

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**Omega Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

2836  
(Primary Standard Industrial  
Classification Code Number)

81-3247585  
(I.R.S. Employer  
Identification No.)

20 Acorn Park Drive  
Cambridge, MA 02140  
(617) 949-4360

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  \_\_\_\_\_

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company   
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities To Be Registered	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(2)
Common Stock, \$0.001 par value per share	\$100,000,000	\$10,910.00

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended. Includes the aggregate offering price of additional shares that the underwriters have the option to purchase.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

**Subject to Completion. Dated July 9, 2021.**

Shares



## Omega Therapeutics, Inc.

### Common Stock

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This is an initial public offering of shares of common stock of Omega Therapeutics, Inc.

We are offering \_\_\_\_\_ shares of our common stock.

Prior to this offering, there has been no public market for our common stock. It is currently estimated that the initial public offering price per share will be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_. We have applied to list our common stock on the Nasdaq Global Market under the symbol "OMGA."

We are an "emerging growth company" and a "smaller reporting company" under the federal securities laws and are subject to reduced public company disclosure standards. See "Prospectus Summary—Implications of Being an Emerging Growth Company and a Smaller Reporting Company."

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*Investing in our common stock involves risks. See "[Risk Factors](#)" beginning on page 15 to read about factors you should consider before buying shares of our common stock.*

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**Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

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	Per Share	Total
Public offering price	\$ _____	\$ _____
Underwriting discount(1)	\$ _____	\$ _____
Proceeds, before expenses, to Omega Therapeutics, Inc.	\$ _____	\$ _____

(1) See the section titled "Underwriting" for a description of the compensation payable to the underwriters.

To the extent that the underwriters sell more than \_\_\_\_\_ shares of common stock, the underwriters have the option to purchase up to an additional \_\_\_\_\_ shares from us at the initial price to public less the underwriting discount.

The underwriters expect to deliver the shares against payment in New York, New York on \_\_\_\_\_, 2021.

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**Goldman Sachs & Co. LLC**

**Jefferies**

**Piper Sandler**

**Wedbush PacGrow**

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Prospectus dated \_\_\_\_\_, 2021.

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Neither we nor the underwriters have authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares of common stock offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus or in any applicable free writing prospectus is current only as of its date, regardless of its time of delivery or any sale of shares of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

**Through and including \_\_\_\_\_, 2021 (25 days after the commencement of this offering), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.**

We have proprietary rights to trademarks, trade names and service marks appearing in this prospectus that are important to our business. Solely for convenience, the trademarks, trade names and service marks may appear in this prospectus without the ® and ™ symbols, but any such references are not intended to indicate, in any way, that we forgo or will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensors to these trademarks, trade names and service marks. All trademarks, trade names and service marks appearing in this prospectus are the property of their respective owners.

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For investors outside the United States: Neither we nor the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside the United States.

### **Certain Definitions**

As used in this prospectus, unless the context otherwise requires, references to:

- “*alopecia*” refers to the partial or complete absence of hair from areas of the body; baldness.
- “*ARDS*” refers to acute respiratory distress syndrome.
- “*cationic LNP*” refers to a lipid nanoparticle characterized by a positive charge.
- “*chemokines*” refers to a class of proteins that actively participate in the inflammatory response by attracting immune cells to the site of inflammation.
- “*chromatin*” refers to material human chromosomes are composed of. It includes protein, RNA, and DNA.
- “*CLD*” refers to chronic liver disease.
- “*DNA*” refers to deoxyribonucleic acid.
- “*effector protein*” refers to a protein that selectively binds to DNA and regulates its biological activity.
- “*ESLD*” refers to end-stage liver disease.
- “*HCC*” refers to hepatocellular carcinoma.
- “*histone*” refers to a group of basic proteins found in chromatin.
- “*homeostasis*” refers to a stable equilibrium maintained by physiological processes.
- “*IND*” refers to investigational new drug application.
- “*ionizable LNP*” refers to a lipid nanoparticle which changes its overall charge based upon its environment.
- “*IPF*” refers to idiopathic pulmonary fibrosis.
- “*IV*” refers to intravenous.
- “*lipid excipients*” refers to a lipid that serves as the vehicle or medium for a drug or other active substance.
- “*mRNA*” refers to Messenger RNA, a single-stranded RNA corresponding to the sequence of a gene.
- “*NSCLC*” refers to non-small cell lung cancer.
- “*neutrophils*” refers to the most abundant white blood cell type in humans, and one of the first cell types to be attracted to a site of inflammation or injury.
- “*oncogene*” refers to a gene which in certain circumstances can transform a cell into a tumor cell.
- “*papilla cells*” refers to cells in human hair follicles which play a crucial role in controlling hair production and the hair growth cycle.
- “*RNA*” refers to ribonucleic acid that carries instructions for the synthesis of proteins.

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- “SCLC” refers to small cell lung cancer.
- “*transcription factor*” refers to proteins that help turn specific genes “on” or “off” by binding to nearby DNA.
- “*xenograft*” refers to the transplant of an organ, tissue, or cells to an individual of another species.
- “*zinc-finger-like proteins*” refers to a small protein structural motif that stabilizes the fold of DNA or RNA.

## PROSPECTUS SUMMARY

*This summary highlights information included elsewhere in this prospectus. This summary does not contain all the information you should consider before investing in our common stock. You should read and consider this entire prospectus carefully, including the sections titled “Risk factors,” “Special note regarding forward-looking statements” and “Management’s discussion and analysis of financial condition and results of operations” and our financial statements and the related notes included elsewhere in this prospectus, before making any investment decision. Unless the context otherwise requires, the terms “Omega,” “Omega Therapeutics,” the “Company,” “we,” “us” and “our” relate to Omega Therapeutics, Inc.*

### Overview

At Omega Therapeutics, our goal is to pioneer a new class of DNA-sequence-targeting, mRNA-encoded therapeutics to fundamentally transform human medicine in the service of patients. Our pioneering OMEGA Epigenomic Programming platform is designed to coopt nature’s universal operating system by harnessing the power of epigenetics, the mechanism for gene control and cell differentiation. We have deciphered the three-dimensional architecture of the human genome and its accompanying regulators, which are organized into distinct and evolutionarily conserved structures called Insulated Genomic Domains, or IGDs. IGDs are the fundamental structural and functional units of gene control and cell differentiation and act as the “control room” of biology. Most diseases are caused by aberrant gene expression rooted in alterations in IGDs. The OMEGA platform has enabled us to systematically identify and validate thousands of novel DNA-sequence-based epigenomic “zip codes” within IGDs. We call these epigenomic targets EpiZips. We rationally design and engineer modular, programmable mRNA-encoded epigenetic medicines, which we call Omega Epigenomic Controllers, or OECs, to target EpiZips for Precision Genomic Control. This enables us to precisely tune genes to a desired level of expression and to control the duration of expression. Through this approach, we believe that the OMEGA platform has broad potential applicability across a range of diseases and conditions. Our pipeline currently consists of early-stage, preclinical programs that span regenerative medicine, multigenic diseases including immunology, oncology, and select monogenic diseases. We have conducted *in vivo* preclinical studies of our OECs in multiple disease models for various indications, including hepatocellular carcinoma, or HCC, non-small cell lung cancer, or NSCLC, and acute respiratory distress syndrome, or ARDS, and we expect to conduct *in vivo* preclinical studies for multiple additional programs. If successful, we plan to initiate IND-enabling studies for multiple programs beginning in

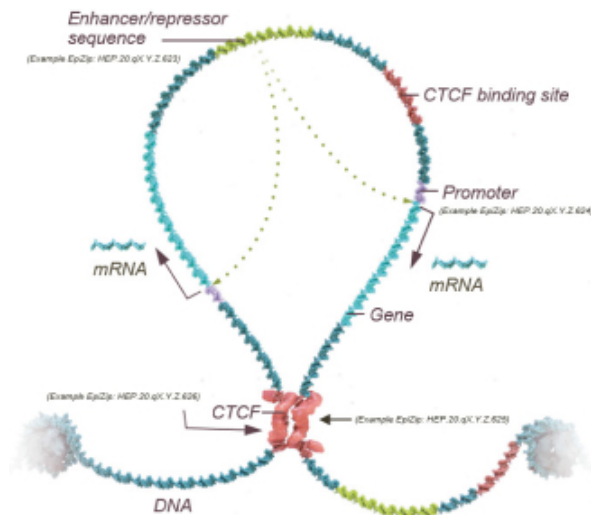
### Scientific Underpinnings of the OMEGA Platform

Epigenetics is the mechanism that systematically controls every aspect of an organism’s life from cell growth and differentiation to cell death. Our team has developed an understanding of the universal operating system of epigenetics and has built the OMEGA platform to replicate nature’s method of gene control for therapeutic benefit. IGDs are key to understanding the organization of this operating system and act as the fundamental structural and functional units of gene control and cell differentiation. There are 15,000 IGDs that encompass the roughly 20,000 genes that are distributed across our 23 chromosomes. They are ubiquitous in every cell and evolutionarily conserved within and largely across species.

Gene expression in cells is generally controlled by a highly diverse class of regulatory elements, such as enhancers, repressors and promoters. These regulatory elements are relatively short

segments of DNA that act as binding sites for protein transcription factors that in turn recruit other proteins to activate transcription of targeted genes. Current research indicates that genes and their associated regulatory elements reside in a modular fashion within IGDs. The chromosomal-looping structure of IGDs anchored by the CCCTC-binding factor, CTCF, at the base ensures that interactions between genes and their regulatory elements are insulated from neighboring IGDs and extraneous regulatory factors. Any perturbation of an IGD or its boundary has the potential to cause the dysregulation of one or all genes inside it, giving rise to a range of disease states. The OMEGA platform leverages the structure of IGDs as insulated “control units” encompassing genes and their regulatory elements with the goal of correcting this dysregulation and treating disease.

### Graphical Representation of an IGD



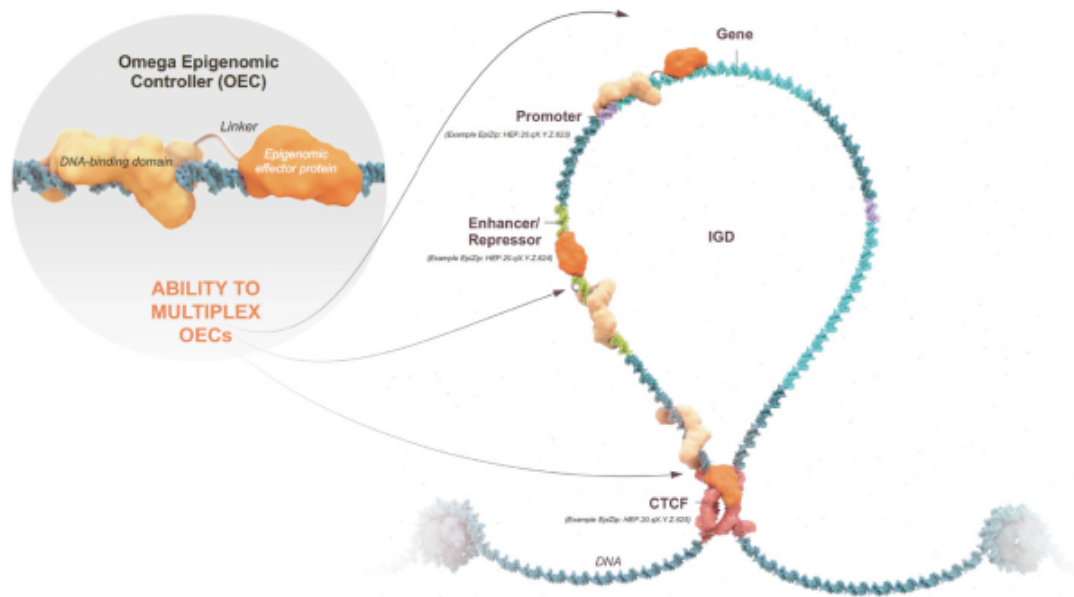
### OMEGA Epigenomic Programming Platform

The OMEGA platform represents an unprecedented approach to developing therapeutics to treat the epigenetic basis of disease by precisely controlling gene expression without altering native DNA sequences. We believe that our mRNA-encoded OECs' ability to precisely target and provide tunable and durable effects has the potential to treat a wide range of diseases.

The OMEGA platform consists of four pillars:

- 1. Proprietary Database of IGDs and EpiZips.** Thousands of novel DNA-sequence-based epigenomic targets covering over 90% of human IGDs, identified through proprietary algorithms and machine-learning tools mining our own and public databases.
- 2. Modular Programmable Epigenetic Medicines Encoded as mRNA (OECs).** Engineered and modular mRNA-encoded medicines with a DNA-binding protein to target a specific EpiZip and an effector protein to up- or down-regulate gene expression and control the duration of expression.

### Omega Epigenomic Controller



- 3. Engineered, Customized Drug Delivery.** Lipid-nanoparticle delivery technology validated in third-party clinical trials. Deep formulation expertise to engineer and customize technological improvements. Continued innovation in other emerging technologies.
- 4. Industry-Leading Expertise.** Codified learnings and insights gleaned from lead programs to continue optimizing the platform and inform the discovery and development of subsequent product candidates. Continued additions to the knowledge bank of EpiZips and OECs.

### Our Foundational Computational Capabilities

These pillars are supported by our deep and growing expertise in cutting-edge computational techniques, machine learning, and proprietary algorithms and a world-class and talented team. These foundations enable us to achieve data-driven decision-making, new scientific insights into complex biology, and the acceleration of engineered solutions in drug development.

### Advantages of the OMEGA Platform

We believe the OMEGA platform has the following advantages:

- Pioneering IGDs and EpiZips as novel therapeutic targets
- Precision genomic control with tunable and durable effect with the potential to re-dose
- Single and/or multiple gene control with a single therapeutic
- Ability to multiplex within or across IGDs for synergistic effect
- No changes in nucleic acid sequences
- Ability to accelerate numerous programs in parallel with real-time, data-driven decision-making



While we are working toward realizing these advantages, our OMEGA platform and our OECs are based on novel technology. Epigenomic controllers present a new class of medicines and have not been evaluated in clinical trials or received regulatory approval. As a result, we may need to develop new evaluation methods or metrics for clinical data, which may make it more difficult to analyze data, or it may take more time or be more costly for us to develop our OECs than other therapeutics for the same indications.

### Our Portfolio

We believe that the Precision Genomic Control delivered by the OMEGA platform has broad therapeutic applicability and transformational potential, initially spanning across:

- **Regenerative medicine.** Recapitulation of developmental and mature-state gene expression to drive cellular regeneration and restore normal function.
- **Multigenic diseases including immunology.** Regulation of multiple genes within an IGD or across IGDs.
- **Oncology.** Control of target oncogenes including historically challenging or un-druggable targets in various cancers.
- **Select monogenic diseases.** Correction of dysregulation in monogenic rare and non-rare diseases.

Our pipeline consists of the following programs:

	Target Gene(s)/ EpiZip(s)	Disease(s)	OEC	Discovery	Preclinical	Clinical		
						Phase 1	Phase 2	Phase 3
Regenerative Medicine	<b>HNF4A</b> HEP.20.qX.Y.Z.552	Liver Regeneration						
	Undisclosed	Corneal Regeneration						
Multigenic Diseases incl. Immunology	<b>CXCL 1-8</b> A549.04.qX.Y.Z.533	ARDS / COVID-19						
	Undisclosed	Idiopathic Pulmonary Fibrosis						
Oncology	<b>MYC</b> H3B.08.qX.Y.Z.930	Hepatocellular Carcinoma	OTX-2002					
	<b>MYC</b> H2009.08.qX.Y.Z.930	Non-Small Cell Lung Cancer						
	Undisclosed	Small Cell Lung Cancer						
Select Monogenic Diseases	<b>SFRP1</b> HFDP.08.pX.Y.Z.644	Alopecia						

Route of Administration (top to bottom): IV (liver regeneration), Topical (corneal regeneration), IV/Pulmonary (ARDS / COVID-19), IV/Pulmonary (IPF), IV (HCC), IV (NSCLC), IV (SCLC), Topical (alopecia).

Anticipated Development: Completed *in vivo* preclinical studies in HCC, NSCLC, and ARDS. Plan to conduct preclinical *in vivo* studies in liver regeneration, corneal regeneration, IPF, SCLC, and alopecia. If successful, IND-enabling studies are anticipated to begin in

### Regenerative Medicine

We are developing OEC candidates to up-regulate the expression of HNF4a, a transcriptional master regulator, as a potential way to restore liver-cell function in patients with chronic liver disease, or CLD, including end-stage liver disease, or ESLD. In preclinical animal studies, we have observed durable increases in HNF4a and significant improvements in liver histology *in vivo*.

We are also developing OEC candidates to control the expression of genes that have been strongly linked to cell-growth inhibition in patients with diabetes and other conditions to restore the capacity for corneal regeneration. We have identified an IGD containing a master regulatory gene that has been strongly linked to cell-growth inhibition in patients with diabetes and other conditions. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of corneal regeneration and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Multigenic Diseases Including Immunology**

We are developing OEC candidates to down-regulate expression of the CXCL1, 2, 3, and IL-8 gene cluster, whose overexpression promotes inflammation, in order to improve disease outcomes in patients with ARDS secondary to COVID-19/SAR-CoV-1 infection or other etiology. In preclinical studies of ARDS, we have observed decreases in gene expression of the CXCL1, 2, 3, and IL-8 gene cluster in cell lines and a 56% reduction in the severity of inflammatory response in mice treated with our OECs.

We are also developing OEC candidates to control expression of genes implicated in patients with idiopathic pulmonary fibrosis, or IPF, to halt or reverse disease progression and improve disease outcomes. We have identified an IGD consisting of genes related to IPF controlled through various intra-IGD interactions and regulatory elements. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of IPF and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Oncology**

We are developing OTX-2002 to down-regulate c-Myc, an oncogene that is dysregulated in more than 50% of human cancers and is frequently associated with poor prognosis, as a potential treatment for patients with advanced HCC. In preclinical studies in mice containing human HCC xenografts, we observed tumor growth inhibition of 54% at a dose of 3 mg/kg and of 63% at a dose of 6 mg/kg of our OEC compared to control.

We are also developing OECs for the treatment of NSCLC. In preclinical studies in NSCLC xenografts in a mouse subcutaneous tumor model, we observed a 63% inhibition of tumor growth following administration of our OEC compared to control.

We are also developing OEC candidates for the treatment of small cell lung cancer, or SCLC. We have conducted proprietary algorithmic analysis of an IGD that contains a gene that is overexpressed in more than 90% of SCLC. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of SCLC and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Select Monogenic Diseases**

We are developing OECs to down-regulate the expression of SFRP1, a protein that inhibits hair growth, in alopecia, a disease characterized by hair loss on the scalp and body. In preclinical studies in human papilla cells, we have observed a 79% to 88% reduction in SFRP1 mRNA expression in cells treated with our OECs.

## **Our Strategy**

Our objective is to become the leading digital and data-driven epigenetic medicines company by discovering, engineering, developing, manufacturing, and commercializing OECs utilizing the OMEGA platform, with the vision of selectively directing the human genome to treat and cure serious diseases.

Our strategy includes:

- Strategically invest in and advance the OMEGA platform.
- Establish OECs as a new class of transformative medicine.
- Expand our pipeline through internal and collaboration efforts.
- Build a fully integrated digitalized biopharmaceutical company.
- Curate world-class talent and culture.

## **Our Team**

We have built a world-class team of talented and highly experienced leaders to set and execute our strategy in fulfillment of our vision of pioneering the development of a new class of epigenetic medicines. Our leadership team has more than 100 years of combined experience in the pharmaceutical and biotechnology industry, has been involved in filing more than 30 INDs and 20 submissions for product approval, and has launched more than 30 pharmaceutical products globally. Mahesh Karande, our Chief Executive Officer, has a track record of leading biopharmaceutical businesses across the discovery, preclinical- and clinical-development, commercialization, and product-life-cycle-management stages to drive portfolio value and company growth. He previously served as President and Chief Executive Officer of Macrolide Pharmaceuticals, led Novartis Oncology's solid tumor franchise in the United States, and held several senior leadership roles at Novartis across the globe. Our Chief Scientific Officer, Thomas McCauley, Ph.D., has over 21 years of experience in the biopharmaceutical industry building and leading research-and-development organizations at the forefront of advanced genetic therapies across therapeutic areas and has made key contributions to the development, global registration, approval and life-cycle management of more than ten marketed products. He previously served as the Chief Scientific Officer of Translate Bio and Macrolide Pharmaceuticals. Our Chief Financial Officer, Roger Sawhney, M.D., has over 25 years of financial and strategic expertise, ranging from global investments in the healthcare sector to business and strategy development in the biopharmaceutical industry. He previously served as the Head of Global Corporate Strategy for Novartis AG. We have also assembled a scientific advisory board of leaders with deep expertise in genomics, epigenetics, and chromatin biology, as well as target biology and clinical development experience.

## **Our Beginnings: Omega Therapeutics and Flagship Pioneering**

Flagship Pioneering, or Flagship, founded Omega Therapeutics in 2017 as VL42, Inc. The Flagship origination team, led by Dr. David Berry, working together with Dr. Noubar Afeyan, CEO of Flagship, set out to more fully understand epigenetic regulation and non-genetically alter it through experimentation at Flagship Labs. VL42 was based on an exploration posing the question: "What if epigenetics worked through a universal operating system and what if we could interrogate that system and therapeutically intervene?" This exploration yielded critical insights on epigenomics, including intervention points and the use of controllers as a means to control the expression of one or more

coordinated genes. We created Omega Therapeutics to develop a platform to design and make a new category of medicines, one that can harness the potential of IGDs and epigenetic control, and lead to the treatment of important diseases with high unmet medical needs. As part of creating Omega Therapeutics, Flagship complemented its own epigenomic patent estate licensed to Omega Therapeutics with exclusive licenses to patent estates in epigenetics from the Whitehead Institute at the Massachusetts Institute of Technology (Dr. Rudolf Jaenisch's lab and Dr. Richard Young's Lab).

Since inception, we have raised approximately \$200 million from Flagship as well as major mutual funds, healthcare-dedicated funds, and other leading investors.

### **Summary Risk Factors**

Our business is subject to a number of risks of which you should be aware before making an investment decision. These risks are discussed more fully in the "Risk Factors" section of this prospectus immediately following this prospectus summary. These risks include the following:

- Our product candidates are based on a novel technology, which makes it difficult to predict the time and cost of preclinical and clinical development and of subsequently obtaining regulatory approval, if at all.
- No epigenomic controller medicines have been approved in this potentially new class of medicines, and may never be approved as a result of efforts by others or us. mRNA drug development has substantial development and regulatory risks due to the novel and unprecedented nature of this new category of medicines.
- We have a limited operating history and no history of successfully developing or commercializing any approved product candidates, which may make it difficult to evaluate the success of our business to date and to assess the prospects for our future viability.
- We have incurred significant losses since inception and expect to incur significant additional losses for the foreseeable future.
- Even if we consummate this offering, we will require substantial additional financing, which may not be available on acceptable terms, or at all. A failure to obtain this necessary capital when needed could force us to delay, limit, reduce, or terminate our product development.
- As a result of our history of losses and negative cash flows from operations, our financial statements contain a statement regarding a substantial doubt about our ability to continue as a going concern.
- We have invested, and expect to continue to invest, in research and development efforts that further enhance the OMEGA platform. Such investments may affect our operating results, and, if the return on these investments is lower or develops more slowly than we expect, our revenue and operating results may suffer.
- Preclinical development is uncertain, especially for a new class of medicines such as epigenomic controllers, and therefore our preclinical programs or development candidates may be delayed, terminated, or may never advance into the clinic, any of which may have a material adverse impact on our platform or our business.
- Our product candidates may be associated with serious adverse events, undesirable side effects or have other properties that could halt their clinical development, prevent their regulatory approval, limit their commercial potential, or result in significant negative consequences.

- Due to increased demand for the manufacture of mRNA- and LNP-based vaccines to treat COVID-19, our ability to manufacture our product candidates for preclinical or clinical supply could be limited, which could adversely affect our development plans.
- Our OEC candidates are based on novel technology and may be complex and difficult to manufacture. We may encounter difficulties in manufacturing, product release, shelf life, testing, storage, supply chain management or shipping.
- We must adapt to rapid and significant technological change and respond to introductions of new products and technologies by competitors to remain competitive.
- We will rely on third parties for the foreseeable future for the manufacture of materials for our research programs, preclinical studies and clinical trials and we do not have long-term contracts with many of these parties.
- We are planning to acquire and establish our own manufacturing facility and infrastructure in addition to or in lieu of relying on contract development and manufacturing organizations for the manufacture of our product candidates, which will be costly, time-consuming, and which may not be successful.
- We have a limited number of suppliers for the lipid excipients used in our product candidates and certain of our suppliers are critical to our production. If we were to lose a critical supplier, it could have a material adverse effect on our ability to complete the development of our product candidates. If we obtain regulatory approval for any of our product candidates, we would need to expand the supply of lipid excipients in order to commercialize them.
- We are very early in our development efforts. All of our product candidates are in preclinical development or discovery and it will be many years before we commercialize a product candidate, if ever. If we are unable to advance our product candidates to clinical development, obtain regulatory approval and ultimately commercialize our product candidates, or experience significant delays in doing so, our business will be materially harmed.
- If we are unable to obtain, maintain, enforce and adequately protect our intellectual property rights with respect to our technology and product candidates, or if the scope of the patent or other intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize technology and products similar or identical to ours, and our ability to successfully develop and commercialize our technology and product candidates may be adversely affected.

The foregoing is only a summary of some of our risks. For a more detailed discussion of these and other risks you should consider before making an investment in our common stock, see “Risk factors.”

#### **Implications of Being an Emerging Growth Company and a Smaller Reporting Company**

As a company with less than \$1.07 billion in revenue during our last fiscal year, we qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, as amended, or JOBS Act. An “emerging growth company” may take advantage of reduced reporting requirements that are otherwise applicable to public companies. These provisions include, but are not limited to:

- the option to present only two years of audited financial statements and only two years of related “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this prospectus;

- not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as amended;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements (i.e., an auditor discussion and analysis);
- reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if any of the following events occur prior to the end of such five-year period, (i) our annual gross revenue exceeds \$1.07 billion, (ii) we issue more than \$1.0 billion of non-convertible debt in any three-year period or (iii) we become a "large accelerated filer" (as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, or the Exchange Act), we will cease to be an emerging growth company prior to the end of such five-year period. We will be deemed to be a "large accelerated filer" at such time that we (a) have an aggregate worldwide market value of common equity securities held by non-affiliates of \$700.0 million or more as of the last business day of our most recently completed second fiscal quarter, (b) have been required to file annual and quarterly reports under the Exchange Act, for a period of at least 12 months and (c) have filed at least one annual report pursuant to the Exchange Act.

We have elected to take advantage of certain of the reduced disclosure obligations in the registration statement of which this prospectus is a part and may elect to take advantage of other reduced reporting requirements in future filings. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards.

We are also a "smaller reporting company" as defined under the Securities Act and Exchange Act. We may continue to be a smaller reporting company so long as either (i) the market value of shares of our common stock held by non-affiliates is less than \$250 million or (ii) our annual revenue was less than \$100 million during the most recently completed fiscal year and the market value of shares of our common stock held by non-affiliates is less than \$700 million. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Specifically, as a smaller reporting company, we may choose to present only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and have reduced disclosure obligations regarding executive compensation, and, similar to emerging growth companies, if we are a smaller reporting company under the requirements of (ii) above, we would not be required to obtain an attestation report on internal control over financial reporting issued by our independent registered public accounting firm.

**Corporate Information**

We were incorporated under the laws of the State of Delaware in July 2016 under the name VL42, Inc. Our principal executive offices are located at 20 Acorn Park Drive, Cambridge, Massachusetts 02140 and our telephone number is 617-949-4360. Our website address is [www.omegatherapeutics.com](http://www.omegatherapeutics.com). The information contained in, or accessible through, our website does not constitute a part of this prospectus. We have included our website address in this prospectus solely as an inactive textual reference.

## The Offering

Common stock offered by us	shares
Option to purchase additional shares	The underwriters have a 30-day option to purchase up to additional shares of our common stock at the public offering price less estimated underwriting discounts and commissions.
Common stock to be outstanding after this offering	shares (or shares if the underwriters exercise their option to purchase additional shares in full)
Use of proceeds	We estimate that the net proceeds from this offering will be approximately \$ million (or approximately \$ million if the underwriters exercise in full their option to purchase additional shares of our common stock), at an assumed public offering price of \$ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. We anticipate that we will use the net proceeds of this offering for continued research and development of our portfolio of OECs, including preclinical studies of our lead programs; for IND-enabling studies and the potential initiation of clinical studies for certain of our current programs; for continued advancement of our platform technologies and discovery-stage research for other potential programs; to lease and build out a manufacturing facility; and for working capital and general corporate purposes. See "Use of Proceeds" beginning on page 91 or additional information.
Risk factors	You should carefully read the "Risk Factors" beginning on page 15 and the other information included in this prospectus for a discussion of factors you should consider carefully before deciding to invest in our common stock.
Proposed Nasdaq Global Market symbol	"OMGA"

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The number of shares of our common stock to be outstanding after this offering is based on 148,181,727 shares of our common stock outstanding as of March 31, 2021, after giving effect to the



conversion of all outstanding shares of our convertible preferred stock into an aggregate of 131,008,559 shares of common stock, and excludes:

- 19,371,746 shares of our common stock issuable upon exercise of stock options outstanding under our 2017 Equity Incentive Plan, or the 2017 Plan, as of March 31, 2021, at a weighted-average exercise price of \$0.81 per share;
- shares of our common stock reserved for future issuance under our 2021 Incentive Award Plan, or the 2021 Plan, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 Plan that automatically increase the share reserve under the 2021 Plan;
- shares of our common stock reserved for future issuance under our 2021 Employee Stock Purchase Plan, or the 2021 ESPP, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 ESPP that automatically increase the share reserve under the 2021 ESPP; and
- 350,000 shares of our common stock issuable upon the exercise of a warrant to purchase shares of our Series A preferred stock that will become a warrant to purchase shares of our common stock, at an exercise price of \$0.50 per share, upon the closing of this offering.

Unless otherwise indicated, this prospectus reflects and assumes the following:

- a -for- stock split of our common stock, which will become effective prior to the effectiveness of the registration statement of which this prospectus forms a part;
- the automatic conversion of all outstanding shares of our preferred stock into an aggregate of 131,008,559 shares of our common stock upon the closing of this offering;
- the outstanding warrant to purchase our Series A preferred stock becoming a warrant to purchase our common stock upon the closing of this offering;
- no exercise of the outstanding warrant described above;
- no exercise of outstanding options after March 31, 2021;
- no exercise by the underwriters of their option to purchase additional shares of our common stock; and
- the filing of our restated certificate of incorporation, which will occur after the closing of this offering.

## SUMMARY FINANCIAL DATA

The following tables set forth our summary financial data as of, and for the periods ended on, the dates indicated. We have derived the statements of operations and comprehensive loss data for the years ended December 31, 2020 and 2019 from our audited financial statements included elsewhere in this prospectus. The summary statements of operations data presented below for the three months ended March 31, 2021 and 2020 and the summary balance sheet data as of March 31, 2021 have been derived from our unaudited financial statements included elsewhere in this prospectus and have been prepared on the same basis as the audited financial information in those statements. In the opinion of management, the unaudited data reflect all adjustments, consisting only of normal recurring adjustments necessary for a fair statement of the financial information in those statements. Our historical results are not necessarily indicative of the results that should be expected for any future period. You should read the following summary financial data together with the more detailed information contained in "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and the related notes included elsewhere in this prospectus.

	Year ended December 31,		Three months ended March 31,	
	2020	2019	2021	2020
(in thousands, except share and per share data)				
<b>Statements of Operations and Comprehensive Loss Data:</b>				
Operating expenses:				
Research and development	\$ 21,063	\$ 11,931	\$ 9,748	\$ 3,521
General and administrative	6,236	4,227	2,745	1,365
Related party expense, net	1,346	1,181	449	342
Total operating expenses	28,645	17,339	12,942	5,228
Loss from operations	(28,645)	(17,339)	(12,942)	(5,228)
Other expense, net:				
Interest expense, net	(777)	(595)	(212)	(194)
Change in fair value of warrant liability	3	3	(330)	4
Other expense, net	(28)	(14)	(4)	—
Total other expense, net	(802)	(606)	(546)	(190)
Net loss and comprehensive loss	\$ (29,447)	\$ (17,945)	\$ (13,488)	\$ (5,418)
Net loss per common share attributable to common stockholders, basic and diluted	\$ (2.00)	\$ (1.43)	\$ (0.79)	\$ (0.37)
Weighted-average common stock used in net loss per share attributable to common stockholders, basic and diluted	14,756,671	12,538,575	16,987,457	14,552,754
Pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited)(1)	\$ (0.30)		\$ (0.11)	
Pro forma weighted-average common stock outstanding, basic and diluted (unaudited)(1)	97,891,648		117,588,613	

- (1) The unaudited pro forma basic and diluted weighted-average common stock outstanding used in the calculation of unaudited pro forma basic and diluted net loss per share attributable to common stockholders for the year ended December 31, 2020 and the three months ended March 31, 2021 have been prepared to give effect, upon a qualified initial public offering, to the automatic conversion of all outstanding shares of redeemable convertible preferred stock into common stock as if the proposed initial public offering had occurred on the later of the beginning of each period or the issuance date of the redeemable convertible preferred stock.

	As of March 31, 2021		
	Actual	Pro Forma(2) (in thousands)	Pro Forma, as adjusted(3)(4)
<b>Balance Sheet Data:</b>			
Cash and cash equivalents	\$ 137,767	\$ 137,767	
Working capital(1)	130,058	130,058	
Total assets	144,072	144,072	
Total liabilities	21,356	20,902	
Redeemable convertible preferred stock	200,593	—	
Additional paid-in capital	1,819	202,735	
Accumulated deficit	(79,713)	(79,713)	
Total stockholders' (deficit) equity	(77,877)	123,170	

- (1) We define working capital as current assets less current liabilities. See our financial statements for further details regarding our current assets and current liabilities.
- (2) The pro forma balance sheet data gives effect to the:
- automatic conversion of all outstanding shares of our preferred stock into an aggregate of 131,008,559 shares of our common stock upon the closing of this offering; and
  - the outstanding warrant to purchase an aggregate of 350,000 shares of our Series A preferred stock becoming a warrant to purchase 350,000 shares of our common stock upon the closing of this offering.
- (3) Reflects the pro forma adjustments described in footnote (2) and the issuance and sale of \_\_\_\_\_ shares of our common stock in this offering at an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.
- (4) Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted amount of each of cash and cash equivalents, total assets, additional paid-in capital and total stockholders' equity (deficit) by \$ \_\_\_\_\_ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each increase (decrease) of 1.0 million shares in the number of shares of our common stock offered by us at the assumed initial public offering price would increase (decrease) each of cash and cash equivalents, total assets, additional paid-in capital and total stockholders' equity (deficit) by \$ \_\_\_\_\_ million. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual initial public offering price and other terms of our initial public offering determined at pricing.

## RISK FACTORS

*You should carefully consider the risks and uncertainties described below, as well as the other information in this prospectus, including our financial statements and the related notes and "Management's Discussion and Analysis of Results of Operations and Financial Condition," before making an investment in our common stock. Our business, financial condition, results of operations, or prospects could be materially and adversely affected if any of these risks occurs, and as a result, the market price of our common stock could decline and you could lose all or part of your investment. This prospectus also contains forward-looking statements that involve risks and uncertainties. See "Special Note Regarding Forward-Looking Statements." Our actual results could differ materially and adversely from those anticipated in these forward-looking statements as a result of certain factors, including those set forth below.*

### **Risks Related to Our Financial Condition and Capital Requirements**

***We have a limited operating history and no history of successfully developing or commercializing any approved product candidates, which may make it difficult to evaluate the success of our business to date and to assess the prospects for our future viability.***

We are a development-stage biopharmaceutical company. Our operations to date have been limited to financing and staffing our company, developing our technology and identifying and developing our product candidates. Our prospects must be considered in light of the uncertainties, risks, expenses, and difficulties frequently encountered by biopharmaceutical companies in their early stages of operations. We have not yet demonstrated an ability to conduct or complete any clinical trials, obtain marketing approval, manufacture a commercial-scale product, or conduct sales and marketing activities necessary for successful product commercialization. Consequently, predictions about our future success or viability may not be as accurate as they could be if we had a longer operating history or a history of successfully developing, obtaining marketing approval for, and commercializing product candidates. In addition, we may encounter unforeseen expenses, difficulties, complications, delays, and other obstacles.

As we continue to build our business, we expect our financial condition and operating results to fluctuate significantly from quarter to quarter and year to year due to a variety of factors, many of which are beyond our control. Accordingly, you should not rely upon the results of any particular quarterly or annual period as indications of future operating performance.

***We have incurred significant losses since inception and expect to incur significant additional losses for the foreseeable future.***

We have incurred significant net losses since our inception, including net losses of \$13.5 million, \$29.4 million, and \$17.9 million for the three months ended March 31, 2021 and the years ended December 31, 2020 and 2019, respectively. As of March 31, 2021, we had an accumulated deficit of \$79.7 million. In addition, we have not commercialized any products and have never generated any revenue from product sales. We have devoted almost all of our financial resources to research and development, including our preclinical development activities and preparing for clinical trials of our product candidates.

We expect to continue to incur significant additional net losses for the foreseeable future as we seek to advance product candidates through clinical development, continue preclinical development, expand our research and development activities, develop new product candidates, complete preclinical studies and clinical trials, seek regulatory approval and, if we receive regulatory approval, commercialize our products. In order to obtain United States Food and Drug Administration, or FDA, approval to market any product candidate in the United States, we must submit to the FDA a Biologics

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License Application, or BLA, demonstrating to the FDA's satisfaction that the product candidate is safe and effective for its intended use(s). Foreign regulatory authorities impose similar requirements. This demonstration requires significant research and extensive data from animal tests, which are referred to as nonclinical or preclinical studies, as well as human tests, which are referred to as clinical trials. Furthermore, the costs of advancing product candidates into each succeeding clinical phase tend to increase substantially over time. The total costs to advance any of our product candidates to marketing approval in even a single jurisdiction would be substantial and difficult to accurately predict. Because of the numerous risks and uncertainties associated with the development of drug products, we are unable to accurately predict the timing or amount of increased expenses or when, or if, we will be able to begin generating revenue from the commercialization of products or achieve or maintain profitability. Our expenses will also increase substantially if or as we:

- continue our research and development efforts and submit INDs for our product candidates;
- initiate and conduct clinical trials of our product candidates;
- continue to engineer and develop additional product candidates;
- continue to develop the OMEGA platform;
- seek regulatory and marketing approvals for product candidates that successfully complete clinical trials, if any;
- establish manufacturing and supply chain capacity sufficient to provide clinical and, if applicable, commercial quantities of product candidates, including building our own manufacturing facility;
- establish a sales, marketing, internal systems and distribution infrastructure to commercialize any products for which we may obtain regulatory approval, if any, in geographies in which we plan to commercialize our products ourselves;
- maintain, expand, protect and enforce our intellectual property estate;
- hire additional staff, including clinical, scientific, technical, regulatory, operational, financial, commercial, and support personnel, to execute our business plan and support our product development and potential future commercialization efforts;
- enter into collaborations or licenses for new technologies;
- make royalty, milestone, or other payments under our current and any future in-license agreements;
- incur additional legal, accounting, and other expenses in operating our business; and
- operate as a public company.

The amount of future losses and when, if ever, we will achieve profitability are uncertain. We have no commercial-stage products, will not generate revenues from the commercial sale of products until we have successfully developed one or more product candidates, and might never generate revenues from the sale of products. We expect to continue to incur operating losses and negative cash flows for the foreseeable future. These operating losses and negative cash flows have had, and will continue to have, an adverse effect on our stockholders' equity and working capital.

***Even if we consummate this offering, we will require substantial additional financing, which may not be available on acceptable terms, or at all. A failure to obtain this necessary capital when needed could force us to delay, limit, reduce, or terminate our product development.***

Our operations have incurred substantial expenses since inception. We expect to continue to incur substantial expenses to continue the preclinical development and to initiate and conduct the clinical development of our product candidates, and to continue to identify new product candidates.

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Even after the consummation of this offering, we will continue to need additional capital beyond the proceeds of this offering to fund our planned preclinical development and clinical trials, and to develop new product candidates, which we may raise through equity offerings, debt financings, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements, or other sources. Additional sources of financing might not be available on favorable terms, if at all. If we do not succeed in raising additional funds on acceptable terms, we might be unable to initiate or complete clinical trials, or seek regulatory approvals, of any of our product candidates from the FDA, or any foreign regulatory authorities, and could be forced to discontinue product development. In addition, attempting to secure additional financing may divert the time and attention of our management from day-to-day activities and harm our development efforts.

As of March 31, 2021, we had cash and cash equivalents of \$137.8 million. We estimate that our net proceeds from this offering will be approximately \$                      million, based on an assumed initial public offering price of \$                      per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. The net proceeds from this offering and our existing cash and cash equivalents will not be sufficient to fund all of our efforts that we plan to undertake.

Based on our current operating plan, we believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will be sufficient to fund our operating expenses and capital expenditure requirements                      . This estimate is based on assumptions that may prove to be incorrect, and we could use our available capital resources sooner than we currently expect. We will require significant additional funds in order to launch and commercialize our current and any future product candidates. In addition, other unanticipated costs may arise in the course of our development efforts. Because all of our product candidates are in preclinical development and we have not conducted any clinical trials, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our product candidates.

Our future capital requirements depend on many factors, including:

- the scope, progress, results, and costs of our preclinical studies and any future clinical trials;
- the timing of, and the costs involved in, obtaining marketing approvals for our current and future product candidates in regions where we choose to commercialize any products;
- the number of future product candidates and potential additional indications that we may pursue and their development requirements;
- the stability, scale, yield, and cost of our manufacturing process as we scale-up production and formulation of our product candidates for clinical trials, in preparation for regulatory approval and in preparation for commercialization, including our ability to build our own manufacturing facility;
- the costs of commercialization activities for any approved product, including the costs and timing of establishing product sales, marketing, distribution, and manufacturing capabilities;
- revenue, if any, received from commercial sales of our products, should any of our product candidates receive marketing approval;
- the costs and timing of changes in pharmaceutical pricing and reimbursement infrastructure;
- the costs and timing of changes in the regulatory environment and enforcement rules;
- our ability to compete with other therapeutics in the indications we target;
- the effect of competing technological and market developments;

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- the extent to which we enter into collaborations or licenses for products, product candidates, or technologies;
- our headcount growth and associated costs as we expand our research and development capabilities and establish a commercial infrastructure;
- the costs of preparing, filing, and prosecuting patent applications and maintaining and protecting our intellectual property rights, including enforcing and defending intellectual property-related claims;
- the costs of operating as a public company; and
- the severity, duration, and impact of the COVID-19 pandemic, which may adversely impact our business.

We cannot be certain that additional funding will be available on acceptable terms, or at all. If we are unable to raise additional capital in sufficient amounts, on terms acceptable to us, or on a timely basis, we may have to significantly delay, scale back, or discontinue the development or commercialization of our product candidates or other research and development initiatives.

As a result of our recurring losses from operations and recurring negative cash flows from operations, and because we have not yet obtained additional capital in connection with this offering, our financial statements contain a statement regarding a substantial doubt about our ability to maintain liquidity sufficient to operate our business effectively, which raises substantial doubt about our ability to continue as a going concern. See the risk factor below titled, "As a result of our history of losses and negative cash flows from operations, our financial statements contain a statement regarding a substantial doubt about our ability to continue as a going concern." If we are unable to obtain funding on a timely basis, we may be required to significantly curtail, delay or discontinue one or more of our research or development programs or the commercialization of any product candidate, or be unable to expand our operations or otherwise capitalize on our business opportunities, as desired, which could materially affect our business, financial condition and results of operations. Any of the above events could significantly harm our business, prospects, financial condition and results of operations and cause the price of our common stock to decline.

***Raising additional capital may cause additional dilution to our stockholders, including purchasers of common stock in this offering, restrict our operations, require us to relinquish rights to our technologies or product candidates, and could cause our share price to fall.***

Until such time, if ever, as we can generate substantial revenue from product sales, we may finance our cash needs through a combination of equity offerings, debt financings, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements, or other sources. In addition, we may seek additional capital due to favorable market conditions or strategic considerations, even if we believe that we have sufficient funds for our current or future operating plans.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a common stockholder. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our operations, our ability to take specific actions, such as incurring additional debt, making capital expenditures, declaring dividends, redeeming our stock, making certain

investments, and engaging in certain merger, consolidation, or asset sale transactions, among other restrictions. If we raise additional funds through collaborations, strategic alliances, or marketing, distribution or licensing arrangements with third parties, we may be required to relinquish valuable rights to our technologies, future revenue streams, or product candidates or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce, or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

***Our existing and any future indebtedness could adversely affect our ability to operate our business.***

As of December 31, 2020, we had \$12.0 million of outstanding borrowings under an amended loan and security agreement, the Loan Agreement, with Pacific Western Bank, or PWB. The maturity date of the Loan Agreement is December 31, 2023, and we will be required to begin repayment of the loan in 24 equal monthly payments beginning on December 31, 2021. The outstanding balance under the Loan Agreement bears interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after December 30, 2020. Pursuant to the terms of the Loan Agreement, interest payment on the outstanding term loan is less than \$0.1 million per month, and we are required to pay a success fee of \$0.2 million upon the occurrence of a specified liquidity event, including the completion of this offering. Our outstanding indebtedness, including any additional indebtedness beyond our borrowings from PWB, combined with our other financial obligations and contractual commitments could have significant adverse consequences, including:

- requiring us to dedicate a portion of our cash resources to the payment of interest and principal, reducing money available to fund working capital, capital expenditures, product candidate development and other general corporate purposes;
- increasing our vulnerability to adverse changes in general economic, industry and market conditions;
- subjecting us to restrictive covenants that may reduce our ability to take certain corporate actions or obtain further debt or equity financing;
- limiting our flexibility in planning for, or reacting to, changes in our business and the industry in which we compete; and
- placing us at a competitive disadvantage compared to our competitors that have less debt or better debt servicing options.

We intend to satisfy our current and future debt service obligations with our then existing cash and cash equivalents. However, we may not have sufficient funds, and may be unable to arrange for additional financing, to pay the amounts due under the Loan Agreement or any other debt instruments. Failure to make payments or comply with other covenants under the Loan Agreement or such other debt instruments could result in an event of default and acceleration of amounts due. For example, the affirmative covenants under our Loan Agreement include, among others, covenants requiring us (and us to cause our subsidiaries) to maintain our legal existence and governmental approvals, deliver certain financial reports and notifications, maintain proper books of record and account, timely file and pay tax returns, maintain inventory and insurance coverage, and maintain cash with PWB (subject to exceptions) and in accounts subject to control agreements (subject to exceptions). Under the Loan Agreement, the occurrence of an event that would reasonably be expected to have a material adverse effect on our business, operations, assets or condition is an event of default. If an event of default occurs and PWB accelerates the amounts due, we may not be able to make accelerated payments



and the lenders could seek to enforce security interests in the collateral securing such indebtedness. In addition, the covenants under the Loan Agreement, the pledge of our assets as collateral and the negative pledge with respect to our intellectual property could limit our ability to obtain additional debt financing.

***We have not generated any revenue and may never be profitable.***

Our ability to become profitable depends upon our ability to generate revenue. To date, we have not generated any revenue and do not expect to generate significant product revenue unless or until we successfully complete clinical development and obtain regulatory approval of, and then successfully commercialize, our product candidates. All of our product candidates are in the preclinical stages of development and will require additional preclinical studies and clinical development, regulatory review and approval, a secure manufacturing supply, established sales capabilities for commercialization, substantial investment and sufficient funds, and significant marketing efforts before we can generate any revenue from product sales. Our ability to generate revenue depends on a number of factors, including:

- our ability to complete IND-enabling or other clinical trial-enabling studies and successfully submit INDs or comparable applications to allow us to initiate clinical trials of our product candidates;
- timely initiation and completion of any clinical trials of our product candidates, which may be significantly slower or more costly than we currently anticipate and will depend substantially upon the performance of third-party contractors;
- whether we are required by the FDA or similar foreign regulatory authorities to conduct additional clinical trials or other studies beyond those planned to support the approval and commercialization of our product candidates;
- our ability to demonstrate to the satisfaction of the FDA or similar foreign regulatory authorities the safety and efficacy of our product candidates;
- the prevalence, duration and severity of potential side effects or other safety issues experienced with our product candidates, if any;
- the timely receipt of necessary marketing approvals from the FDA or similar foreign regulatory authorities;
- the willingness of physicians, operators of clinics, and patients to utilize or adopt epigenetic therapeutics;
- our ability and the ability of third parties with whom we contract to manufacture adequate clinical and commercial supplies of our product candidates or any future product candidates, remain in good standing with regulatory authorities, and develop, validate and maintain commercially viable manufacturing processes that are compliant with current good manufacturing practices, or cGMP, or similar regulatory requirements outside the United States;
- our ability to successfully develop a commercial strategy and thereafter commercialize our product candidates, whether alone or in collaboration with others; and
- our ability to establish, maintain, protect, and enforce intellectual property rights in and to our product candidates.

Many of the factors listed above are beyond our control, and could cause us to experience significant delays or prevent us from obtaining regulatory approvals or commercialize our product candidates. Even if we are able to commercialize our product candidates, we may not achieve profitability soon after generating product sales, if ever. If we are unable to generate sufficient revenue through the sale of our product candidates, we may be unable to continue operations without continued funding.

***As a result of our history of losses and negative cash flows from operations, our financial statements contain a statement regarding a substantial doubt about our ability to continue as a going concern.***

A history of operating losses and negative cash flows from operations combined with our anticipated use of cash to fund operations raises substantial doubt about our ability to continue as a going concern beyond the 12-month period from the issuance date of our audited financial statements for the year ended December 31, 2020. Our future viability as an ongoing business is dependent on our ability to generate cash from our operating activities or to raise additional capital to finance our operations.

There is no assurance that we will succeed in obtaining sufficient funding on terms acceptable to us to fund continuing operations, if at all. The perception that we might be unable to continue as a going concern may also make it more difficult to obtain financing for the continuation of our operations on terms that are favorable to us, or at all, and could result in the loss of confidence by investors and employees. Our financial statements do not include any adjustments that might result from the outcome of this uncertainty. If we are unable to continue as a going concern, we may have to liquidate our assets and may receive less than the value at which those assets are carried on our financial statements, and it is likely that our investors will lose all or a part of their investment.

#### **Risks Related to the Discovery, Development, Preclinical and Clinical Testing, and Regulatory Approval of Our Product Candidates**

***Our product candidates are based on a novel technology, which makes it difficult to predict the time and cost of preclinical and clinical development and of subsequently obtaining regulatory approval, if at all.***

Our success depends on the OMEGA platform technology which is a novel technology. As such, it is difficult to accurately predict the preclinical and clinical developmental challenges we may incur for our programs and product candidates as they proceed through product discovery or identification, preclinical studies, and clinical trials. In addition, because we have not commenced clinical trials of any of our pipeline product candidates, we have not yet been able to assess the safety or efficacy of our technology in humans and there may be short-term or long-term effects from treatment with any product candidates that we develop that we cannot predict at this time. Also, animal models may not exist for some of the diseases we choose to pursue in our programs. Given the novelty of our technology platform, there can be no assurance as to the length of preclinical work, clinical development, the number of patients that FDA or comparable foreign regulatory authority may require to be enrolled in clinical trials to establish the safety and efficacy, purity and potency of our product candidates, or that the data generated in these clinical trials will be acceptable to the FDA or comparable foreign regulatory authorities to support marketing approvals. The FDA and comparable regulatory authorities may take longer than usual to come to a decision on any biologics license application, or BLA, or foreign marketing application, that we submit and may ultimately determine that there is not adequate data, information, or experience with our product candidate to support approval. The FDA or comparable foreign regulatory authorities may also require that we conduct additional post-marketing studies or implement risk management programs, such as a risk evaluation and mitigation strategy, or REMS, until more experience with our product candidates are obtained. Each of these factors could increase our expected development costs, and delay, prevent, or limit the scope of any commercialization of our product candidates. The validation process takes time and resources, may require independent third-party analyses, and may not be accepted or approved by the FDA and comparable foreign regulatory authorities. We cannot be certain that our approach will lead to the development of approvable or marketable products, alone, or in combination with other therapies.

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Moreover, even if we obtain data from our planned clinical trials, because the OMEGA platform technology applied in our programs is novel and has not been externally verified, our data may be difficult to replicate and/or subject to misinterpretation by us or others. Epigenomic controllers present a new class of medicines and have not been evaluated in clinical trials or received regulatory approval. As a result, we may need to develop new evaluation methods or metrics for clinical data, which may make it more difficult to analyze data, or it may take more time or be more costly for us to develop our OECs than other therapeutics for the same indications. As a result of these factors, it is difficult for us to predict the time and cost of product candidate development, and we cannot predict whether the application of the OMEGA platform technology, or any similar or competitive epigenetic technologies, will result in the identification, development, and regulatory approval of any products. There can be no assurance that any development challenges we experience in the future related to the OMEGA platform technology or any of our research programs will not cause significant delays or unanticipated costs, or that such development problems can be solved. Any of these factors may prevent us from completing our preclinical studies or any clinical trials that we may initiate or commercializing any product candidates we may develop on a timely or profitable basis, if at all.

In addition, the clinical study requirements of the FDA and other regulatory authorities and the criteria these regulators use to determine the safety and efficacy of a product candidate vary substantially according to the type, complexity, novelty, and intended use as well as market of the potential products. The regulatory approval process for novel product candidates such as ours can be more expensive and take longer than for other, better known or extensively studied therapeutic modalities and approaches. Further, as we are developing novel treatments, there is heightened risk that the FDA or comparable foreign regulatory bodies may not consider the clinical trial endpoints to provide clinically meaningful results, and the resulting clinical data and results may be more difficult to analyze. To date, few gene therapy products have been approved by the FDA and comparable foreign regulatory authorities, which makes it difficult to determine how long it will take or how much it will cost to obtain regulatory approvals for our product candidates in the United States, the European Union, or EU, or other jurisdictions. Further, approvals by one regulatory authority may not be indicative of what other regulatory authorities may require for approval.

