expected impact of the projected cash flows from the sale of Somatuline® Autogel® on Tercica's long-term financial forecasts;

Tercica's need for immediate financing, and the fact that the Licensing Agreements and the equity investment by Ipsen would offer a comprehensive financing solution for Tercica's short-term and long-term operating goals;

the premium price to be paid for the securities to be purchased by Ipsen compared to the then-current and approximately 20-day historical volume-weighted average price of Tercica common stock;

the impact of the proposed transactions on Tercica's balance sheet and capital structure; and

the enhanced potential for strategic opportunities and alternatives that the proposed transactions would provide to Tercica for building upon the Ipsen relationship on a going-forward basis, such as expanding Tercica's commercial focus into the adult endocrinology market, accessing Ipsen's global commercial infrastructure for Tercica's future products in development, and gaining access to Ipsen's rich endocrine pipeline.

ABOUT IPSEN

Ipsen is a European pharmaceutical group with over 20 products. Ipsen's development strategy is based on a combination of products in targeted therapeutic areas (oncology, endocrinology and neuromuscular disorders), which are growth drivers and primary care products which contribute significantly to Ipsen's research financing. This strategy is also supported by an active policy of partnerships. The location of Ipsen's four research and development centers (Paris, Boston, Barcelona and London) provides Ipsen with access to leading university research teams and highly qualified personnel. Based on Ipsen's 2005 Annual Report, Ipsen's research and development expenditure reached 169,000,000 in 2005, or 20.9% of consolidated sales, which amounted to 807,000,000 in Ipsen's pro forma accounts set up according to International Finance Reporting Standards. Nearly 700 people in research and development at Ipsen are dedicated to the discovery and development of innovative drugs for patient care.

Ipsen's Somatuline® Autogel® product is an injectable sustained-release formulation containing lanreotide, a somatostatin analogue. Somatuline® was initially developed in Europe for the treatment of acromegaly (a disorder caused by the over-production of growth hormone secondary to a benign tumor of the anterior pituitary gland) and, in most European countries, is also approved for the treatment of symptoms associated with neuroendocrine tumors. The Somatuline® Autogel® formulation requires no excipient other than water and releases lanreotide over a period of at least 28 days and up to 56 days. Somatuline® Autogel® is conditioned in a pre-filled syringe for easier administration than other long-acting somatostatin analogue. In acromegaly, Somatuline® is used primarily when circulating levels of growth hormone remain high despite surgery or radiotherapy, and through its inhibitory effects, Somatuline® lowers growth hormone and IGF-1 levels, thus controlling disease progression and relieving the symptoms associated with active disease.

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According to epidemiology data, acromegaly affects approximately 15,000 people in the United States and Canada and is most commonly found in middle-aged adults. Studies estimate an all-cause mortality rate associated with acromegaly of at least twice the normal population, and a reduction in life expectancy of five to ten years. Somatuline[®] also treats the symptoms associated with neuroendocrine tumors, particularly carcinoid syndrome, such as diarrhea and flushing, by inhibiting the over-production of hormones secreted by these tumors.

As of December 31, 2005, Somatuline[®] and Somatuline[®] Autogel[®] had marketing authorizations in over 50 countries for the treatment of acromegaly and neuroendocrine tumors. Ipsen intends to file an application for marketing authorization in the United States by the end of 2006 for the treatment of acromegaly.

Based on Ipsen's 2005 Annual Report, Somatuline[®] and Somatuline[®] Autogel[®] generated sales of \$81,800,000 in 2005, up 13.4% as compared to 2004. In its main markets in Europe, Somatuline[®] Autogel[®] has achieved a 30% to 50% market share, varying from country to country, of the acromegaly market.

On July 17, 2006, Health Canada approved Somatuline[®] Autogel[®] for the long-term treatment of patients with acromegaly due to pituitary tumors who have had inadequate response to or cannot be treated with surgery and/or radiotherapy and for the relief of symptoms associated with acromegaly.

REASONS FOR STOCKHOLDER APPROVAL

Tercica common stock is listed on the NASDAQ Global Market, and, as a result, Tercica is subject to the rules of The NASDAQ Stock Market LLC (the "NASDAQ Rules"). Tercica is required to seek stockholder approval for the securities issuances described in Proposal 1 in order to ensure compliance with Rule 4350(i) of the NASDAQ Rules ("NASDAQ Rule 4350"). NASDAQ Rule 4350 requires stockholder approval prior to the issuance of securities when the issuance or potential issuance will result in a "change of control" of the issuer. In addition, NASDAQ Rule 4350 requires stockholder approval prior to the issuance of securities in connection with a transaction other than a public offering involving the sale, issuance or potential issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding prior to the issuance for less than the greater of book or market value.

Tercica's stockholders are being asked to approve the issuance of the Shares, the Convertible Notes, the Note Shares, the Warrant and the Warrant Shares because such issuances to Ipsen may be deemed to result in a "change of control" under NASDAQ Rule 4350. In addition, because the conversion prices of the Convertible Notes and the exercise price of the Warrant would be subject to weighted-average price-based antidilution adjustments in connection with certain issuances of Tercica common stock at a per share price less than the lower of \$4.75 ("3.79" with respect to the Second Convertible Note) or the then-existing conversion prices of the Convertible Notes or exercise price of the Warrant, the issuance of these securities may be deemed an issuance at less than the greater of book or market value. Accordingly, Tercica is seeking stockholder approval to ensure compliance with NASDAQ Rule 4350.

APPRAISAL RIGHTS

Under Delaware law, Tercica stockholders are not entitled to appraisal rights or other similar rights in connection with the transactions contemplated by the Purchase Agreement.

INTERESTS OF OFFICERS AND DIRECTORS

None of Tercica's officers or directors will participate in the transactions contemplated by the Purchase Agreement or receive any benefit from the transactions.

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SUMMARY OF THE PURCHASE AGREEMENT AND OTHER TRANSACTION DOCUMENTS

Below is a summary of the terms of the Purchase Agreement and the agreements and other documents contemplated by the Purchase Agreement.

THE FOLLOWING SUMMARY BELOW IS INTENDED TO PROVIDE YOU WITH CERTAIN INFORMATION CONCERNING THE SECURITIES ISSUANCE. HOWEVER, IT IS NOT A SUBSTITUTE FOR REVIEWING THE DOCUMENTS ATTACHED TO THIS PROXY STATEMENT.

STOCK PURCHASE AND MASTER TRANSACTION AGREEMENT

The following summary of the provisions of the Stock Purchase and Master Transaction Agreement (the Purchase Agreement) is qualified in its entirety by the Purchase Agreement, which is attached hereto as Appendix A-1.