Regulatory requirements governing programmable epigenetic medicines have evolved and may continue to change in the future. For example, the FDA established the Office of Tissues and Advanced Therapies within its Center for Biologics Evaluation and Research, or CBER, to consolidate the review of gene therapy and related products, and the Cellular, Tissue and Gene Therapies Advisory Committee to advise CBER on its review. In addition to FDA oversight and oversight by IRBs, under guidelines promulgated by the National Institutes of Health, or NIH, gene therapy clinical trials are also subject to review and oversight by an institutional biosafety committee, or IBC, a local institutional committee that reviews and oversees research utilizing recombinant or synthetic nucleic acid molecules at that institution. Before a clinical study can begin at any institution, that institution's IRB, and its IBC assesses the safety of the research and identifies any potential risk to public health or the environment. While the NIH guidelines are not mandatory unless the research in question is being conducted at or sponsored by institutions receiving NIH funding of recombinant or synthetic nucleic acid molecule research, many companies and other institutions not otherwise subject to the NIH Guidelines voluntarily follow them. Moreover, serious adverse events or developments in clinical trials of gene therapy product candidates conducted by others may cause the FDA or other regulatory bodies to initiate a clinical hold on our clinical trials or otherwise change the requirements for approval of any of our product candidates. Although the FDA decides whether individual gene therapy protocols may proceed, the review process and determinations of other reviewing bodies can impede or delay the initiation of a clinical trial, even if the FDA has reviewed the trial and approved its initiation. These and other regulatory review agencies, committees, and advisory groups and the requirements and guidelines they promulgate may lengthen the regulatory review process, require us to perform additional preclinical studies or clinical trials, increase our development costs, lead to changes in regulatory positions and interpretations, delay or prevent approval and commercialization of these treatment

candidates, or lead to significant post-approval limitations or restrictions. Similar requirements apply in the EU. The European Medicines Agency, or the EMA, has a Committee for Advanced Therapies, or CAT, that is responsible for assessing the quality, safety and efficacy of advanced therapy medicinal products, or ATMP(s). ATMPs include gene therapy medicines, somatic-cell therapy medicines and tissue-engineered medicines. The role of the CAT is to prepare a draft opinion on an application for marketing authorization for ATMP candidate that is submitted to the EMA. In the EU, the development and evaluation of an ATMP must be considered in the context of the relevant EU guidelines. The EMA may issue new guidelines concerning the development and marketing authorization for gene therapy medicinal products and require that we comply with these new guidelines. Similarly complex regulatory environments exist in other jurisdictions in which we might consider seeking regulatory approvals for our product candidates, further complicating the regulatory landscape.

Changes in applicable regulatory guidelines may lengthen the regulatory review process, require us to perform additional studies or trials, increase our development costs, lead to changes in regulatory positions and interpretations, delay or prevent approval and commercialization of our product candidates, or lead to significant post-approval limitations or restrictions. As we advance our product candidates, we will be required to consult with regulatory authorities and comply with applicable guidelines. If we fail to do so, we may be required to delay or discontinue development of such product candidates. These additional processes may result in a review and approval process that is longer than we otherwise would have expected. Delays as a result of an increased or lengthier regulatory approval process or further restrictions on the development of our product candidates can be costly and could negatively impact our ability to complete clinical trials and commercialize our current and future product candidates in a timely manner, if at all.

***No epigenomic controller medicines have been approved in this potentially new class of medicines, and may never be approved as a result of efforts by others or us. mRNA drug development has substantial development and regulatory risks due to the novel and unprecedented nature of this new category of medicines.***

As a potential new category of medicines, no epigenomic controller medicines have been approved to date by the FDA or other regulatory authority. Successful discovery and development of epigenomic controller medicines by either us or our strategic collaborators is highly uncertain and depends on numerous factors, many of which are beyond our or their control. We have made and will continue to make a series of business decisions and take calculated risks to advance our development efforts and pipeline, including those related to mRNA technology, delivery technology, and manufacturing processes which may be shown to be incorrect based on further work by us, our strategic collaborators, or others.

Our medicines that appear promising in the early phases of development may fail to advance, experience delays in preclinical stages or the clinic, experience clinical holds, or fail to reach the market for many reasons, including:

- discovery efforts at identifying potential epigenomic controller medicines may not be successful;
- nonclinical or preclinical study results may show potential epigenomic controller medicines to be less effective than desired or to have harmful or problematic side effects;
- clinical trial results may show the epigenomic controller medicines to be less effective than expected (e.g., a clinical trial could fail to meet one or more endpoints) or to have unacceptable side effects or toxicities;
- adverse effects in any one of our preclinical studies or clinical trials or adverse effects relating to our mRNA, or lipid nanoparticles, or LNPs, may lead to delays in or termination of one or more of our programs; and

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- the insufficient ability of our translational models to reduce risk or predict outcomes in humans, particularly given that each component of our investigational medicines and development candidates, may have a dependent or independent effect on safety, tolerability, and efficacy, which may, among other things, be species-dependent.

Our investigational medicines are currently formulated and administered in an LNP. These LNPs may cause systemic side effects related to the components of the LNP and some may have not yet been tested in humans. A recognized limitation of LNPs is the potential for inflammatory reactions upon single and repeat administration that can impact tolerability and therapeutic index. Our licensed and internally developed, proprietary LNP systems are therefore designed to be highly tolerated and minimize LNP vehicle-related toxicities with repeat administration *in vivo*. While we continue to optimize our LNPs, there can be no assurance that our LNPs will not have undesired effects. Certain aspects of our investigational medicines may induce immune reactions from either the mRNA or the lipid as well as adverse reactions within biological pathways or due to degradation of the mRNA or the LNP, any of which could lead to significant adverse events in one or more of our preclinical or clinical studies. Our LNPs could contribute, in whole or in part, to one or more of the following: immune reactions, infusion reactions, complement reactions, opsonation reactions, antibody reactions including IgA, IgM, IgE or IgG or some combination thereof, or reactions to the polyethylene glycol, or PEG, from some lipids or PEG otherwise associated with the LNP. Many of these types of side effects have broadly been observed for LNPs. There may be resulting uncertainty as to the underlying cause of any such adverse event, which would make it difficult to accurately predict side effects in future clinical trials and would result in significant delays in our programs.

***Preclinical development is uncertain, especially for a new class of medicines such as epigenomic controllers, and therefore our preclinical programs or development candidates may be delayed, terminated, or may never advance into the clinic, any of which may have a material adverse impact on our platform or our business.***

All of our programs are in preclinical development and we have identified only one lead development candidate to date. Before we can initiate clinical trials for a development candidate, we must complete extensive preclinical studies, including IND-enabling good laboratory practices, or GLP, toxicology testing. Preclinical development is uncertain, including due to variability in the disease models used. We may not identify development candidates with the treatment activity or safety characteristics required to advance them into further preclinical studies or results from preclinical studies of initially promising development candidates may not support further testing. We must also complete extensive work on Chemistry, Manufacturing, and Controls, or CMC, activities (including yield, purity and stability data) to be included in any IND filing. CMC activities for a new class of medicines such as epigenomic controllers require extensive manufacturing processes and analytical development, which is uncertain and lengthy. We cannot be certain of the timely completion or outcome of our preclinical testing and studies and cannot predict if the FDA or other regulatory authorities will accept the results of our preclinical testing or our proposed clinical programs or if the outcome of our preclinical testing, studies, and CMC activities will ultimately support the further development of our programs. As a result, we cannot be sure that we will be able to submit INDs or similar applications for our preclinical programs on the timelines we expect, if at all, and we cannot be sure that submission of INDs or similar applications will result in the FDA or other regulatory authorities allowing clinical trials to begin.

***Clinical development involves a lengthy and expensive process, with an uncertain outcome. We may incur unforeseen costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.***

Before obtaining marketing approval from the FDA or other comparable foreign regulatory authorities for the sale of our product candidates, we must complete preclinical development and extensive clinical trials to demonstrate the safety and efficacy of our product candidates. Clinical testing is expensive, time-consuming, and subject to uncertainty. A failure of one or more clinical trials can occur at any stage of the process, and the outcome of preclinical studies and early-stage clinical trials may not be predictive of the success of later clinical trials. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval of their drugs.

To date, we have not initiated or completed any clinical trials for any of our product candidates. We cannot guarantee that any of our clinical trials will be initiated or conducted as planned or completed on schedule, if at all. We also cannot be sure that submission of any future IND or similar application will result in the FDA or other regulatory authority, as applicable, allowing future clinical trials to begin in a timely manner, if at all. Moreover, even if these trials begin, issues may arise that could cause regulatory authorities to suspend or terminate such clinical trials. A failure of one or more clinical trials can occur at any stage of testing, and our future clinical trials may not be successful. Events that may prevent successful or timely initiation or completion of clinical trials include:

- inability to generate sufficient preclinical, toxicology, or other *in vivo* or *in vitro* data to support the initiation or continuation of clinical trials;
- delays in reaching a consensus with regulatory authorities on trial design or implementation of the clinical trials;
- delays or failure in obtaining regulatory authorization to commence a trial;
- delays in reaching agreement on acceptable terms with prospective contract research organizations, or CROs, and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among CROs and clinical trial sites;
- delays in identifying, recruiting, and training suitable clinical investigators;
- delays in obtaining required institutional review board, or IRB, or ethics committee approval at each clinical trial site;
- delays in recruiting suitable patients to participate in our clinical trials;
- delays in manufacturing, testing, releasing, validating, or importing/exporting sufficient stable quantities of our product candidates for use in clinical trials or the inability to do any of the foregoing;
- insufficient or inadequate supply or quality of product candidates or other materials necessary for use in clinical trials, or delays in sufficiently developing, characterizing, or controlling a manufacturing process suitable for clinical trials;
- imposition of a temporary or permanent clinical hold by regulatory authorities for a number of reasons, including after review of an IND or amendment or equivalent foreign application or amendment; as a result of a new safety finding that presents unreasonable risk to clinical trial participants; or a negative finding from an inspection of our clinical trial operations or study sites;
- delays in recruiting, screening, and enrolling patients and delays caused by patients withdrawing from clinical trials or failing to return for post-treatment follow-up;

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- difficulty collaborating with patient groups and investigators;
- failure by our CROs, clinical sites, other third parties or us to adhere to clinical trial protocols, to perform in accordance with the FDA's or any other regulatory authority's good clinical practice requirements, or GCPs, or similar applicable regulatory guidelines in other countries;
- occurrence of adverse events associated with the product candidate that are viewed to outweigh its potential benefits, or occurrence of adverse events in trial of the same class of agents conducted by other companies;
- changes to the clinical trial protocols;
- clinical sites dropping out of a trial;
- changes in regulatory requirements and guidance that require amending or submitting new clinical protocols;
- changes in the standard of care on which a clinical development plan was based, which may require new or additional trials;
- selection of clinical endpoints that require prolonged periods of observation or analyses of resulting data;
- the cost of clinical trials of our product candidates being greater than we anticipate;
- clinical trials of our product candidates producing negative or inconclusive results, which may result in our deciding, or regulators requiring us, to conduct additional clinical trials or abandon development of such product candidates;
- transfer of manufacturing processes to larger-scale facilities operated by a contract development and manufacturing organization, or CDMO, and delays or failure by our CDMOs or us to make any necessary changes to such manufacturing process; and
- third parties being unwilling or unable to satisfy their contractual obligations to us.

In addition, disruptions caused by the COVID-19 pandemic may increase the likelihood that we encounter difficulties or delays in initiating, enrolling, conducting, or completing our planned and ongoing clinical trials. Any inability to successfully initiate or complete clinical trials could result in additional costs to us or impair our ability to generate revenue from product sales. Clinical trial delays could also shorten any periods during which any approved products have patent protection and may allow our competitors to bring products to market before we do, which could impair our ability to successfully commercialize our product candidates and may seriously harm our business.

Clinical trials must be conducted in accordance with the legal requirements, regulations, or guidelines of the FDA and other applicable regulatory authorities, and are subject to oversight by these governmental agencies and ethics committees or IRBs at the medical institutions where the clinical trials are conducted. We could also encounter delays if a clinical trial is suspended or terminated by us, by the data safety monitoring board, or DSMB, for such trial or by the FDA or any other regulatory authority, or if the ethics committees or the IRBs of the institutions in which such trials are being conducted suspend or terminate the participation of their clinical investigators and sites subject to their review. Such authorities may suspend or terminate a clinical trial due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements or our clinical protocols, inspection of the clinical trial operations or trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, unforeseen safety issues or adverse side effects, failure to demonstrate a benefit from using a product candidate, changes in governmental regulations or administrative actions, or lack of adequate funding to continue the clinical trial.

Moreover, principal investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and receive compensation in connection with such services. Under certain circumstances, we may be required to report some of these relationships to the FDA or comparable foreign regulatory authorities. The FDA or comparable foreign regulatory authority may conclude that a financial relationship between us and a principal investigator has created a conflict of interest or otherwise affected interpretation of the study. The FDA or comparable foreign regulatory authority may therefore question the integrity of the data generated at the applicable clinical trial site and the utility of the clinical trial itself may be jeopardized. This could result in a delay in approval, or rejection, of our marketing applications by the FDA or comparable foreign regulatory authority, as the case may be, and may ultimately lead to the denial of marketing approval of one or more of our product candidates.

Delays in the completion of any clinical trial of our product candidates will increase our costs, slow down our product candidate development and approval process and delay or potentially jeopardize our ability to commence product sales and generate product revenue. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates. Any delays to our clinical trials that occur as a result could shorten any period during which we may have the exclusive right to commercialize our product candidates and our competitors may be able to bring products to market before we do, which could significantly reduce the commercial viability of our product candidates. Any of these occurrences may harm our business, financial condition, results of operations, and prospects significantly.

***The regulatory approval processes of the FDA and comparable foreign regulatory authorities are lengthy, expensive, time-consuming, and inherently unpredictable. If we are ultimately unable to obtain regulatory approval for our product candidates, we will be unable to generate product revenue and our business will be seriously harmed.***

We are not permitted to commercialize, market, promote, or sell any product candidate in the United States without obtaining marketing approval from the FDA. Foreign regulatory authorities impose similar requirements. The time required to obtain approval by the FDA and comparable foreign regulatory authorities is unpredictable but typically takes many years following the commencement of clinical trials and depends upon numerous factors, including the substantial discretion of the regulatory authorities. In addition, approval policies, regulations, or the type and amount of clinical data necessary to gain approval may change during the course of a product candidate's clinical development and may vary among jurisdictions. We have not obtained regulatory approval for any product candidate in the United States or any other jurisdiction, and it is possible that any product candidates we may seek to develop in the future will never obtain regulatory approval.

Prior to obtaining approval to commercialize a product candidate in the United States or elsewhere, we must demonstrate with substantial evidence from well-controlled trials, and to the satisfaction of the FDA, or other regulatory authorities, that such product candidates are safe and effective, pure, and potent for their intended uses. Even if we believe the nonclinical or clinical data for our product candidates are promising, such data may not be sufficient to support approval by the FDA or other regulatory authorities. The FDA or other regulatory authorities may also require us to conduct additional preclinical studies or clinical trials for our product candidates either prior to or post-approval, or it may object to elements of our clinical development program.

The FDA or any foreign regulatory authorities can delay, limit, or deny approval of our product candidates, or require us to conduct additional nonclinical or clinical testing or abandon a program for many reasons, including, but not limited to, the following:

- the FDA or comparable foreign regulatory authorities may disagree with the design, implementation, or interpretation of results of our clinical trials;



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- we may be unable to demonstrate to the satisfaction of the FDA or comparable foreign regulatory authorities that a product candidate is safe and effective, pure, and potent for its proposed indication;
- the results of clinical trials may not meet the level of statistical significance required for approval by the FDA or comparable foreign regulatory authorities;
- serious and unexpected product candidate-related side effects experienced by participants in our clinical trials or by individuals using products similar to our product candidates;
- we may be unable to demonstrate to the FDA or comparable foreign regulatory authorities that a product candidate's clinical and other benefits outweigh its safety risks;
- the FDA or comparable foreign regulatory authorities may disagree with our interpretation of data from preclinical studies or clinical trials;
- the data collected from clinical trials of our product candidates may not be acceptable or sufficient to support the submission of a BLA or other submission, or to obtain regulatory approval in the United States or elsewhere;
- the FDA or comparable foreign regulatory authorities may disagree regarding the formulation, labeling, and/or the specifications of our product candidates;
- our clinical sites, investigators or other participants in our clinical trials may deviate from a trial protocol, fail to conduct the trial in accordance with regulatory requirements, or drop out of a trial;
- the FDA or comparable foreign regulatory authorities may fail to approve the manufacturing processes, test procedures and specifications, or facilities of third-party manufacturers with which we contract for clinical and commercial supplies; and
- the approval policies or regulations of the FDA or comparable foreign regulatory authorities may significantly change in a manner rendering our or our collaborators' clinical data insufficient for approval.

This lengthy approval process, as well as the unpredictability of the results of clinical trials, may result in our failing to obtain regulatory approval to market any of our product candidates, which would seriously harm our business.

Even if we eventually complete clinical trials and obtain approval of a BLA or foreign marketing application for our product candidates, the FDA, or comparable foreign regulatory authorities may grant approval contingent on the performance of costly additional trials, including Phase 4 clinical trials, and/or the implementation of a REMS, which may be required to ensure the benefits of the drug outweigh its risks after approval. The FDA or comparable foreign regulatory authorities may also approve a product candidate for a more limited indication or patient population than we originally requested. Any delay in obtaining, or inability to obtain, applicable regulatory approval would delay or prevent commercialization of that product candidate, and would materially adversely impact our business and prospects.

***Our product candidates may be associated with serious adverse events, undesirable side effects or have other properties that could halt their clinical development, prevent their regulatory approval, limit their commercial potential, or result in significant negative consequences.***

Adverse events or other undesirable side effects caused by our product candidates could cause us, any DSMB for a trial, or regulatory authorities to interrupt, delay, or halt clinical trials and could result in a more restrictive label or the delay or denial of regulatory approval by the FDA or other comparable foreign regulatory authorities. Results of our trials could reveal a high and unacceptable

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severity and prevalence of side effects. In such an event, our trials could be suspended or terminated and the FDA or comparable foreign regulatory authorities could order us to cease further development of or deny approval of our product candidates for any or all targeted indications. The drug-related side effects could affect patient recruitment or the ability of enrolled patients to complete the trial or result in potential product liability claims. Any of these occurrences may harm our business, financial condition, results of operations, and prospects significantly.

During the conduct of clinical trials, patients report changes in their health, including illnesses, injuries, and discomforts, to their study doctor. Often, it is not possible to determine whether or not the product candidate being studied caused these conditions. It is possible that as we test our product candidates in larger, longer, and more extensive clinical trials, or as use of these product candidates becomes more widespread if they receive regulatory approval, illnesses, injuries, discomforts, and other adverse events that were observed in previous trials, as well as conditions that did not occur or went undetected in previous trials, will be reported by patients. Many times, side effects are only detectable after investigational products are tested in large-scale clinical trials or, in some cases, after they are made available to patients on a commercial scale following approval.

If any serious adverse events occur during clinical development, clinical trials of any product candidates or products we develop could be suspended or terminated, and our business could be seriously harmed. Treatment-related side effects could also affect patient recruitment and the ability of enrolled patients to complete the trial or result in potential liability claims. Regulatory authorities could order us to cease further development of, or deny approval of any product candidates for any or all targeted indications. If we are required to delay, suspend, or terminate any clinical trial, the commercial prospects of such product candidates may be harmed, and our ability to generate product revenues from them or other product candidates that we develop may be delayed or eliminated.

Additionally, if one or more of our product candidates receives marketing approval and we or others later identify undesirable side effects or adverse events caused by such products, a number of potentially significant negative consequences could result, including but not limited to:

- regulatory authorities may suspend, limit, or withdraw approvals of such product, or seek an injunction against its manufacture or distribution;
- regulatory authorities may require additional warnings on the label, including “boxed” warnings, or issue safety alerts, Dear Healthcare Provider letters, press releases, or other communications containing warnings or other safety information about the product;
- we may be required to change the way the product is administered or conduct additional clinical trials or post-approval studies;
- we may be required to create a REMS which could include a medication guide outlining the risks of such side effects for distribution to patients;
- we may be subject to fines, injunctions, or the imposition of criminal penalties;
- we could be sued and held liable for harm caused to patients; and
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, and could seriously harm our business.

***Our company has never commercialized a product candidate and may experience delays or unexpected difficulties in obtaining regulatory approval for our current and future product candidates.***

We have never obtained regulatory approval for, or commercialized any product candidate. It is possible that the FDA may refuse to accept any or all of our planned BLAs for substantive review or may conclude after review of our data that our application is insufficient to obtain regulatory approval for any product candidates. If the FDA does not approve any of our planned BLAs, it may require that we conduct additional costly clinical trials, preclinical studies or manufacturing validation studies before it will reconsider our applications. Depending on the extent of these or any other FDA- required studies, approval of any BLA or other application that we submit may be significantly delayed, possibly for several years, or may require us to expend more resources than we have available. Any failure or delay in obtaining regulatory approvals would prevent us from commercializing our product candidates, generating revenues and achieving and sustaining profitability. It is also possible that additional studies, if performed and completed, may not be considered sufficient by the FDA to approve any BLA or other application that we submit. If any of these outcomes occur, we may be forced to abandon the development of our product candidates, which would materially adversely affect our business and could potentially cause us to cease operations. We face similar risks for our applications in foreign jurisdictions.

***If we encounter difficulties enrolling patients in any clinical trials, our clinical development activities could be delayed or otherwise adversely affected.***

We may experience difficulties in patient enrollment in our clinical trials for a variety of reasons. The timely completion of clinical trials in accordance with their protocols depends, among other things, on our ability to enroll a sufficient number of patients who remain in the trial until its conclusion. The enrollment of patients depends on many factors, including:

- the patient eligibility criteria defined in the protocol;
- the size of the target disease population;
- the size of the patient population required for analysis of the trial's primary endpoints;
- the proximity of patients to trial sites;
- the design of the trial;
- our ability to recruit clinical trial investigators with the appropriate competencies and experience;
- clinicians' and patients' perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies, including any new products that may be approved for the indications we are investigating;
- competing clinical trials for similar therapies or other new therapeutics not involving our product candidates and or related technologies;
- our ability to obtain and maintain patient consents;
- the risk that patients enrolled in clinical trials will drop out of the trials before trial completion; and
- other factors outside of our control, such as the COVID-19 pandemic.

In addition, our planned clinical trials will compete with other clinical trials for product candidates that are in the same therapeutic areas as our product candidates or similar areas, and this competition will reduce the number and types of patients available to us because some patients who might have opted to enroll in our trials may instead opt to enroll in a trial being conducted by one of our competitors.

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Since the number of qualified clinical investigators is limited, we expect to conduct some of our clinical trials at the same clinical trial sites that some of our competitors use, which will reduce the number of patients who are available for our clinical trials at such clinical trial sites.

Delays in patient enrollment may result in increased costs or may affect the timing or outcome of our ongoing and planned clinical trials, which could prevent completion or commencement of these trials and adversely affect our ability to advance the development of our product candidates.

***Interim, “top-line” and preliminary data from our clinical trials that we announce or publish from time to time may change as more patient data become available and are subject to audit and verification procedures that could result in material changes in the final data.***

From time to time, we may publicly disclose preliminary or top-line data from our preclinical studies and clinical trials, which is based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial. We also make assumptions, estimations, calculations, and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the top-line or preliminary results that we report may differ from future results of the same studies, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Top-line and preliminary data also remain subject to audit and verification procedures that may result in the final data being materially different from the top-line or preliminary data we previously published. As a result, top-line and preliminary data should be viewed with caution until the final data are available.

From time to time, we may also disclose interim data from our preclinical studies and clinical trials. Interim data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available or as patients from our clinical trials continue other treatments for their disease. Adverse differences between preliminary or interim data and final data could significantly harm our business prospects. Further, disclosure of interim data by us or by our competitors could result in volatility in the price of our common stock after this offering.

Further, others, including regulatory agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions, or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability or commercialization of the particular product candidate or product and our company in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical trial is based on what is typically extensive information, and you or others may not agree with what we determine is material or otherwise appropriate information to include in our disclosure. If the interim, top-line, or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for, and commercialize, our product candidates may be harmed, which could harm our business, operating results, prospects, or financial condition.

***We may not be successful in our efforts to identify and successfully develop additional product candidates.***

Part of our strategy involves identifying novel product candidates. The OMEGA platform may fail to yield product candidates for clinical development for a number of reasons, including those discussed in these risk factors and also:

- we may not be able to assemble sufficient resources to acquire or discover additional product candidates;

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- competitors may develop alternatives that render our potential product candidates obsolete or less attractive;
- potential product candidates we develop may nevertheless be covered by third-parties' patent or other intellectual property or exclusive rights;
- potential product candidates may, on further study, be shown to have harmful side effects, toxicities, or other characteristics that indicate that they are unlikely to be products that will receive marketing approval or achieve market acceptance, if approved;
- potential product candidates may not be effective in treating their targeted diseases or symptoms;
- the market for a potential product candidate may change so that the continued development of that product candidate is no longer reasonable;
- a potential product candidate may not be capable of being produced in commercial quantities at an acceptable cost, or at all; or
- the regulatory pathway for a potential product candidate is highly complex and difficult to navigate successfully or economically.

If we are unable to identify and successfully commercialize additional suitable product candidates, this would adversely impact our business strategy and our financial position.

***We have invested, and expect to continue to invest, in research and development efforts that further enhance the OMEGA platform. Such investments may affect our operating results, and, if the return on these investments is lower or develops more slowly than we expect, our revenue and operating results may suffer.***

We use our technological capabilities for the discovery of new product candidates and, since our inception, we have invested, and expect to continue to invest, in research and development efforts that further enhance the OMEGA platform. These investments may involve significant time, risks, and uncertainties, including the risk that the expenses associated with these investments may affect our margins and operating results and that such investments may not generate sufficient technological advantages relative to alternatives in the market, which would in turn, impact revenues to offset liabilities assumed and expenses associated with these new investments. The software industry changes rapidly as a result of technological and product developments, which may render our platform's ability to identify and develop product candidates less efficient than other technologies and platforms. We believe that we must continue to invest a significant amount of time and resources in the OMEGA platform to maintain and improve our competitive position. If we do not achieve the benefits anticipated from these investments, if the achievement of these benefits is delayed, or if our technology is not able to accelerate the process of drug discovery as quickly as we anticipate, our revenue and operating results may be adversely affected.

***We must adapt to rapid and significant technological change and respond to introductions of new products and technologies by competitors to remain competitive.***

In addition to using our platform for the discovery and development of our own product candidates, we collaborate with other biopharmaceutical and pharmaceutical companies in the discovery and development of our OEC. The technological landscape around artificial intelligence and precision drug design is characterized by significant enhancements and evolving industry standards. As a result, our and our collaborators' needs are rapidly evolving. If we do not appropriately innovate and invest in new technologies, our platform may become less competitive, and our collaborators could move to new technologies offered by our competitors, or engage in drug discovery

themselves. We believe that because of the initial time investment required by many of our collaborators to reach a decision about whether to collaborate with us, it may be difficult to regain a commercial relationship with such collaborator should they enter into a partnership or collaboration agreement with a competitor. Without the timely introduction of new solutions and technological enhancements, our offerings will likely become less competitive over time, in which case our competitive position and operating results could suffer. Accordingly, we focus significant efforts and resources on the development and identification of new technologies and markets to further broaden and deepen our capabilities and expertise in drug discovery and development. For example, to the extent we fail to timely introduce new and innovative technologies or solutions, adequately predict our collaborators' needs or fail to obtain desired levels of market acceptance, our business may suffer and our operating results could be adversely affected.

***The potential market opportunities for our product candidates may be smaller than we anticipated or may be limited to those patients who are ineligible for or have failed prior treatments, and our estimates of the prevalence of our target patient populations may be inaccurate.***

Our current and future target patient populations are based on our beliefs and estimates regarding the incidence or prevalence of certain types of cancers that may be addressable by our product candidates, which is derived from a variety of sources, including scientific literature and surveys of clinics. Our projections may prove to be incorrect and the number of potential patients may turn out to be lower than expected. Even if we obtain significant market share for our product candidates, because the potential target populations could be small, we may never achieve profitability without obtaining regulatory approval for additional indications, including use of our product candidates for front-line and second-line therapy.

Cancer therapies are sometimes characterized by line of therapy (first-line, second-line, third-line, etc.), and the FDA often approves new therapies initially only for a particular line or lines of use. When cancer is detected early enough, first line therapy is sometimes adequate to cure the cancer or prolong life without a cure. Whenever first-line therapy, usually chemotherapy, antibody drugs, tumor-targeted small molecules, hormone therapy, radiation therapy, surgery, or a combination of these, proves unsuccessful, second line therapy may be administered. Second-line therapies often consist of more chemotherapy, radiation, antibody drugs, tumor-targeted small molecules, or a combination of these. Third-line therapies can include chemotherapy, antibody drugs and small molecule tumor-targeted therapies, more invasive forms of surgery and new technologies. We expect to initially seek approval of some of our product candidates as second- or third-line therapies for patients who have failed other approved treatments. Subsequently, for those product candidates that prove to be sufficiently beneficial, if any, we would expect to seek approval as a second-line therapy and potentially as a first-line therapy, but there is no guarantee that our drug candidates, even if approved for third-line therapy, would be approved for second-line or first-line therapy. In addition, we may have to conduct additional clinical trials prior to gaining approval for second-line or first-line therapy.

***We may focus on potential product candidates that may prove to be unsuccessful and we may have to forego opportunities to develop other product candidates that may prove to be more successful.***

We may choose to focus our efforts and resources on a potential product candidate that ultimately proves to be unsuccessful, or to license or purchase a marketed product that does not meet our financial expectations. As a result, we may fail to capitalize on viable commercial products or profitable market opportunities, be required to forego or delay pursuit of opportunities with other product candidates or other diseases that may later prove to have greater commercial potential, or relinquish valuable rights to such product candidates through collaboration, licensing, or other royalty

arrangements in cases in which it would have been advantageous for us to retain sole development and commercialization rights. If we are unable to identify and successfully commercialize additional suitable product candidates, this would adversely impact our business strategy and our financial position.

Furthermore, we have limited financial and personnel resources and are placing significant focus on the development of our lead product candidates, and as such, we may forgo or delay pursuit of opportunities with other future product candidates that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs and other future product candidates for specific indications may not yield any commercially viable future product candidates. If we do not accurately evaluate the commercial potential or target market for a particular future product candidate, we may relinquish valuable rights to those future product candidates through collaboration, licensing, or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights to such future product candidates.

***We may pursue fast track, breakthrough, and regenerative medicine advanced therapy designation by FDA. These designations may not actually lead to a faster development or regulatory review or approval process, and they do not assure FDA approval of any product candidates we may develop.***

FDA's fast track, breakthrough, and regenerative medicine advanced therapy, or RMAT, programs are intended to expedite the development of certain qualifying products intended for the treatment of serious diseases and conditions. If a product candidate is intended for the treatment of a serious or life-threatening condition and preclinical or clinical data demonstrate the product's potential to address an unmet medical need for this condition, the sponsor may apply for FDA fast track designation. A product candidate may be designated as a breakthrough therapy if it is intended to treat a serious or life-threatening condition and preliminary clinical evidence indicates that the product candidate may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints. A product candidate may receive RMAT designation if it is a regenerative medicine therapy that is intended to treat, modify, reverse or cure a serious or life-threatening condition, and preliminary clinical evidence indicates that the product candidate has the potential to address an unmet medical need for such condition. While we may seek fast track, breakthrough, and/or RMAT designation, there is no guarantee that we will be successful in obtaining any such designation. Even if we do obtain such designation, we may not experience a faster development process, review or approval compared to conventional FDA procedures. A fast track, breakthrough, or RMAT designation does not ensure that the product candidate will receive marketing approval or that approval will be granted within any particular timeframe. In addition, the FDA may withdraw fast track, breakthrough, or RMAT designation if it believes that the designation is no longer supported by data from our clinical development program. Fast track, breakthrough, and/or RMAT designation alone do not guarantee qualification for the FDA's priority review procedures.

***Even if we obtain FDA approval of any of our product candidates, we may never obtain approval or commercialize such products outside of the United States, which would limit our ability to realize their full market potential.***

In order to market any products outside of the United States, we must establish and comply with numerous and varying regulatory requirements of other countries regarding safety and efficacy. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries, and regulatory approval in one country does not mean that regulatory approval will be obtained in any other country. Approval procedures vary among countries and can involve additional product testing and validation and additional administrative review periods. Seeking foreign regulatory approvals could

result in significant delays, difficulties, and costs for us and may require additional preclinical studies or clinical trials which would be costly and time-consuming. Regulatory requirements can vary widely from country to country and could delay or prevent the introduction of our products in those countries. Satisfying these and other regulatory requirements is costly, time-consuming, uncertain, and subject to unanticipated delays. In addition, our failure to obtain regulatory approval in any country may delay or have negative effects on the process for regulatory approval in other countries. We do not have any product candidates approved for sale in any jurisdiction, including international markets, and we do not have experience in obtaining regulatory approval in international markets. If we fail to comply with regulatory requirements in international markets or to obtain and maintain required approvals, our ability to realize the full market potential of our products will be harmed.

***Even if a current or future product candidate receives marketing approval, it may fail to achieve the degree of market acceptance by physicians, patients, third-party payors, and others in the medical community necessary for commercial success.***

If any current or future product candidate we develop receives marketing approval, it may nonetheless fail to gain sufficient market acceptance by physicians, patients, third-party payors, and others in the medical community. If the product candidates we develop do not achieve an adequate level of acceptance, we may not generate significant product revenues and we may not become profitable. The degree of market acceptance of any product candidate, if approved for commercial sale, will depend on a number of factors, including:

- efficacy and potential advantages compared to alternative treatments;
- the ability to offer our products, if approved, for sale at competitive prices;
- convenience and ease of administration compared to alternative treatments;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies;
- the strength of marketing and distribution support;
- the ability to obtain sufficient third-party coverage and adequate reimbursement, including with respect to the use of the approved product as a combination therapy;
- adoption of a companion diagnostic and/or complementary diagnostic; and
- the prevalence and severity of any side effects.

***Disruptions at the FDA and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire, retain, or deploy key leadership and other personnel, or otherwise prevent new or modified products from being developed, approved, or commercialized in a timely manner or at all, which could negatively impact our business.***

The ability of the FDA to review or approve new products can be affected by a variety of factors, including government budget and funding levels, statutory, regulatory, and policy changes, the FDA's ability to hire and retain key personnel and accept the payment of user fees, and other events that may otherwise affect the FDA's ability to perform routine functions. Average review times at the FDA have fluctuated in recent years as a result. In addition, government funding of other government agencies that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable. Disruptions at the FDA and other agencies, such as the EMA, following its relocation to Amsterdam and related reorganization (including staff changes), may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities.



Separately, there have been significant disruptions due to the ongoing COVID-19 pandemic. Since March 2020, when foreign and domestic inspections of facilities were largely placed on hold, the FDA has been working to resume routine surveillance, bioresearch monitoring and pre-approval inspections on a prioritized basis. The FDA has developed a rating system to assist in determining when and where it is safest to conduct prioritized domestic inspections and resumed inspections in China and India in early 2021. In April 2021, the FDA issued guidance for industry formally announcing plans to employ remote interactive evaluations, using risk management methods, to meet user fee commitments and goal dates and in May 2021 announced plans to continue progress toward resuming standard operational levels. Should FDA determine that an inspection is necessary for approval and an inspection cannot be completed during the review cycle due to restrictions on travel, and the FDA does not determine a remote interactive evaluation to be appropriate, the agency has stated that it generally intends to issue a complete response letter. Further, if there is inadequate information to make a determination on the acceptability of a facility, FDA may defer action on the application until an inspection can be completed. Additionally, as of March 18, 2021, the FDA noted it is continuing to ensure timely reviews of applications for medical products during the COVID-19 pandemic in line with its user fee performance goals. However, the FDA may not be able to continue its current pace and approval timelines could be extended. In 2020, several companies announced receipt of complete response letters due to the FDA's inability to complete required inspections for their applications. Regulatory authorities outside the U.S. may adopt similar restrictions or other policy measures in response to the COVID-19 pandemic and may experience delays in their regulatory activities, which could have a material adverse effect on our business.

***Our insurance policies are expensive and protect us only from some business risks, which leaves us exposed to significant uninsured liabilities.***

We do not carry insurance for all categories of risk that our business may encounter. Some of the policies we currently maintain include general liability, property, auto, employment practices, workers' compensation, environmental liability, and directors' and officers' insurance.

Any additional product liability insurance coverage we acquire in the future may not be sufficient to reimburse us for any expenses or losses we may suffer. Moreover, insurance coverage is becoming increasingly expensive and in the future we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to liability. If we obtain marketing approval for any of our product candidates, we intend to acquire insurance coverage to include the sale of commercial products; however, we may be unable to obtain product liability insurance on commercially reasonable terms or in adequate amounts. A successful product liability claim or series of claims brought against us could cause our stock price to decline and, if judgments exceed our insurance coverage, could adversely affect our results of operations and business, including preventing or limiting the development and commercialization of any product candidates we develop. Although our environment liability insurance provides certain coverage for claims attributable to the release of biological or hazardous materials, our property, casualty, and general liability insurance policies specifically exclude coverage for damages and fines arising from biological or hazardous waste exposure or contamination. Accordingly, in the event of contamination or injury, we could be held liable for damages or be penalized with fines in an amount exceeding our resources, and our clinical trials or regulatory approvals could be suspended.

We also expect that operating as a public company will make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified people to serve on our board of directors, our board committees or as executive officers. We do not know, however, if we will be able to maintain existing insurance with adequate levels of coverage. Any significant uninsured liability may require us to pay substantial amounts, which would adversely affect our cash and cash equivalents position and results of operations.

## Risks Related to Healthcare Laws and Other Legal Compliance Matters

### ***We will be subject to extensive and costly government regulation.***

Our product candidates will be subject to extensive and rigorous domestic government regulation, including regulation by the FDA, the Centers for Medicare & Medicaid Services, or CMS, other divisions of the U.S. Department of Health and Human Services, the U.S. Department of Justice, state and local governments, and their respective equivalents outside of the United States. The FDA regulates the research, development, preclinical and clinical testing, manufacture, safety, effectiveness, record-keeping, reporting, labeling, packaging, storage, approval, advertising, promotion, sale, distribution, import, and export of pharmaceutical products. If our products are marketed abroad, they will also be subject to extensive regulation by foreign governments, whether or not they have obtained FDA approval for a given product and its uses. Such foreign regulation may be equally or more demanding than corresponding United States regulation.

Government regulation substantially increases the cost and risk of researching, developing, manufacturing, and selling our products. The regulatory review and approval process, which includes preclinical testing and clinical trials of each product candidate, is lengthy, expensive, and uncertain. We must obtain and maintain regulatory authorization to conduct preclinical studies and clinical trials. We must obtain regulatory approval for each product we intend to market, and the manufacturing facilities used for the products must be inspected and meet legal requirements. Securing regulatory approval requires the submission of extensive preclinical and clinical data and other supporting information for each proposed therapeutic indication in order to establish the product's safety and efficacy, potency, and purity, for each intended use. The development and approval process takes many years, requires substantial resources, and may never lead to the approval of a product.

Even if we are able to obtain regulatory approval for a particular product, the approval may limit the indicated medical uses for the product, may otherwise limit our ability to promote, sell, and distribute the product, may require that we conduct costly post-marketing surveillance, and/or may require that we conduct ongoing post-marketing studies. Material changes to an approved product, such as, for example, manufacturing changes or revised labeling, may require further regulatory review and approval. Once obtained, any approvals may be withdrawn, including, for example, if there is a later discovery of previously unknown problems with the product, such as a previously unknown safety issue.

If we, our consultants, CDMOs, CROs, or other vendors, fail to comply with applicable regulatory requirements at any stage during the regulatory process, such noncompliance could result in, among other things, delays in the approval of applications or supplements to approved applications; refusal of a regulatory authority, including the FDA or other regulatory authorities, to review pending market approval applications or supplements to approved applications; warning letters; fines; import and/or export restrictions; product recalls or seizures; injunctions; total or partial suspension of production; civil penalties; withdrawals of previously approved marketing applications or licenses; recommendations by the FDA or other regulatory authorities against governmental contracts; and/or criminal prosecutions.

### ***Enacted and future healthcare legislation and policies may increase the difficulty and cost for us to obtain marketing approval of and commercialize our product candidates and could adversely affect our business.***

In the United States, the EU and other jurisdictions, there have been, and we expect there will continue to be, a number of legislative and regulatory changes and proposed changes to the healthcare system that could prevent or delay marketing approval of our products in development, restrict or regulate post-approval activities involving any product candidates for which we obtain marketing approval, impact

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pricing and reimbursement and impact our ability to sell any such products profitably. In particular, there have been and continue to be a number of initiatives at the U.S. federal and state levels that seek to reduce healthcare costs and improve the quality of healthcare. In addition, new regulations and interpretations of existing healthcare statutes and regulations are frequently adopted.

In March 2010, the Patient Protection and Affordable Care Act, or ACA, was enacted, which substantially changed the way healthcare is financed by both governmental and private insurers. Among the provisions of the ACA, those of greatest importance to the pharmaceutical and biotechnology industries include the following:

- an annual, non-deductible fee payable by any entity that manufactures or imports certain branded prescription drugs and biologic agents (other than those designated as orphan drugs), which is apportioned among these entities according to their market share in certain government healthcare programs;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program to 23.1% and 13.0% of the average manufacturer price for branded and generic drugs, respectively;
- a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted, or injected;
- extension of a manufacturer's Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to certain individuals with income at or below 133% of the federal poverty level, thereby potentially increasing a manufacturer's Medicaid rebate liability;
- a Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research; and
- establishment of the Center for Medicare and Medicaid Innovation at CMS to test innovative payment and service delivery models to lower Medicare and Medicaid spending, potentially including prescription drug spending.

Since its enactment, there have been judicial, Congressional and executive challenges to certain aspects of the ACA. The United States Supreme Court is currently reviewing the constitutionality of the ACA in its entirety. Although the U.S. Supreme Court has not yet ruled, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through August 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is unclear how the Supreme Court ruling, other such litigation and any other healthcare reform measures of the Biden administration will impact the ACA or our business.

In addition, other legislative changes have been proposed and adopted in the United States since the ACA was enacted. In August 2011, the Budget Control Act of 2011 resulted in aggregate reductions of Medicare payments to providers of 2% per fiscal year, which went into effect in April 2013

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and, due to subsequent legislative amendments to the statute, will remain in effect through 2030, with the exception of a temporary suspension from May 1, 2020 through December 31, 2021, unless additional Congressional action is taken. In addition, in January 2013, the American Taxpayer Relief Act of 2012 was signed into law, which, among other things, further reduced Medicare payments to several types of providers, including hospitals, imaging centers, and cancer treatment centers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. Additionally, the orphan drug tax credit was reduced as part of a broader tax reform. These new laws or any other similar laws introduced in the future may result in additional reductions in Medicare and other healthcare funding, which could negatively affect our customers and accordingly, our financial operations.

Moreover, payment methodologies may be subject to changes in healthcare legislation and regulatory initiatives. For example, CMS may develop new payment and delivery models, such as outcomes-based reimbursement. In addition, recently there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several U.S. Congressional inquiries and proposed and enacted federal legislation designed to, among other things, bring more transparency to drug pricing, reduce the cost of prescription drugs under Medicare, and review the relationship between pricing and manufacturer patient programs. We expect that additional U.S. federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that the U.S. federal government will pay for healthcare products and services, which could result in reduced demand for our product candidates or additional pricing pressures.

Individual states in the United States have also increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access, and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. Legally mandated price controls on payment amounts by third-party payors or other restrictions could harm our business, results of operations, financial condition and prospects. In addition, regional healthcare authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products and which suppliers will be included in their prescription drug and other healthcare programs. This could reduce the ultimate demand for our product candidates or put pressure on our product pricing.

In the EU, similar political, economic, and regulatory developments may affect our ability to profitably commercialize our product candidates, if approved. In addition to continuing pressure on prices and cost containment measures, legislative developments at the EU or member state level may result in significant additional requirements or obstacles that may increase our operating costs. The delivery of healthcare in the EU, including the establishment and operation of health services and the pricing and reimbursement of medicines, is almost exclusively a matter for national, rather than EU, law and policy. National governments and health service providers have different priorities and approaches to the delivery of healthcare and the pricing and reimbursement of products in that context. EU member states are free to restrict the range of pharmaceutical products for which their national health insurance systems provide reimbursement, and to control the prices and reimbursement levels of pharmaceutical products for human use. Some jurisdictions operate positive and negative list systems under which products may only be marketed once a reimbursement price has been agreed to by the government. EU member states may approve a specific price or level of reimbursement for the pharmaceutical product, or alternatively adopt a system of direct or indirect controls on the profitability of the company responsible for placing the pharmaceutical product on the market, including volume-based arrangements, caps and reference pricing mechanisms. To obtain reimbursement or pricing approval in some EU member states, we may be required to conduct studies that compare the cost-effectiveness of our product candidates to other therapies that are considered the local standard of care. Other EU member states allow companies to fix their own prices for medicines, but monitor and

control company profits. The downward pressure on healthcare costs in general, particularly prescription medicines, has become very intense. Generally, the healthcare budgetary constraints in most EU member states have resulted in restrictions on the pricing and reimbursement of medicines by relevant health service providers. Coupled with ever-increasing EU and national regulatory burdens on those wishing to develop and market products, this could prevent or delay marketing approval of our product candidates, restrict, or regulate post-approval activities, and affect our ability to commercialize our product candidates, if approved.

In markets outside of the United States and the EU, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific products and therapies.

In addition, in the United States, legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical products. We cannot be sure whether additional legislative changes will be enacted, or whether the FDA's regulations, guidance or interpretations will be changed, or what the impact of such changes on the marketing approvals of our product candidates, if any, may be. In addition, increased scrutiny by Congress of the FDA's approval process may significantly delay or prevent marketing approval, as well as subject us to more stringent product labeling and post-marketing testing and other requirements.

We cannot predict the likelihood, nature, or extent of government regulation that may arise from future legislation or administrative action in the United States, the EU, or any other jurisdiction. If we or any third parties we may engage are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we or such third parties are not able to maintain regulatory compliance, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability.

***If our product candidates obtain regulatory approval, we and they will be subject to ongoing regulatory review and significant post-market regulatory requirements and oversight.***

If the FDA or other regulatory authorities approve any of our product candidates, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion, import, export, and record-keeping of our product candidates will be subject to extensive and ongoing regulatory requirements. These requirements include submission of safety and other post-marketing information and reports, registration, as well as ongoing compliance with cGMPs and GCPs for any clinical trials that we conduct post-approval. In addition, manufacturers of biological products and their facilities are subject to continual review and periodic, unannounced inspections by the FDA and other regulatory authorities to ensure compliance with cGMP regulations and similar standards. If we or a regulatory authority discover previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, or problems with the facilities where the product is manufactured, a regulatory authority may impose restrictions on that product, the manufacturing facility or us, including requiring recall or withdrawal of the product from the market or suspension of manufacturing. In addition, any regulatory approvals that we may receive for our product candidates may contain significant limitations related to use restrictions for specified age groups, warnings, precautions, or contraindications, and may include burdensome post-approval study or risk management requirements. For example, the FDA may require a REMS in order to approve our product candidates, which could entail requirements for a medication guide, physician training, and communication plans or additional elements to ensure safe use, such as restricted distribution methods, patient registries, and other risk minimization tools.

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Failure to comply with applicable regulatory requirements, may subject us to administrative or judicially imposed sanctions, including:

- delays in reviewing or the rejection of product applications or supplements to approved applications;
- restrictions on our ability to conduct clinical trials, including full or partial clinical holds on ongoing or planned trials;
- warning or untitled letters;
- civil or criminal penalties;
- injunctions;
- suspension or withdrawal of regulatory approvals;
- product seizures, detentions, or import bans;
- voluntary or mandatory product recalls and publicity requirements;
- total or partial suspension of production; and
- imposition of restrictions on our operations, including costly new manufacturing requirements.

The occurrence of any such event may inhibit our ability to commercialize our product candidates and generate revenue and could require us to expend significant time and resources in response and could generate negative publicity.

Moreover, the policies of the FDA and of other regulatory authorities may change, and additional government regulations may be enacted that could prevent, limit, or delay regulatory approval of our product candidates. We cannot predict the likelihood, nature, or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad.

In addition, the EU has adopted the Clinical Trials Regulation, or CTR, in April 2014, which is expected to become applicable by early 2022. The CTR will be directly applicable in all EU member states, repealing the current Clinical Trials Directive. Conduct of all clinical trials performed in the EU will continue to be bound by currently applicable provisions until the new CTR becomes applicable. The extent to which ongoing clinical trials will be governed by the CTR will depend on when the CTR becomes applicable and on the duration of the individual clinical trial. If a clinical trial continues for more than three years from the day on which the CTR becomes applicable the CTR will at that time begin to apply to the clinical trial. The CTR harmonizes the assessment and supervision processes for clinical trials throughout the EU via a Clinical Trials Information System, which will notably contain a centralized EU portal and database.

If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and we may not achieve or sustain profitability.

***The Hatch-Waxman Act in the United States provides for the opportunity to seek a patent term extension on one selected patent for each of our products, and the length of that patent term extension, if at all, is subject to review and approval by the U.S. Patent and Trademark Office, or the USPTO, and the FDA.***

In the United States, the Hatch-Waxman Act permits one patent term extension of up to five years beyond the normal expiration of one patent per product, which if a method of treatment patent, is limited to the approved indication (or any additional indications approved during the period of extension). The

length of the patent term extension is typically calculated as one half of the clinical trial period plus the entire period of time during the review of the BLA by the FDA, minus any time of delay by us during these periods. There is also a limit on the patent term extension to a term that is no greater than fourteen years from drug approval. Therefore, if we select and are granted a patent term extension on a recently filed and issued patent, we may not receive the full benefit of a possible patent term extension, if at all. We might also not be granted a patent term extension at all, because of, for example, failure to apply within the applicable period, failure to apply prior to the expiration of relevant patents or otherwise failure to satisfy any of the numerous applicable requirements. Moreover, the applicable authorities, including the FDA and the USPTO in the United States, and any equivalent regulatory authorities in other countries, may not agree with our assessment of whether such extensions are available, may refuse to grant extensions to our patents, or may grant more limited extensions than we request. If this occurs, our competitors may be able to obtain approval of competing products following our patent expiration by referencing our clinical and preclinical data and launch their product earlier than might otherwise be the case. If this were to occur, it could have a material adverse effect on our ability to generate product revenue.

In 1997, as part of the Food & Drug Administration Modernization Act, or FDAMA, Congress enacted a law that provides incentives to drug manufacturers who conduct studies of drugs in children. The law, which provides six months of exclusivity in return for conducting pediatric studies, is referred to as the pediatric exclusivity provision. If clinical studies are carried out by us that comply with the FDAMA, we may receive an additional six-month term added to our regulatory data exclusivity period and our patent term extension period, if received, on our product. However, if we choose not to carry out pediatric studies that comply with the FDAMA, or are not accepted by the FDA for this purpose, we would not receive this additional six-month exclusivity extension to our data exclusivity or our patent term extension.

In the EU, supplementary protection certificates, or SPCs, are available to extend a patent term up to five years to compensate for patent term lost during regulatory review, and can be extended (if any is in effect at the time of approval) for an additional six months if data from clinical trials is obtained in accordance with an agreed-upon pediatric investigation plan. Although all EU member states must provide SPCs, SPCs must be applied for and granted on a country-by-country basis. This can lead to a substantial cost to apply for and receive these certificates, which may vary among countries or not be granted at all.

***Our business operations and current and future relationships with investigators, healthcare professionals, consultants, third-party payors, patient organizations, and customers will be subject to applicable healthcare regulatory laws, which could expose us to penalties.***

Our business operations and current and future arrangements with investigators, healthcare professionals, consultants, third-party payors, patient organizations and customers, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations. These laws may constrain the business or financial arrangements and relationships through which we conduct our operations, including how we research, market, sell, and distribute our product candidates, if approved. Such laws include:

- the U.S. federal Anti-Kickback Statute, which makes it illegal for any person to knowingly and willfully solicit, offer, receive, pay, or provide any remuneration (including any kickback, bribe, or certain rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, lease, order or recommendation of, any good, facility, item or service, for which payment may be made, in whole or in part, under U.S. federal and state healthcare programs such as Medicare and Medicaid. A person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;

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- the U.S. federal civil and criminal false claims laws, including the civil False Claims Act, or FCA, which prohibit individuals or entities from, among other things, knowingly presenting, or causing to be presented, to the U.S. federal government, claims for payment or approval that are false, fictitious, or fraudulent, knowingly making, using or causing to be made or used, a false record or statement material to a false or fraudulent claim, or from knowingly making a false statement to avoid, decrease, or conceal an obligation to pay money to the U.S. federal government. Manufacturers can be held liable under the FCA even when they do not submit claims directly to government payors if they are deemed to “cause” the submission of false or fraudulent claims. The government may deem manufacturers to have “caused” the submission of false or fraudulent claims by, for example, providing inaccurate billing or coding information to customers or promoting a product off-label. Companies that submit claims directly to payors may also be liable under the FCA for the direct submission of such claims. In addition, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the FCA. The FCA also permits a private individual acting as a “whistleblower” to bring actions on behalf of the federal government alleging violations of the FCA and to share in any monetary recovery;
- the federal civil monetary penalties laws, which impose civil fines for, among other things, the offering or transfer of remuneration to a Medicare or state healthcare program beneficiary if the person knows or should know it is likely to influence the beneficiary’s selection of a particular provider, practitioner, or supplier of services reimbursable by Medicare or a state healthcare program, unless an exception applies;
- the U.S. federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, and its implementing regulations, which created additional federal criminal statutes that prohibit knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program or obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, regardless of the payor (e.g., public or private) and knowingly and willfully falsifying, concealing, or covering up by any trick or device a material fact or making any materially false statements in connection with the delivery of, or payment for, healthcare benefits, items, or services relating to healthcare matters. Similar to the U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- the Federal Food, Drug and Cosmetic Act, or FDCA, which prohibits, among other things, the adulteration or misbranding of drugs, biologics, and medical devices;
- the U.S. Physician Payments Sunshine Act and its implementing regulations, which requires certain manufacturers of drugs, devices, biologics, and medical supplies that are reimbursable under Medicare, Medicaid, or the Children’s Health Insurance Program to report annually to the government information related to certain payments and other transfers of value to physicians (defined to include doctors, dentists, optometrists, podiatrists, and chiropractors), certain other healthcare providers starting in 2022, and teaching hospitals, as well as ownership and investment interests held by the physicians described above and their immediate family members;
- federal price reporting laws, which require manufacturers to calculate and report complex pricing metrics to government programs, where reported prices may be used in the calculation of reimbursement and/or discounts on approved products;
- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers;
- analogous U.S. state laws and regulations, including: state anti-kickback and false claims laws, which may apply to our business practices, including but not limited to, research, distribution,



sales and marketing arrangements and claims involving healthcare items or services reimbursed by any third-party payor, including private insurers; state laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the U.S. federal government, or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; state laws and regulations that require drug manufacturers to file reports relating to pricing and marketing information, which requires tracking gifts and other remuneration and items of value provided to healthcare professionals and entities; and state and local laws that require the registration of pharmaceutical sales representatives; and

- similar healthcare laws and regulations in the EU and other jurisdictions, including reporting requirements detailing interactions with and payments to healthcare providers.

Ensuring that our internal operations and future business arrangements with third parties comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities will conclude that our business practices, including our relationships with physicians and other healthcare providers, some of whom are compensated in the form of stock or stock options for services provided to us and may be in the position to influence the ordering of or use of our product candidates, if approved, may not comply with current or future statutes, regulations, agency guidance, or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of the laws described above or any other governmental laws and regulations that may apply to us, we may be subject to significant penalties, including civil, criminal, and administrative penalties, damages, fines, exclusion from government-funded healthcare programs, such as Medicare and Medicaid or similar programs in other countries or jurisdictions, integrity oversight, and reporting obligations to resolve allegations of non-compliance, disgorgement, imprisonment, contractual damages, reputational harm, diminished profits, and the curtailment or restructuring of our operations. If any of the physicians or other providers or entities with whom we expect to do business are found to not be in compliance with applicable laws, they may be subject to criminal, civil, or administrative sanctions, including exclusions from government funded healthcare programs and imprisonment, which could affect our ability to operate our business. Further, defending against any such actions can be costly, time-consuming and may require significant personnel resources. Therefore, even if we are successful in defending against any such actions that may be brought against us, our business may be impaired.

***We are subject to governmental regulation and other legal obligations, particularly related to privacy, data protection and information security, and we are subject to consumer protection laws that regulate our marketing practices and prohibit unfair or deceptive acts or practices. Our actual or perceived failure to comply with such obligations could harm our business.***

We are subject to diverse laws and regulations relating to data privacy and security, including, in the United States, HIPAA, and, in the EU and the European Economic Area, or EEA (which consists of the 27 EU member states plus Norway, Liechtenstein and Iceland), Regulation (EU) 2016/679, known as the General Data Protection Regulation, or GDPR. New privacy rules are being enacted in the United States and globally, and existing ones are being updated and strengthened. For example, on June 28, 2018, California enacted the California Consumer Privacy Act, or CCPA, which took effect on January 1, 2020. The CCPA creates individual privacy rights for California consumers, increases the privacy and security obligations of entities handling certain personal information, requires new disclosures to California individuals and affording such individuals new abilities to opt out of certain sales of personal information, and provides for civil penalties for violations as well as a private right of action for data breaches that is expected to increase data breach litigation. Complying with these numerous, complex, and often changing regulations is expensive and difficult, and failure to comply with any privacy laws or data security laws or any security incident or breach involving the misappropriation, loss or other unauthorized

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processing, use or disclosure of sensitive or confidential patient, consumer or other personal information, whether by us, one of our CROs or business associates or another third party, could adversely affect our business, financial condition, and results of operations, including but not limited to: investigation costs; material fines and penalties; compensatory, special, punitive, and statutory damages; litigation; consent orders regarding our privacy and security practices; requirements that we provide notices, credit monitoring services, and/or credit restoration services or other relevant services to impacted individuals; adverse actions against our licenses to do business; reputational damage; and injunctive relief.

The privacy laws in the EU have been significantly reformed in recent years. On May 25, 2018, the GDPR came into effect and imposes strict requirements for processing the personal data of individuals within the EEA. The GDPR is directly applicable in each EU member state and is extended to the EEA. The GDPR implements more stringent operational requirements than its predecessor legislation. For example, the GDPR applies extraterritorially, requires us to make more detailed disclosures to data subjects, requires disclosure of the legal basis on which we can process personal data, makes it harder for us to obtain valid consent for collecting and processing personal data (including data from clinical trials), requires the appointment of data protection officers when sensitive personal data, such as health data, is processed on a large scale, provides more robust rights for data subjects, introduces mandatory data breach notification through the EU, imposes additional obligations on us when contracting with service providers and requires us to adopt appropriate privacy governance, including policies, procedures, training, and data audit. The GDPR provides that EEA countries may establish their own laws and regulations limiting the processing of personal data, including genetic, biometric, or health data, which could limit our ability to use and share personal data or could cause our costs to increase. Among other requirements, the GDPR regulates transfers of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the United States, and the efficacy and longevity of current transfer mechanisms between the EU and the United States remains uncertain. For example, in 2016, the EU and United States agreed to a transfer framework for data transferred from the EU to the United States, called the Privacy Shield, but the Privacy Shield was invalidated in July 2020 by the Court of Justice of the European Union, or CJEU. While the CJEU upheld the adequacy of the standard contractual clauses (a standard form of contract approved by the European Commission as an adequate personal data transfer mechanism, and potential alternative to the Privacy Shield), it made clear that reliance on them alone may not necessarily be sufficient in all circumstances. Use of the standard contractual clauses must now be assessed on a case-by-case basis taking into account the legal regime applicable in the destination country, in particular applicable surveillance laws and rights of individuals and additional measures and/or contractual provisions may need to be put in place, however, the nature of these additional measures is currently uncertain.

Additionally, following the United Kingdom's withdrawal from the EU, which is commonly referred to as Brexit, beginning in 2021 we will have to comply with the GDPR and the United Kingdom GDPR, each regime having the ability to fine up to the greater of €20 million (£17.5 million) or 4% of global turnover for violations. The relationship between the United Kingdom and the EU in relation to certain aspects of data protection law remains unclear, and it is unclear how United Kingdom data protection laws and regulations will develop in the medium to longer term, and how data transfers to and from the United Kingdom will be regulated in the long term. These changes will lead to additional costs and increase our overall risk exposure. Currently there is a four to six-month grace period agreed in the EU and United Kingdom Trade and Cooperation Agreement, ending June 30, 2021 at the latest, whilst the parties discuss an adequacy decision. The European Commission published a draft adequacy decision on February 19, 2021. If adopted, the decision will enable data transfers from EU member states to the United Kingdom for a four-year period, subject to subsequent extensions. In addition, we may be the subject of litigation and/or adverse publicity, which could adversely affect our business, results of operations, and financial condition.

We cannot assure you that our CROs or other third-party service providers with access to our or our customers', suppliers', trial patients' and employees' personally identifiable and other sensitive or confidential information in relation to which we are responsible will not breach contractual obligations imposed by us, or that they will not experience data security breaches or attempts thereof, which could have a corresponding effect on our business, including putting us in breach of our obligations under privacy laws and regulations and/or which could in turn adversely affect our business, results of operations, and financial condition. We cannot assure you that our contractual measures and our own privacy and security-related safeguards will protect us from the risks associated with the third-party processing, use, storage, and transmission of such information. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***We face potential liability related to the privacy of health information we obtain from clinical trials sponsored by us.***

Most healthcare providers, including research institutions from which we obtain patient health information, are subject to privacy and security regulations promulgated under HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act. We do not believe that we are currently classified as a covered entity or business associate under HIPAA and thus are not directly subject to its requirements or penalties. However, any person may be prosecuted under HIPAA's criminal provisions either directly or under aiding-and-abetting or conspiracy principles. Consequently, depending on the facts and circumstances, we could face substantial criminal penalties if we knowingly receive individually identifiable health information from a HIPAA-covered healthcare provider or research institution that has not satisfied HIPAA's requirements for disclosure of individually identifiable health information. Even when HIPAA does not apply, according to the Federal Trade Commission, or the FTC, failing to take appropriate steps to keep consumers' personal information secure constitutes unfair acts or practices in or affecting commerce in violation of the Federal Trade Commission Act. The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size, and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards.

In addition, we may maintain sensitive personally identifiable information, including health information, that we receive throughout the clinical trial process, in the course of our research collaborations. As such, we may be subject to state laws, including the CCPA, requiring notification of affected individuals and state regulators in the event of a breach of personal information, which is a broader class of information than the health information protected by HIPAA. Our clinical trial programs outside the United States may implicate international data protection laws, including the GDPR and legislation of the EEA countries implementing it.

Our activities outside the United States impose additional compliance requirements and generate additional risks of enforcement for noncompliance. Failure by our CROs and other third-party contractors to comply with the strict rules on the transfer of personal data outside of the EEA into the United States may result in the imposition of criminal and administrative sanctions on such collaborators, which could adversely affect our business. Furthermore, certain health privacy laws, data breach notification laws, consumer protection laws, and genetic testing laws may apply directly to our operations and/or those of our collaborators and may impose restrictions on our collection, use, and dissemination of individuals' health information.

Moreover, patients about whom we or our collaborators obtain health information, as well as the providers who share this information with us, may have statutory or contractual rights that limit our ability to use and disclose the information. We may be required to expend significant capital and other resources to ensure ongoing compliance with applicable privacy and data security laws. Claims that we

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have violated individuals' privacy rights or breached our contractual obligations, even if we are not found liable, could be expensive and time-consuming to defend and could result in adverse publicity that could harm our business.

If we or third-party CDMOs, CROs, or other contractors or consultants fail to comply with applicable federal, state, or local regulatory privacy requirements, we could be subject to a range of regulatory actions that could affect our or our contractors' ability to develop and commercialize our product candidates and could harm or prevent sales of any affected products that we are able to commercialize, or could substantially increase the costs and expenses of developing, commercializing, and marketing our products. Any threatened or actual government enforcement action could also generate adverse publicity and require that we devote substantial resources that could otherwise be used in other aspects of our business. Increasing use of social media could give rise to liability, breaches of data security, or reputational damage. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations, and prospects.

### ***We are subject to environmental, health and safety laws and regulations, and we may become exposed to liability and substantial expenses in connection with environmental compliance or remediation activities.***

Our operations, including our development, testing and manufacturing activities, are subject to numerous environmental, health and safety laws, and regulations. These laws and regulations govern, among other things, the controlled use, handling, release, and disposal of and the maintenance of a registry for, hazardous materials and biological materials, such as chemical solvents, human cells, carcinogenic compounds, mutagenic compounds, and compounds that have a toxic effect on reproduction, laboratory procedures, and exposure to blood-borne pathogens. If we fail to comply with such laws and regulations, we could be subject to fines or other sanctions.

As with other companies engaged in activities similar to ours, we face a risk of environmental liability inherent in our current and historical activities, including liability relating to releases of or exposure to hazardous or biological materials. Environmental, health and safety laws and regulations are becoming more stringent. We may be required to incur substantial expenses in connection with future environmental compliance or remediation activities, in which case, the production efforts of our third-party manufacturers or our development efforts may be interrupted or delayed.

### ***We and our employees are increasingly utilizing social media tools as a means of communication both internally and externally.***

Despite our efforts to monitor evolving social media communication guidelines and comply with applicable rules, there is risk that the use of social media by us or our employees to communicate about our product candidates or business may cause us to be found in violation of applicable requirements. In addition, our employees may knowingly or inadvertently make use of social media in ways that may not comply with applicable laws and regulations, our policies, and other legal or contractual requirements, which may give rise to regulatory enforcement action, liability, lead to the loss of trade secrets or other intellectual property or result in public exposure of personal information of our employees, clinical trial patients, customers, and others. Furthermore, negative posts or comments about us or our product candidates in social media could seriously damage our reputation, brand image, and goodwill. Any of these events could have a material adverse effect on our business, prospects, financial condition, and results of operations, and could adversely affect the price of our common stock.

## Risks Related to Commercialization

***We are very early in our development efforts. All of our product candidates are in preclinical development or discovery and it will be many years before we commercialize a product candidate, if ever. If we are unable to advance our product candidates to clinical development, obtain regulatory approval and ultimately commercialize our product candidates, or experience significant delays in doing so, our business will be materially harmed.***

We are very early in our development efforts and have focused our research and development efforts to date on developing the OMEGA platform, identifying our initial targeted disease indications and engineering our initial OECs. We have only conducted *in vivo* preclinical studies for some of our programs and there is no guarantee that we will conduct preclinical *in vivo* studies for other programs. Our ability to generate product revenue, which we do not expect will occur for many years, if ever, will depend heavily on the successful clinical development and eventual commercialization of our product candidates, which may never occur.

Commencing clinical trials in the United States is subject to acceptance by the FDA of an IND and finalizing the trial design based on discussions with the FDA and other regulatory authorities. In the event that the FDA requires us to complete additional preclinical studies or we are required to satisfy other FDA requests, the start of our first clinical trials may be delayed. Even after we receive and incorporate guidance from these regulatory authorities, the FDA or other regulatory authorities could disagree that we have satisfied their requirements to commence our clinical trial or change their position on the acceptability of our trial design or the clinical endpoints selected, which may require us to complete additional preclinical studies or clinical trials or impose stricter approval conditions than we currently expect.

Commercialization of our product candidates will require additional preclinical and clinical development and regulatory and marketing approval. Our ability to conduct development or attain marketing approval will depend on the sufficiency of our financial and other resources to complete the necessary preclinical studies, IND-enabling studies, and clinical trials and the successful enrollment in, and completion of, clinical trials.

If we do not successfully achieve one or more of these activities in a timely manner or at all, we could experience significant delays or an inability to successfully commercialize any product candidates we may develop, which would materially harm our business. If we do not receive regulatory approvals for our product candidates, we may not be able to continue our operations.

***Developments by competitors may render our products or technologies obsolete or non-competitive or may reduce the size of our markets.***

Our industry has been characterized by extensive research and development efforts, rapid developments in technologies, intense competition, and a strong emphasis on proprietary products. We expect our product candidates to face intense and increasing competition as new products enter the relevant markets and advanced technologies become available. We face potential competition from many different sources, including pharmaceutical, biotechnology, and specialty pharmaceutical companies. Academic research institutions, governmental agencies, and public and private institutions are also potential sources of competitive products and technologies. Our competitors may have or may develop superior technologies or approaches, which may provide them with competitive advantages. Many of these competitors may also have compounds already approved or in development in the therapeutic categories that we are targeting with our product candidates. In addition, many of these competitors, either alone or together with their collaborators, may operate larger research and development programs or have substantially greater financial resources than we do, as well as greater experience in:

- developing product candidates;

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- undertaking preclinical testing and clinical trials;
- obtaining BLA approval by the FDA or comparable foreign regulatory approvals of product candidates;
- formulating and manufacturing products; and
- launching, marketing, and selling products.

If these competitors access the marketplace before we do with safer, more effective, or less expensive therapeutics, our product candidates, if approved for commercialization, may not be profitable to sell or worthwhile to continue to develop. Technology in the pharmaceutical industry has undergone rapid and significant change, and we expect that it will continue to do so. Any compounds, products, or processes that we develop may become obsolete or uneconomical before we recover any expenses incurred in connection with their development. The success of our product candidates will depend upon factors such as product efficacy, safety, reliability, availability, timing, scope of regulatory approval, acceptance and price, among other things. Other important factors to our success include speed in developing product candidates, completing clinical development and laboratory testing, obtaining regulatory approvals and manufacturing, and selling commercial quantities of potential products.

While we are not aware of other companies developing epigenomic controllers, we compete with many companies that are using other technologies targeting the same indications we are currently pursuing. We expect our product candidates to compete with companies developing technologies that focus on gene-expression control using various technologies, such as CRISPR gene editing, gene therapies, non-coding RNA therapeutics, and small-molecule epigenetics, including Alnylam Pharmaceuticals Inc., Beam Therapeutics, Inc., Biogen Inc., Constellation Pharmaceuticals, Inc., CRISPR Therapeutics AG, Editas Medicine, Inc., Epizyme, Inc., Intellia Therapeutics, Inc., Ionis Pharmaceuticals, Inc., Janssen Pharmaceuticals, Inc., Pfizer Inc., and Sangamo Therapeutics, Inc. Even if approved and commercialized, our product candidates may fail to achieve market acceptance with hospitals, physicians, or patients. Hospitals, physicians, or patients may conclude that our products are less safe or effective or otherwise less attractive than existing drugs. If our product candidates do not receive market acceptance for any reason, our revenue potential would be diminished, which would materially adversely affect our ability to become profitable.

Many of our competitors have substantially greater capital resources, robust product candidate pipelines, established presence in the market, and expertise in research and development, manufacturing, preclinical and clinical testing, obtaining regulatory approvals and reimbursement, and marketing approved products than we do. As a result, our competitors may achieve product commercialization or patent or other intellectual property protection earlier than we can. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These competitors also compete with us in recruiting and retaining qualified clinical, regulatory, scientific, sales, marketing, and management personnel, and establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs. Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer or less severe side effects, are more convenient, or are less expensive than any products that we may develop or that would render any products that we may develop obsolete or noncompetitive. For more information regarding our competitors, please see “Business—Competition.”

### ***Our product candidates may face competition sooner than anticipated.***

The Biologics Price Competition and Innovation Act of 2009, or BPCIA, created an abbreviated approval pathway for biological products that are biosimilar to or interchangeable with an FDA-licensed

reference biological product. Under the BPCIA, an application for a biosimilar product may not be submitted to the FDA until four years following the date that the reference product was first licensed by the FDA. In addition, the approval of a biosimilar product may not be made effective by the FDA until twelve years from the date on which the reference product was first licensed. During this twelve-year period of exclusivity, another company may still market a competing version of the reference product if the FDA approves a full BLA for the competing product containing the sponsor's own preclinical data and data from adequate and well-controlled clinical trials to demonstrate the safety, purity, and potency of its product.

We believe that any of our future product candidates approved as a biological product under a BLA should qualify for the twelve-year period of exclusivity. However, there is a risk that this exclusivity could be shortened due to Congressional action or otherwise, or that the FDA will not consider our product candidates to be reference products for competing products, potentially creating the opportunity for competition sooner than anticipated. Other aspects of the BPCIA, some of which may impact the BPCIA exclusivity provisions, have also been the subject of litigation. Moreover, the extent to which a biosimilar, once approved, could be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biological products will depend on a number of marketplace and regulatory factors that are still developing.

***The successful commercialization of our product candidates will depend in part on the extent to which governmental authorities and health insurers establish coverage, adequate reimbursement levels, and pricing policies. Failure to obtain or maintain coverage and adequate reimbursement for our product candidates, if approved, could limit our ability to market those products and decrease our ability to generate product revenue.***

There is significant uncertainty related to the insurance coverage and reimbursement of newly approved products. In the United States, third-party payors, including private and governmental payors, such as the Medicare and Medicaid programs, play an important role in determining the extent to which new drugs and biologics will be covered. Our ability to successfully commercialize our product candidates will depend in part on the extent to which coverage and adequate reimbursement for these products and related treatments will be available from government health administration authorities, private health insurers, and other organizations. Government authorities and other third-party payors, such as private health insurers and health maintenance organizations, decide which medications they will pay for and establish reimbursement levels. The availability of coverage and extent of reimbursement by governmental and private payors is essential for most patients to be able to afford treatments.

Third-party payors increasingly are challenging prices charged for pharmaceutical products and services, and many third-party payors may refuse to provide coverage and reimbursement for particular drugs and biologics when an equivalent generic drug, biosimilar, or a less expensive therapy is available. It is possible that a third-party payor may consider our product candidates as substitutable and only offer to reimburse patients for the less expensive product. For products administered under the supervision of a physician, obtaining coverage and adequate reimbursement may be particularly difficult because of the higher prices often associated with such drugs. Even if we show improved efficacy or improved convenience of administration with our product candidates, pricing of existing third-party therapeutics may limit the amount we will be able to charge for our product candidates. These payors may deny or revoke the reimbursement status of a given product or establish prices for new or existing marketed products at levels that are too low to enable us to realize an appropriate return on our investment in our product candidates. If reimbursement is not available or is available only at limited levels, we may not be able to successfully commercialize our product candidates and may not be able to obtain a satisfactory financial return on our product candidates.

In the United States, third-party payors, including private and governmental payors, such as the Medicare and Medicaid programs, play an important role in determining the extent to which new drugs

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and biologics will be covered and reimbursed. The Medicare program is increasingly used as a model for how private and other governmental payors develop their coverage and reimbursement policies for new drugs. However, no uniform policy for coverage and reimbursement for products exists among third-party payors in the United States. Therefore, coverage and reimbursement for products can differ significantly from payor to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our product candidates to each payor separately, with no assurance that coverage and adequate reimbursement will be applied consistently or obtained in the first instance. Some third-party payors may require pre-approval of coverage for new or innovative drug therapies before they will reimburse healthcare providers who use such therapies. Furthermore, rules and regulations regarding reimbursement change frequently, in some cases on short notice, and we believe that changes in these rules and regulations are likely. We cannot predict at this time what third-party payors will decide with respect to the coverage and reimbursement for our product candidates.

Outside the United States, international operations are generally subject to extensive governmental price controls and other market regulations, and we believe the increasing emphasis on cost-containment initiatives in the EU and other jurisdictions have and will continue to put pressure on the pricing and usage of our product candidates. In many countries, the prices of medical products are subject to varying price control mechanisms as part of national health systems. Other countries allow companies to fix their own prices for medical products, but monitor and control company profits. Additional foreign price controls or other changes in pricing regulation could restrict the amount that we are able to charge for our product candidates. Accordingly, in markets outside the United States, the reimbursement for our product candidates may be reduced compared with the United States and may be insufficient to generate commercially reasonable revenue and profits.

Moreover, increasing efforts by governmental and third-party payors in the United States and abroad to cap or reduce healthcare costs may cause such organizations to limit both coverage and the level of reimbursement for newly approved products and, as a result, they may not cover or provide adequate payment for our product candidates. We expect to experience pricing pressures in connection with the sale of our product candidates due to the trend toward managed healthcare, the increasing influence of health maintenance organizations and additional legislative changes. The downward pressure on healthcare costs in general, particularly prescription drugs and biologics and surgical procedures and other treatments, has become intense. As a result, increasingly high barriers are being erected to the entry of new products.

***If we are unable to establish sales, marketing, and distribution capabilities either on our own or in collaboration with third parties, we may not be successful in commercializing any of our product candidates, if approved, and we may not be able to generate any product revenue.***

We have limited personnel or infrastructure for the sales, marketing, or distribution of products, and no experience as a company in commercializing a product candidate. The cost of building and maintaining such an organization may exceed the cost-effectiveness of doing so.

We may build our own focused sales, distribution and marketing infrastructure to market our product candidates, if approved, in the United States and other markets around the world. There are significant expenses and risks involved with building our own sales, marketing, and distribution capabilities, including our ability to hire, retain, and appropriately incentivize qualified individuals, generate sufficient sales leads, provide adequate training to sales and marketing personnel, and effectively manage a geographically dispersed sales and marketing team. Any failure or delay in the development of our internal sales, marketing, and distribution capabilities could delay any product launch, which would adversely impact the commercialization of our product candidate, if approved. Additionally, if the commercial launch of our product candidate for which we recruit a sales force and



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establish marketing capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

Factors that may inhibit our efforts to commercialize our product candidates on our own include:

- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to physicians or persuade adequate numbers of physicians to prescribe our future products;
- our inability to equip medical and sales personnel with effective materials, including medical and sales literature to help them educate physicians and other healthcare providers regarding applicable diseases and our future products;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines;
- our inability to develop or obtain sufficient operational functions to support our commercial activities; and
- unforeseen costs and expenses associated with creating an independent sales and marketing organization.

If we are unable or decide not to establish internal sales, marketing, and distribution capabilities, or decide not to do so for a particular country, we may pursue collaborative arrangements. If we pursue a collaborative arrangement, our sales will largely depend on the collaborator's strategic interest in the product and such collaborator's ability to successfully market and sell the product.

If we are unable to build our own sales force or access a collaborative relationship for the commercialization of any of our product candidates, we may be forced to delay the potential commercialization of our product candidates or reduce the scope of our sales or marketing activities for such product candidates. If we elect to increase our expenditures to fund commercialization activities ourselves, we will need to obtain additional capital, which may not be available to us on acceptable terms, or at all. We could enter into arrangements with collaborators at an earlier stage than otherwise would be ideal and we may be required to relinquish rights to any of our product candidates or otherwise agree to terms unfavorable to us, any of which may have an adverse effect on our business, operating results, and prospects.

If we are unable to establish adequate sales, marketing, and distribution capabilities, either on our own or in collaboration with third parties, we will not be successful in commercializing our other product candidates and may not become profitable and may incur significant additional losses. We will be competing with many companies that currently have extensive and well-funded marketing and sales operations. Without an internal team or the support of a third party to perform marketing and sales functions, we may be unable to compete successfully against these more established companies.

In addition, even if we do establish adequate sales, marketing, and distribution capabilities, the progress of general industry trends with respect to pricing models, supply chains, and delivery mechanisms, among other things, could deviate from our expectations. If these or other industry trends change in a manner which we do not anticipate or for which we are not prepared, we may not be successful in commercializing our product candidates or become profitable.

***Our future growth may depend, in part, on our ability to penetrate foreign markets, where we would be subject to additional regulatory burdens and other risks and uncertainties.***

Our future profitability may depend, in part, on our ability to commercialize our product candidates, if approved, in foreign markets, including the EU, for which we may rely on collaboration with third parties. We are not permitted to market or promote any of our product candidates before we receive regulatory approval from the applicable regulatory authority in that foreign market, and we may never receive such regulatory approval for any of our product candidates. To obtain separate regulatory approvals in other countries, we may be required to comply with numerous and varying regulatory requirements of such countries regarding the safety and efficacy of our product candidates and governing, among other things, clinical trials and commercial sales, pricing and distribution of our product candidates, and we cannot predict success in these jurisdictions. If we obtain approval of our product candidates and ultimately commercialize our product candidates in foreign markets, we would be subject to additional risks and uncertainties, including:

- our customers' ability to obtain reimbursement for our product candidates in foreign markets;
- our inability to directly control commercial activities if we are relying on third parties;
- the burden of complying with complex and changing foreign regulatory, tax, accounting, and legal requirements;
- different medical practices and customs in foreign countries affecting acceptance in the marketplace;
- import or export licensing requirements;
- longer accounts receivable collection times;
- our ability to supply our product candidates on a timely and large-scale basis in local markets;
- longer lead times for shipping which may necessitate local manufacture of our product candidates;
- language barriers for technical training and the need for language translations;
- reduced protection of patent and other intellectual property rights in some foreign countries;
- the existence of additional potentially relevant third-party intellectual property rights;
- foreign currency exchange rate fluctuations; and
- the interpretation of contractual provisions governed by foreign laws in the event of a contract dispute.

Foreign sales of our product candidates could also be adversely affected by the imposition of governmental controls, political and economic instability, trade restrictions, and changes in tariffs.

If any of our product candidates is approved for commercialization, we may selectively partner with third parties to market it in certain jurisdictions outside the United States. We expect that we will be subject to additional risks related to international pharmaceutical operations, including:

- different regulatory requirements for drug approvals and rules governing drug commercialization in foreign countries, including requirements specific to biologics or gene therapy products;
- reduced protection for patent and other intellectual property rights;
- foreign reimbursement, pricing, and insurance regimes;

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- potential noncompliance with the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act 2010 and similar anti-bribery and anticorruption laws in other jurisdictions; and
- production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad.

We have no prior experience in these areas. In addition, there are complex regulatory, tax, labor, and other legal requirements imposed by both the EU and many of the individual EU member states with which we will need to comply. Many U.S.-based biotechnology companies have found the process of marketing their own products in the EU to be very challenging.

Certain legal and political risks are also inherent in foreign operations. There is a risk that foreign governments may nationalize private enterprises in certain countries where we may operate. In certain countries or regions, terrorist activities and the response to such activities may threaten our operations more than in the United States. Social and cultural norms in certain countries may not support compliance with our corporate policies, including those that require compliance with substantive laws and regulations. Also, changes in general economic and political conditions in countries where we may operate are a risk to our financial performance and future growth. Additionally, the need to identify financially and commercially strong partners for commercialization outside the United States who will comply with the high manufacturing and legal and regulatory compliance standards we require is a risk to our financial performance. As we operate our business globally, our success will depend, in part, on our ability to anticipate and effectively manage these and other related risks. There can be no assurance that the consequences of these and other factors relating to our international operations will not have an adverse effect on our business, financial condition, or results of operations.

In some countries, particularly in the EU, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a drug. To obtain reimbursement or pricing approval in some countries, we may be required to conduct clinical trials that compare the cost-effectiveness of our product candidates to other available therapies. If reimbursement of our products is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, our business could be harmed, possibly materially.

### ***Potential product liability lawsuits against us could cause us to incur substantial liabilities and limit commercialization of any products that we may develop.***

The use of our product candidates in clinical trials and the sale of any products for which we obtain marketing approval exposes us to the risk of product liability claims. Product liability claims might be brought against us by consumers, healthcare providers, pharmaceutical companies or others selling or otherwise coming into contact with our products. On occasion, large judgments have been awarded in class action lawsuits based on products that had unanticipated adverse effects. If we cannot successfully defend against product liability claims, we could incur substantial liability and costs, which may not be covered by insurance. In addition, regardless of merit or eventual outcome, product liability claims may result in:

- impairment of our business reputation and significant negative media attention;
- withdrawal of participants from our clinical trials;
- injury to our reputation;
- initiation of investigations by regulators;
- significant costs to defend the related litigation and related litigation;

- distraction of management's attention from our primary business;
- substantial monetary awards to patients or other claimants;
- inability to commercialize a product candidate;
- product recalls, withdrawals or labeling, marketing or promotional restrictions;
- exhaustion of any available insurance and our capital resources, and the inability to commercialize any product candidate;
- decreased demand for a product candidate, if approved for commercial sale; and
- loss of revenue.

Failure to obtain or retain sufficient product liability insurance at an acceptable cost to protect against potential product liability claims could prevent or inhibit the commercialization of products we develop, alone or with corporate collaborators. Although we plan to obtain clinical trial insurance, our insurance policies may have various exclusions, and we may be subject to a product liability claim for which we have no coverage. We may have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts. Even if our agreements with any future corporate collaborators entitle us to indemnification against losses, such indemnification may not be available or adequate should any claim arise.

### **Risks Related to our Dependence on Third Parties and Manufacturing**

***Due to increased demand for the manufacture of mRNA- and LNP-based vaccines to treat COVID-19, our ability to manufacture our OEC candidates for preclinical or clinical supply could be limited, which could adversely affect our development plans.***

We rely on third-party CDMOs of mRNA therapeutics and lipid excipients to manufacture our preclinical and clinical supply of our OEC candidates. Vaccines to treat COVID-19 include mRNA vaccines and vaccines that utilize lipid excipients. Several vaccines for COVID-19 have been granted Emergency Use Authorization by the FDA, and more may be authorized in the coming months. As a result, there is unprecedented demand on these CDMOs to manufacture COVID-19 vaccines and capacity for non-COVID-19 vaccines is limited and may be further limited by the potential for manufacturing facilities and materials to be commandeered under the Defense Production Act of 1950, or equivalent foreign legislation, which may make it more difficult to obtain materials or manufacturing slots for the products needed for our planned clinical trials. While we are working to obtain sufficient supply of our OECs for our anticipated preclinical and clinical development, we may experience supply constraints and disruptions as manufacturers prioritize supply for COVID-19 vaccines over our OECs. If we are unable to obtain the supplies we need at a reasonable price or on a timely basis or in the amounts we desire, our ability to complete the development of our OECs candidates or, if we obtain regulatory approval for our OEC candidates, to commercialize them, could be materially adversely affected.

***Our OEC candidates are based on novel technology and may be complex and difficult to manufacture. We may encounter difficulties in manufacturing, product release, shelf life, testing, storage, supply chain management, or shipping.***

Due to the novel nature of our technology and limited experience at larger scale production, we may encounter difficulties in manufacturing, product release, shelf life, testing, storage and supply chain management, or shipping. These difficulties could be due to any number of reasons including, but not limited to, complexities of producing batches at larger scale, equipment failure, choice and quality of raw materials and excipients, analytical testing technology, and product instability. As a

result, the preclinical or clinical development of our OEC candidates could be materially delayed or we could be required to begin a new study or trial with a newly formulated drug product.

The process to generate mRNA-encoded OEC candidates encapsulated in LNPs is complex and, if not developed and manufactured under well-controlled conditions, can adversely impact pharmacological activity. Furthermore, we have not manufactured our OECs at commercial scale. We may encounter difficulties in scaling up our manufacturing process, thereby potentially impacting clinical and commercial supply.

As we continue developing manufacturing processes for our drug substance and drug product, the changes we implement to manufacturing process may in turn impact specification and stability of the drug product. Changes in our manufacturing processes may lead to failure of lots and this could lead to a substantial delay in our preclinical studies or any clinical trials. Our OEC candidates may prove to have a stability profile that leads to a lower than desired shelf life of the final approved OEC, if any. This poses risk in supply requirements, wasted stock, and higher cost of goods.

Our product and product intermediates are extremely temperature sensitive, and we may learn that any or all of our products are less stable than desired. We may also find that transportation conditions negatively impact product quality. This may require changes to the formulation or manufacturing process for one or more of our OEC candidates and result in delays or interruptions to clinical or commercial supply. In addition, the cost associated with such transportation services and the limited pool of vendors may also add additional risks of supply disruptions.

Our rate of innovation is high, which has resulted in and will continue to cause a high degree of technology change that can negatively impact product comparability during and after clinical development. Furthermore, technology changes may drive the need for changes in, modification to, or the sourcing of new manufacturing infrastructure.

***We will rely on third parties for the foreseeable future for the manufacture of materials for our research programs, preclinical studies and clinical trials and we do not have long-term contracts with many of these parties. This reliance on third parties increases the risk that we will not have sufficient quantities of such materials, product candidates, or any therapies that we may develop and commercialize, or that such supply will not be available to us at an acceptable cost, which could delay, prevent, or impair our development or commercialization efforts.***

Although we plan on developing our own manufacturing facility, we expect to rely on third parties for the next several years for the manufacture of materials for our planned clinical trials and preclinical and clinical development. We expect to rely in part on third parties for commercial manufacture if any of our product candidates receive marketing approval. We do not have a long-term agreement with any of the third-party manufacturers we currently use to provide preclinical and clinical materials, and we purchase any required materials on a purchase order basis. Certain of these manufacturers are critical to our production and the loss of these manufacturers to one of our competitors or otherwise, or an inability to obtain quantities at an acceptable cost or quality, could delay, prevent, or impair our ability to timely conduct preclinical studies or clinical trials, and would materially and adversely affect our development and commercialization efforts.

We expect to continue to rely in part on third-party manufacturers for the foreseeable future for the commercial supply of any of our product candidates for which we obtain marketing approval, if any. We may be unable to maintain or establish required agreements with third-party manufacturers or to do so on acceptable terms. Even if we are able to establish agreements with third-party manufacturers, reliance on third-party manufacturers entails additional risks, including:

- the failure of the third party to manufacture our product candidates according to our schedule, or at all, including if our third-party contractors give greater priority to the supply of other products over our product candidates or otherwise do not satisfactorily perform according to the terms of the agreements between us and them;

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- the reduction or termination of production or deliveries by suppliers, or the raising of prices or renegotiation of terms;
- the termination or nonrenewal of arrangements or agreements by our third-party contractors at a time that is costly or inconvenient for us;
- the breach by the third-party contractors of our agreements with them;
- the failure of third-party contractors to comply with applicable regulatory requirements;
- the failure of the third party to manufacture our product candidates according to our specifications;
- the mislabeling of clinical supplies, potentially resulting in the wrong dose amounts being supplied or active drug or placebo not being properly identified;
- clinical supplies not being delivered to clinical sites on time, leading to clinical trial interruptions, or of drug supplies not being distributed to commercial vendors in a timely manner, resulting in lost sales; and
- the misappropriation or unauthorized disclosure of our intellectual property or other proprietary information, including our trade secrets and know-how.

We do not have complete control over all aspects of the manufacturing process of, and are dependent on, our contract manufacturing partners for compliance with cGMP regulations for manufacturing our product candidates. Third-party manufacturers may not be able to comply with cGMP regulations or similar regulatory requirements outside of the United States. If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or others, they will not be able to secure and/or maintain authorization for their manufacturing facilities. In addition, we do not have control over the ability of our contract manufacturers to maintain adequate quality control, quality assurance, and qualified personnel. If the FDA or a comparable foreign regulatory authority does not authorize these facilities for the manufacture of our product candidates or if it withdraws any such authorization in the future, we may need to find alternative manufacturing facilities, which would significantly impact our ability to develop, obtain marketing approval for or market our product candidates, if approved. Our failure, or the failure of our third-party manufacturers, to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspension, or withdrawal of approvals, license revocation, seizures, or recalls of product candidates or drugs, operating restrictions, and criminal prosecutions, any of which could significantly and adversely affect supplies of our product candidates or drugs and harm our business and results of operations.

***We are planning to acquire and establish our own manufacturing facility and infrastructure in addition to or in lieu of relying on CDMOs for the manufacture of our product candidates, which will be costly, time-consuming, and which may not be successful.***

We have entered into a letter of intent to lease a facility with approximately 53,000 square feet of space to buildout a manufacturing facility located in the Northeastern United States as an alternative or in addition to our reliance on CDMOs for the manufacture of drug substance and drug product for preclinical and clinical needs. If the lease is entered into, we plan to renovate and customize the manufacturing facility for our use. We expect that construction of our own manufacturing facility will provide us with enhanced control of material supply for preclinical studies, clinical trials, and commercialization, enable the more rapid implementation of process changes, and allow for better long-term margins. However, we have no experience as a company in construction of a manufacturing facility and may never be successful in building our own manufacturing facility or capability. As a result, we will also need to hire additional personnel to manage our operations and facilities and develop the

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necessary infrastructure to continue the research and development, manufacture and eventual commercialization, if approved, of our product candidates. We, as a company, have no experience in setting up, building, or eventually managing a manufacturing facility. If we failed to select the correct location, or if we fail to enter into the lease agreement, or fail to complete the planned renovation and customization in an efficient manner, or fail to recruit the required personnel and generally manage our growth effectively, the development and production of our product candidates could be curtailed or delayed. Even if we are successful, our manufacturing capabilities could be affected by cost-overruns, unexpected delays, equipment failures, labor shortages, natural disasters, power failures and numerous other factors that could prevent us from realizing the intended benefits of our manufacturing strategy and have a material adverse effect on our business.

In addition, the FDA, the EMA, and other foreign regulatory authorities may require us to submit samples of any lot of any approved product together with the protocols showing the results of applicable tests at any time. Under some circumstances, the FDA, the EMA, or other foreign regulatory authorities may require that we not distribute a lot until the relevant agency authorizes its release. Slight deviations in the manufacturing process, including those affecting quality attributes and stability, may result in unacceptable changes in the product that could result in lot failures or product recalls. Lot failures or product recalls could cause us to delay product launches or clinical trials, which could be costly to us and otherwise harm our business, financial condition, results of operations, and prospects. Problems in our manufacturing process could restrict our ability to meet clinical and market demand for our products.

We also may encounter problems hiring and retaining the experienced scientific, quality-control, and manufacturing personnel needed to operate our manufacturing processes, which could result in delays in production or difficulties in maintaining compliance with applicable regulatory requirements.

Any problems in our manufacturing process or facilities could make us a less attractive collaborator for potential partners, including larger pharmaceutical companies and academic research institutions, which could limit our access to additional attractive development programs.

### ***We do not have experience as a company managing a manufacturing facility.***

Operating our own manufacturing facility will require significant resources, and we do not have experience as a company in managing a manufacturing facility. In part because of this lack of experience, we cannot be certain that our manufacturing plans will be completed on time, if at all, or if manufacturing of product candidates from our own manufacturing facility for our planned clinical trials will begin or be completed on time, if at all. In part because of our inexperience, we may have unacceptable or inconsistent product quality success rates and yields, and we may be unable to maintain adequate quality control, quality assurance, and qualified personnel. In addition, if we switch from our current CDMOs to our own manufacturing facility for one or more of our product candidates in the future, we may need to conduct additional preclinical studies to bridge our modified product candidates to earlier versions. Failure to successfully obtain and operate our planned manufacturing facility could adversely affect the commercial viability of our product candidates.

### ***We or our third-party manufacturers may be unable to successfully scale up manufacturing of our product candidates in sufficient quality and quantity, which may impair the clinical advancement and commercialization of our product candidates.***

In order to conduct clinical trials of our product candidates and commercialize any approved product candidates, we and our manufacturing partners need to manufacture them in large quantities. However, we or they may be unable to successfully increase the manufacturing capacity for any of our product candidates in a timely or cost-effective manner, or at all. In addition, quality issues may arise during

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scale-up activities, as discussed above. If we, or any manufacturing partners, are unable to successfully scale up the manufacture of our product candidates in sufficient quality and quantity, the development, testing and clinical trials of these product candidates may be delayed or infeasible, and regulatory approval or commercial launch of any resulting products may be delayed or not obtained, which could significantly harm our business. Supply sources could be interrupted from time to time and, if interrupted, it is not certain that supplies could be resumed (whether in part or in whole) within a reasonable timeframe and at an acceptable cost, or at all. If we are unable to obtain or maintain third-party manufacturing for commercial supply of our product candidates, or to do so on commercially reasonable terms, we may not be able to develop and commercialize our product candidates successfully.

***We have a limited number of suppliers for the lipid excipients used in our product candidates and certain of our suppliers are critical to our production. If we were to lose a critical supplier, it could have a material adverse effect on our ability to complete the development of our product candidates. If we obtain regulatory approval for any of our product candidates, we would need to expand the supply of lipid excipients in order to commercialize them.***

We have a limited number of suppliers for the lipid excipient component of our product candidates. We also do not have long-term supply agreements with all of our lipid suppliers. We may not be able to establish additional sources of supply for the lipid excipient component of our product candidates, or may be unable to do so on acceptable terms.

The number of suppliers of the lipid excipients for our product candidates is limited. In the event it is necessary or desirable to acquire lipid excipients from alternative suppliers, we might not be able to obtain them on commercially reasonable terms, if at all. It could also require significant time and expense to redesign our manufacturing processes to work with another company, and redesign of processes can trigger the need for conducting additional studies such as comparability or bridging studies. Additionally, certain of our suppliers are critical to our production, and the loss of these suppliers to one of our competitors or otherwise would materially and adversely affect our development and commercialization efforts.

***We rely, and expect to continue to rely, on third parties to conduct certain aspects of our preclinical studies and will rely on third parties to conduct our planned clinical trials. Any failure by a third party to conduct the planned clinical trials according to GCPs and in a timely manner may delay or prevent our ability to seek or obtain regulatory approval for or commercialize our product candidates.***

We have relied upon and plan to continue to rely upon third parties to conduct certain aspects of our preclinical studies and will depend on third parties to conduct our planned clinical trials and to monitor and manage data for our ongoing preclinical and planned clinical programs. We rely on these parties for execution of our preclinical studies and will rely on these parties for execution of our planned clinical trials, and control only certain aspects of their activities. Nevertheless, we are responsible for ensuring that each of our studies and trials is conducted in accordance with the applicable protocol and legal, regulatory, and scientific standards, and our reliance on the CROs and other third parties does not relieve us of our regulatory responsibilities. We and our CROs will be required to comply with GCP requirements, which are regulations and guidelines enforced by the FDA and comparable foreign regulatory authorities for product candidates in clinical development. Regulatory authorities enforce these GCPs through periodic inspections of trial sponsors, principal investigators, and trial sites. If we or any of our CROs or trial sites fail to comply with applicable GCPs, the clinical data generated in our clinical trials may be deemed unreliable, and the FDA or comparable foreign regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. We cannot assure you that upon inspection by a given regulatory authority, such regulatory authority will determine that any of our clinical trials complies with GCP regulations. In addition, our clinical trials



must be conducted with product produced under cGMP regulations. Our failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process.

Any third parties conducting our planned clinical trials or preclinical studies are not and will not be our employees and, except for remedies available to us under our agreements with such third parties, we cannot guarantee that any such CROs, investigators or other third parties will devote adequate time and resources to such trials or perform as contractually required. If any of these third parties fail to meet expected deadlines, adhere to our clinical protocols or meet regulatory requirements, or otherwise performs in a substandard manner, our planned clinical trials may be extended, delayed, or terminated. In addition, many of the third parties with whom we contract may also have relationships with other commercial entities, including our competitors, for whom they may also be conducting clinical trials or other product development activities that could harm our competitive position. In addition, principal investigators for our planned clinical trials may serve as scientific advisors or consultants to us from time to time and may receive cash and cash equivalents or equity compensation in connection with such services. If these relationships and any related compensation result in perceived or actual conflicts of interest, or the FDA or comparable foreign regulatory authorities conclude that the financial relationship may have affected the interpretation of the trial, the integrity of the data generated at the applicable clinical trial site may be questioned, and the utility of the clinical trial itself may be jeopardized, which could result in the delay or rejection of any BLA we submit to the FDA, or any comparable foreign regulatory applications we submit to foreign regulatory authorities. Any such delay or rejection could prevent us from commercializing our product candidates.

If any of our relationships with these third parties terminate, we may not be able to enter into arrangements with alternative third parties or do so on commercially reasonable terms. Switching or adding additional CROs, investigators, and other third parties involves additional cost and requires management time and focus. In addition, there is a natural transition period when a new CRO commences work. As a result, delays occur, which could materially impact our ability to meet our desired preclinical and clinical development timelines. Though we carefully manage our relationships with our CROs, investigators and other third parties, there can be no assurance that we will not encounter challenges or delays in the future or that these delays or challenges will not have a material adverse impact on our business, financial condition, and prospects.

***We may collaborate with third parties for the development and commercialization of our product candidates. We may not succeed in establishing and maintaining collaborative relationships, which may significantly limit our ability to develop and commercialize our product candidates successfully, if at all.***

We may seek collaborative relationships for the development and commercialization of our product candidates. If we enter into any such arrangements with any third parties, we will likely have shared or limited control over the amount and timing of resources that our collaborators dedicate to the development or potential commercialization of any product candidates we may seek to develop with them. Our ability to generate product revenue from these arrangements with commercial entities will depend on our collaborators' abilities to successfully perform the functions assigned to them in these arrangements. We cannot predict the success of any collaboration that we enter into. Collaborations involving our product candidates pose the following risks to us:

- collaborators generally have significant discretion in determining the efforts and resources that they will apply to these collaborations;
- collaborators may not properly obtain, maintain, enforce, or defend intellectual property or proprietary rights relating to our product candidates or may use our proprietary information inappropriately or in such a way as to expose us to potential litigation or other intellectual property-related proceedings, including proceedings challenging the scope, ownership, validity, and enforceability of our intellectual property;

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- collaborators may own or co-own intellectual property rights covering our product candidates that result from our collaboration with them, and in such cases, we may not have the exclusive right to commercialize such intellectual property or such product candidates;
- disputes may arise with respect to the ownership of intellectual property developed pursuant to collaborations;
- we may need the cooperation of our collaborators to enforce or defend any intellectual property we contribute to or that arises out of our collaborations, which may not be provided to us;
- collaborators may infringe, misappropriate or otherwise violate the intellectual property rights of third parties, which may expose us to litigation and potential liability;
- disputes may arise between the collaborators and us that result in the delay or termination of the research, development or commercialization of our product candidates or that result in costly litigation or arbitration that diverts management's attention and resources;
- collaborators may decide not to pursue development and commercialization of any product candidates we develop or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus or available funding or external factors, such as an acquisition that diverts resources or creates competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials, or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our product candidates if the collaborators believe that competitive products are more likely to be successfully developed or can be commercialized under terms that are more economically attractive than ours;
- collaborators with marketing and distribution rights to one or more product candidates may not commit sufficient resources to the marketing and distribution of such product candidates;
- we may lose certain valuable rights under circumstances identified in our collaborations, including if we undergo a change of control;
- collaborators may become party to a business combination transaction and the continued pursuit and emphasis on our development or commercialization program by the resulting entity under our existing collaboration could be delayed, diminished, or terminated;
- collaborators may become bankrupt, which may significantly delay our research or development programs, or may cause us to lose access to valuable technology, devices, materials, know-how, or intellectual property of the collaborator relating to our product candidates;
- key personnel at our collaborators may leave, which could negatively impact our ability to productively work with our collaborators;
- collaborations may require us to incur short- and long-term expenditures, issue securities that dilute our stockholders, or disrupt our management and business;
- collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable product candidates; and
- collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all.

We may face significant competition in seeking appropriate collaborations from other companies with substantially greater financial, marketing, sales, technology, or other business resources. Business combinations among biotechnology and pharmaceutical companies have also resulted in a reduced number of potential collaborators. In addition, the negotiation process is time-consuming and complex, and we may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. If we are unable to do so, we may have to curtail the development of the product candidate for which we are seeking to collaborate or delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop product candidates or bring them to market and generate product revenue.

If we enter into collaborations to develop and potentially commercialize any product candidates, we may not be able to realize the benefit of such transactions if we or our collaborator elect not to exercise the rights granted under the agreement or if we or our collaborator are unable to successfully integrate a product candidate into existing operations. In addition, if our agreement with any of our collaborators terminates, our access to technology and intellectual property licensed to us by that collaborator may be restricted or terminate entirely, which may delay our continued development of our product candidates utilizing the collaborator's technology or intellectual property or require us to stop development of those product candidates completely. We may also find it more difficult to find a suitable replacement collaborator or attract new collaborators, and our development programs may be delayed or the perception of us in the business and financial communities could be adversely affected. Any collaborator may also be subject to many of the risks relating to product development, regulatory approval, and commercialization described in this "Risk Factors" section, and any negative impact on our collaborators may adversely affect us.

***Our employees and independent contractors, including principal investigators, CDMOs, CROs, consultants, vendors and any third parties we may engage in connection with research, development, regulatory, manufacturing, quality assurance and other pharmaceutical functions and commercialization may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have a material adverse effect on our business.***

Misconduct by our employees and independent contractors, including principal investigators, CDMOs, CROs, consultants, vendors, and any third parties we may engage in connection with research, development, regulatory, manufacturing, quality assurance, and other pharmaceutical functions and commercialization, could include intentional, reckless, or negligent conduct or unauthorized activities that violate: (i) the laws and regulations of the FDA, and other similar regulatory authorities as well as similar healthcare laws and regulations in foreign jurisdictions, including those laws that require the reporting of true, complete, and accurate information to such authorities; (ii) manufacturing standards; (iii) data privacy, security, fraud, and abuse and other healthcare laws and regulations; or (iv) laws that require the reporting of true, complete, and accurate financial information and data. Specifically, sales, marketing and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing, and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing, and promotion, sales commission, customer incentive programs, and other business arrangements. Activities subject to these laws could also involve the improper use or misrepresentation of information obtained in the course of preclinical studies or clinical trials, creation of fraudulent data in preclinical studies or clinical trials or illegal misappropriation of drug product, which could result in regulatory sanctions and cause serious harm to our reputation. It is not always possible to identify and deter misconduct by employees and other third

parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with such laws or regulations. Additionally, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business and results of operations, including the imposition of significant civil, criminal, and administrative penalties, damages, monetary fines, disgorgements, possible exclusion from participation in Medicare, Medicaid, other U.S. federal healthcare programs or healthcare programs in other jurisdictions, integrity oversight, and reporting obligations to resolve allegations of non-compliance, individual imprisonment, other sanctions, contractual damages, reputational harm, diminished profits and future earnings, and curtailment of our operations.

***If our CDMOs use hazardous and biological materials in a manner that causes injury or violates applicable law, we may be liable for damages.***

Our research and development activities involve the controlled use of potentially hazardous substances, including chemical and biological materials, by our manufacturers. Our manufacturers are subject to federal, state, and local laws and regulations in the United States and in the countries in which they operate governing the use, manufacture, storage, handling and disposal of medical and hazardous materials. Although we believe that our manufacturers' procedures for using, handling, storing, and disposing of these materials comply with legally prescribed standards, we cannot completely eliminate the risk of contamination or injury resulting from medical or hazardous materials. As a result of any such contamination or injury, we may incur liability or local, city, state, or federal authorities may curtail the use of these materials and interrupt our business operations. In the event of an accident, we could be held liable for damages or penalized with fines, and the liability could exceed our resources. Generally, we do not have any insurance for liabilities arising from medical or hazardous materials. Compliance with applicable environmental laws and regulations is expensive, and current or future environmental regulations may impair our research, development, and production efforts, which could harm our business, prospects, financial condition or results of operations.

### **Risks Related to Intellectual Property**

***If we are unable to obtain, maintain, enforce and adequately protect our intellectual property rights with respect to our technology and product candidates, or if the scope of the patent or other intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize technology and products similar or identical to ours, and our ability to successfully develop and commercialize our technology and product candidates may be adversely affected.***

We rely upon a combination of patents, trade secret protection and confidentiality agreements to protect our intellectual property and prevent others from duplicating our pipeline product candidates, or their use or manufacture, or any of and any future product candidates, and our success depends in large part on our ability to obtain and maintain patent protection in the United States and other countries with respect to such product candidates.