General. At the First Closing, subject to the satisfaction or waiver of the conditions thereto (as described below):

Tercica would issue the Shares to Ipsen;

Tercica would issue the First Convertible Note to Ipsen;

Tercica would issue the Warrant to Ipsen;

Tercica would exchange with Ipsen duly executed copies of the Affiliation Agreement, Registration Rights Agreement, Somatuline License and Collaboration Agreement and Increlex License and Collaboration Agreement;

Ipsen would deliver \$77,318,944 to Tercica for the purchase price for the Shares; and

Ipsen would deliver \$25,037,000 to Tercica, which represents the principal amount of the First Convertible Note (the amount to be delivered to Tercica for the First Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as an upfront payment under the Somatuline License and Collaboration Agreement).

At the Second Closing, subject to the satisfaction or waiver of the conditions thereto (as described below):

Tercica would issue the Second Convertible Note to Ipsen;

Tercica would issue the Third Convertible Note to Ipsen;

Ipsen would deliver 30,000,000 to Tercica, which represents the principal amount of the Second Convertible Note (the amount to be delivered to Tercica for the Second Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as a milestone payment under the Somatuline License and Collaboration Agreement); and

Ipsen would deliver \$15,000,000 to Tercica, which represents the principal amount of the Third Convertible Note.

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The First Closing would occur on the third business day following stockholder approval of this Proposal 1 and Proposal 3, provided that each of the closing conditions (as more fully described below) with respect to the First Closing have either been satisfied or waived in accordance with the terms of the Purchase Agreement. The Second Closing would occur on the date on which each of the closing conditions (as more fully described below) with respect to the Second Closing have either been satisfied or waived in accordance with the terms of the Purchase Agreement.

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Representations and Warranties. In the Purchase Agreement, Tercica makes customary representations and warranties to Ipsen relating to, among other matters:

Tercica's organization and qualification to conduct business;

Tercica's capitalization;

Tercica's subsidiaries;

the validity of the issuance of the Shares, the Warrant Shares and the Note Shares;

Tercica's due execution, delivery and performance of the transaction documents;

the Board's approval of the transactions contemplated by the Purchase Agreement;

the exemption of the issuance of the Shares, the Warrant, the Convertible Notes, the Note Shares and the Warrant Shares from registration under applicable securities laws;

the absence of defaults under Tercica's organizational documents and agreements to which Tercica is a party;

the absence of certain material changes to Tercica or events that have had or would reasonably be expected to have a Material Adverse Effect on Tercica between March 31, 2006 and the date of the Purchase Agreement;

intellectual property matters;

Tercica's compliance with applicable laws, including applicable Food and Drug Act regulations, and related matters;

product safety or efficacy;

litigation matters;

labor and employment matters;

employee benefits matters;

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Tercica's compliance with the Foreign Corrupt Practices Act, as amended and related matters;

Tercica's filings with the Securities and Exchange Commission and Tercica's financial statements;

Tercica's internal accounting controls;

Tercica's corporate records;

Tercica's compliance with NASDAQ listing requirements;

Tercica's reservation of shares of common stock to satisfy its obligation to issue the Shares, the Note Shares and the Warrant Shares;

the absence of brokers or finders entitled to compensation in connection with the proposed transactions with Ipsen;

Tercica's receipt of a fairness opinion in connection with the proposed transactions with Ipsen; and

Tercica's current business plan.

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A **Material Adverse Effect** with respect to Tercica or Ipsen means a material adverse effect on the financial condition, properties, business or results of operations of the applicable party and its subsidiaries, taken as a whole, or a material adverse effect on the ability of the applicable party to perform its material obligations under the Purchase Agreement or the other transaction documents; *provided, however*, that none of the following, either alone or in combination, would be taken into account in determining whether there has been or will be a Material Adverse Effect:

any adverse effect resulting from or arising out of general economic conditions to the extent that such conditions do not disproportionately affect the applicable party and its subsidiaries, taken as a whole;

any adverse effect resulting from or arising out of general conditions in the industries in which the applicable party and its subsidiaries operate to the extent that such conditions do not disproportionately affect such party and its subsidiaries, taken as a whole;

any adverse effect resulting from or arising out of any natural disaster or any acts of terrorism, sabotage, military action or war or any escalation or worsening thereof to the extent they do not disproportionately affect the applicable party and its subsidiaries, taken as a whole;

any adverse change in reported financial results to the extent such change results from or arises out of changes (after the date of the Purchase Agreement) in GAAP or applicable laws;

a reduction in market price of the applicable party's common stock on the stock markets on which it trades (unless the reduction is related to factors that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect); or

any adverse effect resulting from or arising out of the failure of the applicable party to achieve projected financial results except to the extent that such failure is related to operational issues or other factors that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

In the Purchase Agreement, Ipsen makes customary representations and warranties to Tercica relating to, among other matters:

Ipsen's organization and qualification to conduct business;

securities law matters;

Ipsen's due execution, delivery and performance of the transaction documents;

acknowledgement regarding legal and tax matters;

the approval of the transactions contemplated by the Purchase Agreement by Ipsen's board of directors;

the absence of defaults under Ipsen's organizational documents and agreements to which Ipsen is a party;

Ipsen's compliance with applicable laws;

product safety or efficacy;

litigation matters; and

acknowledgment of restrictive legends on the securities to be issued pursuant to the Purchase Agreement.

Covenants.

Efforts. Tercica and Ipsen have agreed to use commercially reasonable efforts to cause the closing conditions related to the First Closing to be satisfied as soon as practicable.

Conduct of Business. Between the date of the Purchase Agreement and the First Closing, Tercica has agreed to conduct its business in the ordinary course, consistent with past practice in all material respects, and to use

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commercially reasonable efforts to maintain Tercica's assets and properties in good repair, preserve intact Tercica's current business operations and preserve Tercica's business relationships, consistent with past practice. Further, Tercica has agreed, except as otherwise expressly provided in the Purchase Agreement or as required by law, not to take any of the following actions without the prior written consent of Ipsen:

authorize the issuance of or issue any stock or any securities convertible into or exercisable or exchangeable for stock, other than the grant of employee or director stock options and other equity awards in the ordinary course of business, and the issuance of stock upon the exercise thereof or upon exercise of options and or warrants outstanding as of the date of the Purchase Agreement;

split, combine or reclassify any shares of Tercica capital stock;

declare or pay any dividends on shares of Tercica capital stock;

redeem, repurchase or acquire any securities of Tercica, other than in connection with the termination of services being rendered to Tercica;

fail to comply with any applicable law, the non-compliance of which would reasonably be expected to have a Material Adverse Effect on Tercica, or fail to comply with any Securities and Exchange Commission filing requirements, the effect of which non-compliance would be material to an investor;

adopt or become obligated to contribute to an employee benefit plan;

take any action that would require Ipsen's consent under any of the transaction documents;

intentionally or negligently take any action, or knowingly omit to take any action that would or would reasonably be expected to result in a representation or warranty made by Tercica under the Purchase Agreement to become untrue or any of the conditions to the obligations of Ipsen to complete the First Closing to not be fully satisfied; or

agree or commit to agree to do any of the foregoing.