The patent prosecution process is expensive, time-consuming, and complex, and we may not be able to file, prosecute, maintain, enforce, or license all necessary or desirable patent applications at a reasonable cost or in a timely manner. Although we enter into confidentiality agreements with parties who have access to confidential or patentable aspects of our research and development output, such as our employees, CROs, consultants, scientific advisors, and other contractors, any of these parties may breach the agreements and disclose such output before a patent application is filed, thereby

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jeopardizing our ability to seek patent protection. In addition, publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, and some remain so until issued. Therefore, we cannot be certain that we were the first to make the inventions claimed in our patents or pending patent applications, or that we were the first to file any patent application related to an invention or product candidate. Further, if we encounter delays in regulatory approvals, the period of time during which we could market a product candidate under patent protection could be reduced.

The strength of patents in the biotechnology and pharmaceutical field involves complex legal, factual, and scientific questions and can be uncertain. It is possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. The patent applications that we own may fail to result in issued patents with claims that cover our product candidates in the United States or in other foreign countries. There is no assurance that all of the potentially relevant prior art relating to our patents and patent applications has been found, which can invalidate a patent or prevent a patent from issuing from a pending patent application. Even if patents do successfully issue and even if such patents cover our product candidates, third parties may challenge the inventorship, ownership, validity, enforceability, or scope of such patents, which may result in such patents being narrowed or invalidated, or being held unenforceable. Our pending and future patent applications may not result in patents being issued which protect our technology or product candidates or which effectively prevent others from commercializing competitive technologies and product candidates. Additionally, any U.S. provisional patent application that we file is not eligible to become an issued patent until, among other things, we file a non-provisional patent application within 12 months of filing the related provisional patent application. If we do not timely file any non-provisional patent application, we may lose our priority date with respect to the provisional patent application and any patent protection on the inventions disclosed in the provisional patent application.

Furthermore, even if they are unchallenged, our patents and patent applications may not adequately protect our intellectual property, provide exclusivity for our product candidates or prevent others from designing around our claims. In addition, no assurances can be given that third parties will not create similar or alternative products or methods that achieve similar results without infringing upon our patents. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business.

If the patent applications we hold with respect to our programs or product candidates fail to issue, if the breadth or strength of protection of our current or future issued patents is threatened, or if they fail to provide meaningful exclusivity for our product candidates, it could dissuade companies from collaborating with us to develop product candidates, or threaten our ability to commercialize our current or future product candidates. Several patent applications covering our product candidates have been filed recently by us. We cannot offer any assurances about which, if any, will result in issued patents, the breadth of any such patents or whether any issued patents will be found invalid or unenforceable or will be threatened by third parties. Any successful opposition to these patents or any other patents owned by us could deprive us of rights necessary for the successful commercialization of any product candidates that we may develop.

The issuance of a patent is not conclusive as to its inventorship, ownership, scope, validity, or enforceability, and our patents may be challenged in courts or patent offices in the United States and abroad. In addition, the issuance of a patent does not give us the right to practice the patented invention, as third parties may have blocking patents that could prevent us from marketing our product candidate, if approved, or practicing our own patented technology.

Wide-ranging patent reform legislation in the United States, including the Leahy-Smith America Invents Act of 2011, or the Leahy-Smith Act, may increase the uncertainty of the strength or enforceability

of our intellectual property and the cost to defend it. The Leahy-Smith Act includes a number of significant changes to U.S. patent law, including provisions that affect the way patent applications are prosecuted and also affect patent litigation. Under the Leahy-Smith Act, the United States transitioned from a "first-to-invent" to a "first-to-file" system for deciding which party should be granted a patent when two or more patent applications are filed by different parties claiming the same invention. This will require us to be prompt going forward during the time from invention to filing of a patent application and to be diligent in filing patent applications, but circumstances could prevent us from promptly filing or prosecuting patent applications on our inventions. The Leahy-Smith Act also enlarged the scope of disclosures that qualify as prior art. Furthermore, if a third party filed a patent application before effectiveness of applicable provisions of the Leahy-Smith Act, on March 16, 2013, an interference proceeding in the United States can be initiated by a third party to determine if it was the first to invent any of the subject matter covered by the claims of our patent applications. We may also be subject to a third party preissuance submission of prior art to the USPTO.

The Leahy-Smith Act created for the first time new procedures to challenge issued patents in the United States, including post-grant review, *inter partes* review and derivation proceedings, which are adversarial proceedings conducted at the USPTO, which some third parties have been using to cause the cancellation of selected or all claims of issued patents of competitors. For a patent with a priority date of March 16, 2013 or later, which all of our patent filings have, a petition for post-grant review can be filed by a third party in a nine-month window from issuance of the patent. A petition for *inter partes* review can be filed immediately following the issuance of a patent if the patent was filed prior to March 16, 2013. A petition for *inter partes* review can be filed after the nine-month period for filing a post-grant review petition has expired for a patent with a priority date of March 16, 2013 or later. Post-grant review proceedings can be brought on any ground of challenge, whereas *inter partes* review proceedings can only be brought to raise a challenge based on published prior art. These adversarial actions at the USPTO include review of patent claims without the presumption of validity afforded to U.S. patents in lawsuits in U.S. federal courts. The USPTO issued a final rule effective November 13, 2018 announcing that it will now use the same claim construction standard currently used in the U.S. federal courts to interpret patent claims in USPTO proceedings, which is the plain and ordinary meaning of words used. If any of our patents are challenged by a third party in such a USPTO proceeding, there is no guarantee that we will be successful in defending the patent, which would result in a loss of the challenged patent right to us, including loss of exclusivity, or in patent claims being narrowed, invalidated, or held unenforceable, which could limit our ability to stop others from using or commercializing similar or identical technology and products, or limit the duration of the patent protection of our technology and product candidates. Such proceedings also may result in substantial cost and require significant time from our scientists and management, even if the eventual outcome is favorable to us.

As a result of all of the foregoing, the issuance, scope, validity, enforceability, and commercial value of our patent rights are highly uncertain, which could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***Third-party claims of intellectual property infringement, misappropriation or other violation may result in substantial costs or prevent or delay our development and commercialization efforts.***

Our commercial success depends in part on our avoiding actual and allegations of infringement, misappropriation or other violation of the patents and other proprietary rights of third parties. There is a substantial amount of litigation, both within and outside the United States, involving patent and other intellectual property rights in the biotechnology and pharmaceutical industries, including patent infringement lawsuits, interferences, oppositions, re-examination, and post-grant and *inter partes* review proceedings before the USPTO and similar proceedings in foreign jurisdictions, such as oppositions before the European Patent Office, or EPO. Numerous U.S. and foreign issued patents

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and pending patent applications, which are owned by third parties, exist in the fields in which we are pursuing development candidates. Many companies in intellectual property-dependent industries, including the pharmaceutical industry, have employed intellectual property litigation as a means to gain an advantage over their competitors. As biotechnology and pharmaceutical industries expand and more patents are issued, and as we gain greater visibility and market exposure as a public company, the risk increases that our product candidates may be subject to claims of infringement of the patent rights of third parties. Some claimants may have substantially greater resources than we do and may be able to sustain the costs of complex intellectual property litigation to a greater degree and for longer periods of time than we could. In addition, patent holding companies that focus solely on extracting royalties and settlements by enforcing patent rights may target us.

Third parties may assert that we are employing their proprietary technology without authorization. There may be third-party patents or patent applications with claims to composition of matter, drug delivery, methods of manufacture or methods for treatment related to the use or manufacture of our product candidates. We cannot guarantee that our technologies, products, compositions, and their uses do not or will not infringe, misappropriate or otherwise violate third-party patent or other intellectual property rights. Because patent applications can take many years to issue, there may be currently pending patent applications which may later result in issued patents that our product candidates may infringe. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. Pending patent applications that have been published can, subject to certain limitations, be later amended in a manner that could cover our product candidates or the use of our product candidates. After issuance, the scope of patent claims remains subject to construction as determined by an interpretation of the law, the written disclosure in a patent and the patent's prosecution history. Our interpretation of the relevance or the scope of a patent or a pending application may be incorrect, which may negatively impact our ability to market our product candidates. In order to successfully challenge the validity of a U.S. patent in federal court, we would need to overcome a presumption of validity. As this burden is a high one requiring us to present clear and convincing evidence as to the invalidity of any such U.S. patent claim, there is no assurance that a court of competent jurisdiction would invalidate the claims of any such U.S. patent. If any third-party patents were held by a court of competent jurisdiction to cover the composition of matter of any of our product candidates, the manufacturing process of any of our product candidates or the method of use for any of our product candidates, the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtained a license under the applicable patents, which may not be available at all or on commercially reasonable terms, or until such patents expire.

The legal threshold for initiating litigation or contested proceedings is low, so that even lawsuits or proceedings with a low probability of success might be initiated and require significant resources to defend. Litigation and contested proceedings can also be expensive and time-consuming, and our adversaries in these proceedings may have the ability to dedicate greater resources to prosecuting these legal actions than we can. The risks of being involved in such litigation and proceedings may increase if and as our product candidates near commercialization and as we gain the greater visibility associated with being a public company. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future, regardless of the merit of such claims. We may not be aware of all intellectual property rights potentially relating to our technology and product candidates and their uses, or we may incorrectly conclude that third-party intellectual property is invalid or that our activities and product candidates do not infringe, misappropriate, or otherwise violate such intellectual property. Thus, we do not know with certainty that our technology and product candidates, or our development and commercialization thereof, do not and will not infringe, misappropriate, or otherwise violate any third party's intellectual property.

Parties making claims against us may obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates

and/or harm our reputation and financial results. Defense of these claims, regardless of their merit, could involve substantial litigation expense and could be a substantial diversion of management and employee resources from our business. In addition, there could be public announcements of the results of hearings, motions, or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. In the event of a successful claim of infringement against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, pay royalties, redesign our infringing products, in the case of claims concerning registered trademarks, rename our product candidates, or obtain one or more licenses from third parties, which may require substantial time and monetary expenditure, and which might be impossible or technically infeasible. Furthermore, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors and other third parties access to the same technologies licensed to us; alternatively or additionally it could include terms that impede or destroy our ability to compete successfully in the commercial marketplace. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***Patent terms may be inadequate to protect our competitive position on our products for an adequate amount of time.***

The term of any individual patent depends on applicable law in the country where the patent is granted. In the United States, provided all maintenance fees are timely paid, a patent generally has a term of 20 years from its application filing date or earliest claimed non-provisional filing date. Extensions may be available under certain circumstances, but the life of a patent and, correspondingly, the protection it affords is limited. Given the amount of time required for the development, testing, and regulatory review of new product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. For patents that are eligible for extension of patent term, we expect to seek extensions of patent terms in the United States and, if available, in other countries, however there can be no assurance that we will be granted any patent term extension we seek, or that any such patent term extension will provide us with any competitive advantage.

***If we do not obtain patent term extension in the United States under the Hatch-Waxman Act and in foreign countries under similar legislation, thereby potentially extending the term of marketing exclusivity for our product candidates, our business may be harmed.***

In the United States, a patent that covers an FDA-approved drug or biologic may be eligible for a term extension designed to restore the period of the patent term that is lost during the premarket regulatory review process conducted by the FDA. Depending upon the timing, duration, and conditions of FDA marketing approval of our product candidates, one or more of our U.S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984, or the Hatch-Waxman Act, which permits a patent term extension of up to five years for a patent covering an approved product as compensation for effective patent term lost during product development and the FDA regulatory review process. A patent term extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval, and only claims covering such approved drug product, a method for using it or a method for manufacturing it may be extended. In the EU, our product candidates may be eligible for term extensions based on similar legislation. In either jurisdiction, however, we may not receive an extension if we fail to apply within applicable deadlines, fail to apply prior to expiration of relevant patents or otherwise fail to satisfy applicable requirements. Even if we are granted such extension, the duration of such extension may be less than our request. If we are unable to obtain a patent term extension, or if the term of any such extension is less than our request, the period during which we can enforce our patent rights for that product will be in effect shortened and our competitors may obtain approval to market competing products sooner. The resulting reduction of years of revenue from applicable products could be substantial.



***We depend on proprietary technology licensed from others. If we lose our existing licenses, we may not be able to continue developing our product candidates.***

We are dependent on patents, know-how and proprietary technology, both our own and licensed from others.

We depend substantially on our agreements with Flagship Pioneering Innovations V, Inc., or Flagship, the Whitehead Institute for Biomedical Research, or WIBR, and Acuitas Therapeutics, Inc., or Acuitas, including the licenses granted thereunder. These licenses may be terminated upon certain conditions. Any termination of these licenses could result in the loss of significant rights and could harm our ability to commercialize our product candidates. For further description of these agreements with Flagship, WIBR, and Acuitas, including each licensor's termination rights, please see "Business –License Agreements."

We may also enter into additional agreements, including license agreements, with other parties in the future that impose diligence, development and commercialization timelines, milestone payments, royalties, insurance, and other obligations on us. We are also obligated to achieve certain development milestones with respect to licensed products in our fields of use within specified time periods. If we fail to comply with our obligations to Flagship, WIBR, Acuitas, or any of our other current or future licensors or collaborators, our counterparties may have the right to terminate these agreements, in which event we might not be able to develop, manufacture, or market any product candidate that is covered by these agreements, which could adversely affect the value of the product candidate being developed under any such agreement. Termination of these agreements or reduction or elimination of our rights under these agreements may result in us having to negotiate new or reinstated agreements with less favorable terms, or cause us to lose our rights under these agreements, including our rights to important intellectual property or technology.

We rely on Flagship, WIBR, and Acuitas to file and prosecute patent applications and maintain patents and otherwise protect the intellectual property we license from them. We may have limited control over their activities or their use or licensing of any other intellectual property that may be related to our in-licensed intellectual property. For example, we cannot be certain that such activities by these licensors will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents and other intellectual property rights.

***If we are unable to obtain licenses from third parties on commercially reasonable terms or at all, or fail to comply with our obligations under such agreements, our business could be harmed.***

It is necessary for us to use the patented or other proprietary technology of third parties to commercialize our products. If we are unable to license such technology, or if we are forced to license such technology on unfavorable terms, our business could be materially harmed. If we are unable to obtain a necessary license in the future, we may be unable to develop or commercialize the affected product candidates, which could materially harm our business and the third parties owning or otherwise controlling such intellectual property rights could seek either an injunction prohibiting our sales or an obligation on our part to pay royalties and/or other forms of compensation. Even if we are able to obtain a license, it may be non-exclusive, thereby giving our competitors and other third parties access to the same technologies licensed to us. The licensing or acquisition of third-party intellectual property rights is a competitive area, and several more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater clinical development and commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us.

If we are unable to obtain rights to required third-party intellectual property rights or maintain the existing intellectual property rights we have, we may be required to expend significant time and resources to redesign our technology, product candidates, or the methods for manufacturing them, or to develop or license replacement technology, all of which may not be feasible on a technical or commercial basis. If we are unable to do so, we may be unable to develop or commercialize the affected technology and product candidates, which could harm our business, financial condition, results of operations, and prospects significantly.

Additionally, if we fail to comply with our obligations under any future license agreements, our counterparties may have the right to terminate these agreements, in which event we might not be able to develop, manufacture or market, or may be forced to cease developing, manufacturing, or marketing, any product that is covered by these agreements or may face other penalties under such agreements. Such an occurrence could materially adversely affect the value of the product candidate being developed under any such agreement. Termination of these agreements or reduction or elimination of our rights under these agreements, or restrictions on our ability to freely assign or sublicense our rights under such agreements when it is in the interest of our business to do so, may result in our having to negotiate new or reinstated agreements with less favorable terms, cause us to lose our rights under these agreements, including our rights to important intellectual property or technology, or impede, or delay or prohibit the further development or commercialization of one or more product candidates that rely on such agreements.

***Although we are not currently involved in any relevant litigation, we may become involved in lawsuits to protect or enforce our patents or other intellectual property, which could be expensive, time-consuming and unsuccessful.***

Competitors and other third parties may infringe, misappropriate, or otherwise violate our or our future licensors' patents, trademarks, copyrights, or other intellectual property. As a result, we may need to file infringement, misappropriation, or other intellectual property-related claims against third parties. To counter infringement or other unauthorized use, we may be required to file claims on a country-by-country basis, which can be expensive and time-consuming and divert the time and attention of our management and scientific personnel. There can be no assurance that we will have sufficient financial or other resources to file and pursue such claims, which often last for years before they are concluded.

Our license agreements have certain limitation on our ability to enforce the licensed patents against third party infringers. For example, with regard to our license agreements with WIBR, we cannot enforce the licensed patents against a certain third party, who previously entered into a sponsored research agreement with WIBR, with respect to inventions arising out of such sponsored research agreement. In addition, with respect to the WIBR Co-Exclusive Agreement, the WIBR patent rights are co-exclusively licensed to both us and one other third party. As such, we are not permitted to assert the co-exclusively licensed patent rights against the co-exclusive licensee.

Any claims we assert against third parties could also provoke these parties to assert counterclaims against us alleging that we infringe, misappropriate, or otherwise violate their intellectual property. In addition, in a patent infringement proceeding, such parties could counterclaim that the patents we have asserted are invalid or unenforceable, or both. In patent litigation in the United States, defendant counterclaims alleging invalidity or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of novelty, obviousness, or non-enablement. Grounds for an unenforceability assertion could be an allegation that someone connected with prosecution of the patent withheld relevant information from the USPTO, or made a misleading statement, during prosecution. Third parties may institute such claims before administrative bodies in the United States or abroad, even outside the context of litigation. Such mechanisms include re-examination, post-grant review, *inter partes* review, interference proceedings, derivation proceedings, and equivalent proceedings in foreign jurisdictions (e.g., opposition proceedings). The outcome following legal assertions of invalidity and unenforceability is unpredictable.

In any such proceeding, a court may decide that a patent of ours, or a patent that we in-license, is not valid, is unenforceable and/or is not infringed, or may construe such patent's claims narrowly or refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation or defense proceedings could put one or more of our patents at risk of being invalidated, interpreted narrowly or held unenforceable in whole or in part, could put our patent applications at risk of not issuing, and could limit our ability to assert those patents against those parties or other competitors and curtail or preclude our ability to exclude third parties from making and selling similar or competitive products. Similarly, if we assert trademark infringement claims, a court may determine that the marks we have asserted are invalid or unenforceable, or that the party against whom we have asserted trademark infringement has superior rights to the marks in question. In this case, we could ultimately be forced to cease use of such trademarks, which could materially harm our business and negatively affect our position in the marketplace.

Even if we establish infringement, misappropriation, or other violation of our intellectual property, the court may decide not to grant an injunction against further such activity and instead award only monetary damages, which may or may not be an adequate remedy. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. There could also be public announcements of the results of hearings, motions, or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, it could have a material adverse effect on the price of our common stock. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***Weakening patent laws and enforcement by courts and other authorities in the United States and other jurisdictions may impact our ability to protect our patents.***

The U.S. Supreme Court has issued opinions in patent cases in the last few years that many consider may weaken patent protection in the United States, either by narrowing the scope of patent protection available in certain circumstances, holding that certain kinds of innovations are not patentable or generally otherwise making it easier to invalidate patents in court. Additionally, there have been recent proposals for additional changes to the patent laws of the United States and other countries that, if adopted, could impact our ability to obtain patent protection for our proprietary technology or our ability to enforce our proprietary technology. Depending on future actions by the U.S. Congress, the U.S. courts, the USPTO and the relevant law-making and other bodies in other countries, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce and defend our existing patents and patents that we might obtain in the future.

The laws of some foreign jurisdictions do not protect intellectual property rights to the same extent as in the United States and many companies have encountered significant difficulties in protecting and defending such rights in foreign jurisdictions. If we encounter such difficulties in protecting or are otherwise precluded from effectively protecting our intellectual property rights in foreign jurisdictions, our business prospects could be substantially harmed. For example, we could become a party to foreign opposition proceedings, such as at the EPO, or patent litigation and other proceedings in a foreign court. If so, uncertainties resulting from the initiation and continuation of such proceedings could have a material adverse effect on our ability to compete in the marketplace. The cost of foreign adversarial proceedings can also be substantial, and in many foreign jurisdictions, the losing party must pay the attorney fees of the winning party.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.***

The USPTO, EPO and other patent agencies require compliance with a number of procedural, documentary, fee payment, and other similar provisions during the patent application process. Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and/or applications will be due to be paid to the USPTO and various governmental patent agencies outside of the United States in several stages over the lifetime of the patents and/or applications. We have systems in place to remind us to pay these fees, and we employ an outside firm and rely on our outside counsel to pay such fees due to non-U.S. patent agencies. While, in many cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors or other third parties might be able to enter the market with similar or identical products or technology, which could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***We may not be able to enforce our intellectual property rights throughout the world.***

Filing, prosecuting and defending patents covering our product candidates in all countries throughout the world would be prohibitively expensive, and even in countries where we have sought protection for our intellectual property, such protection can be less extensive than those in the United States. The requirements for patentability may differ in certain countries, particularly developing countries, and the breadth of patent claims allowed can be inconsistent. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. In-licensing patents covering our product candidates in all countries throughout the world may similarly be prohibitively expensive, if such opportunities are available at all. And in-licensing or filing, prosecuting and defending patents even in only those jurisdictions in which we develop or commercialize our product candidates may be prohibitively expensive or impractical. Competitors may use our and our licensors' technologies in jurisdictions where we have not obtained patent protection or licensed patents to develop their own products and, further, may export otherwise infringing products to territories where we and our licensors have patent protection, but where enforcement is not as strong as that in the United States or the EU. These products may compete with our product candidates, and our or our licensors' patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

In addition, we may decide to abandon national and regional patent applications while they are still pending. The grant proceeding of each national or regional patent is an independent proceeding which may lead to situations in which applications may be rejected by the relevant patent office, while substantively similar applications are granted by others. For example, relative to other countries, China has a heightened requirement for patentability and specifically requires a detailed description of medical uses of a claimed drug. Furthermore, generic drug manufacturers or other competitors may challenge the scope, validity, or enforceability of our or our licensors' patents, requiring us or our licensors to engage in complex, lengthy, and costly litigation or other proceedings. Generic drug manufacturers may develop, seek approval for and launch generic versions of our products. It is also quite common that depending on the country, the scope of patent protection may vary for the same product candidate or technology.

The laws of some jurisdictions do not protect intellectual property rights to the same extent as the laws or regulations in the United States and the EU, and many companies have encountered significant

difficulties in protecting and defending proprietary rights in such jurisdictions. Moreover, the legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents, trade secrets, or other forms of intellectual property, particularly those relating to biotechnology products, which could make it difficult for us to prevent competitors in some jurisdictions from marketing competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in foreign jurisdictions, whether or not successful, are likely to result in substantial costs and divert our efforts and attention from other aspects of our business, and additionally could put at risk our or our licensors' patents of being invalidated or interpreted narrowly, could increase the risk of our or our licensors' patent applications not issuing, or could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, while damages or other remedies may be awarded to the adverse party, which may be commercially significant. If we prevail, damages or other remedies awarded to us, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license. Furthermore, while we intend to protect our intellectual property rights in our expected significant markets, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to market our product candidates. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate, which may have an adverse effect on our ability to successfully commercialize our product candidates in all of our expected significant foreign markets. If we or our licensors encounter difficulties in protecting, or are otherwise precluded from effectively protecting, the intellectual property rights important for our business in such jurisdictions, the value of these rights may be diminished and we may face additional competition in those jurisdictions.

In some jurisdictions including EU countries, compulsory licensing laws compel patent owners to grant licenses to third parties. In addition, some countries limit the enforceability of patents against government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of such patent. If we or any of our licensors are forced to grant a license to third parties under patents relevant to our business, or if we or our licensors are prevented from enforcing patent rights against third parties, our competitive position may be substantially impaired in such jurisdictions.

***We rely on our ability to stop others from competing by enforcing our patents, however some jurisdictions may require us to grant licenses to third parties. Such compulsory licenses could be extended to include some of our product candidates, which may limit our potential revenue opportunities.***

Many foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties, in certain circumstances. For example, compulsory licensing, or the threat of compulsory licensing, of life-saving products and expensive products is becoming increasingly popular in developing countries, either through direct legislation or international initiatives. Compulsory licenses could be extended to include some of our product candidates, if they receive marketing approval, which may limit our potential revenue opportunities. Consequently, we may not be able to prevent third parties from practicing our inventions in certain countries outside the United States and Europe. Competitors may also use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and, further, may export otherwise infringing products to territories where we have patent protection, if our ability to enforce our patents to stop infringing activities is inadequate. These products may compete with our products, and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing. Proceedings to enforce our patent rights in foreign jurisdictions, whether or not successful, could result in substantial costs and divert our efforts and resources from other aspects of our business. Furthermore, while we intend to protect our intellectual property rights in major markets for our products where such patent rights exist, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to market our products. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate.

In addition, some countries limit the enforceability of patents against government agencies or government contractors. In these countries, the patent owner may be limited to monetary relief and may be unable to enjoin infringement if a government is the infringer, which could materially diminish the value of the patent.

***Some of our intellectual property has been discovered through government funded programs and thus may be subject to federal regulations such as “march-in” rights, certain reporting requirements and a preference for U.S.-based companies, and compliance with such regulations may limit our exclusive rights and our ability to contract with non-U.S. manufacturers.***

The United States federal government retains certain rights in inventions produced with its financial assistance under the Bayh-Dole Act. The federal government retains a “nonexclusive, nontransferable, irrevocable, paid-up license” for its own benefit. The Bayh-Dole Act also provides federal agencies with “march-in rights”. March-in rights allow the government, in specified circumstances, to require the contractor or successors in title to the patent to grant a “nonexclusive, partially exclusive, or exclusive license” to a “responsible applicant or applicants” if it determines that (1) adequate steps have not been taken to commercialize the invention and achieve practical application of the government-funded technology, (2) government action is necessary to meet public health or safety needs, (3) government action is necessary to meet requirements for public use under federal regulations or (4) we fail to meet requirements of federal regulations. If the patent owner refuses to do so, the government may grant the license itself. Some of our licensed patents are subject to the provisions of the Bayh-Dole Act. If our licensors fail to comply with the regulations of the Bayh-Dole Act, they could lose title to any patents subject to such regulations, which could affect our license rights under the patents and our ability to stop others from using or commercializing similar or identical technology and products, or limit patent protection for our technology and products.

***If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.***

In addition to the protection afforded by patents, we rely on trade secret protection and confidentiality agreements to protect proprietary know-how that is either not patentable or that we elect not to patent, processes for which patents are difficult to enforce and any other elements of our product candidate discovery and development processes that involve proprietary know-how, information, or technology that is not covered by patents. However, trade secrets can be difficult to protect. We seek to protect our proprietary technology and processes, in part, by entering into confidentiality agreements with parties who have access to them, such as our employees, CROs, consultants, scientific advisors, and other contractors. We cannot guarantee that we have entered into such agreements with each party that may have or have had access to our trade secrets or proprietary technology and processes. We also seek to preserve the integrity and confidentiality of our data and trade secrets by maintaining physical security of our premises and physical and electronic security of our information technology systems. While we have confidence in these individuals, organizations and systems, agreements, or security measures may be breached and our trade secrets could be disclosed, and we may not have adequate remedies for any such breach. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. Misappropriation or unauthorized disclosure of our trade secrets or other confidential proprietary information could cause us to lose trade secret protection, impair our competitive position and have a material adverse effect on our business. We may need to share our proprietary information, including trade secrets, with future business partners, collaborators, contractors, and others located in countries at heightened risk of theft of trade secrets, including through direct intrusion by private parties or foreign actors, and those affiliated with or controlled by

state actors. Additionally, if the steps taken to maintain our trade secrets or other confidential proprietary information are deemed inadequate, we may have insufficient recourse against third parties for misappropriating the trade secret or other confidential proprietary information.

Further, we cannot provide any assurances that competitors or other third parties will not otherwise gain access to our trade secrets and other confidential proprietary information or independently discover or develop substantially equivalent technology and processes. If we are unable to prevent disclosure of the trade secrets and other non-patented intellectual property related to our product candidates and technologies to third parties, there is no guarantee that we will have any such enforceable trade secret protection and we may not be able to establish or maintain a competitive advantage in our market, which could materially adversely affect our business, results of operations, and financial condition.

***We may be subject to claims that our employees, consultants, or independent contractors have wrongfully used or disclosed confidential information of third parties, that our employees have wrongfully used or disclosed alleged trade secrets of their former employers, or asserting ownership of what we regard as our own intellectual property.***

We have employed, and may in the future employ, individuals who were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although we try to ensure that our employees, consultants, and independent contractors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or our employees, consultants, or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of any of such individuals' former employers or other third parties. Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel, or our ability to hire personnel, which, in any case of the foregoing, could adversely impact our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

Although it is our policy to require all of our employees and consultants to assign their inventions to us, to the extent that employees or consultants use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions. We may also be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property. Such claims could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***Our proprietary rights may not adequately protect our technologies and product candidates, and intellectual property rights do not necessarily address all potential threats to our competitive advantage.***

The degree of future protection afforded by our intellectual property rights is uncertain because intellectual property rights have limitations, and may not adequately protect our business, or permit us to maintain our competitive advantage. The following examples are illustrative:

- others may be able to make products that are the same as or similar to our product candidates but that are not covered by the claims of our patents;

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- others, including inventors or developers of our patented technologies who may become involved with competitors, may independently develop similar technologies that function as alternatives or replacements for any of our technologies without infringing, misappropriating, or otherwise violating our intellectual property rights;
- we might not have been the first to conceive and reduce to practice the inventions covered by our patents or patent applications;
- we might not have been the first to file patent applications covering certain of our inventions;
- we may choose not to file a patent in order to maintain certain trade secrets or know-how, and a third party may subsequently file a patent covering such intellectual property;
- our pending patent applications might not result in issued patents;
- there might be prior public disclosures that could invalidate our patents;
- our issued patents may not provide us with any commercially viable products or competitive advantage, or may be held invalid or unenforceable, as a result of legal challenges by our competitors or other third parties;
- the Supreme Court of the United States, other U.S. federal courts, Congress, the USPTO or similar foreign authorities may change the standards of patentability and any such changes could narrow or invalidate, or change the scope of, our patents;
- patent terms may be inadequate to protect our competitive position on our product candidates for an adequate amount of time;
- our competitors or other third parties might conduct research and development activities in countries where we do not have patent rights, or in countries where research and development safe harbor laws exist, and then use the information learned from such activities to develop competitive products for sale in our major commercial markets;
- ownership, validity, or enforceability of our patents or patent applications may be challenged by third parties; and
- the patents or pending or future applications of third parties, if issued, may have an adverse effect on our business.

Should any of these events occur, they could have a material adverse effect on our business, financial condition, results of operations, and prospects.

### **Risks Related to Employee Matters, Managing Growth, and Other Risks Related to Our Business**

***We will need to expand our organization, and we may experience difficulties in managing this growth, which could disrupt our operations.***

We expect to experience significant growth over time in the number of our employees and the scope of our operations, particularly in the areas of product candidate development, regulatory and clinical affairs, legal and finance, and sales, marketing and distribution. To manage our growth activities, we must continue to implement and improve our managerial, operational, and financial systems and continue to recruit and train additional qualified personnel. Due to our limited financial resources and the limited experience of our management team in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. As we expand our organization, we may have difficulty identifying, hiring, and integrating new personnel. Future growth would impose significant additional responsibilities on our management, including:

- the need to identify, recruit, maintain, motivate, and integrate additional employees, consultants, and contractors;



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- managing our internal development efforts effectively, including clinical development and regulatory review for our product candidates, while complying with our contractual obligations to contractors and other third parties; and
- improving our operational, financial and management controls, reporting systems, and procedures.

Also, our management may need to divert a disproportionate amount of its attention away from our day-to-day activities and devote a substantial amount of time to managing these growth activities. We may not be able to effectively manage the expansion of our operations, which may result in weaknesses in our infrastructure, give rise to operational mistakes, loss of business opportunities, loss of employees, and reduced productivity among remaining employees. Our expected growth could require significant capital expenditures and may divert financial resources from other projects, such as the development of product candidates. If our management is unable to effectively manage our growth, our expenses may increase more than expected, our ability to generate and/or grow product revenues could be reduced, and we may not be able to implement our business strategy. Our future financial performance and our ability to develop and commercialize our product candidates and compete effectively will depend, in part, on our ability to effectively manage any future growth.

We currently rely, and for the foreseeable future will continue to rely, in substantial part on certain independent organizations, advisors, and consultants to provide certain services, including preclinical development activities and manufacturing. There can be no assurance that the services of independent organizations, advisors, and consultants will continue to be available to us on a timely basis when needed, or that we can find qualified replacements. In addition, if we are unable to effectively manage our outsourced activities or if the quality or accuracy of the services provided by consultants is compromised for any reason, our planned clinical trials may be extended, delayed, or terminated, and we may not be able to obtain regulatory approval of our product candidates or otherwise advance our business. There can be no assurance that we will be able to manage our existing consultants or find other competent outside contractors and consultants on economically reasonable terms, or at all. If we are not able to effectively expand our organization by hiring new employees and expanding our groups of consultants and contractors, or we are not able to effectively build out new facilities to accommodate this expansion, we may not be able to successfully implement the tasks necessary to further develop and commercialize our product candidates and, accordingly, may not achieve our research, development, and commercialization goals.

Many of the biotechnology and pharmaceutical companies that we compete against for qualified personnel and consultants have greater financial and other resources, different risk profiles, and a longer history in the industry than we do. If we are unable to continue to attract and retain high-quality personnel and consultants, the rate and success at which we can discover and develop product candidates and operate our business will be limited.

***If we lose our executive officers, are unable to recruit qualified officers or other key personnel, our business may materially suffer.***

We are highly dependent on our management, including our Chief Executive Officer, Mahesh Karande, our Chief Scientific Officer, Thomas McCauley, and our Chief Financial Officer, Roger Sawhney. Due to the specialized knowledge each of our executive officers possesses with respect to our product candidates and our operations, the loss of service of any of our executive officers could delay development of our product candidates or adversely impact our business operations. We do not carry key person life insurance on any of our executive officers. In general, the employment arrangements that we have with our executive officers do not prevent them from terminating their employment with us at any time.

In addition, our future success and growth will depend in part on the continued service of our employees and management personnel and our ability to identify, hire, and retain additional personnel. Replacing key employees and management personnel may be difficult or costly and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to develop, gain regulatory approval of and commercialize product candidates successfully. Competition to hire from this limited pool is intense, and we may be unable to hire, train, retain, or effectively incentivize key personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for scientific and clinical personnel from universities and research institutions. In addition, we rely on consultants and advisors, including scientific and clinical advisors, to assist us in formulating our research and development and commercialization strategy. Our consultants and advisors may be engaged by entities other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us. If we are unable to continue to attract and retain high quality personnel, our ability to develop and commercialize product candidates will be limited.

Many of our employees have become or will soon become vested in a substantial amount of our common stock or a number of common stock options. Our employees may be more likely to leave us if the shares they own have significantly appreciated in value relative to the original purchase prices of the shares, or if the exercise prices of the options that they hold are significantly below the market price of our common stock, particularly after the expiration of the lock-up agreements described in this prospectus.

***We may engage in acquisitions or strategic collaborations that could disrupt our business, cause dilution to our stockholders, reduce our financial resources, cause us to incur debt or assume contingent liabilities, and subject us to other risks.***

In the future, we may enter into transactions to acquire other businesses, products, or technologies or enter into strategic collaborations, including licensing. If we do identify suitable acquisition or collaboration, we may not be able to complete such acquisitions or collaboration on favorable terms, or at all. Any acquisitions or collaboration we enter into may not strengthen our competitive position, and we may never realize the anticipated benefits of such acquisitions or collaborations. We may decide to incur debt in connection with an acquisition or issue our common stock or other equity securities to the stockholders of the acquired company, which would reduce the percentage ownership of our existing stockholders. We could incur losses resulting from undiscovered liabilities of the acquired business or collaboration that are not covered by the indemnification we may obtain from the seller or our collaborator. In addition, we may not be able to successfully integrate any acquired personnel, technologies, and operations into our existing business in an effective, timely, and non-disruptive manner. Acquisitions or collaborations may also divert management attention from day-to-day responsibilities, lead to a loss of key personnel, increase our expenses and reduce our cash and cash equivalents available for operations and other uses. We cannot predict the number, timing, or size of future acquisitions or collaborations or the effect that any such transactions might have on our operating results.

***The COVID-19 pandemic has impacted, and will likely continue to impact, our operations and may materially and adversely affect our business and financial results in the future.***

In December 2019, a novel strain of coronavirus, which causes the disease known as COVID-19, surfaced in Wuhan, China. Since then, COVID-19 has spread globally. Our principal executive offices and laboratory space are located in Cambridge, Massachusetts. The Commonwealth of Massachusetts initially responded to the COVID-19 pandemic by issuing stay-at-home orders. Since then, Massachusetts has under-gone a phased re-opening, which is nearly complete. In response to public health directives and to help reduce the risk to our employees, we took precautionary measures,

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including implementing work-from-home policies for our administrative employees and staggered work times for our lab employees. We plan to continue these measures and are assessing when and how to resume normal operations. The COVID-19 pandemic continues to evolve, and we cannot predict how new executive orders or other preventative measures, if any, could impact our ability to conduct our business and our product candidate development programs. Any severe disruptions in our operations as a result could negatively impact our business, results of operations, and financial condition.

In addition, quarantines, shelter-in-place, and similar government orders, or the perception that such orders, shutdowns or other restrictions on the conduct of business operations could occur, related to COVID-19 or other infectious diseases have impacted and may continue to impact our third-party service providers.

Our development efforts may be further affected by the COVID-19 pandemic, including:

- interruptions in preclinical studies due to restricted or limited operations at our or our third-party service providers' laboratory facilities, including the collection and analysis of data, or unavailability of materials;
- delays in receiving approval from regulatory authorities to initiate clinical trials;
- delays or difficulties in clinical site initiation, including difficulties in recruiting clinical site investigators and clinical site staff;
- delays or difficulties in enrolling patients, including patients who may not be able to comply with clinical trial protocols if quarantines impede patient movement or interrupt healthcare services;
- delays in clinical sites receiving the supplies and materials needed to conduct clinical trials;
- diversion or prioritization of healthcare resources away from the conduct of clinical trials and towards the COVID-19 pandemic;
- interruption of key clinical trial activities, such as clinical trial site monitoring, due to limitations on travel imposed or recommended by federal, state, or provincial governments, employers and others or interruption of clinical trial subject visits and study procedures, which may impact the integrity of subject data and clinical study endpoints;
- risk that participants enrolled in clinical trials will contract COVID-19 while the clinical trial is ongoing, which could impact the results of the clinical trial, including by increasing the number of observed adverse events;
- limitations in employee resources that would otherwise be focused on the conduct of clinical trials, including because of sickness of employees or their families or the desire of employees to avoid contact with large groups of people;
- interruption in global shipping that may affect the transport of clinical trial materials or make such transport significantly more expensive;
- changes in local regulations, guidance, or practice as part of a response to the COVID-19 pandemic, which may require changes in the ways in which clinical trials are conducted or to discontinuation of clinical trials;
- delays in necessary interactions with regulators, ethics committees, and other important agencies and contractors due to limitations in employee resources or forced furlough of government employees; and
- the refusal of the FDA or other comparable foreign regulatory authorities to accept data from clinical trials in geographies affected by COVID-19.

The extent to which the COVID-19 pandemic may impact our business and clinical trials will depend on future developments, which are highly uncertain and cannot be predicted with confidence, such as the effectiveness and timing of vaccines, the effectiveness of actions taken in the United States and other countries to contain and treat the disease, travel restrictions and social distancing in the United States and other countries, business closures or business disruptions, reopening plans, and the resurgence of COVID-19 or the emergence of new strains of COVID-19. The impact to our operations due to the COVID-19 pandemic could be severe and could negatively affect our business, financial condition, and results of operations. To the extent the COVID-19 pandemic adversely affects our business and financial results, it may also have the effect of heightening many of the other risk factors described in this “Risk Factors” section.

***Litigation against us could be costly and time-consuming to defend and could result in additional liabilities.***

We may from time to time be subject to legal proceedings and claims that arise in the ordinary course of business or otherwise, such as claims brought by third parties in connection with commercial disputes and employment claims made by our current or former employees. Claims may also be asserted by or on behalf of a variety of other parties, including government agencies, patients, or stockholders.

Any litigation involving us may result in substantial costs, operationally restrict our business, and may divert management's attention and resources, which may seriously harm our business, overall financial condition, and results of operations. Insurance may not cover existing or future claims, be sufficient to fully compensate us for one or more of such claims, or continue to be available on terms acceptable to us. A claim brought against us that is uninsured or underinsured could result in unanticipated costs, thereby adversely impacting our results of operations.

**Risks Related to Our Common Stock and this Offering**

***An active trading market for our common stock may not develop.***

Prior to this offering, there has been no public market for our common stock. The initial public offering price for our common stock will be determined through negotiations with the underwriters. Although we have applied to have our common stock listed on the Nasdaq Global Market, an active trading market for our shares may never develop or be sustained following this offering. If an active market for our common stock does not develop, it may be difficult for you to sell shares you purchase in this offering without depressing the market price for the shares, or at all. Further, an inactive market may also impair our ability to raise capital by selling shares of our common stock and may impair our ability to enter into strategic collaborations or acquire companies or products by using our shares of common stock as consideration.

***The market price of our common stock may be volatile and fluctuate substantially, which could result in substantial losses for purchasers of our common stock in this offering.***

Our stock price is likely to be volatile. As a result of this volatility, you may not be able to sell your common stock at or above the initial public offering price. The market price for our common stock may be influenced by many factors, including:

- the success of competitive products or technologies;
- actual or expected changes in our growth rate relative to our competitors;
- results of our ongoing, planned, or any future preclinical studies, clinical trials, or clinical development of our product candidates or those of our competitors;

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- unanticipated serious safety concerns related to the use of our product candidates;
- developments related to any future collaborations;
- developments concerning our manufacturers or our manufacturing plans;
- our inability to obtain adequate product supply for any approved product or inability to do so at acceptable prices;
- regulatory actions with respect to our product candidates or our competitors' products and product candidates;
- regulatory or legal developments in the United States and other countries;
- development of third-party product candidates that may address our markets and make our product candidates less attractive;
- changes in physician, hospital or healthcare provider practices that may make our product candidates less attractive;
- our decision to initiate a clinical trial, not to initiate a clinical trial or to terminate a clinical trial;
- our failure to commercialize our product candidates;
- announcements by us, our collaborators or our competitors of significant acquisitions, joint ventures, collaborations or capital commitments;
- developments or disputes concerning patent applications, issued patents, or other intellectual property or proprietary rights;
- the recruitment or departure of key scientific or management personnel;
- the level of expenses related to any of our product candidates or clinical development programs;
- failure to meet or exceed financial estimates and projections of the investment community or that we provide to the public;
- changes in accounting practices;
- the trading volume of our common stock;
- our cash and cash equivalents position;
- our ability to effectively manage our growth;
- sales of our common stock by us or our stockholders in the future;
- publication of research reports about us or our industry, or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- ineffectiveness of our internal controls;
- significant lawsuits, including intellectual property or stockholder litigation;
- the results of our efforts to engineer, develop, acquire, or in-license additional product candidates or products;
- actual or expected changes in estimates as to financial results, development timelines, or recommendations by securities analysts;
- actual or anticipated variations in our financial results or those of companies that are perceived to be similar to us;
- changes in the structure of healthcare payment systems;

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- market conditions in the pharmaceutical and biotechnology sectors;
- general economic, industry, and market conditions; and
- the other factors described in this “Risk Factors” section and elsewhere in this prospectus.

In addition, the stock market in general, and the Nasdaq Global Market and biotechnology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance. If the market price of our common stock after this offering does not exceed the initial public offering price, you may not realize any return on your investment in us and may lose some or all of your investment. In the past, securities class action litigation has often been instituted against companies following periods of volatility in the market price of a company’s securities. This type of litigation, if instituted, could result in substantial costs and a diversion of management’s attention and resources, which would harm our business, financial condition, and results of operations.

***After this offering, our executive officers, directors, and principal stockholders, if they choose to act together, will continue to have the ability to control all matters submitted to stockholders for approval.***

Upon the closing of this offering, based on the number of shares of common stock outstanding as of \_\_\_\_\_, our executive officers, directors, and stockholders who owned more than 5% of our outstanding common stock before this offering and their respective affiliates will, in the aggregate, hold shares representing approximately \_\_\_\_\_% of our outstanding voting stock (assuming no exercise of the underwriters’ option to purchase additional shares). As a result, if these stockholders choose to act together, they would be able to control or significantly influence all matters submitted to our stockholders for approval, as well as our management and affairs. For example, these stockholders would control the election of directors, the composition of our management and approval of any merger, consolidation, or sale of all or substantially all of our assets. This may prevent a change in our management or discourage unsolicited acquisition proposals or offers for our shares of common stock that you may feel are in your best interest as one of our stockholders.

***If you purchase shares of common stock in this offering, you will suffer immediate dilution of your investment.***

The initial public offering price of our common stock will be substantially higher than the net tangible book value per share of our common stock. Therefore, if you purchase shares of our common stock in this offering, you will pay a price per share that substantially exceeds our net tangible book value per share after this offering. To the extent shares subsequently are issued under outstanding options or warrants, you will incur further dilution. Based on an assumed initial public offering price of \$ \_\_\_\_\_ per share (the midpoint of the price range set forth on the cover page of this prospectus), you will experience immediate dilution of \$ \_\_\_\_\_ per share as of \_\_\_\_\_, 2021, representing the difference between our pro forma as adjusted net tangible book value per share, after giving effect to this offering, and the assumed initial public offering price. In addition, purchasers of common stock in this offering will have contributed approximately \_\_\_\_\_% of the aggregate price paid by all purchasers of our stock but will own only approximately \_\_\_\_\_% of our common stock outstanding after this offering.

This dilution is due to our investors who purchased shares of our stock prior to this offering, having paid substantially less when they purchased their shares than the price offered to the public in this offering. To the extent that outstanding stock options or warrants are exercised, there will be further dilution to new investors. As a result of the dilution to investors purchasing shares of common stock in this offering, investors may receive significantly less than the purchase price paid in this

offering, if anything, in the event of our liquidation. For a further description of the dilution that you will experience immediately after this offering, see the section entitled “Dilution.”

***We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.***

Our management will have broad discretion in the application of the net proceeds from this offering, including for any of the purposes described in the section entitled “Use of Proceeds,” and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. We anticipate that we will use the net proceeds from this offering, together with our existing cash and cash equivalents, for continued research and development of our portfolio of OECs, including preclinical studies and advancement through potential preclinical proof-of-concept of our lead programs; for IND-enabling studies and the potential initiation of clinical studies for certain of our current programs; for continued advancement of our platform technologies and discovery-stage research for other potential programs; to lease and build out a manufacturing facility; and for working capital and general corporate purposes. However, our use of these proceeds may differ substantially from our current plans. The failure by our management to apply these funds effectively could result in financial losses that could have a material adverse effect on our business, cause the price of our common stock to decline and delay the development of our product candidates. Pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value.

***A significant portion of our total outstanding shares are eligible to be sold into the market in the near future, which could cause the market price of our common stock to drop significantly, even if our business is doing well.***

Sales of a substantial number of shares of our common stock in the public market, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock. After this offering, we will have \_\_\_\_\_ outstanding shares of common stock based on the number of shares outstanding as of March 31, 2021. This includes the shares that we are selling in this offering, which may be resold in the public market immediately without restriction, unless purchased by our affiliates or existing stockholders. The remaining shares are currently restricted as a result of securities laws or lock-up agreements (which may be waived, with or without notice, pursuant to the terms of such lock-up agreement), but will become eligible to be sold at various times beginning 180 days after this offering, unless held by one of our affiliates, in which case the resale of those securities will be subject to volume limitations under Rule 144 of the Securities Act of 1933, as amended, or Rule 144. Moreover, after this offering, holders of an aggregate of \_\_\_\_\_ shares of our common stock will have rights, subject to specified conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders, until such shares can otherwise be sold without restriction under Rule 144 or until the rights terminate pursuant to the terms of the stockholders’ agreement between us and such holders. We also intend to register all shares of common stock that we may issue under our equity compensation plans. Once we register these shares, they can be freely sold in the public market upon issuance, subject to volume limitations applicable to affiliates and the lock-up agreements described in the “Underwriting” section of this prospectus.

***We are an “emerging growth company,” and the reduced disclosure requirements applicable to emerging growth companies may make our common stock less attractive to investors.***

We are an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, and may remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) following the fifth anniversary of the date of the closing of this offering, (b) in

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which we have total annual gross revenue of at least \$1.07 billion or (c) in which we are deemed to be a large accelerated filer, which requires the market value of our common shares that are held by non-affiliates to exceed \$700 million as of the prior June 30th, and (2) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not emerging growth companies. These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced “Management’s Discussion and Analysis of Financial Condition and Results of Operations” disclosure in this prospectus;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We have taken advantage of reduced reporting burdens in this prospectus. In particular, in this prospectus, we have provided only two years of audited financial statements and have not included all of the executive compensation related information that would be required if we were not an emerging growth company. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of these accounting standards until they would otherwise apply to private companies. Further, even after we no longer qualify as an emerging growth company, we may still qualify as a “smaller reporting company,” which would allow us to take advantage of many of the same exemptions from disclosure requirements, including reduced obligations regarding executive compensation in our periodic reports and proxy statements. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be reduced or more volatile.

***We are a “smaller reporting company” and the reduced disclosure requirements applicable to smaller reporting companies may make our common stock less attractive to investors.***

We are considered a “smaller reporting company.” We are therefore entitled to rely on certain reduced disclosure requirements for as long as we remain a smaller reporting company, such as an exemption from providing selected financial data and executive compensation information. If we qualify as a smaller reporting company because we meet the revenue limits under the definition of a smaller reporting company, we will be a “low-revenue smaller reporting company.” Low-revenue smaller reporting companies are not required to obtain an external audit on the effectiveness of their internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404. These exemptions and reduced disclosures may make it harder for investors to analyze our results of operations and financial prospects. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock prices may be more volatile.



***We will incur increased costs as a result of operating as a public company, and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.***

As a public company, and particularly after we are no longer an emerging growth company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of the Nasdaq Global Market and other applicable securities rules and regulations impose various requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Our management and other personnel will need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect that these rules and regulations may make it more difficult and more expensive for us to obtain director and officer liability insurance, which in turn could make it more difficult for us to attract and retain qualified members of our board of directors.

We are evaluating these rules and regulations and cannot predict or estimate the amount of additional costs we may incur or the timing of such costs. These rules and regulations are often subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, in our second annual report due to be filed with the SEC after becoming a public company, we will be required to furnish a report by our management on our internal control over financial reporting. However, while we remain an emerging growth company or a low-revenue smaller reporting company, we will not be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. To achieve compliance with Section 404 within the prescribed period, we will be engaged in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially engage outside consultants, adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing whether such controls are functioning as documented, and implement a continuous reporting and improvement process for internal control over financial reporting. Despite our efforts, there is a risk that we will not be able to conclude, within the prescribed timeframe or at all, that our internal control over financial reporting is effective as required by Section 404. We may discover significant deficiencies or material weaknesses in our internal control over financial reporting, which we may not successfully remediate on a timely basis or at all. Any failure to remediate any significant deficiencies or material weaknesses identified by us or to implement required new or improved controls, or difficulties encountered in their implementation, could cause us to fail to meet our reporting obligations or result in material misstatements in our financial statements. If we identify one or more material weaknesses, it could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements.

***If we fail to maintain effective internal control over financial reporting and effective disclosure controls and procedures, we may not be able to accurately report our financial results in a timely manner or prevent fraud, which may adversely affect investor confidence in our company.***

We are not currently required to comply with the rules of the SEC implementing Section 404 and, therefore, we are not required to make a formal assessment of the effectiveness of our internal control

over financial reporting for that purpose. Upon becoming a public company, we will be required to comply with the SEC's rules implementing Sections 302 and 404 of the Sarbanes-Oxley Act of 2002, which require management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of controls over financial reporting. Although we will be required to disclose changes made in our internal controls and procedures on a quarterly basis, we are not required to make our first annual assessment of our internal control over financial reporting pursuant to Section 404 until the year following our first annual report required to be filed with the SEC. As an emerging growth company and a low-revenue smaller reporting company, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 until the later of the year following our first annual report required to be filed with the SEC or the date we are no longer an emerging growth company or a low-revenue smaller reporting company. At such time, our independent registered public accounting firm may issue a report that is adverse in the event material weaknesses have been identified in our internal control over financial reporting.

To comply with the requirements of being a public company, we will need to undertake actions, such as implementing new internal controls and procedures and hiring additional accounting or internal audit staff. Testing and maintaining internal control can divert our management's attention from other matters that are important to the operation of our business. In addition, when evaluating our internal control over financial reporting, we may identify material weaknesses that we may not be able to remediate in time to meet the applicable deadline imposed upon us for compliance with the requirements of Section 404. If we identify any material weaknesses in our internal controls over financial reporting or we are unable to comply with the requirements of Section 404 in a timely manner or assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting once we are no longer an emerging growth company, investors may lose confidence in the accuracy and completeness of our financial reports. As a result, the market price of our common stock could be materially adversely affected.

***Our disclosure controls and procedures may not prevent or detect all errors or acts of fraud.***

Upon the closing of this offering, we will become subject to the periodic reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act. We are continuing to refine our disclosure controls and procedures to provide reasonable assurance that information we must disclose in reports we file or submit under the Exchange Act is accumulated and communicated to management, and recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC. We believe that any disclosure controls and procedures, no matter how well-conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met.

These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements due to error or fraud may occur and not be detected.

***If securities or industry analysts do not publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, our stock price and trading volume could decline, even if our business is doing well.***

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. We do not currently have, and may

never obtain, research coverage by securities and industry analysts. If no or few securities or industry analysts commence coverage of us, the trading price for our stock would be negatively impacted. In the event we obtain securities or industry analyst coverage, if any of the analysts who cover us downgrades our common stock or issues an adverse or misleading opinion regarding us, our business model, our intellectual property or our stock performance, or if our target preclinical studies or clinical trials and operating results fail to meet the expectations of analysts, our stock price would likely decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

***Provisions in our restated certificate of incorporation and restated bylaws and under Delaware law could make an acquisition of our company, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.***

Provisions in our restated certificate of incorporation and our restated bylaws, which will become effective upon the closing of this offering may discourage, delay, or prevent a merger, acquisition, or other change in control of our company that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, because our board of directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Among other things, these provisions include those establishing:

- a classified board of directors with three-year staggered terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;
- no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of the board of directors or the resignation, death, or removal of a director, which prevents stockholders from filling vacancies on our board of directors;
- the ability of our board of directors to authorize the issuance of shares of preferred stock and to determine the terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer;
- the ability of our board of directors to alter our bylaws without obtaining stockholder approval;
- the required approval of the holders of at least two-thirds of the shares entitled to vote at an election of directors to adopt, amend, or repeal our bylaws or repeal the provisions of our restated certificate of incorporation regarding the election and removal of directors;
- a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- the requirement that a special meeting of stockholders may be called only by the chairman of the board of directors, the chief executive officer, the president, or the board of directors, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; and

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- advance notice procedures that stockholders must comply with in order to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders' meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of us.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the General Corporation Law of the State of Delaware, which prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner.

***Our restated certificate of incorporation will designate specific courts as the exclusive forum for certain litigation that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us.***

Our restated certificate of incorporation, which will become effective upon the closing of this offering, specifies that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for most legal actions involving claims brought against us by stockholders, other than suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction and any action that the Court of Chancery of the State of Delaware has dismissed for lack of subject matter jurisdiction, which may be brought in another state or federal court sitting in the State of Delaware. Our restated certificate of incorporation also specifies that unless we consent in writing to the selection of an alternate forum, the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended, or the Securities Act. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and to have consented to the provisions of our restated certificate of incorporation described above.

We believe this provision benefits us by providing increased consistency in the application of Delaware law by chancellors particularly experienced in resolving corporate disputes or federal judges experienced in resolving Securities Act disputes, efficient administration of cases on a more expedited schedule relative to other forums and protection against the burdens of multi-forum litigation. However, the provision may have the effect of discouraging lawsuits against our directors, officers, employees, and agents as it may limit any stockholder's ability to bring a claim in a judicial forum that such stockholder finds favorable for disputes with us or our directors, officers, employees, or agents and result in increased costs for stockholders to bring a claim. The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with any applicable action brought against us, a court could find the choice of forum provisions contained in our restated certificate of incorporation to be inapplicable or unenforceable in such action. If a court were to find the choice of forum provision contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could adversely affect our business, financial condition, or results of operations.

***Our ability to use our net operating loss carryforwards and other tax attributes to offset future taxable income may be subject to certain limitations.***

As of December 31, 2020, we had U.S. federal and state net operating loss carryforwards, or NOLs, of \$63.6 million and \$62.6 million, respectively, which may be available to offset future taxable income, if any. As of December 31, 2020, we also had federal and state research and development credit carryforwards of \$1.4 million and \$1.3 million, respectively. In general, under Sections 382 and

383 of the Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an “ownership change,” generally defined as a greater than 50 percentage point change by value in its equity ownership over a rolling three-year period, is subject to limitations on its ability to utilize its pre-change NOLs and its research and development credit carryforwards to offset future taxable income. Our existing NOLs and research and development credit carryforwards may be subject to limitations arising from previous ownership changes, and if we undergo an ownership change in connection with or after this offering, our ability to utilize NOLs and research and development credit carryforwards could be further limited by Sections 382 and 383 of the Code. In addition, future changes in our stock ownership, some of which might be beyond our control, could result in an ownership change under Sections 382 and 383 of the Code. For these reasons, we may not be able to utilize a material portion of the NOLs or research and development credit carryforwards even if we attain profitability.

## General Risks

### ***Our business and operations would suffer in the event of system failures, deficiencies, or intrusions.***

Our computer systems, as well as those of our CROs and other contractors and consultants, are vulnerable to failure or damage from computer viruses and other malware, unauthorized access or other cybersecurity attacks, natural disasters (including hurricanes), terrorism, war, fire, and telecommunication or electrical failures. In the ordinary course of our business, we directly or indirectly collect, store, and transmit sensitive data, including intellectual property, confidential information, preclinical and clinical trial data, proprietary business information, personal data, and personally identifiable health information of our clinical trial subjects and employees, in our data centers and on our networks, or on those of third parties. The secure processing, maintenance, and transmission of this information is critical to our operations. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or internal bad actors, or breached due to employee error, a technical vulnerability, malfeasance, or other disruptions. The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity, and sophistication of attempted attacks and intrusions from around the world have increased. We may not be able to anticipate all types of security threats, nor may we be able to implement preventive measures effective against all such security threats. The techniques used by cyber criminals change frequently, may not be recognized until launched and can originate from a wide variety of sources, including outside groups such as external service providers, organized crime affiliates, terrorist organizations, or hostile foreign governments or agencies. We cannot assure you that our data protection efforts and our investment in information technology will prevent significant breakdowns, data leakages, or breaches in our systems or those of our CROs and other contractors and consultants.

If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our product candidate development programs. For example, the loss of preclinical studies or clinical trial data from completed, ongoing, or planned studies or trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. To the extent that any disruption or security breach were to result in a loss of or damage to our data or applications, or inappropriate disclosure of personal, confidential, or proprietary information, we could incur liability and the further development of our product candidates could be delayed. Although, to our knowledge, we have not experienced any such material security breach to date, any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost, or stolen.

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Any such access, disclosure, or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information and significant regulatory penalties, and such an event could disrupt our operations, damage our reputation, and cause a loss of confidence in us and our ability to conduct clinical trials, which could adversely affect our reputation and delay our clinical development of our product candidates.

***We or the third parties upon whom we depend may be adversely affected by natural disasters or pandemics and our business continuity and disaster recovery plans may not adequately protect us from a serious disaster.***

Natural disasters or pandemics, other than or in addition to COVID-19, could severely disrupt our operations and have a material adverse effect on our business, results of operations, financial condition and prospects. If a natural disaster, power outage, pandemic, such as the COVID-19 pandemic, or other event occurred that prevented us from using all or a significant portion of our headquarters, that damaged critical infrastructure, such as the manufacturing facilities on which we rely, or that otherwise disrupted operations, it may be difficult or, in certain cases, impossible for us to continue our business for a substantial period of time. The disaster recovery and business continuity plans we have in place may prove inadequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of the limited nature of our disaster recovery and business continuity plans, which could have a material adverse effect on our business.

***Unstable market and economic conditions may have serious adverse consequences on our business, financial condition and share price.***

The global economy, including credit and financial markets, has experienced extreme volatility and disruptions, including severely diminished liquidity and credit availability, declines in consumer confidence, declines in economic growth, increases in unemployment rates and uncertainty about economic stability. For example, the COVID-19 pandemic has resulted in a widespread unemployment, an economic slowdown and extreme volatility in the capital markets. If the equity and credit markets deteriorate, it may make any necessary debt or equity financing more difficult to obtain in a timely manner or on favorable terms, more costly or more dilutive. In addition, there is a risk that one or more of our CROs, suppliers, CDMOs, or other third-party providers may not survive an economic downturn. As a result, our business, results of operations and price of our common stock may be adversely affected.

***Because we do not anticipate paying any cash dividends on our common stock in the foreseeable future, capital appreciation, if any, would be your sole source of gain.***

We have never declared or paid any cash dividends on our common stock. We currently anticipate that we will retain all available funds and future earnings for the development, operation, and expansion of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. As a result, capital appreciation, if any, of our common stock would be your sole source of gain on an investment in our common stock for the foreseeable future. See the "Dividend Policy" section of this prospectus for additional information.

***We could be subject to securities class action litigation.***

In the past, securities class action litigation has often been brought against a company following a decline in the market price of its securities. This risk is especially relevant for us because biotechnology companies have experienced significant stock price volatility in recent years. If we face such litigation, it could result in substantial costs and a diversion of management's attention and resources, which could harm our business.

## **SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus contains forward-looking statements. All statements other than statements of historical facts contained in this prospectus, including statements regarding our future results of operations and financial position, business strategy, product candidate development, prospective products, product candidate approvals, research and development activities and costs, future revenue, timing and likelihood of success of our business plans, plans and objectives of management, future results and timing of clinical trials, treatment potential of our product candidates, and the market potential of our product candidates are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “expect,” “plan,” “anticipate,” “could,” “intend,” “target,” “project,” “contemplate,” “believe,” “estimate,” “predict,” “potential,” “would” or “continue” or the negative of these terms or other similar expressions, although not all forward-looking statements contain these words. The forward-looking statements in this prospectus are only predictions and are based largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements speak only as of the date of this prospectus and are subject to a number of known and unknown risks, uncertainties and assumptions, including those described under the sections in this prospectus entitled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and elsewhere in this prospectus. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified and some of which are beyond our control, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for management to predict all risk factors and uncertainties. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances or otherwise. The forward-looking statements contained in this prospectus are excluded from the safe harbor protection provided by the Private Securities Litigation Reform Act of 1995 and Section 27A of the Securities Act of 1933, as amended.

## **MARKET AND INDUSTRY DATA**

We obtained the industry, market and competitive position data in this prospectus from our own internal estimates and research as well as from industry and general publications and research, surveys and studies conducted by third parties. Industry publications, studies and surveys generally state that they have been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. While we believe that each of these studies and publications is reliable, we have not independently verified market and industry data from third-party sources. Management’s estimates are derived from publicly available information, their knowledge of our industry and their assumptions based on such information and knowledge, which we believe to be reasonable. While we believe our internal company research as to such matters is reliable and appropriate, such research has not been verified by any independent source. This data involves a number of assumptions and limitations which are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in “Risk Factors.” These and other factors could cause our future performance to differ materially from our assumptions and estimates.

## USE OF PROCEEDS

We estimate that the net proceeds to us from our issuance and sale of shares of our common stock in this offering will be approximately \$ \_\_\_\_\_ million, assuming an initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters' option to purchase additional shares from us is exercised in full, we estimate that our net proceeds will be approximately \$ \_\_\_\_\_ million.

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ \_\_\_\_\_ per share would increase (decrease) the net proceeds to us from this offering by approximately \$ \_\_\_\_\_ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each increase (decrease) of 1.0 million in the number of shares we are offering would increase (decrease) the net proceeds to us from this offering, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, by \$ \_\_\_\_\_ million, assuming the assumed initial public offering price stays the same.

We anticipate that we will use the net proceeds of this offering, together with our existing cash and cash equivalents, for the following purposes:

- approximately \$ \_\_\_\_\_ million for continued research and development of our portfolio of OECs, including preclinical studies and advancement through potential preclinical proof-of-concept of our lead programs;
- approximately \$ \_\_\_\_\_ million for IND-enabling studies and the potential initiation of clinical studies for certain of our current programs;
- approximately \$ \_\_\_\_\_ million for continued advancement of our platform technologies and discovery-stage research for other potential programs; and
- approximately \$ \_\_\_\_\_ million to lease and build out a facility to manufacture drug substance and drug product for clinical needs.

This expected use of the net proceeds from this offering represents our intentions based upon our current plans and business conditions, which could change in the future as our plans and business conditions evolve. We may also use a portion of the net proceeds to in-license, acquire, or invest in additional businesses, technologies, products or assets, although currently we have no specific agreements, commitments or understandings in this regard. We cannot predict with certainty all of the particular uses for the net proceeds to be received upon the closing of this offering or the amounts that we will actually spend on the uses set forth above. Predicting the cost necessary to develop product candidates can be difficult and we anticipate that we will need additional funds to complete the development of our product candidates. The amounts and timing of our actual expenditures and the extent of clinical development may vary significantly depending on numerous factors, including the progress of our development efforts, the status of and results from preclinical studies and clinical trials, as well as any collaborations that we may enter into with third parties for our product candidates and any unforeseen cash needs. As a result, our management will retain broad discretion over the allocation of the net proceeds from this offering.

Based on our planned use of the net proceeds of this offering and our existing cash and cash equivalents, we estimate that such funds will be sufficient to enable us to fund our operating expenses and capital expenditure requirements \_\_\_\_\_. We have based this estimate on assumptions that may prove to be incorrect, and we could use our available capital resources sooner than we currently



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expect. We may satisfy our future cash needs through the sale of equity securities, debt financings, working capital lines of credit, corporate collaborations or license agreements, grant funding, interest income earned on invested cash balances or a combination of one or more of these sources. We could use our available capital resources sooner than we currently expect, in which case we would need to obtain additional funding, which may not be available to use on acceptable terms, or at all. Our failure to raise capital as and when needed would have a negative impact on our financial condition and our ability to pursue our business strategy.

Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term and intermediate-term, investment-grade, interest-bearing instruments and U.S. government securities.

## DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain all available funds and future earnings, if any, for the operation and expansion of our business and do not anticipate declaring or paying any dividends in the foreseeable future. Any future determination related to our dividend policy will be made at the discretion of our board of directors after considering our financial condition, results of operations, capital requirements, contractual requirements, business prospects and other factors the board of directors deems relevant, and subject to the restrictions contained in any future financing instruments. In addition, the terms of our existing loan and security agreement with Pacific Western Bank preclude us from paying dividends on our equity securities without Pacific Western Bank's consent.

## CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization as of March 31, 2021, as follows:

- on an actual basis;
- on a pro forma basis to reflect:
  - the automatic conversion of all outstanding shares of our preferred stock into 131,008,559 shares of our common stock upon the closing of this offering;
  - the outstanding warrant to purchase an aggregate of 350,000 shares of our Series A preferred stock becoming a warrant to purchase 350,000 shares of our common stock upon the closing of this offering; and
  - the filing and effectiveness of our amended and restated certificate of incorporation.
- on a pro forma as adjusted basis to give further effect to our issuance and sale of \_\_\_\_\_ shares of our common stock in this offering at an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing. You should read this information in conjunction with our financial statements and the related notes appearing at the end of this prospectus and the “Use of Proceeds” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” sections and other financial information contained in this prospectus.

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	As of March 31, 2021		
	Actual	Pro Forma	Pro Forma as adjusted(1)
	(in thousands, except share and per share data)		
Cash and cash equivalents	\$137,767	\$137,767	
Preferred stock warrant liability	454	—	
Long-term debt, net of discount, including current portion	11,774	11,774	
Convertible preferred stock (Series A, B and C), par value \$0.001 per share; 132,858,564 shares authorized, 131,008,559 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	200,593	—	
Stockholders' (deficit) equity:			
Preferred stock, \$0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized and no shares issued or outstanding, pro forma and pro forma as adjusted	—	—	
Common stock, par value \$0.001 per share; 175,000,000 shares authorized, 17,173,168 shares issued and outstanding, actual; 175,000,000 share authorized, pro forma and pro forma as adjusted; 148,181,727 shares issued and outstanding, pro forma; shares issued and shares outstanding, pro forma as adjusted	17	148	
Additional paid-in capital	1,819	202,735	
Accumulated deficit	(79,713)	(79,713)	
Total stockholders' (deficit) equity	\$ (77,877)	\$123,170	\$ —
Total capitalization	\$134,944	\$134,944	\$ —

- (1) Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted amount of each of cash and cash equivalents, additional paid in capital, total stockholders' equity (deficit) and total capitalization by \$ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each increase (decrease) of 1.0 million shares in the number of shares offered by us at the assumed initial public offering price per share would increase (decrease) the pro forma as adjusted amount of each of cash and cash equivalents, additional paid in capital, total stockholders' equity (deficit) and total capitalization by approximately \$ million.

The number of shares in the table above excludes:

- 19,371,746 shares of our common stock issuable upon the exercise of stock options outstanding under the 2017 Plan, as of March 31, 2021, at a weighted-average exercise price of \$0.81 per share;
- shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 Plan that automatically increase the share reserve under the 2021 Plan;

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- shares of our common stock reserved for future issuance under our 2021 ESPP, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 ESPP that automatically increase the share reserve under the 2021 ESPP; and
- 350,000 shares of our common stock issuable upon the exercise of a warrant to purchase shares of our Series A preferred stock that will become a warrant to purchase shares of our common stock, at an exercise price of \$0.50 per share, upon the closing of this offering.

## DILUTION

If you invest in our common stock in this offering, your ownership interest will be immediately diluted to the extent of the difference between the initial public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock after this offering.

As of March 31, 2021, we had a historical net tangible book value of \$122.7 million, or \$7.15 per share of common stock. Our historical net tangible book value per share represents total tangible assets less total liabilities, divided by the number of shares of our common stock outstanding as of March 31, 2021.

Our pro forma net tangible book value as of March 31, 2021 was \$123.2 million, or \$0.83 per share. Pro forma net tangible book value represents the amount of our total tangible assets less total liabilities, after giving effect to the automatic conversion of all shares of our preferred stock outstanding as of March 31, 2021 into an aggregate of 131,008,559 shares of our common stock in connection with this offering. Pro forma net tangible book value per share represents our pro forma net tangible book value divided by the total number of shares outstanding as of March 31, 2021, after giving effect to the pro forma adjustment described above.

After giving further effect to receipt of the net proceeds from our issuance and the sale of \_\_\_\_\_ shares of our common stock in this offering at an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of \_\_\_\_\_ March 31, 2021 would have been \$ \_\_\_\_\_ million, or \$ \_\_\_\_\_ per share. This amount represents an immediate increase in pro forma net tangible book value of \$ \_\_\_\_\_ per share to our existing stockholders and an immediate dilution of approximately \$ \_\_\_\_\_ per share to new investors participating in this offering. We determine dilution by subtracting the pro forma as adjusted net tangible book value per share after this offering from the amount of cash that a new investor paid for a share of common stock. The following table illustrates this dilution:

Assumed initial public offering price per share		\$
Historical net tangible book value per share as of March 31, 2021	\$ 7.15	
Increase (decrease) per share attributable to the pro forma adjustment described above	(6.32)	
Pro forma net tangible book value (deficit) per share as of March 31, 2021	0.83	
Increase per share attributable to this offering		
Pro forma as adjusted net tangible book value per share after this offering		\$
Dilution per share to new investors in this offering		\$

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted net tangible book value per share after this offering by \$ \_\_\_\_\_ million, and dilution in pro forma net tangible book value per share to new investors by \$ \_\_\_\_\_, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each increase (decrease) of 1.0 million shares in the number of shares offered by us would increase (decrease) our pro forma as adjusted net tangible book value per share after this offering by \$ \_\_\_\_\_ per share and decrease (increase) the dilution to new investors by \$ \_\_\_\_\_ per share, assuming that the assumed initial public offering price remains the

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same, and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us.

If the underwriters exercise their option to purchase additional shares of our common stock in full, the pro forma as adjusted net tangible book value after this offering would be \$ \_\_\_\_\_ per share, the increase in pro forma net tangible book value per share would be \$ \_\_\_\_\_ and the dilution to new investors would be \$ \_\_\_\_\_ per share, in each case assuming an initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us.

The following table summarizes on the pro forma as adjusted basis described above, as of March 31, 2021, the differences between the number of shares purchased from us, the total consideration paid to us in cash and the average price per share that existing stockholders and new investors paid. The calculation below is based on an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, before deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

	Shares Purchased		Total Consideration		Average Price
	Number	Percent	Amount	Percent	Per Share
Existing stockholders	148,181,727	%	\$199,803,297	%	\$ 1.35
New investors					
Total		100.0%		100.0%	\$

A \$1.00 increase (decrease) in the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the total consideration paid by new investors by \$ \_\_\_\_\_ million and, in the case of an increase, would increase the percentage of total consideration paid by new investors by \_\_\_\_\_ percentage points and, in the case of a decrease, would decrease the percentage of total consideration paid by new investors by \_\_\_\_\_ percentage points, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. An increase (decrease) of 1.0 million shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase (decrease) the total consideration paid by new investors by \$ \_\_\_\_\_ million and, in the case of an increase, would increase the percentage of total consideration paid by new investors by \_\_\_\_\_ percentage points and, in the case of a decrease, would decrease the percentage of total consideration paid by new investors by \_\_\_\_\_ percentage points, assuming no change in the assumed initial public offering price.

The foregoing tables and calculations exclude:

- 19,371,746 shares of our common stock issuable upon the exercise of stock options outstanding, pursuant to the 2017 Plan, as of March 31, 2021 at a weighted-average exercise price of \$0.81 per share;
- \_\_\_\_\_ shares of our common stock reserved for future issuance under our 2021 Plan, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 Plan that automatically increase the share reserve under the 2021 Plan;
- \_\_\_\_\_ shares of our common stock that will become available for future issuance under our 2021 ESPP, which will become effective in connection with this offering, and shares of our common stock that become available pursuant to provisions in the 2021 ESPP that automatically increase the share reserve under the 2021 ESPP; and

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- 350,000 shares of our common stock issuable upon the exercise of a warrant to purchase shares of our Series A preferred stock that will become a warrant to purchase shares of our common stock, at an exercise price of \$0.50 per share, upon the closing of this offering.

To the extent that any outstanding options are exercised or new options are issued under our incentive award plans, or we issue additional shares of common stock or other securities convertible into or exercisable or exchangeable for shares of our capital stock in the future, there will be further dilution to investors participating in this offering.



## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our financial statements and related notes appearing elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors set forth in the "Risk Factors" section of this prospectus, our actual results could differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. Please also see the "Special note regarding forward-looking statements" section of this prospectus.

### Overview

At Omega Therapeutics, our goal is to pioneer a new class of DNA-sequence-targeting, mRNA-encoded therapeutics to fundamentally transform human medicine in the service of patients. Our pioneering OMEGA Epigenomic Programming platform is designed to coopt nature's universal operating system by harnessing the power of epigenetics, the mechanism for gene control and cell differentiation. We have deciphered the three-dimensional architecture of the human genome and its accompanying regulators, which are organized into distinct and evolutionarily conserved structures called Insulated Genomic Domains, or IGDs. IGDs are the fundamental structural and functional units of gene control and cell differentiation and act as the "control room" of biology. Most diseases are caused by aberrant gene expression rooted in alterations in IGDs. The OMEGA platform has enabled us to systematically identify and validate thousands of novel DNA-sequence-based epigenomic "zip codes" within IGDs. We call these epigenomic targets EpiZips. We rationally design and engineer modular, programmable mRNA-encoded epigenetic medicines, which we call Omega Epigenomic Controllers, or OECs, to target EpiZips for Precision Genomic Control. This enables us to precisely tune genes to a desired level of expression and to control the duration of expression. Through this approach, we believe that the OMEGA platform has broad potential applicability across a range of diseases and conditions. Our pipeline currently consists of early-stage, preclinical programs that span regenerative medicine, multigenic diseases including immunology, oncology, and select monogenic diseases. We have conducted *in vivo* preclinical studies of our OECs in multiple disease models for various indications, including HCC, NSCLC, and ARDS, and we expect to conduct *in vivo* preclinical studies for multiple additional programs. If successful, we plan to initiate IND-enabling studies for multiple programs beginning in

Since our inception, we have incurred significant operating losses. We have not commercialized any products and have never generated any revenue from product sales. We have devoted almost all of our financial resources to research and development, including our preclinical development activities and preparing for clinical trials of our product candidates. To date, we have funded our operations primarily with proceeds from sales of equity securities and borrowings under our loan and security agreement.

As of December 31, 2020, we had cash and cash equivalents of \$23.0 million. In March 2021, we received \$125.5 million in gross proceeds from the issuance and sale of our Series C redeemable convertible preferred stock, the Series C Preferred Stock. Our ability to generate product revenue will depend on the successful development, regulatory approval, and eventual commercialization of one or more of our product candidates. Until such time, if ever, as we can generate substantial product revenue, we expect to finance our operations through equity offerings, debt financings, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements, or other sources. Additional sources of financing might not be available to us on favorable terms, if at all.

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If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce, or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

We expect to continue to incur significant additional operating losses for the foreseeable future as we seek to advance product candidates through clinical development, continue preclinical development, expand our research and development activities, develop new product candidates, complete preclinical studies and clinical trials, seek regulatory approval and, if we receive regulatory approval, commercialize our products. Our expenses will also increase substantially if or as we:

- continue our research and development efforts and submit INDs for our product candidates;
- initiate and conduct clinical trials of our product candidates;
- continue to engineer and develop additional product candidates;
- continue to develop the OMEGA platform;
- seek regulatory and marketing approvals for product candidates that successfully complete clinical trials, if any;
- establish manufacturing and supply chain capacity sufficient to provide clinical and, if applicable, commercial quantities of product candidates, including building our own manufacturing facility;
- establish a sales, marketing, internal systems and distribution infrastructure to commercialize any products for which we may obtain regulatory approval, if any, in geographies in which we plan to commercialize our products ourselves;
- maintain, expand, protect and enforce our intellectual property estate;
- hire additional staff, including clinical, scientific, technical, regulatory, operational, financial, commercial, and support personnel, to execute our business plan and support our product development and potential future commercialization efforts;
- enter into collaborations or licenses for new technologies;
- make royalty, milestone, or other payments under our current and any future in-license agreements;
- incur additional legal, accounting, and other expenses in operating our business; and
- operate as a public company.

### **Impact of COVID-19 on our business**

The worldwide COVID-19 pandemic may affect our ability to initiate and complete preclinical studies, delay the initiation of our future clinical trials, or have other adverse effects on our business, results of operations, financial condition, and prospects. In addition, the pandemic has caused substantial disruption in the financial markets and may adversely impact economies worldwide, both of which could adversely affect our business, operations and ability to raise funds to support our operations.

To date, we have not experienced material business disruptions as a result of the pandemic. We are following, and plan to continue to follow, recommendations from federal, state and local

governments regarding workplace policies, practices and procedures. In response to the direction from state and local governmental authorities, we have restricted access to our facility to those individuals who must perform critical research and laboratory support activities that must be completed on site, limited the number of such people that can be present at our facility at any one time and required that most of our employees work remotely. In addition, the third-party contract research organizations, or CROs, and contract development and manufacturing organizations, or CDMOs, that we engage have faced in the past and may face in the future disruptions that could affect our ability to initiate and complete preclinical studies, including disruptions in procuring items that are essential for our research and development activities, such as, for example, raw materials used in the manufacture of our product candidates and laboratory supplies for our preclinical studies, for which there may be shortages because of ongoing efforts to address the COVID-19 pandemic.

We cannot be certain what the overall impact of the COVID-19 pandemic will be on our business, and the pandemic has the potential to adversely affect our business, financial condition, results of operations, and prospects.

## **Components of our results of operations**

### ***Revenue***

To date, we have not generated any revenue from any sources, including product sales, and do not expect to generate any revenue from the sale of products for the foreseeable future. If our development efforts for our product candidates are successful and result in regulatory approval or collaboration or license agreements with third parties, we may generate revenue in the future from product sales, payments from collaboration or license agreements that we may enter into with third parties or any combination thereof. We cannot predict if, when or to what extent we will generate revenue from the commercialization and sale of our product candidates. We may never succeed in obtaining regulatory approval for any of our product candidate.

### ***Operating expenses***

#### ***Research and development expenses***

Research and development expenses consist primarily of costs incurred in performing research and development activities, which include:

- personnel-related expenses, including salaries, bonuses, benefits, and stock-based compensation for employees engaged in research and development functions;
- expenses incurred in connection with the discovery and preclinical development of our research programs, including under agreements with third parties, such as consultants, contractors, CROs and CDMOs that manufacture material for use in our discovery and preclinical development;
- laboratory supplies and research materials;
- costs of licensing technology; and
- facilities, depreciation, and other expenses which include direct and allocated expenses.

We expense research and development costs as incurred. Costs for research and development activities are recognized based on an evaluation of the progress to completion of specific tasks using information provided to us by our vendors. Payments for these activities are based on the terms of the individual agreements, which may differ from the pattern of costs incurred, and are reflected in our financial statements as prepaid or accrued research and development expenses. Nonrefundable

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advance payments that we make for goods or services to be received in the future for use in research and development activities are recorded as prepaid expenses and expensed as the related goods are delivered or the services are performed.

We do not track the research and development expenses on a program-by-program basis for our product candidates, and we do not allocate costs associated with our discovery efforts, laboratory supplies and facilities, including depreciation or other indirect costs, to specific programs because these costs are deployed across multiple programs and the OMEGA platform. We use internal resources primarily to conduct our research and discovery activities as well as for managing our preclinical development, process development, manufacturing and clinical development activities. These employees work across multiple programs and our technology platform and, therefore, we do not track these costs by program.

We expect that our research and development expenses will continue to increase as we continue our current discovery and research programs, initiate new research programs, continue preclinical development of our product candidates and conduct future clinical trials for any of our product candidates.

### *General and administrative expenses*

General and administrative expenses consist primarily of salaries and other related costs such as bonuses and benefits, including stock-based compensation, for personnel in our executive, finance, legal, human resources, corporate business development, and administrative functions. General and administrative expenses also include professional fees for legal, patent, accounting, information technology, auditing, tax, consulting services, and facility-related expenses, which include direct depreciation costs and allocated expenses for rent and maintenance of facilities and other operating costs.

We expect that our general and administrative expenses will increase in the future as we increase our headcount to support our continued research and development and potential commercialization of our product candidates. We also expect to incur increased expenses associated with being a public company, including costs of accounting, audit, legal, regulatory, and tax compliance services, director and officer insurance costs, and investor and public relations costs.

### *Related party expense, net*

Related party expense, net consists primarily of fees paid to Flagship Pioneering, or Flagship, for their management services provided to us, as well as reimbursements for certain expenses, including insurance and benefits, partner and related fees, and software licenses incurred on our behalf. Additionally, our principal office and laboratory space is leased with an affiliate of Flagship, and we also sublease our other office and laboratory space to two other parties which are affiliates of Flagship. The rent expense and costs related to our principal office and laboratory space, including real estate taxes, insurance, and normal maintenance costs, are considered as related party expenses. Such related party expenses are offset with sublease income received from our related parties, which is comprised of base rent and costs related to the subleased premises such as real estate taxes, cost of operations, maintenance, repair, replacement, and property management.

### ***Other expense, net***

#### *Interest expense, net*

Interest expense, net primarily consists of interest payments as well as the amortization of the debt discount related to our loan and security agreement.

[Table of Contents](#)*Other expense, net*

Other expense, net primarily consists of the remeasurement gains or losses associated with changes in the fair value of the warrant liability and the success fee obligation related to our loan and security agreement. Until settlement, fluctuations in the fair value of our warrant liability and success fee obligation are based on the remeasurement at each reporting period.

**Results of operations****Comparison for the three months ended March 31, 2021 and 2020**

The following table summarizes the results of our operations for the three months ended March 31, 2021 and 2020, together with the changes in those items in thousands of dollars and as a percentage.

	Three months ended March 31,		\$ Increase / (Decrease)	% Change
	2021	2020		
Operating expenses:				
Research and development	\$ 9,748	\$ 3,521	\$ 6,227	177%
General and administrative	2,745	1,365	1,380	101%
Related party expense, net	449	342	107	31%
Total operating expenses	<u>12,942</u>	<u>5,228</u>	<u>7,714</u>	<u>148%</u>
Loss from operations	(12,942)	(5,228)	7,714	148%
Other expense, net:				
Interest expense, net	(212)	(194)	18	9%
Change in fair value of warrant liability	(330)	4	334	8350%
Other expense, net	(4)	—	4	100%
Total other expense, net	<u>(546)</u>	<u>(190)</u>	<u>356</u>	<u>187%</u>
Net loss and comprehensive loss	<u>\$(13,488)</u>	<u>\$(5,418)</u>	<u>\$ 8,070</u>	<u>149%</u>

*Research and development expenses*

Research and development expenses were \$9.7 million and \$3.5 million for the three months ended March 31, 2021 and 2020, respectively. The following table summarizes our research and development expenses by nature (in thousands).

	Three months ended March 31,	
	2021	2020
Personnel-related expenses	\$ 1,746	\$ 1,190
Discovery and preclinical development costs, including third-party costs (consultants, contractors, and CDMO)	4,680	814
Other research and development costs, including laboratory materials and supplies	1,113	843
Costs of licensing technology	1,432	—
Facilities and overhead expenses	777	674
<b>Total research and development expenses</b>	<b><u>\$ 9,748</u></b>	<b><u>\$ 3,521</u></b>

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The research and development expenses increased \$6.2 million from the first quarter of 2020 to the first quarter of 2021, which was primarily driven by the following:

- Increase of \$0.6 million in personnel-related expenses. The increase was due to the growth in the number of employees in the research and development function;
- Increase of \$3.9 million in discovery and preclinical development costs. The increase was due to our continued research and development efforts in the discovery and preclinical development.
- Increase of \$1.4 million in costs of licensing technology. The increase was due to the option exercise fee we were required to pay upon the execution of the first non-exclusive license agreement with Acuitas Therapeutics, Inc., or Acuitas.

### *General and administrative expenses*

General and administrative expenses were \$2.7 million and \$1.4 million for the three months ended March 31, 2021 and 2020, respectively. The increase of \$1.3 million was primarily driven by an increase of \$0.8 million in employee related expenses due to an increased number of employees in general and administrative functions. In addition, there was an increase of \$0.4 million in professional fees, primarily related to audit and legal services as we prepare to operate as a public company, as well as costs associated with ongoing business activities.

### *Related party expense, net*

Related party expenses, net was \$0.4 million and \$0.3 million for the three months ended March 31, 2021 and 2020, respectively. The increase of \$0.1 million was primarily driven by the \$0.6 million of lease expense and the related costs incurred for our principal office and laboratory space, in which the lease term started in August 2020. The increase was offset by the \$0.5 million sublease income earned from LARONDE, Inc., for which the sublease agreement started in September 2020.

### *Interest expense, net*

Interest expense, net was relatively consistent for both of the three-month periods ended March 31, 2021 and 2020, which was \$0.2 million.

### *Change in fair value of warrant liability*

During the three months ended March 31, 2021, we recorded an expense of \$0.3 million from an increase in the fair value of our warrant liability, primarily due to the increase in the value of our preferred stock underlying the outstanding warrants.

### *Other expense, net*

Other expense, net was not significant for both of the three-month periods ended March 31, 2021 and 2020.

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**Comparison for the years ended December 31, 2020 and 2019**

The following table summarizes the results of our operations for the years ended December 31, 2020 and 2019, together with the changes in those items in thousands of dollars and as a percentage.

	Year ended December 31,		\$ Increase / (Decrease)	% Change
	2020	2019		
Operating expenses:				
Research and development	\$ 21,063	\$ 11,931	\$ 9,132	77%
General and administrative	6,236	4,227	2,009	48%
Related party expense, net	1,346	1,181	165	14%
Total operating expenses	<u>28,645</u>	<u>17,339</u>	<u>11,306</u>	65%
Loss from operations	(28,645)	(17,339)	11,306	65%
Other expense, net:				
Interest expense, net	(777)	(595)	182	31%
Other expense, net	(25)	(11)	14	127%
Total other expense, net	<u>(802)</u>	<u>(606)</u>	<u>196</u>	32%
Net loss and comprehensive loss	<u>\$ (29,447)</u>	<u>\$ (17,945)</u>	<u>\$ 11,502</u>	64%

*Research and development expenses*

Research and development expenses were \$21.1 million and \$11.9 million for the years ended December 31, 2020 and 2019, respectively. The following table summarizes our research and development expenses by nature (in thousands).

	Year ended December 31,	
	2020	2019
Personnel-related expenses	\$ 6,194	\$ 4,549
Discovery and preclinical development costs, including third-party costs (consultants, contractors, and CDMO)	6,528	2,826
Other research and development costs, including laboratory materials and supplies	4,930	2,088
Costs of licensing technology	686	—
Facilities and overhead expenses	2,725	2,468
<b>Total research and development expenses</b>	<b><u>\$21,063</u></b>	<b><u>\$11,931</u></b>

The research and development expenses increased \$9.2 million from 2019 to 2020, which was primarily driven by the following:

- Increase of \$1.6 million in personnel-related expenses. The increase was due to the growth in the number of employees in the research and development function;
- Increase of \$3.7 million in discovery and preclinical development costs and increase of \$2.8 million in laboratory materials and supplies. The increases were due to our increasing research and development efforts in the discovery and preclinical development.
- Increase of \$0.7 million in costs of licensing technology. The increase was primarily due to the various fees we paid under the development and option agreement with Acuitas.

*General and administrative expenses*

General and administrative expenses were \$6.2 million and \$4.2 million for the years ended December 31, 2020 and 2019, respectively. The increase of \$2.0 million was primarily driven by an

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increase of \$0.9 million in employee related expenses due to an increased number of employees in general and administrative functions. The increase was also attributed to an increase of \$0.3 million in stock-based compensation due to the equity awards issued to our senior management as well as an increase in the fair value of our common stock during 2020. Additionally, there was an increase of \$0.2 million in professional fees, primarily related to the increased legal costs incurred in connection with our ongoing business operations.

### *Related party expense, net*

Related party expense, net was \$1.3 million and \$1.2 million for the years ended December 31, 2020 and 2019, respectively. The increase of \$0.1 million was primarily driven by the \$1.0 million of lease expense and the related costs incurred for our principal office and laboratory space, offset by the \$0.7 million sublease income earned and \$0.2 million lower expenses incurred for Flagship's management services and other reimbursements.

### *Interest expense, net*

Interest expense, net was \$0.8 million and \$0.6 million for the years ended December 31, 2020 and 2019, respectively. The increase of \$0.2 million was primarily driven by a higher amount of outstanding debt principal throughout 2020 compared to 2019. We initially entered into a loan and security agreement in 2018 for an aggregate principal amount of \$8.0 million. In September 2019, we entered into an amendment with the lender to borrow an additional term loan, in an aggregate principal amount of \$12.0 million.

### *Other expense, net*

Other expense, net was \$25 thousand for the year ended December 31, 2020, which is relatively consistent with other expense, net for the year ended December 31, 2019.

## **Liquidity and capital resources**

### **Sources of liquidity**

Since our inception, we have incurred significant operating losses. We expect to incur significant expenses and operating losses for the foreseeable future as we support our continued research activities and development of our programs and platform. We have not yet commercialized any products, and we do not expect to generate product revenue for several years, if at all. To date, we have funded our operations primarily with proceeds from sales of equity securities and borrowings under our loan and security agreement.

### *Cash flows*

The following table summarizes our sources and uses of cash for each of the periods presented (in thousands):

	Three months ended March 31,		Year ended December 31,	
	2021	2020	2020	2019
Net cash used in operating activities	\$ (10,549)	\$ (5,732)	\$ (26,133)	\$ (15,679)
Net cash used in investing activities	(48)	(68)	(1,808)	(885)
Net cash provided by financing activities	125,413	36,045	48,618	11,985
Net increase (decrease) in cash, cash equivalents, and restricted cash	114,816	30,245	20,677	(4,579)



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### *Operating activities*

Net cash used in operating activities totaled \$10.5 million in the three months ended March 31, 2021 compared to net cash used in operating activities of \$5.7 million in the three months ended March 31, 2020. The \$4.8 million increase in operating cash outflows was primarily attributable to \$8.1 million higher net loss recognized during the three months ended March 31, 2021, offset by net cash provided by changes in our operating assets and liabilities of \$2.8 million.

Net cash used in operating activities totaled \$26.1 million in the year ended December 31, 2020 compared to net cash used in operating activities of \$15.7 million in the year ended December 31, 2019. The \$10.4 million increase in operating cash outflows was primarily attributable to higher net loss recognized year over year, mostly driven by the increased activities in our discovery and preclinical developments.

### *Investing activities*

Net cash used in investing activities totaled \$48 thousand in the three months ended March 31, 2021, which is relatively consistent with the net cash used in investing activities in the three months ended March 31, 2020.

Net cash used in investing activities totaled \$1.8 million in the year ended December 31, 2020 compared to net cash used in investing activities of \$0.9 million in the year ended December 31, 2019. The \$0.9 million increase in investing cash outflows was primarily attributable to additional capital expenditures resulting from our office move and investment in laboratory equipment as we expanded our discovery and preclinical activities.

### *Financing activities*

Net cash provided by financing activities for the three months ended March 31, 2021 consisted primarily of the gross proceeds from the issuance of Series C Preferred Stock of \$125.5 million. Net cash provided by financing activities for the three months ended March 31, 2020 consisted primarily of the gross proceeds from the first closing of the issuance of Series B redeemable convertible preferred stock, Series B Preferred Stock, of \$36.1 million.

Net cash provided by financing activities for the year ended December 31, 2020 consisted primarily of the gross proceeds from the issuance of Series B Preferred Stock of \$48.6 million. Net cash provided by financing activities for the year ended December 31, 2019 consisted primarily of the gross proceeds from the issuance of Series A redeemable convertible preferred stock of \$8.0 million as well as the incremental debt borrowing of \$4.0 million.

### ***Loan and security agreement***

In March 2018, we entered into the loan and security agreement, Loan Agreement, with Pacific Western Bank, or PWB, under which we borrowed \$8.0 million pursuant to Tranche I and Tranche II. In September 2019, we entered into an amendment to the Loan Agreement, or First Amendment, in which PWB made an additional term loan to us in an aggregate principal amount of \$12.0 million. The proceeds of the First Amendment was first applied to the repayment in full of all outstanding principal and accrued interest on the outstanding term loan of \$8.0 million under Tranche I and Tranche II; the remaining cash proceeds of \$4.0 million was used for general working capital and for capital expenditures purposes.

In December 2020, we entered into a further amendment to extend the principal repayment date, and there was no additional proceeds taken under this amendment. The maturity date of the term loan is December 31, 2023, and it is to be repaid beginning on December 31, 2021 in twenty-four equal

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installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after December 30, 2020. As of December 31, 2020, the interest rate applicable to the term loan was 6.0% and the interest payment on the outstanding term loan was less than \$0.1 million per month.

Borrowings under the Loan agreement, as amended, are collateralized by substantially all of our personal property, other than our intellectual property. There are no financial covenants associated with the Loan Agreement, as amended; however, we are subject to certain affirmative and negative covenants to which we will remain subject until maturity.

### **Funding requirements**

As of December 31, 2020, we had cash and cash equivalents of \$23.0 million. In March 2021, we received \$125.5 million in gross proceeds from the issuance and sale of our Series C redeemable convertible preferred stock. Without giving effect to the net proceeds from this offering, we do not have sufficient cash and cash equivalents on hand to support current operations for at least one year from the date of issuance of the financial statements appearing elsewhere in this prospectus. As a result, there is substantial doubt about our ability to continue as a going concern for at least one year from the date of issuance of our financial statements included elsewhere in this prospectus. We will need to raise additional capital in this offering and/or otherwise to fund our future operations. However, we cannot guarantee that we will be able to obtain sufficient additional funding in this offering or otherwise or that such funding, if available, will be obtainable on terms satisfactory to us. In the event that we are unable to obtain sufficient additional funding, there can be no assurance that we will be able to continue as a going concern.

We expect that our expenses will increase substantially in connection with our ongoing activities, particularly as we advance preclinical activities and into clinical trials for our product candidates in development. In addition, upon the closing of this offering, we expect to incur additional costs associated with operating as a public company. The timing and amount of our operating and capital expenditures will depend largely on:

- the scope, progress, results, and costs of our preclinical studies and any future clinical trials;
- the timing of, and the costs involved in, obtaining marketing approvals for our current and future product candidates in regions where we choose to commercialize any products;
- the number of future product candidates and potential additional indications that we may pursue and their development requirements;
- the stability, scale, yield, and cost of our manufacturing process as we scale-up production and formulation of our product candidates for clinical trials, in preparation for regulatory approval and in preparation for commercialization, including our ability to build our own manufacturing facility;
- the costs of commercialization activities for any approved product, including the costs and timing of establishing product sales, marketing, distribution, and manufacturing capabilities;
- revenue, if any, received from commercial sales of our products, should any of our product candidates receive marketing approval;
- the costs and timing of changes in pharmaceutical pricing and reimbursement infrastructure;
- the costs and timing of changes in the regulatory environment and enforcement rules;
- our ability to compete with other therapeutics in the indications we target;
- the effect of competing technological and market developments;

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- the extent to which we enter into collaborations or licenses for products, product candidates, or technologies;
- our headcount growth and associated costs as we expand our research and development capabilities and establish a commercial infrastructure;
- the costs of preparing, filing, and prosecuting patent applications and maintaining and protecting our intellectual property rights, including enforcing and defending intellectual property-related claims;
- the costs of operating as a public company; and
- the severity, duration, and impact of the COVID-19 pandemic, which may adversely impact our business.

We believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will enable us to fund our operating expenses and capital expenditure requirements. We have based this estimate on assumptions that may prove to be incorrect, and we could utilize our available capital resources sooner than we expect.

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our operations through equity offerings, debt financings, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements, or other sources. To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a common stockholder. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our operations, our ability to take specific actions, such as incurring additional debt, making capital expenditures, declaring dividends, redeeming our stock, making certain investments, and engaging in certain merger, consolidation, or asset sale transactions, among other restrictions. If we raise additional funds through collaborations, strategic alliances, or marketing, distribution or licensing arrangements with third parties, we may be required to relinquish valuable rights to our technologies, future revenue streams, or product candidates or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce, or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

### **Contractual obligations**

We enter into contracts in the normal course of business with CROs, CDMOs, and other third parties for preclinical research studies and testing and manufacturing services. These contracts typically do not contain minimum purchase commitments and are generally cancelable by us upon written notice. Payments due upon cancellation consist of payments for services provided or expenses incurred, including noncancelable obligations of our service providers, up to the date of cancellation and in the case of certain arrangements with CROs and CDMOs may include non-cancelable fees. The amount and timing of such payments are not known.

We have also entered into license agreements with Flagship Pioneering Innovations V, Inc., Whitehead Institute for Biomedical Research, and Acuitas, under which we are obligated to make potential milestone payments, royalty payments, or both. Such payments are dependent upon the development of products using the intellectual property licensed under the agreements and are contingent upon the occurrence of future events; as such, the timing and likelihood of such potential obligations are not known with certainty.

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As described previously, we borrowed an aggregate principal amount of \$12.0 million under the Loan Agreement, as amended. Pursuant to the terms of the Loan Agreement, as amended, interest payment on the outstanding term loan is less than \$0.1 million per month, and we are obligated to repay \$0.5 million of principal payment per month, starting December 31, 2021 until the maturity date of December 31, 2023.

In July 2020, we entered into a Shared Space Agreement with an affiliate of Flagship for our principal office and laboratory space. The Shared Space Arrangement commenced on August 1, 2020 and continues through July 31, 2022 with two options to extend the term for a period of 24 months each. Our lease payments for the remainder of the lease term will be approximately \$0.2 million per month.

We also have another office and laboratory space which was under a noncancelable lease agreement entered in 2017 and will expire in September 2024. Our lease payments for the remainder of the lease term will be approximately \$0.1 million per month. In September 2020, the space has been fully subleased to two other parties, which are affiliates of Flagship. The sublease agreements will end between 2021 and 2024.

### **Critical accounting policies and estimates**

Our management's discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the U.S., or GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, costs and expenses. On an ongoing basis, we evaluate these estimates and judgments, including those described below. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results and experiences may differ materially from these estimates.

While our significant accounting policies are more fully described in Note 2 - *Summary of Significant Accounting Policies* in the Notes to Financial Statements appearing at the end of this prospectus, we believe that the following accounting policies are those most critical to the judgments and estimates used in the preparation of our financial statements.

#### **Accrued research and development expenses**

As part of the process of preparing our financial statements, we are required to estimate our accrued research and development expenses. This process involves reviewing open contracts and purchase orders, communicating with our applicable personnel to identify services that have been performed on our behalf and estimating the level of service performed and the associated cost incurred for the service when we have not yet been invoiced or otherwise notified of actual costs. The majority of our service providers invoice us in arrears for services performed, on a pre-determined schedule or when contractual milestones are met; however, some require advance payments. We make estimates of our accrued expenses as of each balance sheet date in the financial statements based on facts and circumstances known to us at that time. We periodically confirm the accuracy of these estimates with the service providers and make adjustments, if necessary. Examples of estimated accrued research and development expenses include fees paid to vendors in connection with preclinical development activities, CROs in connection with research activities, and CDMOs in connection with the production of research materials.

We estimate accrued research and development expenses based on our estimates of the services received and efforts expended pursuant to quotes and contracts with third-party service

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providers, including CROs and CDMOs that supply, conduct and manage preclinical studies our behalf. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. There may be instances in which payments made to our vendors will exceed the level of services provided and result in a prepayment of the expense, in which it will be evaluated for current or long-term classification based on when it is expected to be realized. In accruing service fees, we estimate the time period over which services will be performed and the level of effort to be expended in each period. If the actual timing of the performance of services or the level of effort varies from the estimate, we adjust the accrual or the amount of prepaid expenses accordingly. Although we do not expect our estimates to be materially different from amounts actually incurred, our understanding of the status and timing of services performed relative to the actual status and timing of services performed may vary and may result in changes in estimates that increase or decrease amounts recognized in any particular period. To date, there have not been any material adjustments to our prior estimates of accrued research and development expenses.

### ***Stock-based compensation***

We measure our stock option awards based on the fair value on the date of the grant using the Black-Scholes option-pricing model. The fair value of our stock option awards is estimated using the following inputs: (1) fair value of our common stock, (2) assumptions we make for the expected volatility of our common stock, (3) the expected term of our stock option awards, (4) the risk-free interest rate for a period that approximates the expected term of our stock option awards, and (5) our expected dividend yield, if any. The fair value of our common stock is used to determine the fair value of restricted stock awards.

Compensation expense for our stock-based compensation awards is recognized over the requisite service period, which is generally the vesting period of the respective award. We recognize forfeitures as they occur. We use the straight-line method to record the expense of awards with service-based vesting conditions.

### ***Determination of the fair value of common stock***

As there is no public market for our common stock, the estimated fair value of our common stock is determined by our board of directors as of the date of each option grant, with input from management, considering our most recently available third-party valuations of common stock and our board of directors' assessment of additional objective and subjective factors that it believes are relevant and which may have changed from the date of the most recent valuation through the date of the grant. These third-party valuations are performed in accordance with the guidance outlined in the American Institute of Certified Public Accountants' Accounting and Valuation Guide, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*. Our common stock valuations are prepared using either an option pricing method, or OPM, or a hybrid method of the probability-weighted expected return method, or PWERM, both of which use market approaches to estimate our enterprise value. The OPM treats common stock and redeemable convertible preferred stock as call options on the total equity value of a company, with exercise prices based on the value thresholds at which the allocation among the various holders of a company's securities changes. Under this method, the common stock has value only if the funds available for distribution to stockholders exceeds the value of the redeemable convertible preferred stock liquidation preferences at the time of the liquidity event, such as a strategic sale or a merger. A discount for lack of marketability of the common stock is then applied to arrive at an indication of value for the common stock.

The hybrid method is a probability-weighted expected return method, or PWERM, by which the equity value in one or more scenarios is calculated using an OPM. The PWERM is a scenario-based methodology that estimates the fair value of common stock based upon an analysis of future values for the company, assuming various outcomes. The common stock value is based on the probability-

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weighted present value of expected future investment returns considering each of the possible outcomes available as well as the rights of each class of stock. The future value of the common stock under each outcome is discounted back to the valuation date at an appropriate risk-adjusted discount rate and probability weighted to arrive at an indication of value for the common stock.

These independent third-party valuations were performed at various dates, which resulted in estimated valuations of our common stock by our board of directors of \$0.16 per share as of June 30, 2019, \$0.68 per share as of July 31, 2020, \$1.50 per share as of March 18, 2021, and \$1.73 per share as of April 30, 2021. In addition to considering the results of these third-party valuations, our board of directors considers various objective and subjective factors to determine the fair value of our common stock as of each grant date, including:

- the price at which we sold shares of redeemable convertible preferred stock and the superior rights and preferences of the redeemable convertible preferred stock relative to our common stock at the time of each grant;
- the progress of our research and development programs, including the status and results of preclinical studies for our product candidates;
- our stage of development and our business strategy and the material risks related to our business and industry;
- external market conditions affecting the biopharmaceutical industry and the material risks related to our business and industry, and trends within the biopharmaceutical industry;
- our financial position, including cash on hand, and our historical and forecasted performance and operating results;
- the lack of an active public market for our common stock and our redeemable convertible preferred stock;
- the likelihood of achieving a liquidity event, such as an initial public offering, or a sale of our company in light of prevailing market conditions; and
- the analysis of initial public offerings and the market performance of similar companies in our industry.

The assumptions underlying these valuations represent management's best estimates, which involved inherent uncertainties and the application of management's judgment. As a result, if we use significantly different assumptions or estimates, the fair value of our common stock and our stock-based compensation expense could be materially different.

Following the closing of this offering, the fair value of our common stock will be determined based on the quoted market price of our common stock.

### **Recently Issued Accounting Pronouncements**

We have reviewed all recently issued accounting pronouncements and have determined that, other than as disclosed in Note 2 - *Summary of Significant Accounting Policies* in the Notes to Financial Statements appearing at the end of this prospectus, such standards will not have a material impact on our financial statements or do not otherwise apply to our current operations.

### **Quantitative and qualitative disclosures about market risks**

We are exposed to certain market risks in the ordinary course of our business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial

market prices and rates. Our market risk exposure is primarily the result of changes in interest rates. We are not currently exposed to significant market risk related to changes in foreign currency exchange rates; however, we do contract with vendors that are located outside of the United States and may be subject to fluctuations in foreign currency rates. We may enter into additional contracts with vendors located outside of the United States in the future, which may increase our foreign currency exchange risk.

#### ***Interest rate risk***

As of December 31, 2020, we had cash and cash equivalents of \$23.0 million. Our exposure to interest rate sensitivity is impacted by changes in the general level of U.S. interest rates. Our surplus cash has been invested in interest-bearing savings account from time to time, and we have not entered into investments for trading or speculative purposes. Due to the conservative nature of our investment portfolio, which is predicated on capital preservation of investments with short-term maturities, we do not believe an immediate 10% change in interest rates would have a material effect on the fair market value of our portfolio, and therefore, we do not expect our operating results or cash flows to be significantly affected by changes in market interest rates.