Proxy Statement/Stockholders' Meeting. Tercica has agreed to prepare and file this proxy statement with the Securities and Exchange Commission. Tercica has also agreed that the Board would (i) recommend the approval by Tercica's stockholders of all of the proposals included in this proxy statement, except to the extent that the Board withdraws or modifies its recommendation as permitted under the Purchase Agreement, and (ii) call, give notice of, convene and hold the Special Meeting for the purpose of seeking stockholder approval of all of the proposals included in this proxy statement.

No Shop. Until the earlier of the termination of the Purchase Agreement pursuant to its terms or the date of the First Closing, Tercica has agreed not to, and not to cause nor permit any of its affiliates or any of its or an affiliate's directors, officers, employees, agents or representatives to:

negotiate, authorize, recommend, enter into or propose to enter into a transaction, other than with Ipsen, with respect to (i) the issuance, sale or acquisition of Tercica's securities (other than employee, director and consultant stock options, employee stock purchase plan transactions and shares issuable upon exercise of warrants in existence as of the date of the Purchase Agreement or options that are either in existence as of the date of the Purchase Agreement or that have been granted consistent with past custom and

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practice); (ii) a sale or lease of material assets by Tercica (other than product sales in the ordinary course of business); or (iii) any merger, recapitalization, business combination, strategic alliance, joint venture or similar transaction involving Tercica (a Competing Transaction);

continue to engage in any pending discussions or negotiations with any third party concerning any previously proposed Competing Transaction;

knowingly encourage, solicit or initiate discussions, negotiations or submissions of proposals, indications of interest or offers in respect of a Competing Transaction; or

knowingly furnish or cause to be furnished to any person any information in furtherance of a Competing Transaction.

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However, Tercica may provide information to a third party who has made an unsolicited bona fide written proposal for a Competing Transaction, provided that the Board determines in good faith that such proposal constitutes or would reasonably be expected to lead to a proposal for a transaction that it determines to be superior to Tercica than the transactions contemplated by the Purchase Agreement. The Board may engage in negotiations or discussions with a third party who has made an unsolicited bona fide written proposal for a Competing Transaction, but, to the extent that the discussions exceed the level that is reasonably necessary to assess the likely value of the proposal, only to the extent that failure to do so would be reasonably likely to lead to a breach of the directors' fiduciary duties and only if the Board has a good faith determination that such proposal would lead to a superior proposal. The Board may also withdraw or modify its recommendation that the Tercica stockholders approve the transactions contemplated by the Purchase Agreement to the extent that failure to do so would reasonably be likely to lead to a breach of the directors' fiduciary duties. In addition, the Board may terminate the Purchase Agreement (as described below) pursuant to the terms of the Purchase Agreement, if failure to do so would be reasonably likely to lead to a breach of the directors' fiduciary duties. In connection with any proposed change or modification to the Board's recommendation or termination of the Purchase Agreement, Tercica would be required to give to Ipsen two business days' written notice of the Board's intention to take such action. Prior to taking such action, the Board would also be required to consider any changes to the Purchase Agreement proposed by Ipsen and if, a proposed action is in connection with a superior proposal, the Board must make a good faith determination that any applicable unsolicited proposal remains a superior proposal after the changes proposed by Ipsen.

Cooperation Regarding Approvals. Tercica and Ipsen have each agreed to take all commercially reasonable steps to obtain, as promptly as practicable, all authorizations, consents, orders and approvals of all governmental entities that may be or become necessary in connection with the transactions contemplated by the Purchase Agreement and the other transaction documents, including under the Hart-Scott-Rodino Antitrust & Improvements Act of 1976, as amended (the "HSR Act"). Tercica and Ipsen have also agreed to make all necessary filings to be made with governmental agencies in connection with the transactions contemplated by the Purchase Agreement and the other transaction documents, including those that are required under the HSR Act.

Notice of Certain Events. Tercica and Ipsen have each agreed to give the other notice of:

any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by the Purchase Agreement and the other transaction documents;

any notice or other communication from any governmental entity in connection with the review, clearance or approval of the transactions contemplated by the Purchase Agreement and the other transaction documents;

any legal proceeding commenced or threatened against, relating to or involving or otherwise affecting the applicable party that, if pending on the date of the Purchase Agreement, would have been required to have been disclosed or that relates to the transactions contemplated by the Purchase Agreement and the other transaction documents; and

any matter (including a breach of covenant or a representation or warranty contained in the Purchase Agreement) that would reasonably be expected to lead to the non-satisfaction of any of the closing conditions.

Conditions to First Closing.

Tercica's obligations to consummate the First Closing are subject to the satisfaction of several closing conditions, including, but not limited to, the following (which may be waived in whole or in part by Tercica to the extent legally permissible):

the accuracy of Ipsen's representations and warranties in the Purchase Agreement as of the date of the Purchase Agreement, except to the extent the representations and warranties expressly related to an earlier date, in which case they must be accurate as of that earlier date;

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the absence of an event or circumstance that has had, or would reasonably be expected to have, a material adverse effect on Ipsen's ability to perform its obligations under the License Agreements, subject to specified exceptions;

Ipsen's material compliance with its covenants and agreements in the Purchase Agreement;

the absence of any pending or threatened litigation with the probable or reasonably likely effect of enjoining or preventing the consummation of the transactions contemplated by the Purchase Agreement or the other transaction documents or seeking (with the probable or reasonably likely effect of receiving) material damages on account thereof;

the approval by Tercica's stockholders of Proposals 1 and 3 in this proxy statement;

the expiration of the waiting period under the HSR Act;

the absence of any law or governmental order (issued or pending) that prohibits consummation of the transactions contemplated by the Purchase Agreement or the other transaction documents or materially modifies any material term thereof; and

the receipt of all required material governmental authorizations or approvals.

Ipsen's obligations to consummate the First Closing are subject to the satisfaction of several closing conditions, including, but not limited to, the following (which may be waived in whole or in part by Ipsen):

the accuracy of Tercica's representations and warranties in the Purchase Agreement as of the date of the Purchase Agreement, except to the extent the representations and warranties expressly related to an earlier date, in which case they must be accurate as of that earlier date;

the absence of an event or circumstance that has had, or would reasonably be expected to have, a material adverse effect on Tercica's ability to perform its obligations under the License Agreements, subject to specified exceptions;

Tercica's material compliance with its covenants and agreements in the Purchase Agreement;

the absence of any pending or threatened litigation with the probable or reasonably likely effect of enjoining or preventing the consummation of the transactions contemplated by the Purchase Agreement or the transaction documents or seeking (with the probable or reasonably likely effect of receiving) material damages on account thereof;

the approval by Tercica's stockholders of Proposals 1 and 3 in this proxy statement;

the expiration of the waiting period under the HSR Act;

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the absence of any law or governmental order (issued or pending) that prohibits consummation of the transactions contemplated by the Purchase Agreement or the other transaction documents or materially modifies any material term thereof;

the implementation of Ipsen's right to nominate two out of nine members of the Board;

the implementation of the Rights Agreement; and

the receipt of all required material governmental authorizations or approvals.

Conditions to Second Closing.

Tercica's obligations to consummate the Second Closing are subject to the satisfaction of several closing conditions, including, but not limited to, the following (which may be waived in whole or in part by Tercica):

the First Closing having been consummated;

the milestone event in the Somatuline License and Collaboration Agreement related to marketing approval of Somatuline® Autogel® by the United States Food & Drug Administration for the targeted product label having occurred;

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the absence of any material breach by Ipsen of the documents entered into in connection with the transactions contemplated by the Purchase Agreement; and

the Somatuline License and Collaboration Agreement not having been terminated.

Ipsen's obligations to pay the principal amounts of the Second Convertible Note and the Third Convertible Note are subject to the satisfaction of several closing conditions, including, but not limited to, the following (which may be waived in whole or in part by Ipsen):

the First Closing having been consummated;

the milestone event in the Somatuline License and Collaboration Agreement related to marketing approval of Somatuline® Autogel® by the U.S. Food & Drug Administration for the targeted product label having occurred;

the absence of any material breach by Tercica of the documents entered into in connection with the transactions contemplated by the Purchase Agreement; and

the Somatuline License and Collaboration Agreement not having been terminated.

Termination.

The Purchase Agreement and the transactions contemplated by the Purchase Agreement may be terminated by Ipsen if:

Tercica has breached any of its representations, warranties, obligations, agreements or covenants under the Purchase Agreement, subject to a cure period, effective date and materiality standards provided for in the Purchase Agreement;

there has been an event, occurrence or circumstance that has had or would reasonably be expected to have a material adverse effect on Tercica's ability to perform its obligations under the License Agreements, subject to a cure period provided for in the Purchase Agreement; or

at any time prior to the Special Meeting, the Board changes its recommendation that Tercica's stockholders approve the transactions contemplated by the Purchase Agreement.

The Purchase Agreement and the transactions contemplated by the Purchase Agreement may be terminated by Tercica if:

Ipsen has breached any of its representations, warranties, obligations, agreements or covenants under the Purchase Agreement, subject to a cure period, effective date and materiality standards provided for in the Purchase Agreement;

there has been an event, occurrence or circumstance that has had or would reasonably be expected to have a material adverse effect on Ipsen's ability to perform its obligations under the License Agreements, subject to a cure period provided for in the Purchase Agreement; or

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the Board authorizes Tercica, subject to the terms of the Purchase Agreement, to enter into a transaction that it determines to be more favorable to Tercica's stockholders from a financial point of view than the transactions contemplated by the Purchase Agreement. The Purchase Agreement and the transactions contemplated by the Purchase Agreement may also be terminated by either Tercica or Ipsen:

by mutual written consent;

if the First Closing has not occurred by October 31, 2006 or such other date, if any, as Tercica and Ipsen agree in writing, unless (i) the First Closing has not occurred as of such date due to the waiting periods under the HSR Act not having expired or terminated by such date or the failure to obtain all other required material governmental authorizations or approvals or (ii) the Securities and Exchange Commission has not cleared this proxy statement by September 22, 2006;

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if, at December 31, 2006, the Securities and Exchange Commission has not cleared this proxy statement, all applicable waiting periods under the HSR Act have not expired or terminated or all

other required material governmental authorizations or approvals have not been obtained by such date;

if the First Closing has not occurred by March 1, 2007 or such other date, if any, as Tercica and Ipsen may agree in writing;

if there shall be any law that makes the consummation of the transactions contemplated by the Purchase Agreement illegal or otherwise prohibited;

if there shall be any final order permanently restraining, enjoining or otherwise prohibiting consummation of the First Closing; or

if Tercica's stockholders do not approve Proposal 1 and Proposal 3 in this proxy statement.

Effect of Termination. If the Purchase Agreement is terminated because Tercica's stockholders do not approve Proposal 1 and Proposal 3 in this proxy statement, but the Supporting Stockholders (as defined below under the caption "Voting Agreements") vote their shares in favor of the transactions contemplated by the Purchase Agreement, Tercica would be required to pay to Ipsen \$1,500,000. If either Tercica or Ipsen terminates the Purchase Agreement under certain circumstances prior to March 1, 2007, Tercica or Ipsen, as applicable, must pay to the other party \$1,500,000. If the Purchase Agreement is terminated: (i) by either Tercica or Ipsen because Tercica's stockholders do not approve Proposal 1 and Proposal 3 in this proxy statement and the Supporting Stockholders do not vote their shares in favor of Proposal 1 and Proposal 3 in this proxy statement; (ii) by Ipsen in connection with a change in the Board's recommendation that Tercica's stockholders approve the transactions contemplated by the Purchase Agreement; or (iii) by Tercica in connection with a transaction that the Board determines to be more favorable to Tercica's stockholders from a financial point of view than the transactions contemplated by the Purchase Agreement, Tercica is required to pay to Ipsen 3% of the sum of the Purchase Price and the aggregate principal amount of the Convertible Notes.

Survival of Representations and Warranties. The representations and warranties in the Purchase Agreement survive the First Closing and would terminate at the close of business on the 15-month anniversary of date of the First Closing; *provided, however*, that certain representations and warranties would not terminate until the applicable statute of limitations has expired. The representations and warranties that survive until the applicable statute of limitations has expired include representations and warranties as to:

Tercica's capitalization;

the validity of the issuance of the Shares, the Warrant Shares and the Note Shares;

Tercica's full legal right, corporate power and authority to enter into the transaction documents, issue the Shares, the Warrant, the Warrant Shares, the Convertible Notes and the Note Shares and perform the transactions contemplated by the transaction documents;

Tercica's Securities and Exchange Commission filings and Tercica's financial statements; and

Ipsen's full legal right, corporate power and authority to enter into the transaction documents and perform the transactions contemplated by the transaction documents.