As of December 31, 2020, we had borrowings of \$12.0 million outstanding under our loan and security agreement with Pacific Western Bank. Outstanding borrowings bear interest at a variable rate equal to the greater of (i) 0.75% above the bank's prime rate then in effect or (ii) 6.00%. An immediate 10% change in the variable interest rate would not have had a material impact on our debt-related obligations, financial position or results of operations.

#### **Emerging growth company status**

We qualify as an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As a result, we may take advantage of specified reduced disclosure and other reporting requirements that are otherwise applicable generally to public companies. In particular, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. We have elected not to "opt out" of such extended transition period, which means that when a standard is issued or revised and it has different application dates for public or private companies, we may adopt the new or revised standard at the time private companies adopt the new or revised standard and may do so until such time that we either (i) irrevocably elect to "opt out" of such extended transition period or (ii) no longer qualify as an emerging growth company. For additional information, see "Prospectus Summary—Implications of Being an Emerging Growth Company and a Smaller Reporting Company."

## BUSINESS

### Overview

At Omega Therapeutics, our goal is to pioneer a new class of DNA-sequence-targeting, mRNA-encoded therapeutics to fundamentally transform human medicine in the service of patients. Our pioneering OMEGA Epigenomic Programming platform is designed to coopt nature's universal operating system by harnessing the power of epigenetics, the mechanism for gene control and cell differentiation. We have deciphered the three-dimensional architecture of the human genome and its accompanying regulators, which are organized into distinct and evolutionarily conserved structures called Insulated Genomic Domains, or IGDs. IGDs are the fundamental structural and functional units of gene control and cell differentiation and act as the "control room" of biology. Most diseases are caused by aberrant gene expression rooted in alterations in IGDs. The OMEGA platform has enabled us to systematically identify and validate thousands of novel DNA-sequence-based epigenomic "zip codes" within IGDs. We call these epigenomic targets EpiZips. We rationally design and engineer modular, programmable mRNA-encoded epigenetic medicines, which we call Omega Epigenomic Controllers, or OECs, to target EpiZips for Precision Genomic Control. This enables us to precisely tune genes to a desired level of expression and to control the duration of expression. Through this approach, we believe that the OMEGA platform has broad potential applicability across a range of diseases and conditions. Our pipeline currently consists of early-stage, preclinical programs that span regenerative medicine, multigenic diseases including immunology, oncology, and select monogenic diseases. We have conducted *in vivo* preclinical studies of our OECs in multiple disease models for various indications, including hepatocellular carcinoma, or HCC, non-small cell lung cancer, or NSCLC, and acute respiratory distress syndrome, or ARDS, and we expect to conduct *in vivo* preclinical studies for multiple additional programs. If successful, we plan to initiate IND-enabling studies for multiple programs beginning in

The OMEGA platform consists of four pillars:

- 1. Proprietary Database of IGDs and EpiZips.** Thousands of novel DNA-sequence-based epigenomic targets covering over 90% of human IGDs, identified through proprietary algorithms and machine-learning tools mining our own and public databases.
- 2. Modular Programmable Epigenetic Medicines Encoded as mRNA (OECs).** Engineered and modular mRNA-encoded medicines with a DNA-binding protein to target a specific EpiZip and an effector protein to up- or down-regulate gene expression and control the duration of expression.
- 3. Engineered, Customized Drug Delivery.** Lipid-nanoparticle, or LNP, delivery technology validated in third-party clinical trials. Deep formulation expertise to engineer and customize technological improvements. Continued innovation in other emerging technologies.
- 4. Industry-Leading Expertise.** Codified learnings and insights gleaned from lead programs to continue optimizing the platform and inform the discovery and development of subsequent product candidates. Continued additions to the knowledge bank of EpiZips and OECs.

These pillars are supported by our deep and growing expertise in cutting-edge computational techniques, machine learning, and proprietary algorithms and a world-class and talented team. These foundations enable us to achieve data-driven decision-making, new scientific insights into complex biology, and the acceleration of engineered solutions in drug development.

We believe that the OMEGA platform has the following advantages:

- Pioneering IGDs and EpiZips as novel therapeutic targets.



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- Precision genomic control with tunable and durable effect with the potential to re-dose.
- Single and/or multiple gene control with a single therapeutic.
- Ability to multiplex within or across IGDs for synergistic effect.
- No changes in nucleic acid sequences.
- Ability to accelerate numerous programs in parallel with real-time, data-driven decision-making.

We believe that the Precision Genomic Control delivered by the OMEGA platform has broad therapeutic applicability and transformational potential, initially spanning across:

- **Regenerative medicine.** Recapitulation of developmental and mature-state gene expression to drive cellular regeneration and restore normal function.
- **Multigenic diseases including immunology.** Regulation of multiple genes within an IGD or across IGDs.
- **Oncology.** Control of target oncogenes including historically challenging or un-druggable targets in various cancers.
- **Select monogenic diseases.** Correction of dysregulation in monogenic rare and non-rare diseases.

## Our Pipeline

Our pipeline consists of the following programs:

	Target Gene(s)/ EpiZip(s)	Disease(s)	OEC	Discovery	Preclinical	Clinical		
						Phase 1	Phase 2	Phase 3
Regenerative Medicine	<b>HNF4A</b> HEP.20.qX.Y.Z.552	Liver Regeneration						
	Undisclosed	Corneal Regeneration						
Multigenic Diseases incl. Immunology	<b>CXCL 1-8</b> A549.04.qX.Y.Z.533	ARDS / COVID-19						
	Undisclosed	Idiopathic Pulmonary Fibrosis						
Oncology	<b>MYC</b> H3B.08.qX.Y.Z.930	Hepatocellular Carcinoma	OTX-2002					
	<b>MYC</b> H2009.08.qX.Y.Z.930	Non-Small Cell Lung Cancer						
	Undisclosed	Small Cell Lung Cancer						
Select Monogenic Diseases	<b>SFRP1</b> HFDP.08.pX.Y.Z.644	Alopecia						

Route of Administration (top to bottom): IV (liver regeneration), Topical (corneal regeneration), IV/Pulmonary (ARDS / COVID-19), IV/Pulmonary (IPF), IV (HCC), IV (NSCLC), IV (SCLC), Topical (alopecia).

Anticipated Development: Completed *in vivo* preclinical studies in HCC, NSCLC, and ARDS. Plan to conduct preclinical *in vivo* studies in liver regeneration, corneal regeneration, IPF, SCLC, and alopecia. If successful, IND-enabling studies are anticipated to begin in

### Regenerative Medicine

We are developing OEC candidates to up-regulate the expression of HNF4a, a transcriptional master regulator, as a potential way to restore liver-cell function in patients suffering from chronic liver disease, or CLD, including end-stage liver disease, or ESLD. In preclinical studies, we have observed durable increases in HNF4a and significant improvements in liver histology *in vivo*.

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We are also developing OEC candidates to control the expression of genes that have been strongly linked to cell-growth inhibition in patients with diabetes and other conditions to restore the capacity for corneal regeneration. We have identified an IGD containing a master regulatory gene that has been strongly linked to cell-growth inhibition in patients with diabetes and other conditions. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of corneal regeneration and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Multigenic Diseases Including Immunology**

We are developing OEC candidates to down-regulate expression of the CXCL1, 2, 3, and IL-8 gene cluster, whose overexpression promotes inflammation, in order to improve disease outcomes in patients with ARDS secondary to COVID-19/SAR-CoV-1 infection or other etiology. In preclinical studies of ARDS, we have observed decreases in gene expression of the CXCL1, 2, 3, and IL-8 gene cluster in cell lines and a 56% reduction in the severity of inflammatory response in mice treated with our OECs.

We are also developing OEC candidates to control expression of genes implicated in patients with idiopathic pulmonary fibrosis, or IPF, to halt or reverse disease progression and improve disease outcomes. We have identified an IGD consisting of genes related to IPF controlled through various intra-IGD interactions and regulatory elements. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of IPF and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Oncology**

We are developing OTX-2002 to down-regulate c-Myc, an oncogene that is dysregulated in more than 50% of human cancers and is frequently associated with poor prognosis, as a potential treatment for patients with advanced HCC. In preclinical studies in mice containing human HCC xenografts, we observed tumor growth inhibition of 54% at a dose of 3 mg/kg and of 63% at a dose of 6 mg/kg of our OEC compared to control.

We are also developing OECs for the treatment of NSCLC. In preclinical studies in NSCLC xenografts in a mouse subcutaneous tumor model, we observed a 63% inhibition in tumor growth following administration of our OEC compared to control.

We are also developing OEC candidates for the treatment of small cell lung cancer, or SCLC. We have conducted proprietary algorithmic analysis of an IGD that contains a gene that is overexpressed in more than 90% of SCLC. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of SCLC and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

### **Select Monogenic Diseases**

We are developing OECs to down-regulate the expression of SFRP1, a protein that inhibits hair growth, in alopecia, a disease characterized by hair loss on the scalp and body. In preclinical studies in human papilla cells, we have observed a 79% to 88% reduction in SFRP1 mRNA expression in cells treated with our OECs.

## **Intellectual Property and Manufacturing Capabilities**

We have consolidated a significant intellectual property estate covering the OMEGA platform and our OECs through our own development activities and through licenses from the Whitehead Institute at the Massachusetts Institute of Technology, or the Whitehead Institute. We are also developing internal

and external manufacturing capabilities, including plans to build our own facility, to provide appropriate scale and quality to support development and commercialization of our OECs.

## Our History and Team

Flagship Pioneering, or Flagship, founded Omega Therapeutics in 2017 as VL42, Inc. The Flagship origination team, led by Dr. David Berry, working together with Dr. Noubar Afeyan, CEO of Flagship, set out to more fully understand epigenetic regulation and non-genetically alter it through experimentation at Flagship Labs. VL42 was based on an exploration posing the question: “What if epigenetics worked through a universal operating system and what if we could interrogate that system and therapeutically intervene?” This exploration yielded critical insights on epigenomics, including intervention points and the use of controllers as a means to control the expression of one or more coordinated genes. We created Omega Therapeutics to develop a platform to design and make a new category of medicines, one that can harness the potential of IGDs and epigenetic control, and lead to the treatment of important diseases with high unmet medical needs. As part of creating Omega Therapeutics, Flagship complemented its own epigenomic patent estate licensed to Omega Therapeutics with exclusive licenses to patent estates in epigenetics from the Whitehead Institute at the Massachusetts Institute of Technology (Dr. Rudolf Jaenisch’s lab and Dr. Richard Young’s Lab).

We have built a world-class team of talented and highly experienced leaders to set and execute our strategy in fulfillment of our vision of pioneering the development of a new class of epigenetic medicines. Our leadership team has more than 100 years of combined experience in the pharmaceutical and biotechnology industry, has been involved in filing more than 30 INDs and 20 submissions for product approval, and has launched more than 30 pharmaceutical products globally. Mahesh Karande, our Chief Executive Officer, has a track record of leading biopharmaceutical businesses across the discovery, preclinical- and clinical-development, commercialization, and product-life-cycle-management stages to drive portfolio value and company growth. He previously served as President and Chief Executive Officer of Macrolide Pharmaceuticals, led Novartis Oncology’s solid tumor franchise in the United States, and held several senior leadership roles at Novartis across the globe. Our Chief Scientific Officer, Thomas McCauley, Ph.D., has over 21 years of experience in the biopharmaceutical industry building and leading research-and-development organizations at the forefront of advanced genetic therapies across therapeutic areas and has made key contributions to the development, global registration, approval and life-cycle management of more than ten marketed products. He previously served as the Chief Scientific Officer of Translate Bio and Macrolide Pharmaceuticals. Our Chief Financial Officer, Roger Sawhney, M.D., has over 25 years of financial and strategic expertise, ranging from global investments in the healthcare sector to business and strategy development in the biopharmaceutical industry. He previously served as the Head of Global Corporate Strategy for Novartis AG. We have also assembled a scientific advisory board of leaders with deep expertise in genomics, epigenetics, and chromatin biology, as well as target biology and clinical development experience.

Our culture is inspired by our values and behaviors and is guided by our overarching ethos: Ambitious, yet humble. Our team has the ambition to succeed in our pioneering journey, however, we are grounded in humility given the enormous responsibility of eventually treating patients with our transformative medicines. We are blazing a **TRAIL** with our values of **Trust**, **Resilience**, **Authenticity**, **Innovation** and **Leadership**, which reflect this ethos and are hallmarks of our high-performance culture.

Since inception, we have raised approximately \$200 million from Flagship as well as major mutual funds, healthcare-dedicated funds, and other leading investors.

## Our Strategy

Our objective is to become the leading digital and data-driven epigenetic medicines company by discovering, engineering, developing, manufacturing, and commercializing OECs, utilizing the OMEGA platform, with the vision of selectively directing the human genome to treat and cure serious diseases.

Our strategy includes:

- **Strategically invest in and advance the OMEGA platform.** Our scientific and technical expertise and expansive intellectual property estate have enabled us to develop our industry-leading, pioneering OMEGA platform. We plan to continue to invest in expanding our knowledge of IGD biology and epigenetics in order to identify new DNA-sequence-based epigenomic targets, the EpiZips, further our capacity to innovate and engineer OECs, expand our technologies, broaden our delivery capabilities, and enhance our institutionalized knowledge to further solidify our position as a leading digital and data-driven epigenetic medicines company. We plan to build additional computational, big-data, and advanced-analytic capabilities to maintain our leadership position.
- **Establish OECs as a new class of transformative medicine.** Through the breadth of our research-and-development activities and the pursuit of high-value biological targets, we seek to demonstrate the unprecedented therapeutic potential of our OECs and to expand our repertoire of OECs that can be used for therapeutic applications. We have conducted *in vivo* preclinical studies of our OECs in multiple disease models for various indications, including HCC, NSCLC, and ARDS, and we expect to conduct *in vivo* preclinical studies for multiple additional programs. If successful, we plan to initiate IND-enabling studies for multiple programs beginning in
- **Expand our pipeline through internal and collaboration efforts.** We believe the OMEGA platform can be used to create therapeutics to treat a broad array of human diseases by regulating the expression of single or multiple genes. Internally, we intend to focus our development and commercialization efforts in areas of high unmet need with well-defined and circumscribed patient populations. At the same time, we plan to seek collaborations or co-development programs to mitigate development risk or gain access to novel delivery technologies.
- **Build a fully integrated digitalized biopharmaceutical company.** Our intent is to develop a world-class biopharmaceutical company by leveraging our innate and differentiated platform attributes and digitalized end-to-end capabilities across research, discovery, preclinical and clinical development, manufacturing, and commercial operations. We believe the integrated and modular nature of the OMEGA platform enables iterative learnings and insights for efficient, evidence-based decision making to optimize the engineering, development, and selection of our OEC candidates.
- **Curate world-class talent and culture.** Our culture is guided by our overarching ethos: Ambitious, yet humble. Our unparalleled motivation to transform human medicine through our pioneering work is combined with our underlying sense of humility, which is essential for keeping patients front and center. Given the pioneering nature of our business, identifying, nurturing, developing, and retaining leading talent is a critical element of our strategy.

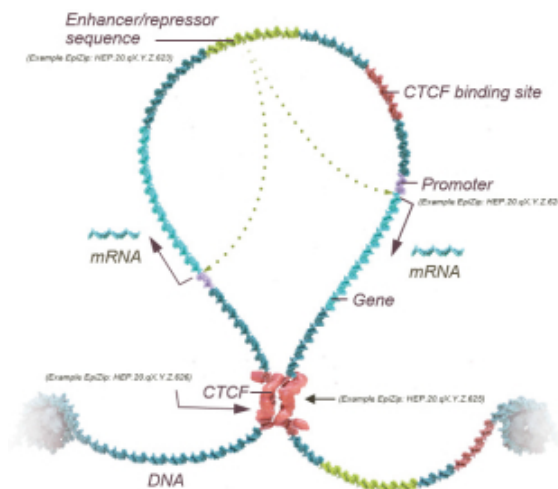
## Background of Insulated Genomic Domains (IGDs)

Epigenetics is the mechanism that systematically controls every aspect of an organism's life from cell growth and differentiation to cell death. Our team has developed an understanding of the universal operating system of epigenetics and has built the OMEGA platform to replicate nature's method of

gene control for therapeutic benefit. IGDs are key to understanding the organization of this operating system and act as the fundamental structural and functional units of gene control and cell differentiation. There are 15,000 IGDs that encompass the roughly 20,000 genes that are distributed across our 23 chromosomes. They are ubiquitous in every cell and evolutionarily conserved within and largely across species.

Gene expression in cells is generally controlled by a highly diverse class of regulatory elements, such as enhancers, repressors and promoters. These regulatory elements are relatively short segments of DNA that act as binding sites for protein transcription factors that in turn recruit other proteins to activate transcription of targeted genes. Current research indicates that genes and their associated regulatory elements reside in a modular fashion within IGDs. The chromosomal-looping structure of IGDs ensures that interactions between genes and their regulatory elements are insulated from neighboring IGDs and extraneous regulatory factors, which is critical for ensuring normal cell-specific gene regulation. The CCCTC-binding factor, CTCF, and the cohesin complex are critical players in the formation and maintenance of the IGD structure. Cohesin is the motor that extrudes and enlarges the IGD loop, while CTCF blocks cohesin from further extrusion and acts as an anchor, thereby enforcing boundaries between IGDs.

### Graphical Representation of an IGD

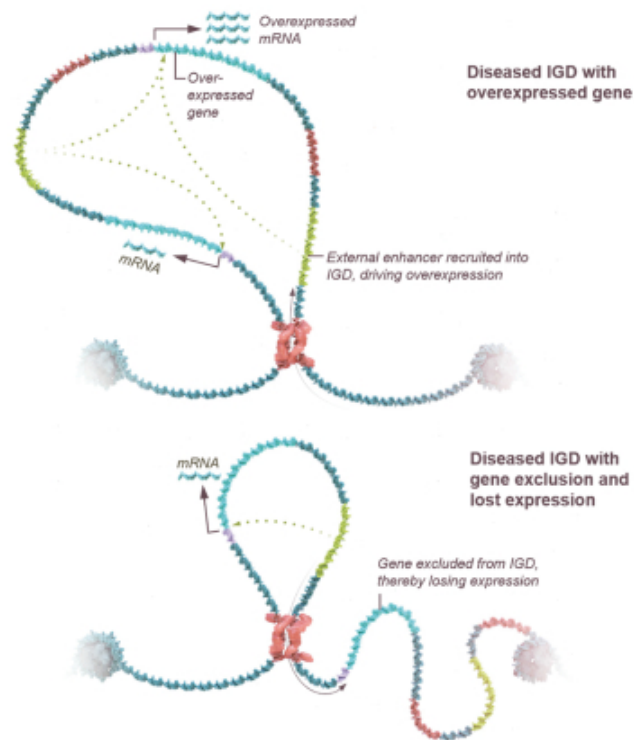


IGDs encompass protein-coding genes and their regulatory elements. A single IGD typically contains between one and ten genes, with a median of three genes. Epigenomic controllers are designed to affect the expression of genes within specific IGDs through precise modulation of one or more IGD components (EpiZips) to control gene expression. Controllers can also be multiplexed to target multiple IGDs.

Any perturbation of an IGD or its boundary has the potential to cause the dysregulation of one or all genes inside it, giving rise to a range of disease states. Alterations of IGDs, which can be either structural or functional in nature, include mutations or disruptions in anchor-CTCF binding sequences, gene promoters, and enhancer regions (including super-enhancers). For example, mutations in the coding sequences for CTCF and cohesin have been observed in various solid-tumor cancers, including breast, prostate, and kidney cancer, as well as in leukemia. IGD boundary alterations may consist of the aberrant inclusion or exclusion of regulatory elements or genes. For example, in some cancers,

disruption of the IGD boundary can rewire loop interactions to include strong activating regulatory elements called super-enhancers to upregulate an oncogene. Similar activation can be found in cases of genetic inversion and translocation. Epigenomic changes at the IGD boundary, for example aberrant DNA methylation, can alter CTCF binding and lead to gene exclusion or expose genes within the IGD to external regulatory elements. Pathological evidence of this disruption has been identified in cancers, such as gliomas, and in inherited human diseases, such as Fragile X syndrome.

### Illustrative Examples of Structurally Dysregulated IGDs



IGD dysregulations can occur also due to functional alterations like those caused by extraneous factors like pathogenic insults, oxidative stress, environmental triggers, etc. These functional changes cause aberrant gene expression.

### OMEGA Epigenomic Programming Platform

We believe that the OMEGA platform represents an unprecedented approach to developing therapeutics to treat the epi genetic basis of disease by precisely controlling gene expression without altering native DNA sequences. We believe that our mRNA-encoded OECs' ability to precisely target and provide tunable and durable effects has the potential to treat a wide range of diseases.

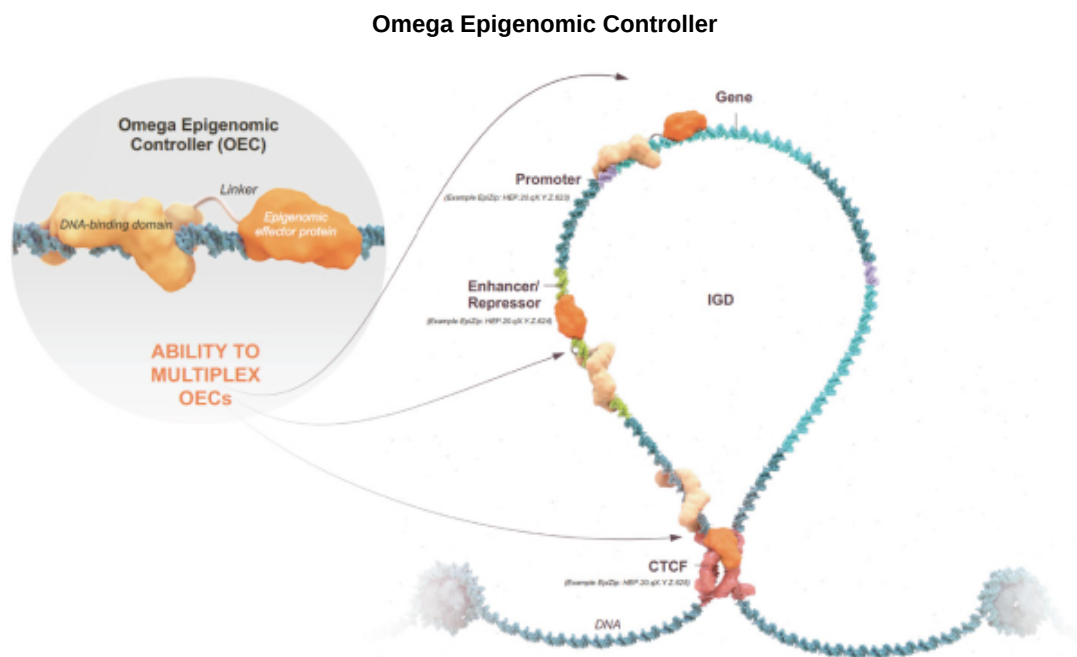
The OMEGA platform consists of four pillars.

### 1. Proprietary Database of IGDs and EpiZips

We approach target identification starting with validated gene targets linked to a disease indication of interest. We use proprietary algorithms and machine-learning tools to mine our own and public databases to develop a comprehensive profile of the target IGD to understand how it is dysregulated in diseased states. We synthesize this information to determine the key therapeutic intervention points, the EpiZips, to be targeted with OECs to achieve the desired effect on gene expression. Through this process, we have built an expansive library of thousands of EpiZips and IGDs as potential therapeutic targets.

### 2. Modular Programmable Epigenetic Medicines Encoded as mRNA (OECs)

We have created a modular basis for efficient and intelligent design of programmable epigenetic medicines, the OECs. These engineered and modular mRNA-encoded medicines allow us to regulate multiple genes with exquisite specificity, controllable tuning, and duration of effect. Our OECs are fusion proteins comprised of two components—a programmable DNA-binding domain and an epigenomic effector protein, as shown in the figure below. The DNA-binding domain is designed to target a particular EpiZip with exquisite specificity. The epigenomic effector protein is designed to interact with DNA or DNA-associated proteins, such as histones and transcription factors, to up- or down-regulate gene expression and control the duration of effect. We use proprietary algorithms to design our OECs, including programming DNA-binding domains and selecting optimal epigenomic effector proteins. These computational tools allow us to efficiently generate numerous potential OECs and increases our ability to engineer OECs to treat a particular target.



We are currently developing proprietary zinc-finger-like proteins and other DNA-binding domains. For epigenetic effectors, we have generated and continue to build a library consisting of more than 100 single- and multi-functional epigenetic effector domains, including both naturally occurring and proprietary engineered variants of DNA-modifying factors, histone-modifying factors, and other chromatin-remodeling factors.

The initial identification of IGDs, EpiZips, and the mechanism of action for OECs directed to particular target genes are rapidly validated utilizing epigenomic controller screens. Our modular design approach allows us to accelerate our discovery process and to identify gene targets and generate initial lead OECs to modulate them in potentially as little as a few weeks.

### **3. Engineered, Customized Drug Delivery**

Delivery to the appropriate cells and tissues is critical to the successful application of our technology. We are exploring and innovating a multitude of delivery methods.

We have chosen LNP-delivery technology validated in third-party clinical trials for our initial programs. LNPs are currently used in products, both approved and in development. We have deep expertise in delivery formulations and leverage technological improvements and established regulatory precedents to develop our own LNPs. We are delivering our OECs as mRNA, which encodes the DNA binding domain and epigenetic effector proteins, encapsulated within a LNP. Our LNPs are typically 3- or 4-component molecules that encapsulate nucleic acids like mRNA, protect and transport them to organs and tissues within the body, and facilitate their uptake into cells. We believe our LNPs are capable of providing re-dosable, non-viral, *in vivo* delivery to the liver, lung, central nervous system, immune cells, joints, and other cells and tissues. Once taken up into cells, the LNP enables release of the mRNA cargo into the cytoplasm where it is translated into the OEC, which, in turn, is transported to the nucleus and binds to the targeted EpiZip within the specified IGD. We are currently exploring a range of cationic and ionizable LNPs from various sources and have developed proprietary LNP formulations that have shown specific and efficient *in vivo* functional delivery in preclinical studies.

### **4. Industry-Leading Expertise**

We leverage codified learnings and insights gleaned from our lead programs to continue optimizing our platform and inform the discovery and development of subsequent product candidates. We have also established and continue to add to our knowledge bank of EpiZips and OECs. We take a rational and streamlined approach to the development of programmable epigenetic medicines to potentially provide a faster path to the clinic through robust and efficient target identification, validation, product-candidate design, and optimization. We are also continually expanding our catalog of EpiZips and novel and proprietary DNA-binding domains and epigenomic effector proteins and using computational methods to assess on-target and potential off-target binding and activity to minimize inadvertent changes in the expression of genes.

### **Computational Foundation**

The OMEGA platform leverages novel biology and epigenetics to therapeutically control gene expression and program cell state through our significant computational capabilities. Decoding the rules of the human genome – one with billions of nucleotides, tens of thousands of genes, and up to a million regulatory sequences, all potentially interacting in 3-dimensional space – requires the creation of advanced proprietary algorithms and statistical data analysis techniques. Our cutting-edge computational tools are built on a diverse library of proprietary algorithms and deep-learning techniques, which enable us to interpret and predict the location, structure and function of IGDs. The critical scientific insights provided by the OMEGA platform enable the identification of EpiZips across therapeutic areas and indications. This deep *in silico* understanding and predictability also directly informs the design and rapid engineering of OECs that allow us to regulate single or multiple genes with exquisite specificity, controllable tuning, and duration of effect.

We apply our computational technology throughout the drug development continuum by broadly applying a computation- and data-first approach. We deploy a wide range of systems biology and



functional genomics methods to identify relevant biomarkers. We utilize key translational models to validate mechanism of action in order to accelerate development and potentially de-risk clinical translation. Combinatorial optimization techniques and novel discovery efforts enable acceleration of delivery and formulation design. This allows us to rapidly scale programs and manufacturing while improving quality and cost. Systematic data capture and automation have enabled real-time, data-driven decision-making which has further driven our ability to accelerate numerous programs in parallel.

We have a highly skilled computational team with deep expertise and broad experience, supporting the OMEGA platform. This team develops the tools, capabilities, and specialized methods needed to address the complexity of IGD biology, design, and delivery of our OECs, and integration of a computation- and data-first philosophy company wide. We are continually growing and evolving our computational team and capabilities to drive innovation in the discovery and development of programmable epigenetic medicines, manufacturing, and our digital foundation.

### Advantages of the OMEGA Platform

Epigenomic programming is a transformative new approach to biologically engineer programmable epigenetic medicines to treat disease. We believe that our mRNA-encoded OECs' ability to precisely target and provide tunable and durable effects has the potential to treat a wide range of diseases and has the following advantages:

- **Pioneering IGDs and EpiZips as novel therapeutic targets.** By targeting IGDs and EpiZips, we are controlling the “control room” of biology. This approach allows us to exquisitely control gene expression of single and/or multiple genes, including potentially historically un-druggable genes, in order to treat a wide range of diseases.
- **Precision genomic control with tunable and durable effect with the potential to re-dose.** OECs are designed to up- or down-regulate gene expression to the biologically relevant level to resolve disease. By replicating natural epigenetic marks, our OECs are designed to impart a durable effect without the need for the drug to stay resident in the cells or body. Our OECs are expressed intracellularly and for a controlled duration, which could potentially address safety concerns associated with long-term or permanent residence of drug or components in the body. In addition, because we are using LNPs for delivery, we believe our therapeutic candidates will be re-dosable and may not be associated with the immunogenic risks that are typically seen in viral deliveries such as AAV.
- **Single and/or multiple gene control with a single therapeutic.** Multiple genes in an IGD tend to act along the same disease pathway. Targeting IGDs allows us to use a single therapeutic intervention to control one or many of those genes simultaneously in complex diseases.
- **Ability to multiplex within or across IGDs for synergistic effect.** We can target different EpiZips simultaneously to deliver a synergistic effect within one IGD or among IGDs with multiple OECs.
- **No changes in nucleic acid sequences.** Unlike editing or transgenic approaches, the OMEGA platform enables control of gene expression without changing the inherent nucleic acid sequences and associated risks. Since there is no transfer of DNA, the risk of foreign material integrating into the genome is low, which we believe should lead to lower risk of oncogenesis or other unintended collateral genetic modifications.
- **Ability to accelerate numerous programs in parallel with real-time, data-driven decision-making.** Based on our knowledge base of EpiZips and OECs through application of our computational capabilities, we are able to take a rational and modular approach to discovery

and development, allowing us to potentially reduce the time needed to identify, validate, and develop product candidates. We believe our comprehensive understanding of the genomic landscape, proprietary algorithms, extensive data sets, and experience with prior and on-going development efforts enables us to more quickly and efficiently engineer and test potential OECs.

While we are working toward realizing these advantages, our OMEGA platform and our OECs are based on novel technology. Epigenomic controllers present a new class of medicines and have not been evaluated in clinical trials or received regulatory approval. As a result, we may need to develop new evaluation methods or metrics for clinical data, which may make it more difficult to analyze data, or it may take more time or be more costly for us to develop our OECs than other therapeutics for the same indications.

## **Our Development Programs**

We are currently advancing our development programs in regenerative medicine, multigenic diseases including immunology, oncology, and select monogenic diseases. We have conducted *in vivo* preclinical studies of our OECs in multiple disease models for various indications, including HCC, NSCLC, and ARDS, and we expect to conduct *in vivo* preclinical studies for multiple additional programs. If successful, we plan to initiate IND-enabling studies for multiple programs beginning in .

### **Regenerative Medicine**

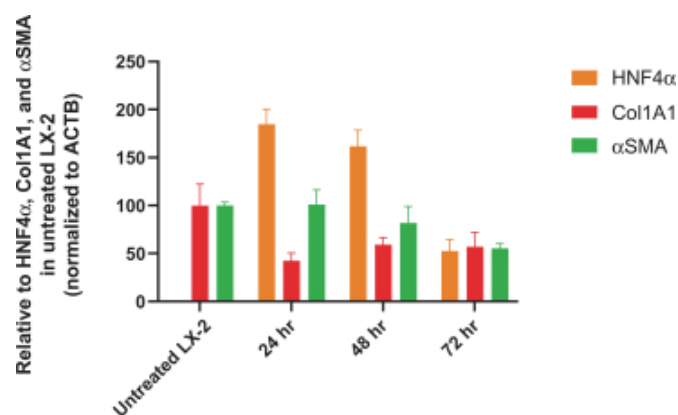
#### *Liver Regeneration*

We are developing OEC candidates designed to increase expression of HNF4a, a transcriptional master regulator, as a potential way to restore liver-cell function in patients with severe liver dysfunction. HNF4a controls development, differentiation, and homeostasis of hepatocytes and other cell types in the liver by controlling the expression of proteins, such as bilirubin, albumin, and metabolic enzymes, that are essential for normal liver function. In chronic liver disease, HNF4a is down-regulated, which contributes to the pathology of liver failure. Studies have shown that increased expression of HNF4a in even a modest fraction of hepatocytes can restore healthy liver function.

In 2017, chronic liver disease that is secondary to cirrhosis was the 11th leading cause of death in the United States, accounting for over 40,000 deaths. Depending on the etiology of disease, treatment options may include corticosteroids, antivirals or other drugs, with the final option being liver transplantation. In 2018, in the United States, there were more than 14,000 people on the liver transplant waiting list and approximately 25% died before receiving a transplant.

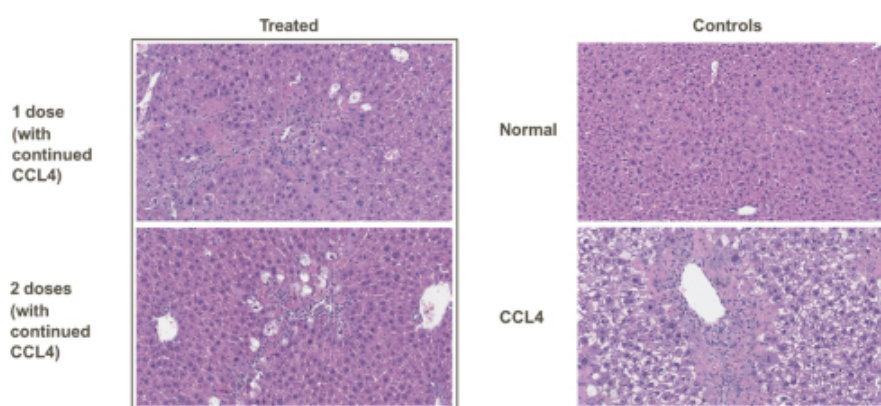
In preclinical studies in primary healthy human hepatocytes, treatment with our OEC candidate induced a durable increase in HNF4a for up to ten days, which we believe may be sufficient to return hepatocytes to a functional state and restore liver function in CLD and ESLD patients. We also observed decreases in collagen 1A1, or Col1A1, and alpha smooth muscle actin, or aSMA, both biomarkers of liver injury and fibrosis, as shown in the graph below. At 72 hours, we observed reductions of approximately 50% in both Col1A1 and aSMA relative to untreated cells. These data showed a reduction in expression of these downstream biomarkers of liver damage in response to the up-regulation of HNF4a and support the proposed therapeutic mechanism of action of our OEC candidate.

### OEC candidate reduced biomarkers of liver damage (*in vitro*)



As shown in the images below, in an *in vivo* preclinical mouse liver fibrosis model, carbon tetrachloride treatment was used to induce hepatocellular degeneration (labeled CCL4 in the images below). Treatment with a mouse surrogate construct of our OEC candidate showed a significant decrease in hepatocellular degeneration on Days 31 and 38 with either one or two weekly administrations.

### Mouse surrogate construct of OEC candidate improved liver histology (*in vivo*)



We are currently conducting additional *in vitro* and *in vivo* pharmacology, formulation optimization, efficacy, and preliminary safety studies of our OEC candidate.

### Corneal Regeneration

We are also developing OEC candidates to control the expression of multiple potential target genes in patients with diabetes and other conditions to treat corneal epithelial injury. The proteins expressed by these genes have been strongly linked to cell-growth inhibition and shown to be key factors in preventing ocular wound-healing in animal models. Approximately 70% of patients with diabetes suffer from corneal complications, including epithelial fragility, recurrent erosions, ulcers, and delayed or incomplete wound repair. Diabetic retinopathy is currently the leading cause of legal

blindness in working age adults worldwide. The condition is mainly treated by attempting to maintain tight blood glucose control. We believe that by tuning these genes, we may be able to facilitate corneal regeneration to treat these corneal complications from diabetes or other conditions.

We have identified an IGD containing a master regulatory gene that has been strongly linked to cell-growth inhibition in patients with diabetes and other conditions. We conducted algorithmic analysis of the IGD, using a wide range of multi-omic datasets, to identify numerous EpiZip targets and epigenomic effector options. Using our OMEGA platform, we are generating computationally designed OEC candidates for the potential treatment of corneal generation and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

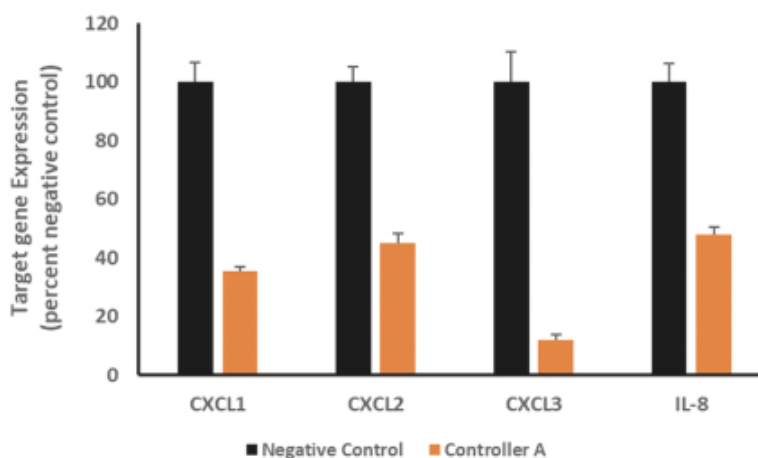
### **Multigenic Diseases Including Immunology**

#### *Acute Respiratory Distress Syndrome*

We are developing OEC candidates to reduce expression of the CXCL1, 2, and 3 and IL-8 gene cluster in ARDS, including ARDS in COVID-19 patients. Over-expression of the CXCL gene cluster produces chemokines that attract neutrophils and promotes local inflammation. Chemokines that recruit inflammatory cells to the lung are of pivotal importance in the pathogenesis of ARDS and expression of the CXCL1, 2, 3, and IL-8 gene cluster is elevated in the lung cells of patients with ARDS. ARDS is a devastating syndrome, with an incidence of approximately 200,000 in the United States and a mortality rate approaching 40%.

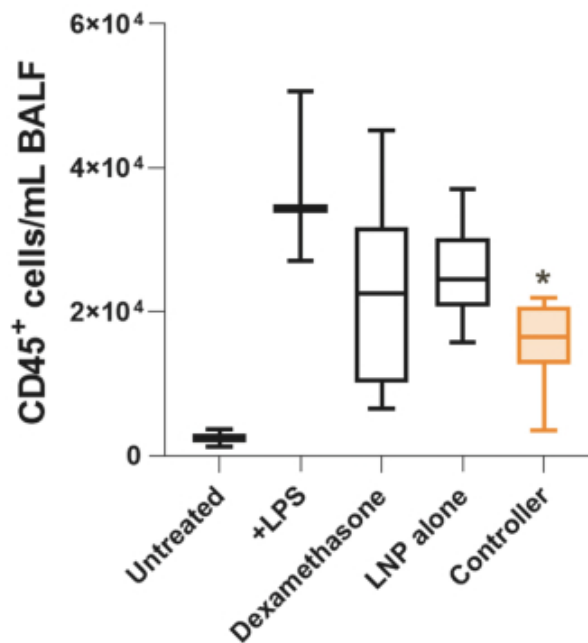
In a preclinical study of an OEC candidate (Controller A in the graph below) in human monocytes, at 24 hours post-dosing we observed a 65% decrease in gene expression of CXCL1, a 55% decrease in gene expression of CXCL2, an 88% decrease in gene expression of CXCL3, and a 52% decrease in gene expression in IL-8, in each case relative to control.

**Multigenic IGD targeting of chemokine genes observed (*in vitro*)**



In a preclinical study in an animal model of ARDS, we observed a significant decrease in neutrophil infiltration in lungs treated with an OEC candidate. Animals were administered 3 mg/kg of the OEC candidate (labeled Controller in the graph below) two hours prior and eight hours after lipopolysaccharide insult to induce inflammation or 10 mg/kg dexamethasone daily as a positive control. As shown in the graph below, we observed a 56% decrease in neutrophils infiltration in broncho-alveolar lavage fluid (labeled BALF in the graph below) in mice 72 hours after treatment with the OEC candidate relative to disease control, a measure of the severity of the inflammatory response.

**Decreased neutrophil infiltration in ARDS model (*in vivo*)**



\*  $p < 0.05$  compared to +LPS

We also plan to conduct *in vivo* testing in other models of severe inflammatory disease where the CXCL1, 2 and 3 and IL-8 gene cluster plays a key role, such as neutrophilic asthma, neutrophilic dermatosis, paw edema, and rheumatoid arthritis.

#### *Idiopathic Pulmonary Fibrosis*

We are developing OEC candidates to down-regulate expression of a gene cluster known to be up-regulated in patients with IPF and promote pulmonary fibrosis in animal models. IPF is a rapidly progressive and fatal disease in which the lung loses its functional capacity over time. The global prevalence for IPF is roughly 13 to 20 per 100,000 persons, and there is no known cure. The average patient survival is approximately six years with treatment and three years without treatment. Current treatment options are limited to symptomatic or palliative care, including anti-fibrotics, anti-inflammatories, corticosteroids, oxygen therapy, and for advanced disease, lung transplant. If we are able to successfully down-regulate expression of this gene cluster in human lung cells, we believe this OEC candidate could also be developed for severe chronic obstructive pulmonary disease and asthma, as the same gene cluster is implicated in these indications as well as in IPF.

We have conducted algorithmic analysis, using a wide range of multi-omic datasets, to identify an IGD with an internal structure consisting of seven genes related to IPF controlled through various intra-IGD interactions and regulatory elements. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of IPF and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

## Oncology

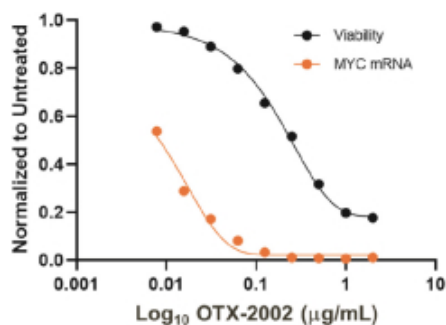
### Hepatocellular Carcinoma

We are developing OTX-2002 for the treatment of HCC. The c-Myc family oncogene is dysregulated in more than 50% of human cancers and is frequently associated with poor prognosis. c-Myc has been shown to play a key role in liver-cell proliferation and is known to be up-regulated in the majority of HCC cases. Drug development aimed at directly targeting c-Myc has proved challenging because its expression is tightly regulated and because it is a protein that lacks a specific active site for small molecule binding. This means that targeting c-Myc mRNA or protein is unlikely to be effective as neither approach addresses the underlying dysregulation at the transcriptional level. Unlike other more binary approaches to downregulation of gene expression, OECs can precisely modulate c-Myc expression enough to kill highly MYC-amplified cancer cells and drive tumor regression, but spare healthy surrounding cells which need only a low level of MYC for normal function. We are developing OTX-2002 for the down-regulation c-Myc in HCC.

HCC is a primary liver malignant tumor that develops in a chronic-liver-disease setting. It is typically diagnosed late in its course and the median survival period following diagnosis is approximately six to 20 months. In 2017, there were an estimated 89,950 people living with liver and liver-related cancer in the United States. Depending on the stage of disease at diagnosis, current treatment options include therapies such as surgical resection, tyrosine kinase inhibitors (TKIs), such as sorafenib, orthotopic liver transplantation or radiofrequency ablation, and for more advanced patients, immune checkpoint plus anti-vascular-endothelial-growth-factor combination therapy, or palliative treatments, such as trans-catheter arterial chemo- or radio-embolization, stereotactic radiation therapy or systemic chemotherapy.

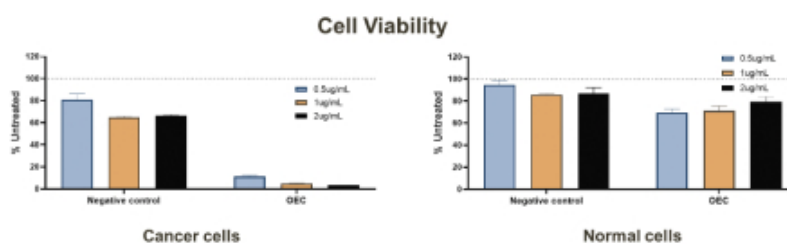
In a preclinical study of OTX-2002 in various HCC cell lines, OTX-2002 down-regulated c-Myc and we observed loss of cellular viability across targeted HCC subtypes with effects observed for 15 days. As shown in the graph below, the EC<sub>50</sub>, which measures the concentration of a drug that provides a 50% response between baseline and the maximum response, was measured in five HCC cell lines. Treatment with OTX-2002 resulted in a c-Myc mRNA expression EC<sub>50</sub> at a mean value 0.013  $\mu\text{g}/\text{mL}$  and a 50% decrease in cell viability at 0.147  $\mu\text{g}/\text{mL}$ .

### OTX-2002 was associated with a dose-response on expression and viability (*in vitro*)



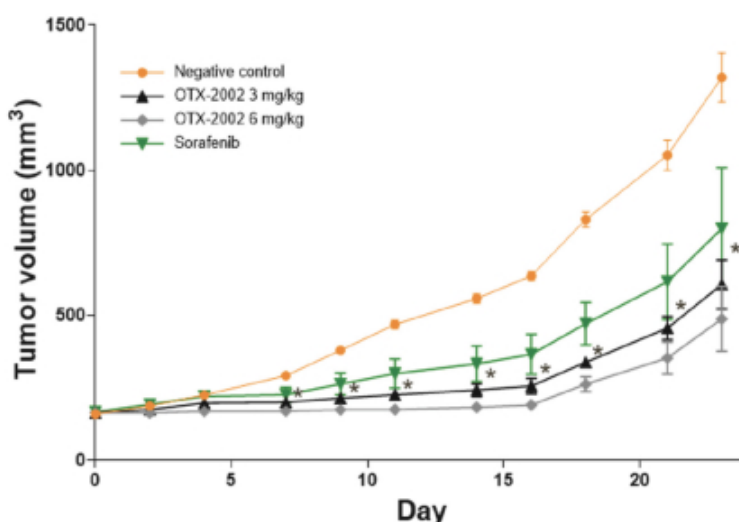
In a separate preclinical study of OTX-2002 in an HCC cell line (Hep3B), we demonstrated a selective effect on the viability of cancer cells. As shown in the graph below, treatment of cancer cells with OTX-2002 at concentrations ranging from 0.5 to 2 ug/mL resulted in a significant reduction in the viability of these cells at all doses, where, by contrast, when we treated normal cells (healthy primary human liver hepatocytes) with OTX-2002 we saw no significant impact on cell viability.

**OTX-2002 reduced viability of HCC cancer cells but not healthy human liver cells (*in vitro*)**



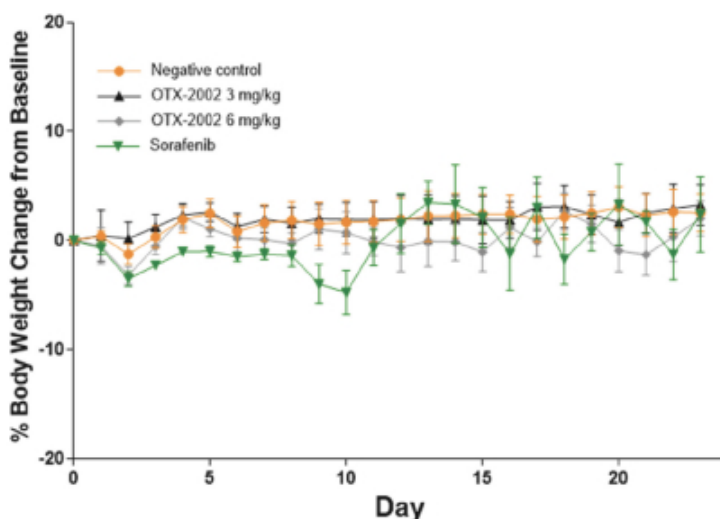
OTX-2002 delivered via formulated LNPs *in vivo* decreased tumor burden in mice containing human HCC xenografts. In this preclinical study, we administered OTX-2002 in a mouse subcutaneous tumor model at doses of 3 and 6 mg/kg every five days and sorafenib at 50 mg/kg daily. As shown in the graph below, treatment with OTX-2002 at 3 mg/kg was associated with a statistically significant reduction in tumor size following two administrations, resulting in a 54% inhibition of tumor growth by Day 23 compared to negative control. Similarly, treatment with a 6 mg/kg dose of OTX-2002 was associated with a statistically significant reduction in tumor size following two administrations, resulting in 63% lower tumor volume at Day 23 compared to negative control. Treatment with OTX-2002 at 3 mg/kg was equivalent to treatment with sorafenib. Mice treated with OTX-2002 did not experience a significant decrease in body weight. Mice treated with sorafenib experienced an initial drop in body weight with a later gain in overall body weight potentially due to an increase in tumor mass. OTX-2002 was well-tolerated in this study with no adverse events observed.

**OTX-2002 anti-tumor activity and dose-dependent response observed in HCC subcutaneous xenograft model (*in vivo*)**



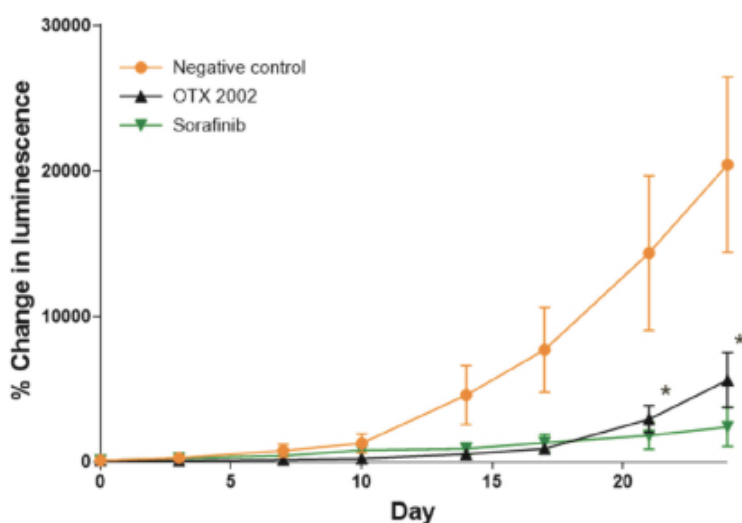
\*  $p < 0.05$  compared to negative control

**Change in body weight observed in HCC subcutaneous xenograft model (*in vivo*)**



In addition, we observed an equivalent effect on tumor growth from OTX-2002 in mice containing human HCC xenografts compared to sorafenib. Mice were administered 3 mg/kg of OTX-2002 every five days or 50 mg/kg of sorafenib once daily. Tumor growth was measured using bioluminescent imaging. As shown in the graph below, treatment with OTX-2002 resulted in a comparable reduction in luminescence as treatment with sorafenib. Mice treated with OTX-2002 did not experience a significant decrease in body weight. Mice treated with sorafenib experienced a sustained loss in body weight. OTX-2002 was well-tolerated in this study with no adverse events observed.

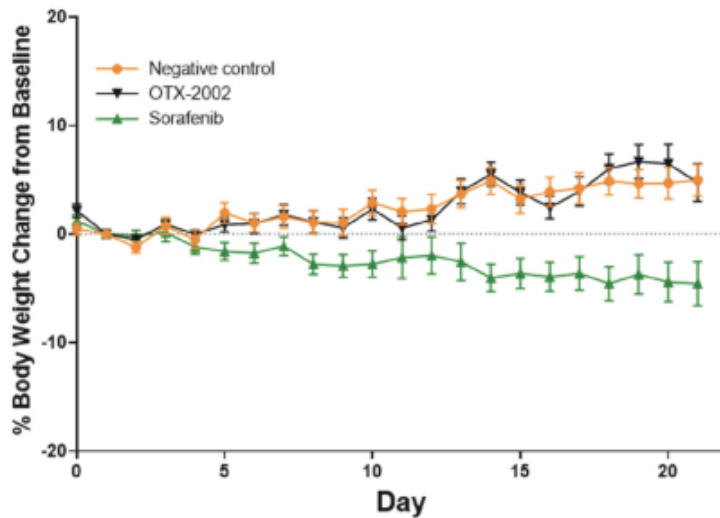
**OTX-2002 anti-tumor activity observed in HCC orthotopic xenograft model (*in vivo*)**



\*  $p < 0.05$  compared to negative control

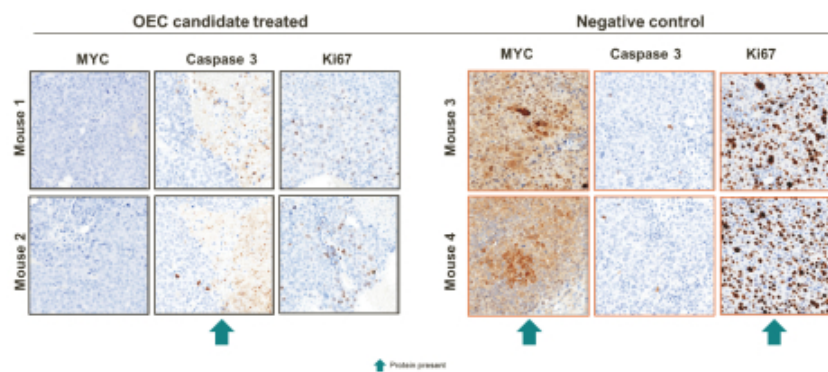


**Change in body weight observed in HCC orthotopic xenograft model (*in vivo*)**



*In vivo* treatment of OTX-2002 delivered via formulated LNPs in a mouse subcutaneous human HCC tumor model at a doses of 3 mg/kg every five days resulted in decreased tumor burden and also showed correlated changes in c-Myc expression and associated clinical biomarkers in tumors at the cellular level. As shown in the graph below, immunohistochemistry analysis of histology sections from OEC candidate-treated and negative control tumors harvested from the animals in the *in vivo* studies described above showed significant down-regulation of c-Myc protein in the tumors (indicated by loss of brown staining) as well as the expected down-regulation of Ki67 (a biomarker of tumor cell proliferation) and upregulation of Caspase 3 (a biomarker of apoptosis, a type of programmed cell death).