Indemnification. Tercica and Ipsen would indemnify and hold each other harmless from and against all losses arising out or relating to any breach or violation of its representations, warranties, covenants or agreements made in the Purchase Agreement or in the certificates each of the parties has agreed to deliver with respect to the accuracy of its representations and warranties. Any materiality or Material Adverse Effect

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qualifiers contained in a representation or warranty would not to be taken into account for purposes of determining if there has been any breach of a representation or warranty and related losses. Except with respect to claims by Ipsen related to representations made by Tercica as to Tercica's Securities and Exchange Commission filings and financial statements, neither party would be under any obligation to indemnify the other party until and unless the

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aggregate losses to which such party would be liable exceeds \$1,500,000, in which case such party would only be required to indemnify for such losses in excess of this minimum amount. The indemnification provisions are the sole and exclusive remedy in connection with the transactions contemplated by the Purchase Agreement.

WARRANT

General. Pursuant to the Purchase Agreement, Tercica agreed to issue the Warrant to Ipsen at the First Closing to enable Ipsen, or any subsequent holder of the Warrant, to purchase the number of Warrant Shares as described under the caption *Number of Shares Subject to the Warrant*. The Warrant would be exercisable by the holder of the Warrant in full or in part, in cash or through a cashless exercise arrangement, at any time during the five year period following the First Closing. The Warrant contains customary representations by Tercica regarding securities law matters and the Warrant Shares and customary representations by Ipsen regarding securities law matters.

Number of Shares Subject to the Warrant. The Warrant would be exercisable for the number of Warrant Shares equal to the greater of (i) 4,948,795 shares of Tercica common stock (the *Baseline Amount*) or (ii) the *Baseline Amount* plus a variable amount of shares of Tercica common stock (the *Variable Amount*). The *Variable Amount*, which would fluctuate throughout the term of the Warrant, would equal the number of shares of Tercica common stock determined by netting (i) two-thirds of the total number of shares of Tercica common stock issued (or underlying options, warrants and similar instruments issued) by Tercica (a) after June 30, 2006 and prior to the First Closing, (b) after the First Closing in connection with certain strategic transactions involving Tercica if Ipsen's right of first offer, as described under the caption *Affiliation Agreement Right of First Offer*, is not applicable to such issuance and (c) after the First Closing to raise proceeds for paying amounts due and payable under the Convertible Notes, against (ii) the total number of shares of Tercica common stock (a) acquired (or underlying options, warrants or similar instruments acquired) by Ipsen from persons other than Tercica after the date of the First Closing following which Ipsen and its affiliates beneficially own less than or equal to 40% of Tercica's outstanding common stock on a diluted basis and (b) into which interest accrued on the Convertible Notes has converted or could be converted into Tercica common stock. The *Variable Amount* would have only the effect of increasing the number of Warrant Shares to a number of shares of Tercica common stock above the *Baseline Amount*. The Warrant Shares would be subject to adjustment as described under the caption *Adjustment Provisions* below.

Exercise Price. The initial exercise price of the Warrant would be \$7.41 per share (the *Exercise Price*) and would be subject to adjustment as described under the caption *Adjustment Provisions* below.

Adjustment Provisions.

Structural Antidilution Adjustments. Both the *Exercise Price* and the Warrant Shares would be subject to proportional adjustments in the event of a subdivision or combination of Tercica common stock, as well as in the event of the payment by Tercica of a dividend or other distribution of Tercica common stock to all holders of Tercica common stock, such that the number of Warrant Shares and the *Exercise Price* would be adjusted to give the holder of the Warrant, upon exercise of the Warrant for the same aggregate *Exercise Price*, the total number of Warrant Shares that the holder of the Warrant would have held had the Warrant been exercised prior to such event and had the holder continued to hold such shares until after the event requiring the adjustment. In addition, in the event of certain reclassifications or other changes in Tercica common stock, or in the event of certain consolidations, mergers or mandatory share exchanges with or into another corporation, the holder of the Warrant would be entitled to a new warrant that would enable the holder to receive, in lieu of Warrant Shares, the kind and amount of securities or other property that would have been received by the holder had the holder exercised the Warrant immediately prior to such event. In the event of certain merger or sale transactions in which the surviving, successor or acquiring person does not agree to assume the obligations under the Warrant, the Warrant would terminate on the consummation of such event. The holder of the Warrant would also be entitled to the benefit of any liquidating distributions or dividends, including a distribution made in respect of the sale of all or substantially all of Tercica's assets.

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Price-Based Antidilution Adjustments. Both the Exercise Price and the Baseline Amount (but not the Variable Amount), would be subject to weighted-average price-based antidilution adjustments. Under the provisions of the Warrant, if Tercica were to issue or sell or is deemed by the express provisions of the Warrant to have issued or sold additional shares of its common stock, other than excluded shares (which generally means shares issued or deemed issued to Tercica's directors, officers, employees or consultants (provided that consultants receive no more than 75,000 shares per calendar year) under Tercica's stock option plans or arrangements, shares issued upon conversion of the Convertible Notes or convertible securities outstanding on the date the Warrant is issued, or shares issued or deemed issued in connection with any stock split, stock dividend or recapitalization), at an effective price less than the lower of \$4.75 or the then-effective Exercise Price (such lower amount referred to as the Trigger Price), the then-effective Exercise Price would be decreased to an amount determined by multiplying the then-effective Exercise Price by a fraction:

the numerator of which would be the sum of (i) the number of shares of Tercica common stock outstanding immediately prior to such issuance or sale (including the number of shares issuable upon conversion of the Convertible Notes and upon exercise of the Warrant) plus (ii) the quotient obtained by dividing (a) the aggregate consideration received by Tercica for such additional shares of common stock by (b) the Trigger Price; and

the denominator of which would be the sum of (i) the number of shares of Tercica common stock outstanding immediately prior to such issuance or sale (including the number of shares issuable upon conversion of the Convertible Notes and upon exercise of the Warrant) plus (ii) the number of additional shares of Tercica common stock issued or sold or deemed to be issued or sold.

Upon any reduction of the Exercise Price in accordance with the above, the number of Warrant Shares then constituting the Baseline Amount would be increased by multiplying the number of Warrant Shares then constituting the Baseline Amount by a fraction, the numerator of which would be the Exercise Price immediately prior to such issuance or sale, and the denominator of which would be the Exercise Price immediately after such issuance or sale (as reduced in accordance with the formula above).

Issuance of Shares. Upon the delivery of the exercise notice, the aggregate exercise price (or notice of cashless exercise) and the Warrant, the holder of the Warrant would be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which the Warrant is being exercised.