**Change in body weight observed in HCC orthotopic xenograft model (*in vivo*)**



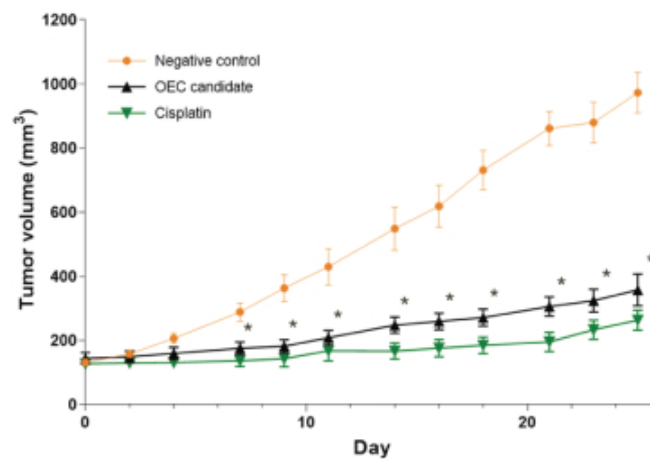
We are conducting additional preclinical studies in subcutaneous and orthotopic liver tumor models and have initiated *in vivo* safety studies.

### Non-Small Cell Lung Cancer

We are evaluating additional epigenetic control points for c-Myc down-regulation in NSCLC. Approximately 50% of NSCLC tumors overexpress c-Myc. We are developing an OEC candidate to down-regulate c-Myc and reduce this overexpression. NSCLC is the most common type of lung cancer, accounting for 84% of all lung cancer diagnoses, which was approximately 192,200 new cases in the United States in 2020. The five-year survival rate for NSCLC is 24%. Depending on the stage of disease at diagnosis, current treatment options include therapies such as surgical resection, photodynamic therapy (PDT), laser therapy, or brachytherapy, chemotherapy, radiation therapy, targeted therapies (e.g., TKIs) and immunotherapy in combination with other therapies.

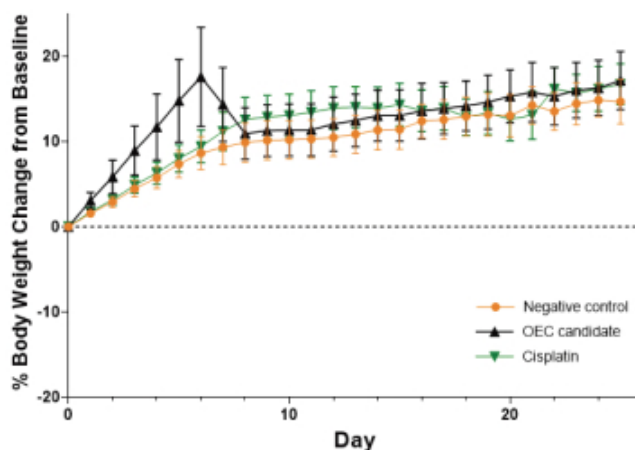
We have identified OEC candidates that have shown activity against a range of NSCLC cell lines *in vitro* in preclinical studies, showing down-regulation of c-Myc with concomitant loss of cellular viability. We also conducted a preclinical study in NSCLC xenografts in a mouse subcutaneous tumor model. In this study, we treated mice with 3 mg/kg of our OEC candidate every five days. Treatment with our OEC candidate showed a statistically significant reduction in tumor size following three administrations, resulting in a 63% lower tumor volume at Day 25 compared to control, with no significant effect on the body weight of treated mice. In this study, treatment with our OEC candidate was associated with an equivalent effect on tumor volume to treatment with cisplatin, a chemotherapy medication used to treat a number of cancers, as shown in the graph below.

**OEC candidate anti-tumor activity in NSCLC subcutaneous xenograft model (*in vivo*)**



\*  $p < 0.05$  compared to negative control

### Change in body weight observed in NSCLC subcutaneous xenograft model (*in vivo*)



#### Small Cell Lung Cancer

We are also targeting SCLC through epigenetic control points that down-regulate a gene known to be overexpressed in more than 90% of SCLC due to a common mutation, and also overexpressed in other cancers including breast, lung, acute myeloid leukemia, and gastric cancers. This gene is located in an identified and well-characterized single-gene IGD. SCLC accounts for 15% of all lung cancers and has a five-year survival rate of 6%. Depending on the stage of disease at diagnosis, current treatment options include surgical resection followed by chemotherapy, chemotherapy with radiation, and immunotherapy.

We conducted proprietary algorithmic analysis of the IGD, using a wide range of multi-omic datasets, to identify numerous EpiZip targets and epigenomic effector options. We are generating computationally designed OEC candidates using our OMEGA platform for the potential treatment of SCLC and conducting *in vitro* testing to determine the final OEC candidate for *in vivo* testing.

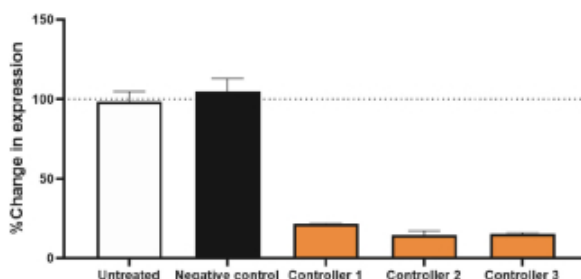
#### Select Monogenic Diseases

##### Alopecia

We are developing OEC candidates for the treatment of alopecia, a disorder characterized by patches of non-scarring hair loss affecting the scalp and body. We are targeting SFRP1, a protein that inhibits hair growth in alopecia patients, and are developing OEC candidates designed to down-regulate the production of SFRP1. Alopecia areata affects approximately 6.5 million people in the United States and approximately 2% of people worldwide. Androgenetic alopecia, also known as male pattern baldness, is a genetically predetermined disorder caused by excessive response to androgens, which affects up to 50% of males and females. There is currently no cure for either type of alopecia. We are currently evaluating delivery of our OEC candidates to the hair bulb and assessing our OEC candidates' effects in *ex vivo* models of hair growth.

In a preclinical study, we treated patient human papilla cells with an OEC candidate and measured SFRP1 mRNA expression. As shown in the figure below, we observed a 79% to 88% reduction in SFRP1 mRNA expression in cells treated with the OEC candidate compared to control. These effects were observed through Day 7.

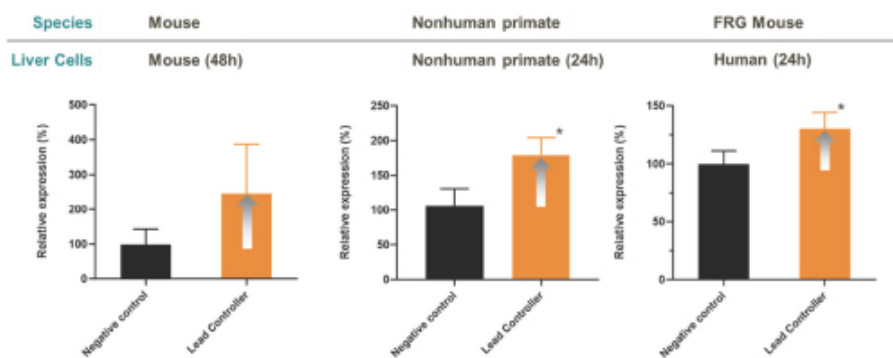
**Decrease in SFRP1 mRNA expression in human papilla cells (*in vitro*)**



**Translational Data**

A critical element for the clinical translation of our OEC candidates is our ability to design OEC candidates that can target IGDs and tune gene expression across species. In preclinical studies, we evaluated changes in HNF4a expression in non-human primates and in human liver tissue engrafted and grown in a mouse (labeled FRG Mouse in the graph below) treated with our OEC candidate and in healthy mice treated with an OEC candidate designed to target the homologous murine target sequence. As shown in the graph below, we observed therapeutically relevant up-regulation of HNF4a compared to control, with results showing a 246% increase in mice, 68% increase in non-human primates, and 31% increase in the FRG mouse. We believe that this translational fidelity of our mechanism of action supports our continued development of our OEC candidates and programs.

**Omega Epigenomic Controllers increased HNF4A expression in preclinical studies (*in vivo*)**

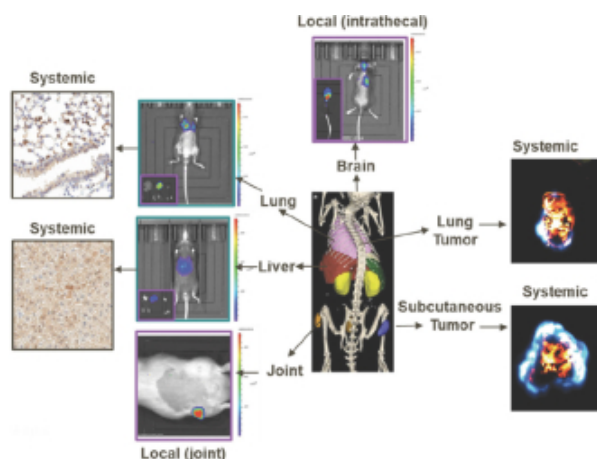


**\*  $p < 0.05$  compared to negative control**

**Delivery Data**

We have extensive internal formulation, delivery and development expertise in mRNA and LNPs, and are engaged in continuous internal LNP research and development. We are currently exploring a range of LNPs from various sources and have developed proprietary formulations that have shown specific and efficient *in vivo* functional delivery of our OEC candidates to a number of therapeutically relevant cell and tissue-types in preclinical studies, as shown in the figure below. The tissue and cell types we can access with our current library of LNP compositions include liver (e.g. hepatocytes, stellate cells, Kupffer cells), lung (e.g. endothelial, alveolar, epithelial), local joints (e.g. synovial layer, chondrocytes, immune cells), and the central nervous system (e.g. spinal cord, brain), as well as tumors (e.g. subcutaneous, orthotopic). Collectively, our current delivery capabilities enable us to develop and expand our pipeline.

## Delivery Omega Epigenomic Controllers



### Manufacturing

We view the development of manufacturing capability, capacity, and control as critical to our overall success and specifically to our ability to meet our development timelines, contain operational costs and generate and protect intellectual property for our platform technology and product candidates. Because of this, we have chosen a clinically validated manufacturing and delivery technology with which we have deep internal expertise and which is similar to that being developed for various applications in the fields of vaccine development and gene editing. We are thus able to leverage our own experience, as well as the technological improvements and regulatory precedents established by previous and current products utilizing the same modalities.

Our internal process and analytical development organization has established manufacturing processes at sufficient scale to supply our research and early preclinical development requirements for drug substance and drug product. In addition, we have engaged highly skilled third-party contract development and manufacturing organizations, or CDMOs, with extensive experience in manufacturing mRNA, our drug substance, and drug product to implement our manufacturing processes at large scale under current good manufacturing practices, or cGMP. We have established manufacturing services agreement with third-party CDMOs for the supply of drug substance and drug product to meet our needs for preclinical studies, IND-enabling toxicology studies and clinical trials. We expect to continue to rely on third-party CDMOs for the supply of drug substance, drug product and finished product for the next several years. Given the critical reliance of our overall success on manufacturing supply of our products, we are in the process of constructing a cGMP facility to manufacture drug substance and drug product for our clinical trial needs.

For each of our therapeutic programs, we evaluate the optimal LNP delivery options from both external collaborations and our internal LNP research and development platform. For our lead program, OTX-2002, we have licensed LNP technology from Acuitas Therapeutics, Inc., or Acuitas, a company with extensive LNP intellectual property and a track record of collaborating and developing LNPs for clinical use. We believe our collaboration with Acuitas will provide significant formulation and manufacturing expertise that will facilitate the transfer of processes for LNP formulation of mRNA under cGMP standards to CDMOs. We have also engaged a highly experienced CDMO and are in the process of engaging additional highly experienced CDMOs to manufacture and release our LNP-formulated mRNA for our first set of product candidates and to provide multiple sources for our product candidates.

We believe that we have sufficient manufacturing capacity through our third-party CDMOs and current internal facilities to meet our current research, preclinical, and clinical material needs. We believe that the current manufacturing capacity established externally, together with the internal capacity and our planned manufacturing facility will be sufficient to meet our anticipated needs for the next several years. We monitor the capacity availability for the manufacture of drug substance and drug product and believe that our supply agreements with our CDMOs and the lead times for new material supply would allow us to access additional capacity to meet our anticipated needs. We also believe that our product can be manufactured at a scale and with production and procurement efficiencies that will result in commercially competitive costs.

### **Competition**

As an early-stage biotechnology company, we face competition from a wide array of companies in the pharmaceutical and biotechnology industries. This competition includes both small companies and large companies with greater financial and technical resources and longer operating histories than our own. We also compete with the intellectual property, technology, and product development efforts of academic, governmental, and private research institutions.

Our competitors may have significantly greater financial resources, established presence in the market, expertise in research and development, manufacturing, preclinical and clinical testing, obtaining regulatory approvals and reimbursement, and marketing approved products than we do. These competitors also compete with us in recruiting and retaining qualified scientific, sales, marketing and management personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs. Smaller or early-stage companies may also prove to be significant competitors, particularly if they establish collaborative arrangements with large companies.

The key competitive factors affecting the success of any products that we develop, if approved, are likely to be their efficacy, safety, convenience, price, and the availability of reimbursement from government and other third-party payors. Our commercial opportunity for any of our product candidates could be reduced or eliminated if our competitors develop and commercialize products that are more effective, have fewer or less severe side effects, are more convenient, or are less expensive than any products that we may develop. Our competitors may also obtain U.S. Food and Drug Administration, or FDA, or other regulatory approval for their products more rapidly than we may obtain approval for ours, and may commercialize products more quickly than we do.

While we are not aware of other companies developing epigenomic controllers, we expect to compete with companies developing technologies that focus on gene-expression control using various technologies, such as CRISPR gene editing, gene therapies, non-coding RNA therapeutics, and small molecule epigenetics. These companies include: Alnylam Pharmaceuticals, Inc., Beam Therapeutics Inc., Biogen Inc., Constellation Pharmaceuticals, Inc., CRISPR Therapeutics AG, Editas Medicine Inc., Epizyme Inc., Ionis Pharmaceuticals, Inc., Intellia Therapeutics, Inc., Janssen Pharmaceutical Companies of Johnson & Johnson, Pfizer Inc., and Sangamo Therapeutics Inc.

Further, while we are not aware of other companies developing epigenomic controllers and modulating gene-expression pre-transcriptionally for the treatment of either HCC or NSCLC, several companies are developing therapeutics that use gene-expression control for the treatment of HCC or NSCLC, including Ionis Pharmaceuticals, Inc., AstraZeneca plc, Alnylam Pharmaceuticals, Inc. / Ascleptis Pharma Inc. and Bio-Path Holdings, Inc., which are developing anti-sense inhibitors, Nitto Denko Corporation and Simaomics, Inc., which are developing siRNA inhibitors, InteRNA Technologies B.V. which is developing micro-RNA mimic therapies, Momotaro-Gene Inc. and Genprex, Inc., which are developing gene therapy approaches, and MiNA Therapeutics Limited, which is developing a small activating RNA therapy.

These technologies, along with other modalities, such as small molecules and biologics, may be used to develop therapeutic candidates that would compete against our current, and potentially future, product candidates. In addition, we expect any OECs we develop to compete with established therapeutic treatments, if any, in their target indication.

### **Intellectual Property**

We believe our intellectual property estate is a strategic asset that has the potential to provide us with a competitive advantage. We strive to protect our proprietary technology, inventions and improvements that are commercially important to our business, including pursuing, maintaining, defending, and asserting patent rights, whether developed internally or licensed from third parties. Our policy and practice is to protect our proprietary position by, various methods including, filing patent applications in the United States and in jurisdictions outside of the United States related to our proprietary technology (e.g., OMEGA platform, OECs, delivery and manufacturing technology), inventions, improvements and product candidates that are important to the development and implementation of our business. We also rely on trade secrets and know-how relating to our proprietary technology and product candidates. We continue to innovate and pursue in-licensing opportunities to develop, strengthen and maintain our proprietary position in the field of epigenetic medicine. We additionally rely on data exclusivity, market exclusivity and patent term extensions when available and plan to seek and rely on regulatory protection afforded through orphan drug designations for our therapeutic products. Our commercial success may depend in part on our ability to obtain and maintain patent and other proprietary protection for our technology, inventions and improvements; to preserve the confidentiality of our trade secrets; to maintain our licenses to use intellectual property owned by third parties; to defend and enforce our proprietary rights, including our patents; and to operate without infringing on the valid and enforceable patents and other proprietary rights of third parties.

Our wholly owned and in-licensed patent portfolio cover various aspects of the OMEGA platform, including, manufacturing, delivery, OECs and our therapeutic programs. Our patent portfolio also covers our product candidates that are in development. As of June 30, 2021, our patent portfolio consists of 26 patent families, including 23 pending U.S. patent applications (including provisional applications), 22 pending foreign patent applications in Europe, Australia, Canada, China, Hong Kong, Mexico, and Japan and eight owned or in-licensed Patent Cooperation Treaty applications, or PCT applications, that have not entered national phase. Any US or foreign patents issuing from or claiming priority to the patent applications in our patent portfolio will expire between 2036 and 2042, without taking into account any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity and other governmental fees. Our objective is to continue to expand our patent portfolio to protect our proprietary technology (including the OMEGA platform, OECs, delivery and manufacturing technology), inventions, improvements and current and future product candidates. Our patent portfolio currently does not include any granted patent covering any of our product candidates.

Further details of the products and technology areas covered by our intellectual property portfolio are described below.

#### **OMEGA Platform-related intellectual property**

Our intellectual property portfolio includes know-how and patent rights directed to the OMEGA platform and delivery technology developed internally and in-licensed exclusively or co-exclusively from the Whitehead Institute for Biomedical Research, or WIBR, and Flagship Pioneering Innovations V., Inc., or Flagship.

The intellectual property portfolio for our OMEGA platform technology is comprised of patent rights directed to compositions and methods of using OECs; methods and compositions for upregulating or downregulating gene expression by targeting IGDs; compositions for modulating gene expression by targeting IGDs with epigenetic effectors, physical disruptors and genetic modifiers; and methods for identifying and interrogating IGDs. The portfolio relates broadly to our existing product candidates and those we may develop in the future and the indications we target or may target in the future. We in-license the patents and patent applications related to our OMEGA platform from WIBR and from Flagship. As of June 30, 2021, we in-licensed one issued U.S. patent, 11 non-provisional U.S. patent applications and two provisional U.S. patent applications; four PCT patent applications; and 22 foreign patent applications in Europe, Australia, Canada, China, Hong Kong, Japan, and Mexico. We expect patents issuing from or claiming priority to these pending applications, if any, to expire between 2036 and 2042, excluding any patent term adjustments or extensions.

The patent portfolio for our delivery technology is comprised of patent applications directed to LNP formulations and cell penetrating polypeptide compositions and their uses. We own certain of the patent applications related to our delivery technology and in-license certain of the patent applications from Flagship. As of June 30, 2021, we owned or in-licensed two provisional U.S. patent applications and one nonprovisional U.S. patent application. We expect patents issuing from or claiming priority to these pending applications, if any, to expire between 2037 and 2042, excluding any patent term adjustments or extensions.

### **Disease-related intellectual property**

The disease-related patent rights in our intellectual property portfolio provide coverage for OECs that specifically address certain conditions and the associated disease states. The disease-related patent applications for our lead programs include those described below. Each of the disease-related patent applications described below is either wholly owned by us or is exclusively or co-exclusively licensed from WIBR or Flagship.

#### ***HNF4a***

Our liver regeneration program targets the master transcriptional regulator HNF4a. We have developed OEC candidates that increase expression of HNF4a to restore liver-cell function in patients with severe liver dysfunction. As of June 30, 2021, we owned one U.S. non-provisional patent application and one PCT application related to OEC compositions of matter and methods of treating liver disease. We expect patents issuing from these pending patent applications, if any, to expire in 2040, excluding any patent term adjustments or extensions.

#### ***MYC***

Our OTX-2002 program targets the c-Myc family oncogene. We have developed OECs that downregulate c-Myc for the treatment of HCC. We also have a program designed to reduce the expression of c-Myc to treat NSCLC. As of June 30, 2021, we in-licensed from WIBR and Flagship, three U.S. provisional patent applications, one U.S. non-provisional patent application and two foreign patent applications in Europe and Hong Kong related to OEC compositions of matter, methods of treating c-Myc related cancers and methods of modulating c-Myc expression. We expect patents issuing from or claiming priority to these pending patent applications, if any, to expire between 2037 and 2041, excluding any patent term adjustments or extensions.



### ***CXCL1, 2, 3, and IL-8***

We are developing OEC candidates to reduce expression of the CXCL1, 2, 3, and IL-8 gene cluster. The program is designed to reduce expression of chemokines that are over-expressed in a broad range of inflammatory disorders, including rheumatoid arthritis, gout, neutrophilic asthma, and ARDS. We are currently developing OEC candidates that target a key CTCF binding site of the CXCL 1-3/IL-8 IGD. As of June 30, 2021, we in-licensed from Flagship, two U.S. provisional patent applications relating to OEC compositions that target the CXCL 1-3/IL-8 IGD, and methods of treating inflammatory disorders, including rheumatoid arthritis. We expect patents claiming priority to this pending patent application, if any, to expire in 2041, excluding any patent term adjustments or extensions.

### ***Other Disease Areas***

In addition to our disease programs listed above, we also have patent applications relating to novel OEC compositions and their use for treating additional disorders that would benefit from upregulation or downregulation of gene expression. As of June 30, 2021, we owned one U.S. provisional patent application and one PCT patent application directed to compositions and methods of treatments for neurological disorders. We expect patents issuing from or claiming priority to these pending applications, if any, to expire between 2040 and 2041, excluding any patent term adjustments or extensions. As of June 30, 2021, we owned one PCT patent application directed to compositions and methods of treatment for metabolic disorder. We expect patents claiming priority to this pending application, if at all, to expire in 2040, excluding any patent term adjustments or extensions. As of June 30, 2021, we in-licensed from WIBR and Flagship, two U.S. non-provisional patent applications and one European patent application directed to compositions and methods of treatment for cancer. We expect any patents issuing from these pending applications, if any, to expire between 2036 and 2039, excluding any patent term adjustments or extensions. As of June 30, 2021, we owned one PCT patent application directed to compositions and methods of treatment for inflammatory disorders. We expect patents claiming priority to this pending application, if at all, to expire in 2041, excluding any patent term adjustments or extensions.

We intend to continually assess and refine our intellectual property strategy and file additional patent applications as we develop new platform technologies and product candidates.

## **License Agreements**

We are a party to license agreements under which we license patents, patent applications, and other intellectual property from third parties. The licensed intellectual property covers, at least in part, methods and compositions for regulating gene expression by targeting IGDs. These licenses impose various diligence and financial payment obligations on us. We expect to continue to enter into these types of license agreements in the future. We consider the following license agreements to be material to our business.

### ***License Agreement with Flagship***

In March 2019, we entered into an agreement, or the Flagship Agreement, with Flagship, pursuant to which we (i) irrevocably and unconditionally assigned to Flagship all of our right, title and interest in and to certain foundational intellectual property conceived prior to our launch, which is defined as the earlier of our closing of the Series B financing or the first day of employment by our CEO (such foundational intellectual property, the Foundational IP) and (ii) obtained an exclusive, worldwide, royalty-bearing, sublicensable, transferable license from Flagship under such Foundational IP to develop, manufacture and commercialize any product or process or component thereof, the development, manufacturing and commercialization of which would infringe at least one valid claim of Foundational IP

absent the license granted under the Flagship Agreement in the field of therapeutics during the term of

the Flagship Agreement. In addition, Flagship irrevocably and unconditionally assigned to us all of its right, title and interest in and to any and all patents claiming any inventions conceived (i) solely by Flagship Pioneering, Inc., or Flagship Management, or jointly by Flagship Management and us, (ii) after our launch, and (iii) as a result of activities conducted pursuant to that certain managerial agreement with Flagship Management, or the Managerial Agreement, or other participation of Flagship Management in our affairs, but excluding Foundational IP. Foundational IP is directed, among other things, to the OMEGA platform, including to general methods and compositions (OECs) to modulate gene expression by targeting IGDs and specific compositions and methods directed to specific targets for the treatment of various disorders, such as MYC and CXCL1, 2, 3 & IL-8 related disorders. We utilize the rights granted by Flagship under the Flagship Agreement in our OMEGA platform and our therapeutic product candidates, including our therapeutic programs directed to MYC and CXCL1, 2, 3 & IL-8 programs. As of June 30, 2021, the Foundational IP was expected to expire between 2037 and 2041. The license granted to Foundational IP is contingent upon our compliance with our obligations under the Flagship Agreement. Our obligations under the Flagship Agreement include the use of commercially reasonable efforts to develop and commercialize licensed products and payments required under the Flagship Agreement, including royalties on net sales of the licensed products. Pursuant to the Flagship Agreement, we are obligated to pay Flagship, on a licensed product-by-licensed product and jurisdiction-by-jurisdiction basis, royalties in the low single-digit percentage on net sales of licensed products. We are solely responsible for the clinical development of any product candidates we develop based on the Foundational IP. Under the Flagship Agreement, Flagship retains the right to practice Foundational IP within the field of therapeutics solely for non-commercial research and development purposes and to perform its duties under the Managerial Agreement.

The Flagship Agreement will terminate on the last to expire royalty term, which will expire, on a licensed product-by-licensed product and jurisdiction-by-jurisdiction basis, upon the expiration of the last valid claim of any Foundational IP covering such licensed product. Upon expiration of the royalty term with respect to a licensed product in any jurisdiction and payment in full of all amounts owed under the Flagship Agreement for such licensed product, the license granted to us will automatically convert into a non-exclusive, fully paid up license for such licensed product in such jurisdiction. We have the right to terminate the Flagship Agreement in its entirety for convenience upon 60 days of written notice. Either party may terminate the Flagship Agreement upon a material breach by the other party that is not cured within 30 days after receiving written notice. Also, Flagship may terminate (i) upon 30 days' written notice if we cease to carry on our business with respect to the rights granted in the Flagship Agreement, (ii) upon written notice if we experience an event of bankruptcy, or (iii) immediately upon written notice if we challenge the validity, patentability, or enforceability of any Foundational IP or participate in any such challenge. If Flagship determines that we have not used commercially reasonable efforts to develop and commercialize a licensed product in a specific sub-field within the licensed field, Flagship has the right to terminate the license, on prior written notice, with respect to such licensed product in such sub-field. However, in such event, we may retain our license with respect to such licensed product and sub-field if Flagship approves a written plan for development and commercialization.

#### ***Exclusive and Co-Exclusive License Agreements with WIBR***

In May 2019, we and WIBR entered into an exclusive license agreement, or the WIBR Exclusive Agreement. Under the WIBR Exclusive Agreement, we received an exclusive, worldwide, royalty-bearing, sublicensable license under certain patent rights owned or controlled by WIBR to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes in the field of human and animal therapeutics and diagnostics. The licensed patents under the WIBR Exclusive Agreement are directed to, among other things, methods and compositions for modulating gene expression in IGDs.

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In May 2019, we also entered into a co-exclusive license agreement with WIBR, or the WIBR Co-Exclusive Agreement. Under the WIBR Co-Exclusive Agreement, we received a co-exclusive, worldwide, royalty-bearing, sublicensable license under certain patent rights owned or controlled by WIBR to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes in the field of human and animal therapeutics and diagnostics. Our co-exclusive rights under the WIBR Co-Exclusive Agreement will become exclusive if the co-exclusive license agreement between WIBR and the co-exclusive licensee is terminated at any time for any reason. The licensed patents under the WIBR Co-Exclusive Agreement are directed to, among other things, methods and compositions for modulating gene expression through targeting IGDs. The WIBR Exclusive Agreement and the WIBR Co-Exclusive Agreement are collectively referred to as the WIBR Agreements.

Under the WIBR Agreements, WIBR retains the right to practice the licensed patents for research, teaching, and other educational purposes, including use in third-party sponsored research, and to grant non-exclusive licenses to other academic and not-for-profit research institutes solely for non-commercial research, teaching, and other educational purposes.

The licenses granted to us under the WIBR Agreements are subject to certain preexisting rights held by the U.S. government. The U.S. government retains certain rights under applicable law with respect to licensed patents that arose from federal research funding. The license granted to us under the WIBR Agreements is further subject to certain preexisting rights held by a certain third party who is a party to a certain sponsored research agreement, or SRA, with WIBR. Under the SRA, WIBR covenanted not to sue said third party if certain inventions arising under the SRA, or SRA inventions, are dominated by the licensed patents and we are thereby excluded from asserting any patent rights licensed from WIBR that cover the SRA inventions against said third party. Furthermore, beginning five years after the effective date of the WIBR Exclusive Agreement, if WIBR or we receive a request from a third party for a sublicense under the licensed patent rights to make, have made, use, sell, offer to sell, or import a product or process that is not directly competitive with a licensed product or licensed process then offered for sale or in bona fide research or development by or on behalf of us, we must either (i) enter into a good faith negotiation toward granting a non-exclusive sublicense limited to the third party's proposed field and proposed product, or (ii) at our election, submit a plan for WIBR's approval for development of the proposed product, which approval must not be unreasonably withheld.

Under the WIBR Exclusive Agreement, we are required to pay WIBR an annual license maintenance fee in the mid five figures. WIBR is also entitled to receive potential clinical and regulatory milestones up to \$1.7 million in the aggregate for each of the first three licensed products (excluding backup products). As of June 30, 2021, we had paid WIBR \$0.3 million under the WIBR Exclusive Agreement. With respect to the sale of licensed products by us, our affiliates or our sublicensees, WIBR is entitled to receive a low single-digit percentage royalties on net sales of licensed products until, on a country-by-country basis, the expiration or abandonment of the patent rights. We are entitled to certain customary reductions and offsets on these royalties with respect to a licensed product in a given country. If we sublicense our rights to develop or commercialize a licensed product under the WIBR Exclusive Agreement, WIBR is entitled to a percentage of non-royalty payments that we receive from our sublicenses, ranging from zero to the low double-digits, depending on the stage of development our licensed products at the time such sublicense is executed.

Unless earlier terminated, the WIBR Exclusive Agreement will remain in effect until the expiration or abandonment of all licensed patent rights. We may terminate the WIBR Exclusive Agreement at our convenience following written notice to WIBR. Either party may terminate the WIBR Exclusive Agreement for an uncured material breach of the other party. WIBR may also terminate the WIBR Exclusive Agreement in the event that Omega ceases to carry on its business. The last to expire patent under the WIBR Exclusive Agreement, if issued, is expected to expire in 2038.

Under the WIBR Co-Exclusive Agreement, we are required to pay WIBR an annual license maintenance fee in the low to mid five figures. WIBR is also entitled to receive potential clinical, regulatory, and sublicensing milestones up to \$1.9 million in the aggregate for each of the first three licensed products (excluding backup products). As of June 30, 2021, we had paid WIBR \$0.2 million under the WIBR Co-Exclusive Agreement. With respect to the sale of licensed products by us, our affiliates or our sublicensees, WIBR is entitled to receive a sub single digit percentage royalties on net sales of licensed products and low single digit percentage royalties on licensed services income until, on a country-by-country basis, the expiration or abandonment of the patent rights. We are entitled to certain customary reductions and offsets on these royalties with respect to a licensed product in a given country. If we sublicense our rights to develop or commercialize a licensed product under the WIBR Co-Exclusive Agreement, WIBR is entitled to a mid-five figure yearly payment for each such sublicense agreement that grants a sublicensee the right under the licensed patents.

Unless earlier terminated, the WIBR Co-Exclusive Agreement will remain in effect until the expiration or abandonment of all licensed patent rights. We may terminate the WIBR Co-Exclusive Agreement at our convenience following written notice to WIBR. Either party may terminate the WIBR Co-Exclusive Agreement for an uncured material breach of the other party. WIBR may also terminate the WIBR Co-Exclusive Agreement in the event that we cease to carry on our business. The last to expire patent under the WIBR Co-Exclusive Agreement, if issued, is expected to expire in 2037.

### **Agreements with Acuitas**

#### *Development and Option Agreement*

In October 2020, we and Acuitas entered into a development and option agreement, or the Acuitas Option Agreement. Under the Acuitas Option Agreement, the parties agreed to jointly develop certain products combining our gene modulating therapeutics with Acuitas's LNPs. Each party granted the other party a worldwide, non-exclusive, royalty-free license under its proprietary technology to conduct the joint research. We will pay Acuitas's personnel costs and external expenses incurred in performing research in accordance with a work plan under the Acuitas Option Agreement. Under the Acuitas Option Agreement, Acuitas granted us options to obtain non-exclusive, worldwide, sublicensable licenses under Acuitas's patent rights and know-how related to LNP technology, or Acuitas LNP Technology, with respect to two specified targets (e.g., OEC constructs), or Reserved Targets, to develop and commercialize one or more therapeutic products including mRNAs that encode the Reserved Targets. For each option and Reserved Target, we are obligated to pay an annual technology access fee and target reservation and maintenance fees collectively in the low-mid six figures until such Reserved Targets is removed from the Reserved Target list or until we exercise an option with respect to such Reserved Target. On exercise of the first option, we are required to pay a \$1.5 million option exercise fee after execution of the first non-exclusive license. On exercise of the second option, we are required to pay a \$1.75 million option exercise fee after execution of the second non-exclusive license.

Unless earlier terminated, the Acuitas Option Agreement will remain in effect until the first to occur of (1) both options being exercised, and (2) three years from the effective date, except that we can choose to extend the three year term for an additional two years. Either party may terminate the Acuitas Option Agreement for an uncured material breach of the other party or upon the other party's bankruptcy or a similar event. We may terminate the Acuitas Option Agreement at our convenience following written notice to Acuitas. The last to expire patent under the Acuitas Option Agreement, if issued, is expected to expire in 2041.

#### *License Agreement*

In March 2021, we exercised the first option under the Acuitas Option Agreement and entered into a non-exclusive license agreement with Acuitas, or the Acuitas License Agreement. Acuitas granted us a

non-exclusive, worldwide, sublicensable license under the Acuitas LNP Technology to research, develop, manufacture, and commercially exploit products consisting of our OTX-2002 gene modulating therapeutics and Acuitas's LNPs. The last to expire patent under the Acuitas License Agreement, if issued, is expected to expire in 2041. We paid Acuitas an option exercise fee of \$1.5 million. Under the Acuitas License Agreement, we are required to pay Acuitas an annual license maintenance fee in the high six figures until we achieve a particular development milestone. Acuitas is entitled to receive potential clinical, regulatory, and commercial milestone payments of up to \$18.0 million in the aggregate. As of June 30, 2021, we had paid Acuitas \$1.4 million under the Acuitas License Agreement. With respect to the sale of each licensed product by us, our affiliates or our sublicensees, Acuitas is entitled to receive low single digit percentage royalties on net sales of the licensed product in a given country until the last to occur, in such country, of (i) the expiration or abandonment of all licensed patent rights covering the licensed product, (ii) expiration of any regulatory exclusivity for the licensed product, or (iii) ten years from the first commercial sale of the licensed product, or Royalty Term. We are entitled to certain royalty reductions and offsets with respect to each licensed product in a given country if no licensed patents cover the licensed product or if we are required to obtain rights to third party patents that relate to LNP technology.

Unless earlier terminated, the Acuitas License Agreement will remain in effect until the expiration of the last-to-expire Royalty Term. Either party may terminate the Acuitas License Agreement for an uncured material breach of the other party upon the other party's bankruptcy or a similar event. We may terminate the Acuitas License Agreement at our convenience following written notice to Acuitas.

### **Government Regulation**

We are subject to extensive regulation. We expect our product candidates to be regulated as biologics. Biological products are subject to regulation under the Federal Food, Drug, and Cosmetic Act, or FD&C Act, and the Public Health Service Act, or PHS Act, and other federal, state, local and foreign statutes and regulations. Both the FD&C Act and the PHS Act and their corresponding regulations govern, among other things, the testing, manufacturing, safety, efficacy, labeling, packaging, storage, record keeping, distribution, reporting, advertising and other promotional practices involving biological products.

#### ***U.S. biological products development process***

The process required by the FDA before a biologic may be marketed in the United States generally involves the following:

- completion of extensive nonclinical, sometimes referred to as preclinical laboratory tests, and preclinical animal trials and applicable requirements for the humane use of laboratory animals and formulation studies in accordance with applicable regulations, including good laboratory practices, or GLPs;
- submission to the FDA of an IND application, which must become effective before human clinical trials may begin;
- performance of adequate and well-controlled human clinical trials according to the FDA's regulations commonly referred to as good clinical practice, or GCP, regulations and any additional requirements for the protection of human research subjects and their health information, to establish the safety and efficacy of the proposed biological product for its intended use;
- submission to the FDA of a BLA for marketing approval that includes substantive evidence of safety, purity, and potency from results of nonclinical testing and clinical trials;

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- satisfactory completion of an FDA inspection of the manufacturing facility or facilities where the biological product is produced to assess compliance with current Good Manufacturing Practice, or cGMP, requirements to assure that the facilities, methods and controls are adequate to preserve the biological product's identity, strength, quality and purity;
- potential FDA audit of the nonclinical and clinical study sites that generated the data in support of the BLA; and
- FDA review and approval, or licensure, of the BLA.

Before testing any biological product candidate in humans, the product candidate enters the preclinical testing stage. Preclinical tests, also referred to as nonclinical studies, include laboratory evaluations of product chemistry, toxicity and formulation, as well as animal studies to assess the potential safety and activity of the product candidate. The conduct of the preclinical tests must comply with federal regulations and requirements including GLPs.

The clinical study sponsor must submit the results of the preclinical tests, together with manufacturing information, analytical data, any available clinical data or literature and a proposed clinical protocol, to the FDA as part of the IND. Some preclinical testing may continue even after the IND is submitted. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA places the clinical study on a clinical hold within that 30-day time period. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical study can begin. The FDA may also impose clinical holds on a biological product candidate at any time before or during clinical trials due to safety concerns or non-compliance. If the FDA imposes a clinical hold, trials may not recommence without FDA authorization and then only under terms authorized by the FDA.

In addition to the IND submission process, sponsors of certain human clinical trials of cells containing recombinant or synthetic nucleic acid molecules, including human gene transfer studies, are subject to evaluation and assessment by an institutional biosafety committee, or IBC, a local institutional committee that reviews and oversees research utilizing recombinant or synthetic nucleic acid molecules at that institution, pursuant to the National Institutes of Health's Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules, or NIH Guidelines. The IBC assesses the safety of the research and identifies any potential risk to the public health or the environment, and such review may result in some delay before initiation of a clinical trial. While the NIH Guidelines are not mandatory unless the research in question is being conducted at or sponsored by institutions receiving NIH funding of recombinant or synthetic nucleic acid molecule research, many companies and other institutions not otherwise subject to the NIH Guidelines voluntarily follow them.

Clinical trials involve the administration of the biological product candidate to healthy volunteers or patients under the supervision of qualified investigators, generally physicians not employed by or under the study sponsor's control. Clinical trials are conducted under protocols detailing, among other things, the objectives of the clinical study, dosing procedures, subject selection and exclusion criteria, and the parameters to be used to monitor subject safety, including stopping rules that assure a clinical study will be stopped if certain adverse events should occur. Each protocol and any amendments to the protocol must be submitted to the FDA as part of the IND. Clinical trials must be conducted and monitored in accordance with the FDA's regulations comprising the GCP requirements, including the requirement that all research subjects provide informed consent. Further, each clinical study must be reviewed and approved by an independent institutional review board, or IRB, at or servicing each institution at which the clinical study will be conducted. An IRB is charged with protecting the welfare and rights of study participants and considers such items as whether the risks to individuals participating in the clinical trials are minimized and are reasonable in relation to anticipated benefits. The IRB also approves the form and content of the informed consent that must be signed by each clinical study subject or his or her legal representative and must monitor the clinical study until completed.

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Human clinical trials are typically conducted in three sequential phases that may overlap or be combined:

- Phase I. The biological product candidate is initially introduced into healthy human subjects and tested for safety. In the case of some products for severe or life-threatening diseases, especially when the product may be too inherently toxic to ethically administer to healthy volunteers, the initial human testing is often conducted in patients.
- Phase II. The biological product candidate is evaluated in a limited patient population to identify possible adverse effects and safety risks, to preliminarily evaluate the efficacy of the product for specific targeted diseases and to determine dosage tolerance, optimal dosage and dosing schedule.
- Phase III. Clinical trials are undertaken to further evaluate dosage, clinical efficacy, potency, and safety in an expanded patient population at geographically dispersed clinical study sites. These clinical trials are intended to establish the overall risk/benefit ratio of the product and provide an adequate basis for product labeling.

Post-approval clinical trials, sometimes referred to as Phase IV clinical trials, may be conducted after initial marketing approval. These clinical trials are used to gain additional experience from the treatment of patients in the intended therapeutic indication, particularly for long-term safety follow-up.

During all phases of clinical development, regulatory agencies require extensive monitoring and auditing of all clinical activities, clinical data, and clinical study investigators. Annual progress reports detailing the results of the clinical trials must be submitted to the FDA. Written IND safety reports must be promptly submitted to the FDA, the NIH and the investigators for serious and unexpected adverse events, any findings from other trials, tests in laboratory animals or in vitro testing that suggest a significant risk for human subjects, or any clinically important increase in the rate of a serious suspected adverse reaction over that listed in the protocol or investigator brochure. The sponsor must submit an IND safety report within 15 calendar days after the sponsor determines that the information qualifies for reporting. The sponsor also must notify the FDA of any unexpected fatal or life-threatening suspected adverse reaction within seven calendar days after the sponsor's initial receipt of the information. The FDA or the sponsor or its data safety monitoring board may suspend a clinical study at any time on various grounds, including a finding that the research subjects or patients are being exposed to an unacceptable health risk. Similarly, an IRB can suspend or terminate approval of a clinical study at its institution if the clinical study is not being conducted in accordance with the IRB's requirements or if the biological product candidate has been associated with unexpected serious harm to patients.

There are also requirements governing the reporting of ongoing clinical trials and completed clinical trial results to public registries. Sponsors of clinical trials of FDA-regulated products, including biologics, are required to register and disclose certain clinical trial information, which is publicly available at [www.clinicaltrials.gov](http://www.clinicaltrials.gov). Information related to the product, patient population, phase of investigation, study sites and investigators, and other aspects of the clinical trial is then made public as part of the registration. Sponsors are also obligated to discuss the results of their clinical trials after completion. Disclosure of the results of these trials can be delayed until the new product or new indication being studied has been approved.

Concurrent with clinical trials, companies usually complete additional animal trials and must also develop additional information about the physical characteristics of the biological product candidate as well as finalize a process for manufacturing the product in commercial quantities in accordance with GMP requirements. To help reduce the risk of the introduction of adventitious agents with use of biological products, the PHS Act emphasizes the importance of manufacturing control for products whose attributes cannot be precisely defined. The manufacturing process must be capable of

consistently producing quality batches of the product candidate and, among other things, the sponsor must develop methods for testing the identity, strength, quality, potency and purity of the final biological product. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the biological product candidate does not undergo unacceptable deterioration over its shelf life.

### ***U.S. review and approval process***

After the completion of clinical trials of a biological product candidate, FDA approval of a BLA must be obtained before commercial marketing of the biological product. The BLA must include results of product development, laboratory and animal trials, human trials, information on the manufacture and composition of the product, proposed labeling and other relevant information. In addition, under the Pediatric Research Equity Act, or PREA, a BLA or supplement to a BLA must contain data to assess the safety and effectiveness of the biological product candidate for the claimed indications in all relevant pediatric subpopulations and to support dosing and administration for each pediatric subpopulation for which the product is safe and effective. The Food and Drug Administration Safety and Innovation Act, or FDASIA, requires that a sponsor who is planning to submit a marketing application for a drug or biological product that includes a new active ingredient, new indication, new dosage form, new dosing regimen or new route of administration submit an initial Pediatric Study Plan, or PSP, within sixty days after an end-of-Phase 2 meeting or as may be agreed between the sponsor and FDA. Unless otherwise required by regulation, PREA does not apply to any biological product for an indication for which orphan designation has been granted.

Under the Prescription Drug User Fee Act, or PDUFA, as amended, each BLA must be accompanied by a user fee. The FDA adjusts the PDUFA user fees on an annual basis. Fee waivers or reductions are available in certain circumstances, including a waiver of the application fee for the first application filed by a small business. Additionally, no user fees are assessed on BLAs for products designated as orphan drugs, unless the product also includes a non-orphan indication.

Within 60 days following submission of the application, the FDA reviews a BLA submitted to determine if it is substantially complete before the agency accepts it for filing. The FDA may refuse to file any BLA that it deems incomplete or not properly reviewable at the time of submission and may request additional information. In this event, the BLA must be resubmitted with the additional information. The resubmitted application also is subject to review before the FDA accepts it for filing. Once the submission is accepted for filing, the FDA begins an in-depth substantive review of the BLA. The FDA reviews the BLA to determine, among other things, whether the proposed product is safe and potent, or effective, for its intended use, and has an acceptable purity profile, and whether the product is being manufactured in accordance with cGMP requirements to assure and preserve the product's identity, safety, strength, quality, potency and purity. The FDA may refer applications for novel biological products or biological products that present difficult questions of safety or efficacy to an advisory committee, typically a panel that includes clinicians and other experts, for review, evaluation and a recommendation as to whether the application should be approved and under what conditions. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations carefully when making decisions. During the biological product approval process, the FDA also will determine whether a Risk Evaluation and Mitigation Strategy, or REMS, is necessary to assure the safe use of the biological product candidate. If the FDA concludes a REMS is needed, the sponsor of the BLA must submit a proposed REMS; the FDA will not approve the BLA without a REMS, if required.

Before approving a BLA, the FDA will inspect the facilities at which the product is manufactured. The FDA will not approve the product unless it determines that the manufacturing processes and facilities are in compliance with GMP requirements and adequate to assure consistent production of the product within required specifications. Additionally, before approving a BLA, the FDA will typically



inspect one or more clinical sites to assure that the clinical trials were conducted in compliance with IND study requirements and GCP requirements.

Notwithstanding the submission of relevant data and information, the FDA may ultimately decide that the BLA does not satisfy its regulatory criteria for approval and deny approval. Data obtained from clinical trials are not always conclusive and the FDA may interpret data differently than the applicant interprets the same data. If the FDA decides not to approve the BLA in its present form, the FDA will issue a complete response letter that usually describes all of the specific deficiencies in the BLA identified by the FDA. The deficiencies identified may be minor, for example, requiring labeling changes, or major, for example, requiring additional clinical trials. Additionally, the complete response letter may include recommended actions that the applicant might take to place the application in a condition for approval. If a complete response letter is issued, the applicant may either resubmit the BLA, addressing all of the deficiencies identified in the letter, or withdraw the application.

If a product receives regulatory approval, the approval may be significantly limited to specific diseases and dosages or the indications for use may otherwise be limited, which could restrict the commercial value of the product. Further, the FDA may require that certain contraindications, warnings or precautions be included in the product labeling. The FDA may impose restrictions and conditions on product distribution, prescribing, or dispensing in the form of a REMS, or otherwise limit the scope of any approval. In addition, the FDA may require post marketing clinical trials, sometimes referred to as Phase IV clinical trials, designed to further assess a biological product's safety and effectiveness, and testing and surveillance programs to monitor the safety of approved products that have been commercialized.

One of the performance goals agreed to by the FDA under the PDUFA is to review 90% of standard BLAs in 10 months from the filing date and 90% of priority BLAs in six months from the filing date, whereupon a review decision is to be made. The FDA does not always meet its PDUFA goal dates for standard and priority BLAs and its review goals are subject to change from time to time. The review process and the PDUFA goal date may be extended by three months if the FDA requests or the BLA sponsor otherwise provides additional information or clarification regarding information already provided in the submission within the last three months before the PDUFA goal date.

### ***Orphan drug designation***

Under the Orphan Drug Act, the FDA may grant orphan designation to a drug or biologic intended to treat a rare disease or condition, which is a disease or condition that affects fewer than 200,000 individuals in the United States, or more than 200,000 individuals in the United States for which there is no reasonable expectation that the cost of developing and making available in the United States a drug or biologic for this type of disease or condition will be recovered from sales in the United States for that drug or biologic. Orphan drug designation must be requested before submitting an NDA or BLA. After the FDA grants orphan drug designation, the generic identity of the therapeutic agent and its potential orphan use are disclosed publicly by the FDA. The orphan drug designation does not convey any advantage in, or shorten the duration of, the regulatory review or approval process.

If a product that has orphan drug designation subsequently receives the first FDA approval for the disease for which it has such designation, the product is entitled to orphan drug exclusive approval (or exclusivity), which means that the FDA may not approve any other applications, including a full NDA or BLA, to market the same drug or biologic for the same indication for seven years, except in limited circumstances, such as a showing of clinical superiority to the product with orphan drug exclusivity or if the FDA finds that the holder of the orphan drug exclusivity has not shown that it can assure the availability of sufficient quantities of the orphan drug to meet the needs of patients with the disease or condition for which the drug or biologic was designated. Orphan drug exclusivity does not prevent the

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FDA from approving a different drug or biologic for the same disease or condition, or the same drug or biologic for a different disease or condition. Among the other benefits of orphan drug designation are tax credits for certain research and a waiver of the NDA or BLA application user fee.

A designated orphan drug may not receive orphan drug exclusivity if it is approved for a use that is broader than the indication for which it received orphan designation. In addition, exclusive marketing rights in the United States may be lost if the FDA later determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantities of the product to meet the needs of patients with the rare disease or condition.

### ***Expedited development and review programs***

The FDA offers a number of expedited development and review programs for qualifying product candidates. For example, the fast track program is intended to expedite or facilitate the process for reviewing new products that meet certain criteria. Specifically, product candidates are eligible for fast track designation if they are intended to treat a serious or life-threatening disease or condition and demonstrate the potential to address unmet medical needs for the disease or condition. Fast track designation applies to the combination of the product candidate and the specific indication for which it is being studied. The sponsor of a fast track product candidate has opportunities for more frequent interactions with the review team during product development and, once an NDA or BLA is submitted, the product may be eligible for priority review. A fast track product candidate may also be eligible for rolling review, where the FDA may consider for review sections of the NDA or BLA on a rolling basis before the complete application is submitted, if the sponsor provides a schedule for the submission of the sections of the NDA or BLA, the FDA agrees to accept sections of the NDA or BLA and determines that the schedule is acceptable, and the sponsor pays any required user fees upon submission of the first section of the NDA or BLA.

A product candidate intended to treat a serious or life-threatening disease or condition may also be eligible for breakthrough therapy designation to expedite its development and review. A product can receive breakthrough therapy designation if preliminary clinical evidence indicates that the product, alone or in combination with one or more other drugs or biologics, may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. The designation includes all of the fast track program features, as well as more intensive FDA interaction and guidance beginning as early as Phase 1 and an organizational commitment to expedite the development and review of the product candidate, including involvement of senior managers.

Any marketing application for a drug or biologic submitted to the FDA for approval, including a product candidate with a fast track designation and/or breakthrough therapy designation, may be eligible for other types of FDA programs intended to expedite the FDA review and approval process, such as priority review and accelerated approval. A product candidate is eligible for priority review if it has the potential to provide a significant improvement in the treatment, diagnosis or prevention of a serious disease or condition. For new-molecular-entity NDAs and original BLAs, priority review designation means the FDA's goal is to take action on the marketing application within six months of the 60-day filing date (as compared to ten months under standard review).

Additionally, product candidates studied for their safety and effectiveness in treating serious or life-threatening diseases or conditions may receive accelerated approval upon a determination that the product candidate has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit, or on a clinical endpoint that can be measured earlier than irreversible morbidity or mortality, that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit, taking into account the severity, rarity, or prevalence of the condition and the availability or lack of alternative

treatments. As a condition of accelerated approval, the FDA will generally require the sponsor to perform adequate and well-controlled post-marketing clinical studies to verify and describe the anticipated effect on irreversible morbidity or mortality or other clinical benefit. Products receiving accelerated approval may be subject to expedited withdrawal procedures if the sponsor fails to conduct the required post-marketing studies or if such studies fail to verify the predicted clinical benefit. In addition, the FDA currently requires as a condition for accelerated approval pre-approval of promotional materials, which could adversely impact the timing of the commercial launch of the product.

In 2017, the FDA established a new regenerative medicine advanced therapy, or RMAT, designation as part of its implementation of the 21st Century Cures Act. The RMAT designation program is intended to fulfill the 21st Century Cures Act requirement that the FDA facilitate an efficient development program for, and expedite review of, any drug or biologic that meets the following criteria: (i) the drug or biologic qualifies as a RMAT, which is defined as a cell therapy, therapeutic tissue engineering product, human cell and tissue product, or any combination product using such therapies or products, with limited exceptions; (ii) the drug or biologic is intended to treat, modify, reverse, or cure a serious or life-threatening disease or condition; and (iii) preliminary clinical evidence indicates that the drug or biologic has the potential to address unmet medical needs for such a disease or condition. RMAT designation provides all the benefits of breakthrough therapy designation, including more frequent meetings with the FDA to discuss the development plan for the product candidate and eligibility for rolling review and priority review. Product candidates granted RMAT designation may also be eligible for accelerated approval on the basis of a surrogate or intermediate endpoint reasonably likely to predict long-term clinical benefit, or reliance upon data obtained from a meaningful number of clinical trial sites, including through expansion of trials to additional sites.