Transfer. Subject to applicable law and the terms of the Warrant, the Warrant would be assignable and transferable to an affiliate of the holder without Tercica's consent upon delivery of a properly executed assignment.

CONVERTIBLE NOTES

General. Pursuant to the Purchase Agreement, the First Convertible Note in the principal amount of \$25,037,000 would be issued to Ipsen at the First Closing. The amount to be delivered to Tercica for the First Convertible Note would be offset by approximately the same amount that Tercica would owe Ipsen as the upfront license fee under the Somatuline License and Collaboration Agreement. At the Second Closing, Tercica would issue the Second Convertible Note and the Third Convertible Note in the principal amounts of \$30,000,000 and \$15,000,000, respectively. The amount to be delivered to Tercica for the Second Convertible Note would be offset by approximately the same amount that Tercica would owe Ipsen as a milestone payment under the Somatuline License and Collaboration Agreement. For more information on Tercica's payment obligations to Ipsen under the Somatuline License and Collaboration Agreement, see the caption *License Agreements* below. Other than with respect to the principal amounts thereunder, each of the Convertible Notes generally contains substantially the same terms and conditions and includes certain representations and warranties of Tercica with respect to its indebtedness. Accordingly, when the following summary refers to a Convertible Note, it is referring to each of the Convertible Notes unless the context clearly provides otherwise.

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Interest. Interest would bear on a Convertible Note at the rate of 2.5% per annum from the date of issuance, compounded quarterly. To the extent permitted by law, with respect to any overdue payment of principal or interest on the Convertible Note, the interest rate per annum would equal the greater of 5.52% and 3% over the applicable Libor rate, which default interest would be payable on demand by Ipsen or any subsequent holder of the Convertible Note.

Prepayment. Tercica would not be permitted to prepay any interest or principal amount under a Convertible Note without the prior written consent of the holder of the Convertible Note.

Maturity. The entire principal balance and accrued interest under a Convertible Note would become due and payable on the later to occur of the fifth anniversary of the date of issuance or the second anniversary of the date on which the holder notifies Tercica that it will not convert the Convertible Note in full (the Maturity Date). Notwithstanding the foregoing, the holder would be entitled to declare all amounts outstanding under a Convertible Note immediately due and payable:

if an event of Default (as defined below) occurs;

for so long as the approval rights as described under the caption *Affiliation Agreement Matters Requiring Ipsen Approval* remain in effect, if any other person or group (within the meaning of the Securities Exchange Act of 1934, as amended) (i) that is not already the beneficial owner of more than 9.9% of Tercica's then outstanding common stock acquires beneficial ownership of greater than 9.9% of Tercica's then outstanding common stock, or (ii) currently beneficially owning greater than 9.9% of Tercica's outstanding common stock increases the percentage of Tercica's outstanding common stock currently beneficially owned by such person or group; or

if the approval rights as described under the caption *Affiliation Agreement Matters Requiring Ipsen Approval* cease to remain effective, if any other person or group (within the meaning of the Securities Exchange Act of 1934, as amended) acquires beneficial ownership of greater than 50% of Tercica's then outstanding common stock.

Under a Convertible Note, an event of Default would occur if:

Tercica fails to pay any principal or interest in respect of the Convertible Note and such failure continues for five business days following written notice thereof from the holder specifying such failure;

any representation or warranty made by Tercica in the Convertible Note or in any other of the transaction documents was incorrect in any material respect when made;

Tercica fails to perform or observe any covenant or agreement contained in the Convertible Note or any other transaction document to be performed or observed by it, subject to certain grace and cure periods;

any default or event of default occurs under any other Convertible Note after giving effect to any applicable grace or cure periods;

Tercica or any of Tercica's subsidiaries fail to pay any indebtedness for borrowed money in excess of \$250,000 (other than the indebtedness evidenced by the Convertible Notes), including any interest or premium thereon, when due (and such failure continues after any applicable grace or cure period), or any other event occurs and continues after any applicable grace or cure period that would accelerate the maturity of such indebtedness or would require Tercica or any subsidiary to purchase or repay (or become obligated to purchase or repay) such indebtedness prior to its stated maturity or regularly scheduled dates of payment;

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the Convertible Note fails or ceases to rank at least pari passu in right of payment to all other indebtedness with Tercica's most senior debt, subject to certain exceptions;

Tercica or any of Tercica's subsidiaries are generally not paying their debts as such debts become due, or admit in writing their inability to pay debts generally, or if they make a general assignment for the benefit of creditors; or

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any proceeding is instituted by or against Tercica or any of Tercica's subsidiaries seeking to adjudicate it as bankrupt or insolvent, or seeking, among other things, dissolution, liquidation or winding up, and such proceeding remains undismissed or unstayed for a period of 60 days.

Conversion; Conversion Price. The principal amount of a Convertible Note, plus all accrued interest thereon, would be convertible into shares of Tercica common stock at an initial conversion price per share equal to \$7.41 per share (or 5.92 per share with respect to the Second Convertible Note) (the Conversion Price).

Issuance of Shares. Upon the delivery of a notice of conversion, the holder of a Convertible Note would be deemed for all corporate purposes to have become the holder of record of the Tercica common stock issuable upon such conversion, and the outstanding principal amount and the amount of accrued and unpaid interest under the Convertible Note would be reduced to reflect such conversion.

Adjustment Provisions.

Structural Antidilution Adjustments. The Conversion Price of a Convertible Note would be subject to proportional adjustments in the event of a subdivision or combination of Tercica common stock, as well as in the event of the payment by Tercica of a dividend or other distribution of Tercica common stock to all holders of Tercica common stock, such that the Conversion Price would be adjusted to give the holder of the Convertible Note, upon conversion of the Convertible Note for the same aggregate Conversion Price, the total number of Note Shares that the holder of the Convertible Note would have held had the Convertible Note been converted prior to such event and had the holder continued to hold such shares until after the event requiring the adjustment. In addition, in the event of certain reclassifications or other changes in Tercica common stock, or in the event of certain consolidations, mergers or mandatory share exchanges with or into another corporation, the holder of the Convertible Note would be entitled to a new convertible note that would enable the holder to receive, in lieu of the Note Shares, the kind and amount of securities or other property that would have been received by the holder had the holder converted the Convertible Note immediately prior to such event.

Price-Based Antidilution Adjustments. The Conversion Price of a Convertible Note would be subject to weighted-average price-based antidilution adjustments. Under the provisions of a Convertible Note, if Tercica were to issue or sell or is deemed by the express provisions of the Convertible Note to have issued or sold additional shares of its common stock, other than excluded shares (as described under the caption *Warrant Adjustment Provisions Price-Based Antidilution Adjustments*), at an effective price less than the lower of \$4.75 (or 3.79 with respect to the Second Convertible Note) or the then-effective Conversion Price, then the then-effective Conversion Price would be decreased to an amount determined by using the same formula as described under the caption *Warrant Adjustment Provisions Price-Based Antidilution Adjustments*. With respect to the Second Convertible Note, these weighted-average price-based antidilution adjustments would take into account, and be calculated in part based upon, an exchange rate equal to 1/\$1.2519.

Negative Covenants. Until the earlier of (i) repayment in full to the holder of a Convertible Note of the principal and accrued interest thereunder, or (ii) the date of a sale or other transfer of Tercica common stock by Ipsen or its affiliates to non-affiliates of Ipsen which, aggregated with previous sales or other transfers of Tercica common stock by Ipsen or its affiliates to non-affiliates of Ipsen, exceeds five percent of Tercica's outstanding common stock as of the date of the most recent sale or other such transfer (a Triggering Sale) and the occurrence of a Covenant Defeasance, Tercica has agreed that it would not (and would cause its subsidiaries not to), without prior written consent of the holder of the Convertible Note:

make, or permit any subsidiary to make, loans to, or own any stock or other securities in another corporation, partnership or other entity, with certain exceptions with respect to certain permitted investments, including those permitted under Tercica's investment policy;

adopt any plan or arrangement with respect to the dissolution or liquidation of Tercica;

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enter into any material transaction or contract unless it would reflect the execution of a budget approved by the Board and would not be reasonably anticipated to increase future budgets beyond current projections (or where no current projections have been formally prepared, beyond reasonably anticipated growth based on Tercica's recent operating performance);

dispose of or acquire any property or assets other than in the ordinary course of business, provided that Tercica may not in any event acquire or dispose of any property or assets with an aggregate value exceeding \$5,000,000 without Ipsen's written consent unless the transfer is otherwise permitted under the terms of the Convertible Note;

merge or consolidate with any other person other than Tercica;

establish or approve an operating budget with anticipated research and development spending in excess of \$25,000,000 per year, plus amounts approved by the Joint Steering Committee under the Somatuline License and Collaboration Agreement for spending related to the products of Ipsen or its affiliates;

enter into any transaction or agreement that would reasonably be likely to require an increase in research and development spending above the amount specified above;

incur capital expenditures of more than \$2,000,000 in any given year;

make any investments, other than certain investments permitted under the Convertible Note;

subject to certain limited exceptions, incur any indebtedness other than indebtedness evidenced by the Convertible Notes and other than certain indebtedness permitted by the Convertible Note; provided that, with respect to indebtedness permitted by the Convertible Note, if following the incurrence of such permitted indebtedness, Tercica's total indebtedness exceeds \$2,500,000, then such permitted indebtedness will not be permitted unless immediately prior and after giving effect to the incurrence of such permitted indebtedness, Tercica's ratio of net indebtedness to EBITDA does not exceed 1 to 1;

subject to certain limited exceptions, change its principal business, enter new lines of business or exit its current line of business;

declare or pay any cash dividend on or redeem or repurchase any shares of its capital stock, other than repurchases upon termination of services to Tercica;

create, incur, assume or permit to exist, any liens on any of its properties or assets whether now owned or hereafter acquired, other than certain liens permitted under the Convertible Note;

prepay or pay any indebtedness except for trade payables incurred in the ordinary course of business and other indebtedness permitted under the Convertible Note; or

permit any of its subsidiaries to enter into any agreement or contractual or other restriction (other than customary limitations imposed by corporate law or similar statutes) restricting the ability of such subsidiary to pay dividends out of profits or make any other similar distributions of profits to Tercica or any of Tercica's subsidiaries that owns outstanding shares of capital stock or similar equity

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interests of such subsidiary.

For the purposes of these negative covenants, a Covenant Defeasance would generally occur if a Triggering Sale has occurred and Tercica has deposited to a trust account, to be held with a financial institution reasonably acceptable to the holder of the Convertible Note and Tercica, funds sufficient, in the opinion of a nationally recognized firm of independent accountants, to pay the principal and accrued interest due on the Convertible Note as of the Maturity Date, and Tercica has complied with certain other obligations, including providing notice to the holder of the Covenant Defeasance.

Affirmative Covenants. With respect to a Convertible Note, Tercica would agree that it would:

give written notice to the holder of the Convertible Note upon the occurrence of a Default or any event that would constitute a Default within five business days of such event;

comply in all material respects with all applicable laws and with every applicable lawful governmental order;

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keep adequate and proper records and books of account;

generally maintain and preserve its existence, rights and privileges, and obtain, maintain and preserve any permits, licenses, authorizations and approvals that are necessary in the proper conduct of Tercica's business; and

maintain sufficient available nonassessable shares of common stock for the issuance of the Note Shares upon conversion of the Convertible Note.

Indemnification. Tercica would agree to indemnify the holder of a Convertible Note and its representatives and affiliates against any and all liabilities, judgments, claims, settlements, losses, damages, reasonable fees, liens, taxes, penalties, obligations and expenses incurred or suffered by any such person as a result of any misrepresentation or breach of any representation, warranty or covenant contained in the Convertible Note or other document delivered by Tercica pursuant to or in connection with the Convertible Note (other than the Purchase Agreement, the Somatuline License and Collaboration Agreement, the Increlex License and Collaboration Agreement, the Registration Rights Agreement and the Affiliation Agreement) or otherwise in connection with or related to the Convertible Note. Tercica is not obligated to indemnify for losses caused by the gross negligence or willful misconduct of any of these indemnified persons. The indemnification provisions would survive repayment in full of each of the Convertible Notes.

Transfer. Subject to applicable law and the terms of a Convertible Note, the Convertible Note would be assignable and transferable to an affiliate of the holder without Tercica's consent.

AFFILIATION AGREEMENT

Pursuant to the Purchase Agreement, Tercica and Ipsen have agreed to enter into an Affiliation Agreement at the First Closing. This summary of the Affiliation Agreement is qualified in its entirety by the form of Affiliation Agreement, which is attached hereto as Appendix A-2.

Board Representation. So long as Ipsen holds at least 15% of the outstanding shares of Tercica common stock, Ipsen would be entitled to nominate two out of the nine directors of the Board. In the event that Ipsen holds at least 10% of the outstanding shares of Tercica common stock, but less than 15%, it would be entitled to nominate one director to the Board. Ipsen's right to nominate directors to the Board (and its right to a Board observer, as described below) would terminate if its ownership percentage of the outstanding Tercica common stock falls below 10%. The Board would also be comprised of no more than two directors who are employees of Tercica, one of which would be Tercica's chief executive officer. The remaining members of the Board would be required to have outstanding reputations for personal integrity and have experience relevant to Tercica's business as well as be independent, as defined in the NASDAQ Rules (or such other listing standards applicable to Tercica from time to time).

Ipsen is also entitled to one Board observer who would be entitled to attend but not vote at meetings of the Board and who is required to be a member of Ipsen's Executive Committee. For so long as an Ipsen-nominated director remains on the Board, Tercica would be required to maintain directors' and officers' insurance with certain insurers and with at least the current level of coverage, and would be required to indemnify the Ipsen-nominated directors to the full extent allowed by law.

In the event that Ipsen holds at least 60% of the then outstanding shares of Tercica common stock, Ipsen would be entitled to nominate an unlimited number of directors to the Board. Ipsen would also be entitled to nominate additional independent director nominees (which nominees must be independent of Ipsen) for election to the Board starting in 2008, as follows: one nominee in 2008, two nominees in 2009 and four nominees in 2010; *provided, however*, that these rights would terminate if Ipsen holds less than 15% of the outstanding shares of Tercica common stock and would be reduced if there is a Triggering Sale.

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Committees. The following committees would be established, empowered and maintained at all times during the term of the Affiliation Agreement: (i) an Audit Committee comprised of independent directors; (ii) a Nominating Committee (i.e., the current Corporate Governance and Nominating Committee of the Board, or such other nominating committee of the Board responsible for recommending the nomination of directors to the Board in accordance with the Affiliation Agreement); (iii) a Strategic Planning Committee whose responsibilities are more fully described below and that would be comprised of one management director (who would be Tercica's chief executive officer), each Ipsen-nominated director and two independent directors (who would be designated by a majority of Tercica's independent directors); (iv) a Compensation Committee comprised of at least two independent directors; and (v) such other committees as the Board deems necessary or desirable, provided that such committees are established in compliance with the terms of the Affiliation Agreement. An Ipsen-nominated director would be entitled to attend, as a non-participant, all meetings of the Compensation Committee.

Corporate Opportunities Waiver. Except as Ipsen may agree in writing, neither Ipsen, nor any of its affiliates nor any of their respective directors, officers or employees would be liable to Tercica or Tercica's stockholders for breach of any fiduciary duty by reason of the activities of Ipsen or any of Ipsen's affiliates. If Ipsen or any of its affiliates acquires knowledge of a potential transaction or matter that may be a corporate opportunity for both Ipsen (or its affiliates) and Tercica, neither Ipsen nor its affiliates would have a duty to offer such opportunity to Tercica. Further, neither Ipsen nor its affiliates would be held liable to Tercica or its stockholders for breach of fiduciary duty as a stockholder or controlling person of a stockholder of Tercica if Ipsen or its affiliates pursues or acquires such corporate opportunity for itself, directs the opportunity to a third party or does not disclose the existence of, or offer, such opportunity to Tercica.

If a person who is director, officer or employee of Tercica as well as a director, officer or employee of Ipsen or any of Ipsen's affiliates acquires knowledge, other than solely as result of his or her position as a director, officer or employee of Tercica, of a potential transaction that may be a corporate opportunity for both Tercica and Ipsen or Ipsen's affiliates (whether such transaction is proposed by a third party or conceived by such person), then such person would be entitled to offer such opportunity to Tercica, Ipsen or Ipsen's affiliates in such person's sole discretion, and would have no obligation to offer such opportunity to Tercica. This waiver would not apply, however, if such person had knowledge of such an opportunity that was acquired solely as a result of his or her position as a director, officer or employee of Tercica. If such person had knowledge of such an opportunity that was acquired other than solely as a result of his or her position as a director, officer or employee of Tercica, then such person would not be liable to Tercica or its stockholders for a breach of fiduciary duty to Tercica or Tercica's stockholders (i) for failing to communicate the opportunity to Tercica or for failing to offer it to Tercica or (ii) as a result of Ipsen pursuing or acquiring such corporate opportunity for itself or directing such corporate opportunity to another person or not communicating information regarding such corporate opportunity to Tercica. Tercica would also agree to renounce any interest or expectancy in, or in being offered an opportunity to participate in (i) any such corporate opportunity and (ii) any other potential transaction or matter that may be a corporate opportunity for Tercica and Ipsen or Ipsen's affiliates of which Ipsen or any of Ipsen's affiliates acquires knowledge, except to the extent that a director, officer or employee of Ipsen or any of its affiliates acquires such knowledge solely as a result of his or her position as a director, officer or employee of Tercica. Tercica would be subject to these provisions until Ipsen or its affiliates would no longer be entitled to designate at least one director to the Board and no person who is also a director or officer of Tercica is also a director or officer of Ipsen or any of its affiliates.

Matters Requiring Ipsen Approval. Until the earlier to occur of: (i) five years from the date of the First Closing if at that time the Convertible Notes have not been converted in full or (ii) a Triggering Sale (and absent the occurrence of these events, these provisions would continue indefinitely), the approval of Ipsen would be required for Tercica to take certain actions, including:

making, or permitting any subsidiary to make, loans to, or owning any stock or other securities in another corporation, partnership or other entity, with certain exceptions with respect to certain permitted investments, including those permitted under Tercica's investment policy;

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adopting any plan or arrangement with respect to the dissolution or liquidation of Tercica;

entering into any material transaction or contract unless it would reflect the execution of a budget approved by the Board and would not be reasonably anticipated to increase future budgets beyond current projections (or where no current projections have been formally prepared, beyond reasonably anticipated growth based on Tercica's recent operating performance);

disposing of or acquiring any property or assets other than in the ordinary course of business, provided that Tercica may not in any event acquire or dispose of any property or assets with an aggregate value exceeding \$5,000,000 without Ipsen's written consent, other than certain permitted transfers;

merging or consolidating with any other person other than Tercica;

establishing or approving an operating budget with anticipated research and development spending in excess of \$25,000,000 per year, plus amounts approved by the Joint Steering Committee under the Somatuline License and Collaboration Agreement for spending related to the products of Ipsen or its affiliates;

entering into any transaction or agreement that would be reasonably likely to require an increase in research and development spending above the amount specified above;

incurring capital expenditures of more than \$2,000,000 in any given year;

making any investment, other than certain permitted investments;

subject to certain limited exceptions, incurring any indebtedness other than indebtedness evidenced by the Convertible Notes and other than certain permitted indebtedness; provided that, with respect to permitted indebtedness, if following the incurrence of such permitted indebtedness, Tercica's total indebtedness exceeds \$2,500,000, then such permitted indebtedness will not be permitted unless immediately prior and after giving effect to the incurrence of such permitted indebtedness, Tercica's ratio of net indebtedness to EBITDA does not exceed 1 to 1;