Fast track designation, breakthrough therapy designation, priority review, accelerated approval, and RMAT designation do not change the standards for approval but may expedite the development or approval process. Even if a product qualifies for one or more of these programs, the FDA may later decide that the product no longer meets the conditions for qualification or decide that the time period for FDA review or approval will not be shortened. We may explore some of these opportunities for our product candidates as appropriate.

### ***Post-approval requirements***

Biologics are subject to pervasive and continuing regulation by the FDA, including, among other things, requirements relating to record-keeping, reporting of adverse experiences, periodic reporting, product sampling and distribution, and advertising and promotion of the product. After approval, most changes to the approved product, such as adding new indications or other labeling claims, are subject to prior FDA review and approval. There also are continuing, annual program fees for any marketed products. Biologic manufacturers and their subcontractors are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA and certain state agencies for compliance with cGMP, which impose certain procedural and documentation requirements. Changes to the manufacturing process are strictly regulated, and, depending on the significance of the change, may require prior FDA approval before being implemented. FDA regulations also require investigation and correction of any deviations from cGMP and impose reporting requirements. Accordingly, manufacturers must continue to expend time, money and effort in the area of production and quality control to maintain compliance with cGMP and other aspects of regulatory compliance.

The FDA may withdraw approval if compliance with regulatory requirements and standards is not maintained or if problems occur after the product reaches the market. Later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with manufacturing processes, or failure to comply with regulatory requirements, may result in revisions

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to the approved labeling to add new safety information; imposition of post-market studies or clinical studies to assess new safety risks; or imposition of distribution restrictions or other restrictions under a REMS program. Other potential consequences include, among other things:

- restrictions on the marketing or manufacturing of a product, complete withdrawal of the product from the market or product recalls;
- fines, warning letters or holds on post-approval clinical studies;
- refusal of the FDA to approve pending applications or supplements to approved applications, or suspension or revocation of existing product approvals;
- product seizure or detention, or refusal of the FDA to permit the import or export of products;
- consent decrees, corporate integrity agreements, debarment or exclusion from federal healthcare programs;
- mandated modification of promotional materials and labeling and the issuance of corrective information;
- the issuance of safety alerts, Dear Healthcare Provider letters, press releases and other communications containing warnings or other safety information about the product; or
- injunctions or the imposition of civil or criminal penalties.

The FDA closely regulates the marketing, labeling, advertising and promotion of biologics. A company can make only those claims relating to safety and efficacy, purity and potency that are approved by the FDA and in accordance with the provisions of the approved label. The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses. Failure to comply with these requirements can result in, among other things, adverse publicity, warning letters, corrective advertising and potential civil and criminal penalties. Physicians may prescribe legally available products for uses that are not described in the product's labeling and that differ from those tested by us and approved by the FDA. Such off-label uses are common across medical specialties. Physicians may believe that such off-label uses are the best treatment for many patients in varied circumstances. The FDA does not regulate the behavior of physicians in their choice of treatments. The FDA does, however, restrict manufacturer's communications on the subject of off-label use of their products.

### ***Biosimilars and exclusivity***

The Biologics Price Competition and Innovation Act of 2009, or BPCIA, created an abbreviated approval pathway for biological products that are highly similar, or "biosimilar," to or interchangeable with an FDA-approved reference biological product. The FDA has issued several guidance documents outlining an approach to review and approval of biosimilars. Biosimilarity, which requires that there be no clinically meaningful differences between the biological product and the reference product in terms of safety, purity, and potency, is generally shown through analytical studies, animal studies, and a clinical study or studies. Interchangeability requires that a product is biosimilar to the reference product and the product must demonstrate that it can be expected to produce the same clinical results as the reference product in any given patient and, for products that are administered multiple times to an individual, the biologic and the reference biologic may be alternated or switched after one has been previously administered without increasing safety risks or risks of diminished efficacy relative to exclusive use of the reference biologic. A product shown to be biosimilar or interchangeable with an FDA-approved reference biological product may rely in part on the FDA's previous determination of safety and effectiveness for the reference product for approval, which can potentially reduce the cost and time required to obtain approval to market the product. Complexities associated with the larger, and often more complex, structures of biological products, as well as the processes by which such products are manufactured, pose significant hurdles to implementation of the abbreviated approval pathway that are still being worked out by the FDA.

Under the BPCIA, an application for a biosimilar product may not be submitted to the FDA until four years following the date that the reference product was first licensed by the FDA. In addition, the approval of a biosimilar product may not be made effective by the FDA until 12 years from the date on which the reference product was first licensed. During this 12-year period of exclusivity, another company may still market a competing version of the reference product if the FDA approves a full BLA for the competing product containing that applicant's own preclinical data and data from adequate and well-controlled clinical trials to demonstrate the safety, purity and potency of its product. The BPCIA also created certain exclusivity periods for biosimilars approved as interchangeable products. At this juncture, it is unclear whether products deemed "interchangeable" by the FDA will, in fact, be readily substituted by pharmacies, which are governed by state pharmacy law.

A biological product can also obtain pediatric market exclusivity in the United States. Pediatric exclusivity, if granted, adds six months to existing exclusivity periods and patent terms. This six-month exclusivity, which runs from the end of other exclusivity protection or patent term, may be granted based on the voluntary completion of a pediatric study in accordance with an FDA-issued "Written Request" for such a study.

The BPCIA is complex and continues to be interpreted and implemented by the FDA. In addition, government proposals have sought to reduce the 12-year reference product exclusivity period. Other aspects of the BPCIA, some of which may impact the BPCIA exclusivity provisions, have also been the subject of recent litigation. As a result, the ultimate impact, implementation, and impact of the BPCIA is subject to significant uncertainty.

### ***Government regulation outside of the United States***

Our product candidates will be subject to similar laws and regulations imposed by jurisdictions outside of the United States, and, in particular, Europe, which may include, for instance, applicable post-marketing requirements, including safety surveillance, anti-fraud and abuse laws and implementation of corporate compliance programs and reporting of payments or other transfers of value to healthcare professionals.

In order to market our future product candidates in the European Economic Area (which is comprised of the 28 Member States of the EU plus Norway, Iceland and Liechtenstein) (the "EEA"), and many other foreign jurisdictions, we must obtain separate regulatory approvals. More concretely, in the EEA, medicinal product candidates can only be commercialized after obtaining a Marketing Authorization ("MA"). There are two types of marketing authorizations:

- the "Community MA," which is issued by the European Commission through the Centralized Procedure, based on the opinion of the Committee for Medicinal Product candidates for Human Use of the EMA and which is valid throughout the entire territory of the EEA. The Centralized Procedure is mandatory for certain types of product candidates, such as biotechnology medicinal product candidates, orphan medicinal product candidates and medicinal product candidates indicated for the treatment of AIDS, cancer, neurodegenerative disorders, diabetes, auto-immune and viral diseases. The Centralized Procedure is optional for product candidates containing a new active substance not yet authorized in the EEA, or for product candidates that constitute a significant therapeutic, scientific or technical innovation or which are in the interest of public health in the EU; and
- "National MAs," which are issued by the competent authorities of the Member States of the EEA and only cover their respective territory, are available for product candidates not falling within the mandatory scope of the Centralized Procedure. Where a product has already been authorized for marketing in a Member State of the EEA, this National MA can be recognized in another Member State through the Mutual Recognition Procedure. If the product has not received a National MA in any Member State at the time of application, it can be approved simultaneously in various Member States through the Decentralized Procedure.

Under the above described procedures, before granting the MA, the EMA or the competent authorities of the Member States of the EEA make an assessment of the risk-benefit balance of the product on the basis of scientific criteria concerning its quality, safety and efficacy.

*Data and marketing exclusivity.* In the EEA, new product candidates authorized for marketing, or reference product candidates, qualify for eight years of data exclusivity and an additional two years of market exclusivity upon marketing authorization. The data exclusivity period prevents generic or biosimilar applicants from relying on the preclinical and clinical trial data contained in the dossier of the reference product when applying for a generic or biosimilar marketing authorization in the EU during a period of eight years from the date on which the reference product was first authorized in the EU. The market exclusivity period prevents a successful generic or biosimilar applicant from commercializing its product in the EU until 10 years have elapsed from the initial authorization of the reference product in the EU. The 10-year market exclusivity period can be extended to a maximum of eleven years if, during the first eight years of those 10 years, the marketing authorization holder obtains an authorization for one or more new therapeutic indications which, during the scientific evaluation prior to their authorization, are held to bring a significant clinical benefit in comparison with existing therapies.

*Pediatric investigation plan.* In the EEA, marketing authorization applications for new medicinal product candidates not authorized have to include the results of studies conducted in the pediatric population, in compliance with a pediatric investigation plan ("PIP"), agreed with the EMA's Pediatric Committee ("PDCO"). The PIP sets out the timing and measures proposed to generate data to support a pediatric indication of the drug for which marketing authorization is being sought. The PDCO can grant a deferral of the obligation to implement some or all of the measures of the PIP until there are sufficient data to demonstrate the efficacy and safety of the product in adults. Further, the obligation to provide pediatric clinical trial data can be waived by the PDCO when these data are not needed or appropriate because the product is likely to be ineffective or unsafe in children, the disease or condition for which the product is intended occurs only in adult populations, or when the product does not represent a significant therapeutic benefit over existing treatments for pediatric patients. Once the marketing authorization is obtained in all Member States of the EU and study results are included in the product information, even when negative, the product is eligible for a six-month supplementary protection certificate extension or, in the case of orphan medicinal products, a two-year extension of orphan market exclusivity.

*Orphan drug designation.* In the EEA, a medicinal product can be designated as an orphan drug if its sponsor can establish that the product is intended for the diagnosis, prevention or treatment of a life-threatening or chronically-debilitating condition affecting not more than five in 10,000 persons in the EU when the application is made, or that the product is intended for the diagnosis, prevention or treatment of a life-threatening, seriously-debilitating or serious and chronic condition in the European Community and that without incentives it is unlikely that the marketing of the drug in the EU would generate sufficient return to justify the necessary investment. For either of these conditions, the applicant must demonstrate that there exists no satisfactory method of diagnosis, prevention or treatment of the condition in question that has been authorized in the EU or, if such method exists, the drug will be of significant benefit to those affected by that condition.

In the EEA, an application for designation as an orphan product can be made any time prior to the filing of an application for approval to market the product. Marketing authorization for an orphan drug leads to a ten-year period of market exclusivity. During this market exclusivity period, the EMA or the competent authorities of the Member States, cannot accept another application for a marketing authorization, or grant a marketing authorization, for a similar medicinal product for the same indication. The period of market exclusivity is extended by two years for orphan medicinal products that have also complied with an agreed PIP.

This period of orphan market exclusivity may, however, be reduced to six years if, at the end of the fifth year, it is established that the product no longer meets the criteria for which it received orphan drug destination, i.e. the prevalence of the condition has increased above the threshold or it is judged that the product is sufficiently profitable not to justify maintenance of market exclusivity. Granting of an authorization for another similar orphan medicinal product where another product has market exclusivity can happen only in selected cases, such as, for example, demonstration of "clinical superiority" by a similar medicinal product, inability of a manufacturer to supply sufficient quantities of the first product or where the manufacturer itself gives consent. A company may voluntarily remove a product from the orphan register. Medicinal products or medicinal product candidates designated as orphan are eligible for incentives made available by the EU and its Member States to support research into, development and availability of orphan medicinal products.

*Adaptive pathways.* The EMA has an adaptive pathways program which allows for early and progressive patient access to a medicine. The adaptive pathways concept is an approach to medicines approval that aims to improve patients' access to medicines in cases of high unmet medical need. To achieve this goal, several approaches are envisaged: identifying small populations with severe disease where a medicine's benefit-risk balance could be favorable; making more use of real-world data where appropriate to support clinical trial data; and involving health technology assessment bodies early in development to increase the chance that medicines will be recommended for payment and ultimately covered by national healthcare systems. The adaptive pathways concept applies primarily to treatments in areas of high medical need where it is difficult to collect data via traditional routes and where large clinical trials would unnecessarily expose patients who are unlikely to benefit from the medicine. The approach builds on regulatory processes already in place within the existing EU legal framework. These include: scientific advice; compassionate use; the conditional approval mechanism (for medicines addressing life-threatening conditions); patient registries and other pharmacovigilance tools that allow collection of real-life data and development of a risk-management plan for each medicine.

The adaptive pathways program does not change the standards for the evaluation of benefits and risks or the requirement to demonstrate a positive benefit-risk balance to obtain marketing authorization.

*PRIME scheme.* In July 2016, the EMA launched the PRIME scheme. PRIME is a voluntary scheme aimed at enhancing the EMA's support for the development of medicines that target unmet medical needs. It is based on increased interaction and early dialogue with companies developing promising medicines, to optimize their product development plans and speed up their evaluation to help them reach patients earlier. Product developers that benefit from PRIME designation can expect to be eligible for accelerated assessment but this is however not guaranteed. The benefits of a PRIME designation includes the appointment of a rapporteur from the Committee for Medicinal Product candidates for Human Use before submission of an MAA, early dialogue and scientific advice at key development milestones, and the potential to qualify product candidates for accelerated review earlier in the application process.

### **Other Healthcare Laws**

Pharmaceutical companies are subject to additional healthcare regulation and enforcement by the federal government and by authorities in the states and foreign jurisdictions in which they conduct their business and may constrain the financial arrangements and relationships through which we research, as well as, sell, market and distribute any products for which we obtain marketing approval. Such laws include, without limitation, federal and state anti-kickback, fraud and abuse, false claims, data privacy and security and transparency laws and regulations with respect to drug pricing and payments and other transfers of value made to physicians and other health care providers. Violations of any of such laws or any other governmental regulations that apply may result in significant penalties,

including, without limitation, administrative, civil and criminal penalties, damages, fines, disgorgement, the curtailment or restructuring of operations, integrity oversight and reporting obligations to resolve allegations of noncompliance, exclusion from participation in federal and state healthcare programs and imprisonment.

### **Coverage and Reimbursement**

Sales of any product depend, in part, on the extent to which such product will be covered by third-party payors, such as federal, state, and foreign government healthcare programs, commercial insurance and managed healthcare organizations, and the level of reimbursement for such product by third-party payors. Decisions regarding the extent of coverage and amount of reimbursement to be provided are made on a plan-by-plan basis. These third-party payors are increasingly reducing coverage and reimbursement for medical products, drugs and services. For products administered under the supervision of a physician, obtaining coverage and adequate reimbursement may be particularly difficult because of the higher prices often associated with such drugs. Additionally, separate reimbursement for the product itself or the treatment or procedure in which the product is used may not be available, which may impact physician utilization.

The U.S. government, state legislatures and foreign governments have also continued implementing cost-containment programs, including price controls, restrictions on coverage and reimbursement and requirements for substitution of generic products. Adoption of price controls and cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit sales of any product. Decreases in third-party reimbursement for any product or a decision by a third-party payor not to cover a product could reduce physician usage and patient demand for the product and also have a material adverse effect on sales.

### **Healthcare Reform**

In the United States, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, each as amended, collectively known as the ACA, was enacted, which substantially changed the way healthcare is financed by both governmental and private insurers, and significantly affected the pharmaceutical industry. The ACA contained a number of provisions, including those governing enrollment in federal healthcare programs, reimbursement adjustments and changes to fraud and abuse laws. For example, the ACA:

- increased the minimum level of Medicaid rebates payable by manufacturers of brand name drugs from 15.1% to 23.1% of the average manufacturer price;
- required collection of rebates for drugs paid by Medicaid managed care organizations;
- required manufacturers to participate in a coverage gap discount program, under which they must agree to offer 70 percent point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D; and
- imposed a non-deductible annual fee on pharmaceutical manufacturers or importers who sell "branded prescription drugs" to specified federal government programs.

Since its enactment, there have been judicial and Congressional challenges to certain aspects of the ACA. For example, the United States Supreme Court is currently reviewing the U.S. Court of Appeals for the 5th Circuit ruling that the individual mandate was unconstitutional and to determine the constitutionality of the ACA in its entirety. Other legislative changes have been proposed and adopted since the ACA was enacted, including aggregate reductions of Medicare payments to providers of 2% per fiscal year, which was temporarily suspended from May 1, 2020 through December 31, 2021 due to the COVID-19 pandemic.



Moreover, there has recently been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries, proposed and enacted legislation and executive orders issued by the former Trump administration designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products. The likelihood of success of these and other measures initiated by the former Trump administration is uncertain, particularly in light of the new Biden administration. It is also possible that additional governmental action is taken in response to the COVID-19 pandemic. Individual states in the United States have also become increasingly active in implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing.

We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could impact the amounts that federal and state governments and other third-party payors will pay for healthcare products and services.

### ***Data Privacy & Security***

Numerous state, federal and foreign laws govern the collection, dissemination, use, access to, confidentiality and security of personal information, including health-related information. As our operations and business grow, we may become subject to or affected by U.S. federal and state laws and regulations, including the Health Information Portability and Accountability Act of 1996, and its implementing regulations, as amended (HIPAA), that govern the collection, use, disclosure, and protection of health-related and other personal information. In addition, certain state and non-U.S. laws, such as the GDPR, govern the privacy and security of personal data, including health-related data, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts. Failure to comply with these laws, where applicable, can result in the imposition of significant civil and/or criminal penalties and private litigation. Privacy and security laws, regulations, and other obligations are constantly evolving, may conflict with each other to complicate compliance efforts, and can result in investigations, proceedings, or actions that lead to significant civil and/or criminal penalties and restrictions on data processing.

### **Employees and Human Capital Resources**

As of June 30, 2021, we had 60 full-time employees and 5 part-time employees. Of our full-time employees, 41 employees are engaged in research and development activities and 19 are engaged in general and administrative activities. None of our employees is represented by a labor union or covered by a collective bargaining agreement. We consider our relationship with our employees to be good.

Our human capital resources objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our employees. We believe our success depends on our ability to attract, retain, develop and motivate diverse highly skilled personnel. In particular, we depend upon the personal efforts and abilities of the principal members of our senior management to partner effectively as a team, and to provide strategic direction, develop our business, manage our operations and maintain a cohesive and stable work environment. We also rely on qualified managers and skilled employees, such as scientists, engineers and laboratory technicians, with technical expertise in operations, scientific knowledge, engineering skills and quality management experience in order to operate our business successfully.

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Our compensation program is designed to retain, motivate and, as needed, attract highly qualified employees. Accordingly, we use a mix of competitive base salary, cash-based annual incentive compensation, performance-based equity compensation awards and other employee benefits.

**Facilities**

Our principal office is located at 20 Acorn Park Drive, Cambridge, Massachusetts 02140, where we occupy approximately 24,000 square feet of office and laboratory space under a shared space arrangement that currently expires in July 2022. We believe that our facilities are sufficient to meet our current needs and that suitable additional space will be available as and when needed.

**Legal Proceedings**

We are not subject to any material legal proceedings.

## MANAGEMENT

### Executive Officers and Directors

The following table sets forth the name, age and position of each of our executive officers and directors.

Name	Age	Position
<b>Executive Officers</b>		
Mahesh Karande	48	President and Chief Executive Officer and Director
Roger Sawhney, M.D.	51	Chief Financial Officer
Thomas McCauley, Ph.D.	52	Chief Scientific Officer
<b>Directors</b>		
Noubar B. Afeyan, Ph.D.	58	Chairman of the Board of Directors
David A. Berry, M.D., Ph.D.	43	Director
Luke M. Beshar	63	Director
Elliott M. Levy, M.D.	62	Director
John Mendlein, Ph.D., J.D.	61	Director
Mary T. Szela	58	Director
Richard A. Young, Ph.D.	67	Director

- (1) Member of the audit committee.
- (2) Member of the compensation committee.
- (3) Member of the nominating and corporate governance committee.

### Executive Officers

*Mahesh Karande* has served as the President and Chief Executive Officer and as a member of our board of directors since June 2019. From April 2018 to March 2019, Mr. Karande served as President and CEO of Macrolide Pharmaceuticals. From March 2010 to April 2017, Mr. Karande held senior leadership roles at Novartis, including VP and Franchise Head, US Oncology, President Novartis Africa and President Novartis Egypt. Mr. Karande holds an M.B.A. from the Wharton School, University of Pennsylvania. He is also a graduate of the Georgia Institute of Technology where he completed his M.S. in engineering and the University of Bombay where he completed his undergraduate studies in engineering. We believe that Mr. Karande's extensive life science and leadership experience qualifies him to serve on our board of directors.

*Roger Sawhney, M.D.* has served as the Chief Financial Officer of our company since May 2020. From September 2018 to February 2020, Dr. Sawhney served at KKR & Co. as Director of its healthcare investment platform in the Americas where his work focused on investments across private and growth equity in the healthcare sector. From August 2009 to August 2012, Dr. Sawhney served as Senior Vice President and Head of Global Corporate Strategy for Novartis AG, as well as Senior Vice President of Corporate Strategy and Business Development for Outcome Health from February 2017 to February 2018. Dr. Sawhney has also served as Partner with both Bain & Company and the Boston Consulting Group where he managed numerous client engagements across the life sciences, med-tech and digital health sectors. Dr. Sawhney holds an M.D. from Harvard Medical School and a BA in Economics from Stanford University.

*Thomas McCauley, Ph.D.* has served as the Chief Scientific Officer of our company since July 2019. From September 2018 to July 2019, Dr. McCauley served as Chief Scientific Officer of Zikani Therapeutics (formerly Macrolide Pharmaceuticals) and as Chief Scientific Officer of Translate Bio (formerly RaNA Therapeutics) from September 2016 to April 2018. From April 2010 to August 2016,

Dr. McCauley served as vice president and head of Global Nonclinical Development at Shire Pharmaceuticals, where he made significant contributions to the development and global approvals of many of Shire's products, including Replagal® for Fabry disease, Vpriv® for Gaucher disease, Elaprase® for Hunter syndrome, Firazyr® for hereditary angioedema and Xiidra® for dry eye disease. Dr. McCauley holds a Ph.D. from the University of Alabama at Birmingham and a B.S. and M.Eng. from Cornell University.

### **Non-Employee Directors**

*Noubar B. Afeyan, Ph.D.* was a co-founder and serves as chairman of our board and has been a director since July 2016. In 1999, Dr. Afeyan founded Flagship Pioneering and serves as its Senior Managing Partner and Chief Executive Officer. Since August 2009, Dr. Afeyan has served on the board of directors of Moderna, Inc. and since April 2013 has served on the board of directors of Rubius Therapeutics, Inc. He currently serves on the boards of numerous privately held companies, and has previously served on the boards of numerous privately and publicly held companies, including Evelo Biosciences, Inc., Kaleido Biosciences, Inc. and Seres Therapeutics, Inc. He received a Ph.D. in biochemical engineering from the Massachusetts Institute of Technology and a B.S. in chemical engineering from McGill University. Dr. Afeyan is currently a visiting lecturer of business administration at Harvard Business School. We believe that Dr. Afeyan's significant experience co-founding, leading, and investing in numerous biotechnology companies make him qualified to serve on our board of directors.

*David A. Berry, M.D., Ph.D.* has served as a member of our board of directors since August 2017. Dr. Berry has also served in roles of increasing responsibility at Flagship Pioneering Inc. since January 2005, most recently as General Partner. He previously served as a director of Axcella Health, Inc. and Evelo Biosciences, Inc. He holds an M.D. from Harvard Medical School, a Ph.D. in biological engineering from the Massachusetts Institute of Technology Biological Engineering Division and a B.S. in brain and cognitive sciences from the Massachusetts Institute of Technology. We believe that Dr. Berry's extensive experience in the life sciences industry qualifies him to serve on our board of directors.

*Luke M. Beshar* has served as a member of our board of directors since May 2021. Mr. Beshar has served as a director of Trillium Therapeutics Inc., a publicly held immuno-oncology company, since March 2014 and is currently chair of its audit and compensation committees. Mr. Beshar has served as a director of REGENXBIO Inc., a publicly held gene therapy company, since May 2015 and is currently a member of its audit committee. Mr. Beshar has served as a director of Protara Therapeutics, Inc., a publicly held company focused on immune-oncology and rare diseases, since October 2018 and is currently chairman of its board of directors, chair of its nominating and corporate governance committee, and member of its audit committee. Mr. Beshar previously was the Executive/Senior Vice President and Chief Financial Officer of NPS Pharmaceuticals, Inc., a global biopharmaceutical company from November 2007 to February 2015 and Executive Vice President and Chief Financial Officer of Cambrex Corporation, a publicly held life sciences company, from December 2002 to November 2007. Mr. Beshar holds a B.S. degree in Accounting and Finance from Michigan State University and is a graduate of The Executive Program at the Darden Graduate School of Business at the University of Virginia and is a Certified Public Accountant. We believe that Mr. Beshar's extensive leadership experience in the pharmaceutical industry qualifies him to serve on our board of directors.

*Elliott M. Levy, M.D.* has served on our board of directors since March 2021. Dr. Levy has served as Senior Vice President of Global Development of Amgen since September 2014 and Senior Vice President of R&D Strategy and Operations since June 2020. He served as Chairman of the board of

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TransCelerate BioPharma, Inc. from September 2017 to September 2019 and as a board member since May 2015. Dr. Levy received his M.D. from Yale University and his B.A. from Yale College. We believe Dr. Levy is qualified to serve on our board of directors because of his scientific expertise and experience in the industry.

*John Mendlein, Ph.D., J.D.* has served as a member of our board of directors since January 2020. Dr. Mendlein currently serves as an Executive Partner at Flagship Pioneering. From January 2018 to February 2019, Dr. Mendlein served as President of Corporate and Product Strategy of Moderna, Inc. From 1996 until 2017, Dr. Mendlein held different senior executive and board roles, including Executive Chairman, Chief Executive Officer and General Counsel, of various biotechnology companies, including Affinium Pharmaceuticals (acquired by Debiopharm Group), Adnexus Therapeutics (acquired by BMS), aTyr Pharma, Inc., or aTyr, Aurora Biosciences (acquired by Vertex), and Fate Therapeutics, Inc., or Fate. From 2011 to 2017, he also served as Chief Executive Officer of aTyr. He started his biotechnology career at Smith Kline and French (now GlaxoSmithKline). He currently serves as Vice Chairman of the board of directors of Fate and previously served on the public boards of directors of Moderna, Monogram, aTyr, and Editas Medicine, Inc. Dr. Mendlein holds a Ph.D. in physiology and biophysics from the University of California, Los Angeles, a J.D. from the University of California, Hastings College of the Law, and a B.S. in biology from the University of Miami. We believe that Dr. Mendlein's extensive scientific experience and experience in the biotechnology industry qualifies him to serve on our board of directors.

*Mary T. Szela* has served as a member of our board of directors since June 2019. Ms. Szela currently serves as the Chief Executive Officer and President of TriSalus Life Sciences, Inc. (formerly Surefire Medical, Inc.), a privately held immuno-oncology company. From January 2016 to November 2016, Ms. Szela served as Chief Executive Officer and a director of Aegerion Pharmaceuticals, Inc. In November 2016, Aegerion Pharmaceuticals, Inc. merged with QLT Inc. to form Novelion Therapeutics Inc. where Ms. Szela served as Chief Executive Officer and as a member of its board of directors until November 2017. Ms. Szela served as the Chief Executive Officer and a member of the board of directors of Melinta Therapeutics, Inc., an antibiotic development company, from April 2013 to August 2015. Ms. Szela held ascending management positions at Abbott Laboratories from 1987 to 2012, including President of the company's U.S. pharmaceutical business from January 2008 to December 2010. Ms. Szela has served as a member of the boards of directors of Kura Oncology, Inc. since November 2018, Prometheus Biosciences since March of 2021, Coherus Biosciences since 2014, Alimera Sciences Inc. since June 2018 and TriSalus Life Sciences, Inc. since January 2018. She also previously served as a member of the board of directors of Receptos, Inc. from June 2014 to July 2015, Novo Nordisk from March 2014 to March 2017, and Macrolide Pharmaceuticals, from March 2018 to July 2019. Ms. Szela earned an M.B.A. in Business and a B.S. in nursing, both from the University of Illinois. We believe that Ms. Szela's extensive leadership experience in the pharmaceutical industry qualifies her to serve on our board of directors.

*Richard A. Young, Ph.D.* has served on our board of directors since August 2017. He has been a member of the Whitehead Institute and Professor of Biology at the Massachusetts Institute of Technology since 1984. Dr. Young currently serves as a member of the boards of directors of Syros Pharmaceuticals, Inc. since November 2011, Camp4 Therapeutics, Inc. since February 2016, and Dewpoint Therapeutics, Inc. since October 2020. In May 2012, he was elected into the National Academy of Sciences and in October of 2019, he was elected to the National Academy of Medicine. Dr. Young received his Ph.D. in molecular biophysics and biochemistry from Yale University. We believe Dr. Young is qualified to serve on our board of directors because of his scientific expertise.

## Board Composition and Election of Directors

### **Director Independence**

Our board of directors currently consists of eight members. Our board of directors has determined that, of our eight directors, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ do not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is “independent” as that term is defined under the rules of the Nasdaq Stock Market LLC, or Nasdaq. There are no family relationships among any of our directors or executive officers.

### **Classified Board of Directors**

In accordance with our restated certificate of incorporation that will go into effect upon the closing of this offering, our board of directors will be divided into three classes with staggered, three-year terms. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. Effective upon the closing of this offering, our directors will be divided among the three classes as follows:

- the Class I directors will be \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, and their terms will expire at our first annual meeting of stockholders following this offering;
- the Class II directors will be \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, and their terms will expire at our second annual meeting of stockholders following this offering; and
- the Class III directors will be \_\_\_\_\_ and \_\_\_\_\_, and their terms will expire at the third annual meeting of stockholders following this offering.

Our restated certificate of incorporation that will go into effect upon the closing of this offering will provide that the authorized number of directors may be changed only by resolution of the board of directors. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. The division of our board of directors into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control of our company. Our directors may be removed only for cause by the affirmative vote of the holders of at least two-thirds of our outstanding voting stock entitled to vote in the election of directors.

Our directors were elected to and currently serve on the board pursuant to a voting agreement among us and several of our largest stockholders. See “Certain Relationships and Related Party Transactions—Voting Agreement.” This agreement will terminate upon the closing of this offering, after which there will be no further contractual obligations regarding the election of our directors.

### **Board Leadership Structure**

Our board of directors is currently chaired by Dr. Afeyan. Our corporate governance guidelines provide that, if the chairman of the board is a member of management or does not otherwise qualify as independent, the independent directors of the board may elect a lead director. The lead director’s responsibilities include, but are not limited to: presiding over all meetings of the board of directors at which the chairman is not present, including any executive sessions of the independent directors; approving board meeting schedules and agendas; and acting as the liaison between the independent directors and the chief executive officer and chairman of the board. Our corporate governance guidelines further provide the flexibility for our board of directors to modify our leadership structure in the future as it deems appropriate.

## Role of the Board in Risk Oversight

One of the key functions of our board of directors is informed oversight of our risk management process. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly through our board of directors as a whole, as well as through various standing committees of our board of directors that address risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure and our audit committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. Our audit committee also monitors compliance with legal and regulatory requirements. Our nominating and corporate governance committee monitors the effectiveness of our corporate governance practices, including whether they are successful in preventing illegal or improper liability-creating conduct. Our compensation committee assesses and monitors whether any of our compensation policies and programs has the potential to encourage excessive risk-taking. While each committee is responsible for evaluating certain risks and overseeing the management of such risks, our entire board of directors is regularly informed through committee reports about such risks.

## Board Committees

Our board of directors has established three standing committees—audit, compensation and nominating and corporate governance—each of which operates under a charter that has been approved by our board of directors. Upon our listing on the Nasdaq Global Market, each committee's charter will be available under the Corporate Governance section of our website at [www.omegatherapeutics.com](http://www.omegatherapeutics.com). The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be a part of this prospectus.

### Audit Committee

The audit committee's responsibilities include, among other things:

- appointing, approving the compensation of, and assessing the independence of our registered public accounting firm;
- overseeing the work of our registered public accounting firm, including through the receipt and consideration of reports from such firm;
- reviewing and discussing with management and the registered public accounting firm our annual and quarterly financial statements and related disclosures;
- coordinating our board of directors' oversight of our internal control over financial reporting, disclosure controls and procedures and code of business conduct and ethics;
- discussing our risk management policies;
- meeting independently with our internal auditing staff, if any, registered public accounting firm and management;
- reviewing and approving or ratifying any related person transactions; and
- preparing the audit committee report required by Securities Exchange Commission, or SEC, rules.

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The members of our audit committee are \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. \_\_\_\_\_ serves as the chairperson of the committee. All members of our audit committee meet the requirements for financial literacy under the applicable listing rules of Nasdaq, or the Nasdaq rules. Our board of directors has determined that \_\_\_\_\_ and \_\_\_\_\_ meet the independence requirements of Rule 10A-3 under the Exchange Act and the applicable Nasdaq rules. Our board of directors has determined that \_\_\_\_\_ is an “audit committee financial expert” as defined by applicable SEC rules and has the requisite financial sophistication as defined under the applicable Nasdaq rules.

### **Compensation Committee**

The compensation committee's responsibilities include:

- reviewing and approving, or recommending for approval by the board of directors, the compensation of our CEO and our other executive officers;
- overseeing and administering our cash and equity incentive plans;
- reviewing and making recommendations to our board of directors with respect to director compensation;
- reviewing and discussing annually with management our “Compensation Discussion and Analysis,” to the extent required; and
- preparing the annual compensation committee report required by SEC rules, to the extent required.

The members of our compensation committee are \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. \_\_\_\_\_ serves as the chairperson of the committee. Our board of directors has determined that each of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ is independent under the applicable Nasdaq rules, including the Nasdaq rules specific to membership on the compensation committee, and is a “non-employee director” as defined in Rule 16b-3 promulgated under the Exchange Act.

### **Nominating and Corporate Governance Committee**

The nominating and corporate governance committee's responsibilities include, among other things:

- identifying individuals qualified to become board members;
- recommending to our board of directors the persons to be nominated for election as directors and to each board committee;
- developing and recommending to our board of directors corporate governance guidelines, and reviewing and recommending to our board of directors proposed changes to our corporate governance guidelines from time to time; and
- overseeing a periodic evaluation of our board of directors.

The members of our nominating and corporate governance committee are \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. \_\_\_\_\_ serves as the chairperson of the committee. Our board of directors has determined that \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ are independent under the applicable Nasdaq rules and the SEC rules and regulations.

### **Compensation Committee Interlocks and Insider Participation**

No member of our compensation committee is or has been our current or former officer or employee. None of our executive officers served as a director or a member of a compensation



committee (or other committee serving an equivalent function) of any other entity, one of whose executive officers served as a director or member of our compensation committee during the fiscal year ended December 31, 2020.

### **Code of Ethics and Code of Conduct**

We have adopted a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Upon our listing on the Nasdaq Global Market, our code of business conduct and ethics will be available under the Corporate Governance section of our website at [www.omegatherapeutics.com](http://www.omegatherapeutics.com). In addition, we intend to post on our website all disclosures that are required by law or the Nasdaq rules concerning any amendments to, or waivers from, any provision of the code. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be a part of this prospectus.

## EXECUTIVE AND DIRECTOR COMPENSATION

This section discusses the material components of the executive compensation program for our executive officers who are named in the “2020 Summary Compensation Table” below. In 2020, our “named executive officers” and their positions were as follows:

- Mahesh Karande, President and Chief Executive Officer;
- Roger Sawhney, M.D., Chief Financial Officer; and
- Thomas McCauley, Ph.D., Chief Scientific Officer.

### 2020 Summary Compensation Table

The following table sets forth information concerning the compensation of our named executive officers for the year ended December 31, 2020.

Name and Principal Position	Year	Salary	Option Awards	Non-Equity Incentive Plan Compensation	All Other Compensation	Total
		(\$)	\$(1)	\$(2)	\$(3)	(\$)
Mahesh Karande President and Chief Executive Officer	2020	\$482,620	\$126,577	\$ 241,310	\$ 86,866	\$ 937,373
Roger Sawhney, M.D. Chief Financial Officer	2020	\$213,000(4)	\$684,121	\$ 74,550	\$ 36,630	\$1,008,301
Thomas McCauley, Ph.D. Chief Scientific Officer	2020	\$353,365	—	\$ 123,678	—	\$ 477,043

- (1) Amounts reflect the full grant date fair value of option awards granted during 2020 computed in accordance with ASC Topic 718, *Compensation—Stock Compensation*, or ASC Topic 718, rather than the amounts paid to or realized by the named individual. We provide information regarding the assumptions used to calculate the value of option awards in Note 12 to the audited financial statements included in this prospectus.
- (2) Amounts shown represent each named executive officer’s annual bonus earned with respect to fiscal year 2020. Refer to “—2020 Annual bonuses” below for additional information regarding the Company’s annual bonus program for 2020.
- (3) The amounts reported for Mr. Karande and Dr. Sawhney reflect reimbursements for travel and lodging.
- (4) Dr. Sawhney commenced employment as of Chief Financial Officer in May 2020. His annual base salary for 2020 was \$355,000.

### Narrative disclosure to summary compensation table

#### 2020 Salaries

The named executive officers receive a base salary to compensate them for services rendered to our company. The base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive’s skill set, experience, role and responsibilities. Our board of directors increased the annual base salary for Mr. Karande from \$472,000 to \$486,160 and increased the annual base salary for Dr. McCauley from \$350,000 to \$354,487, in each case, effective April 1, 2020. Dr. Sawhney commenced employment with us in May 2020 with an initial annual base salary of \$355,000.

#### 2020 Annual bonuses

Each of Mr. Karande, Dr. Sawhney and Dr. McCauley was eligible to receive an annual bonus under the annual bonus program we maintain for all employees. For 2020, the target bonus amounts,

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expressed as a percentage of base salary, for Mr. Karande, Dr. Sawhney and Dr. McCauley were 50%, 35% and 35%, respectively. Annual bonuses for 2020 were based on the attainment of both corporate and individual performance goals as recommended by the compensation committee and determined by the board of directors. The corporate performance goals for 2020 were based on the achievement of company growth metrics and developing the Company's research and development programs. The individual performance goals for 2020 were based on each named executive officer's performance in their individually assigned duties and responsibilities. For 2020, each named executive officer received a bonus equal to 100% of his target amount, or \$241,310 for Mr. Karande, \$74,550 for Dr. Sawhney and \$123,678 for Dr. McCauley. Dr. Sawhney's bonus was pro-rated to reflect the portion of the calendar year during which he was employed.

### ***Equity compensation***

We generally offer stock options to our employees, including our named executive officers, as the long-term incentive component of our compensation program. Our stock options generally allow employees to purchase shares of our common stock at a price equal to the fair market value of our common stock on the date of grant, as determined by the board of directors. The stock options granted to our named executive officers generally vest as to 25% of the underlying shares on the first anniversary of the date of grant and in equal quarterly installments over the following three years. Historically, our stock options have been intended to qualify as "incentive stock options," to the extent permitted under the Internal Revenue Code, or the Code.

Prior to this offering, we have granted equity awards under our 2017 Equity Incentive Plan, referred to below as the 2017 Plan. Mr. Karande and Dr. Sawhney both received incentive equity grants in fiscal year 2020 under the 2017 Plan. On January 26, 2020, Mr. Karande was granted 1,232,999 stock options, which vest 25% on April 1, 2020, and the remainder in 12 equal quarterly installments thereafter, subject to Mr. Karande's continued employment through each applicable vesting date. On September 30, 2020, Dr. Sawhney was granted 1,507,687 stock options, which vest 25% on May 26, 2021 and the remainder in 12 equal quarterly installments thereafter, subject to Dr. Sawhney's continued employment through each applicable vesting date. Refer to the "Outstanding Equity Awards at 2020 Fiscal Year-End" below for additional information regarding these grants.

Effective on the day prior to our first public trading date, we intend to adopt a 2021 Incentive Award Plan, referred to below as the 2021 Plan, in order to facilitate the grant of cash and equity incentives to directors, employees (including our named executive officers) and consultants of our company and certain of its affiliates and to enable our company and certain of its affiliates to obtain and retain the services of these individuals. Once the 2021 Plan becomes effective, we will cease making grants under the 2017 Plan. However, the 2017 Plan will continue to govern the terms and conditions of the outstanding awards granted under it. For additional information about the 2017 Plan and the 2021 Plan, please see the section titled "Incentive Compensation Plans" below.

### ***Employee and retirement benefits***

We currently offer broad based health and welfare benefits, including health, life, disability, vision, and dental insurance to our named executive officers to the same extent as our other full-time employees, subject to the terms and eligibility requirements of those plans. We also reimburse Mr. Karande and Dr. Sawhney for travel and lodging expenses they incur in connection with the performance of their duties. In addition to the health and welfare benefits, we maintain a 401(k) retirement plan for our full-time employees, including our named executive officers. The 401(k) plan permits us to make discretionary employer contributions; however, we did not make any employer contributions in 2020. Other than the 401(k) plan, we do not provide any qualified or non-qualified retirement or deferred compensation benefits to our employees, including our named

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executive officers. Our named executive officers are eligible to participate in the 401(k) plan on the same terms as other full-time employees.

### **Agreements with our named executive officers**

Our named executive officers are each party to an employment or letter agreement with us that sets forth the terms and conditions of his employment. Pursuant to his offer letter, Mr. Karande is eligible to receive a one-time relocation bonus of \$200,000 if he relocates his primary residence to the Boston, Massachusetts area by December 31, 2021, which will be payable within 30 days following the date of Mr. Karande's relocation; provided, if Mr. Karande's employment is terminated for a reason other than due to an Involuntary Termination (as defined in his offer letter) (i) prior to the first anniversary of the payment date of the relocation bonus, he will be required to repay the full gross amount of the relocation bonus or (ii) after the first anniversary and prior to the second anniversary of the payment date of the relocation bonus, he will be required to repay 75% of the gross amount of the relocation bonus. We expect to enter into new employment agreements with the named executive officers that will supersede their existing agreements effective upon the effectiveness of the registration statement relating to this offering. The terms of these new agreements are not yet known.

### **Outstanding Equity Awards at 2020 Fiscal Year-End**

The following table summarizes the number of shares of common stock underlying outstanding equity incentive plan awards for each named executive officer as of December 31, 2020.

Name	Grant Date	Option Awards			
		Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price (\$)	Option Expiration Date
Mahesh Karande	6/24/2019(1)	1,119,192	2,365,322	0.14	6/23/2029
	1/26/2020(1)	462,374	770,625	0.16	1/25/2030
Roger Sawhney, M.D.	9/30/2020(2)	—	1,507,687	0.68	9/29/2030
Thomas McCauley, Ph.D.	9/17/2019(3)	348,141	765,912	0.16	9/16/2029

- (1) The option vests over four years, with 25% of the shares vested on April 1, 2020, and the remainder vesting in equal quarterly installments thereafter, subject to continued employment through each applicable vesting date.
- (2) The option vests over four years, with 25% of the shares vesting on May 26, 2021, and the remainder vesting in equal quarterly installments thereafter, subject to continued employment through each applicable vesting date.
- (3) The option vests over four years, with 25% of the shares vested on July 29, 2020, and the remainder vesting in equal quarterly installments thereafter, subject to continued employment through each applicable vesting date.

### **2020 Director Compensation**

The table below shows all compensation to our non-employee directors during the year ended December 31, 2020. Mahesh Karande, our President and Chief Executive Officer, is also a member of our board of directors, but he does not receive any additional compensation for his service as a director. Information regarding Mr. Karande's 2020 compensation is included in the "2020 Summary Compensation Table", "Outstanding Equity Awards at 2020 Fiscal Year-End" table and associated narrative disclosure above.

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<u>Name</u>	<u>Fees Earned or Paid in Cash (\$)</u>	<u>Option Awards \$(1)</u>	<u>All Other Compensation (\$)</u>	<u>Total (\$)</u>
Noubar Afeyan, Ph.D.(2)	—	—	—	—
David Berry, M.D., Ph.D.(2)	—	—	—	—
John Mendlein, Ph.D., J.D.	—	133,800	—	133,800
Mary Szela	—	—	—	—
Richard A. Young, Ph.D.(3)	—	—	120,000	120,000
Paul Peter Tak, Ph.D.(4)	—	—	—	—

- (1) This column represents the aggregate grant date fair value of the stock options in the fiscal year, calculated in accordance with ASC Topic 718, rather than the amounts paid to or realized by the non-employee director. We provide information regarding the assumptions used to calculate the value of option awards in Note 12 to the audited financial statements included in this prospectus.
- (2) Drs. Afeyan and Berry, who are affiliated with our investors, do not receive compensation in respect of their service as members of our board of directors.
- (3) We are party to a founder consulting agreement with Dr. Young under which he provides advisory services to us and we pay him \$120,000 annually. Dr. Young did not receive any additional compensation for his service as a director.
- (4) Dr. Tak resigned from our board of directors effective June 17, 2020.

The table below shows the aggregate numbers of option awards (exercisable and unexercisable) held as of December 31, 2020 by each non-employee director. Our non-employee directors did not hold any unvested restricted stock or restricted stock units as of December 31, 2020.

<u>Name</u>	<u>Option Awards Outstanding at 2020 Fiscal Year End(#)</u>
Noubar Afeyan, Ph.D.	—
David Berry, M.D., Ph.D.	—
John Mendlein, Ph.D., J.D.	836,252
Mary Szela	316,676
Richard A. Young, Ph.D.	—
Paul Peter Tak, Ph.D.	—

### **Incentive Compensation Plans**

The following summarizes the material terms of 2021 Plan, and the 2021 Employee Stock Purchase Plan, which will be the long-term incentive compensation plans in which our directors and named executive officers are eligible to participate following the consummation of this offering, and the 2017 Plan, under which we have previously made periodic grants of equity and equity-based awards to our directors and named executive officers.

#### **2021 Incentive Award Plan**

Effective the day prior to the first public trading date of our common stock, we intend to adopt and ask our stockholders to approve the 2021 Plan, under which we may grant cash and equity-based incentive awards to eligible service providers in order to attract, retain and motivate the persons who make important contributions to our company. The material terms of the 2021 Plan are summarized below.

### ***Eligibility and Administration***

Our employees, consultants and directors, and employees and consultants of our subsidiaries, will be eligible to receive awards under the 2021 Plan. The 2021 Plan will be administered by our board of directors, which may delegate its duties and responsibilities to one or more committees of our directors and/or officers (referred to collectively as the plan administrator below), subject to the limitations imposed under the 2021 Plan, Section 16 of the Exchange Act, stock exchange rules and other applicable laws. The plan administrator will have the authority to take all actions and make all determinations under the 2021 Plan, to interpret the 2021 Plan and award agreements and to adopt, amend and repeal rules for the administration of the 2021 Plan as it deems advisable. The plan administrator will also have the authority to grant awards, determine which eligible service providers receive awards and set the terms and conditions of all awards under the 2021 Plan, including any vesting and vesting acceleration provisions, subject to the conditions and limitations in the 2021 Plan.

### ***Shares Available for Awards***

An aggregate of \_\_\_\_\_ shares of our common stock will initially be available for issuance under the 2021 Plan. The number of shares initially available for our common stock will be increased by an annual increase on January 1 of each calendar year beginning in 2022 and ending in and including 2031, equal to the lesser of (A) \_\_\_\_\_ % of the shares of common stock outstanding on the final day of the immediately preceding calendar year and (B) a smaller number of shares determined by our board of directors. No more than \_\_\_\_\_ shares of common stock may be issued under the 2021 Plan upon the exercise of incentive stock options, or ISOs. Shares issued under the 2021 Plan may be authorized but unissued shares, shares purchased on the open market or treasury shares.

If an award under the 2021 Plan or the 2017 Plan, expires, lapses or is terminated, exchanged for cash, surrendered, repurchased, canceled without having been fully exercised or forfeited, any unused shares subject to the award will, as applicable, become or again be available for new grants under the 2021 Plan. Awards granted under the 2021 Plan in substitution for any options or other stock or stock-based awards granted by an entity before the entity's merger or consolidation with us or our acquisition of the entity's property or stock will not reduce the shares available for grant under the 2021 Plan, but may count against the maximum number of shares that may be issued upon the exercise of ISOs.

### ***Awards***

The 2021 Plan provides for the grant of stock options, including ISOs, and nonqualified stock options, or NSOs, stock appreciation rights, or SARs, restricted stock, dividend equivalents, restricted stock units, or RSUs, and other stock or cash based awards. Certain awards under the 2021 Plan may constitute or provide for payment of "nonqualified deferred compensation" under Section 409A of the Code. All awards under the 2021 Plan will be set forth in award agreements, which will detail the terms and conditions of awards, including any applicable vesting and payment terms and post-termination exercise limitations. A brief description of each award type follows.

- **Stock Options and SARs.** Stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. ISOs, by contrast to NSOs, may provide tax deferral beyond exercise and favorable capital gains tax treatment to their holders if certain holding period and other requirements of the Code are satisfied. SARs entitle their holder, upon exercise, to receive from us an amount equal to the appreciation of the shares subject to the award between the grant date and the exercise date. The plan administrator will determine the number of shares covered by each option and SAR, the exercise price of each option and SAR and the conditions and limitations applicable to the exercise of each option and SAR. The exercise price of a stock option or SAR will not be less than 100% of the fair market value of the underlying share on the grant date (or 110% in the case of ISOs granted to certain

significant stockholders), except with respect to certain substitute awards granted in connection with a corporate transaction. The term of a stock option or SAR may not be longer than ten years (or five years in the case of ISOs granted to certain significant stockholders).

- **Restricted Stock and RSUs.** Restricted stock is an award of nontransferable shares of our common stock that remain forfeitable unless and until specified conditions are met and which may be subject to a purchase price. RSUs are contractual promises to deliver shares of our common stock in the future, which may also remain forfeitable unless and until specified conditions are met and may be accompanied by the right to receive the equivalent value of dividends paid on shares of our common stock prior to the delivery of the underlying shares. The plan administrator may provide that the delivery of the shares underlying RSUs will be deferred on a mandatory basis or at the election of the participant. The terms and conditions applicable to restricted stock and RSUs will be determined by the plan administrator, subject to the conditions and limitations contained in the 2021 Plan.
- **Other Stock or Cash Based Awards.** Other stock or cash based awards are awards of cash, fully vested shares of our common stock and other awards valued wholly or partially by referring to, or otherwise based on, shares of our common stock or other property. Other stock or cash based awards may be granted to participants and may also be available as a payment form in the settlement of other awards, as standalone payments and as payment in lieu of compensation to which a participant is otherwise entitled. The plan administrator will determine the terms and conditions of other stock or cash based awards, which may include any purchase price, performance goal, transfer restrictions and vesting conditions.

### ***Performance Criteria***

The plan administrator may select performance criteria for an award to establish performance goals for a performance period. Performance criteria under the 2021 Plan may include, but are not limited to, the following: net earnings or losses (either before or after one or more of interest, taxes, depreciation, amortization, and non-cash equity-based compensation expense); gross or net sales or revenue or sales or revenue growth; net income (either before or after taxes) or adjusted net income; profits (including but not limited to gross profits, net profits, profit growth, net operation profit or economic profit), profit return ratios or operating margin; budget or operating earnings (either before or after taxes or before or after allocation of corporate overhead and bonus); cash flow (including operating cash flow and free cash flow or cash flow return on capital); return on assets; return on capital or invested capital; cost of capital; return on stockholders' equity; total stockholder return; return on sales; costs, reductions in costs and cost control measures; expenses; working capital; earnings or loss per share; adjusted earnings or loss per share; price per share or dividends per share (or appreciation in or maintenance of such price or dividends); regulatory achievements or compliance; implementation, completion or attainment of objectives relating to research, development, regulatory, commercial, or strategic milestones or developments; market share; economic value or economic value added models; division, group or corporate financial goals; customer satisfaction/growth; customer service; employee satisfaction; recruitment and maintenance of personnel; human resources management; supervision of litigation and other legal matters; strategic partnerships and transactions; financial ratios (including those measuring liquidity, activity, profitability or leverage); debt levels or reductions; sales-related goals; financing and other capital raising transactions; cash on hand; acquisition activity; investment sourcing activity; and marketing initiatives, any of which may be measured in absolute terms or as compared to any incremental increase or decrease. Such performance goals also may be based solely by reference to the company's performance or the performance of a subsidiary, division, business segment or business unit of the company or a subsidiary, or based upon performance relative to performance of other companies or upon comparisons of any of the indicators of performance relative to performance of other companies. When determining performance goals, the plan administrator may provide for exclusion of the impact of an

event or occurrence which the plan administrator determines should appropriately be excluded, including, without limitation, non-recurring charges or events, acquisitions or divestitures, changes in the corporate or capital structure, events unrelated to the business or outside of the control of management, foreign exchange considerations, and legal, regulatory, tax or accounting changes.

### ***Certain Transactions***

In connection with certain corporate transactions and events affecting our common stock, including a change in control, or change in any applicable laws or accounting principles, the plan administrator has broad discretion to take action under the 2021 Plan to prevent the dilution or enlargement of intended benefits, facilitate the transaction or event or give effect to the change in applicable laws or accounting principles. This includes canceling awards for cash or property, accelerating the vesting of awards, providing for the assumption or substitution of awards by a successor entity, adjusting the number and type of shares subject to outstanding awards and/or with respect to which awards may be granted under the 2021 Plan and replacing or terminating awards under the 2021 Plan. In addition, in the event of certain non-reciprocal transactions with our stockholders, the plan administrator will make equitable adjustments to awards outstanding under the 2021 Plan as it deems appropriate to reflect the transaction.

### ***Provisions of the 2021 Plan Relating to Director Compensation.***

The 2021 Plan provides that the plan administrator may establish compensation for non-employee directors from time to time subject to the 2021 Plan's limitations. Prior to commencing this offering, we intend to approve and implement a compensation program for our non-employee directors, which is described above under the heading "Director Compensation." Our board of directors or its authorized committee may modify the non-employee director compensation program from time to time in the exercise of its business judgment, taking into account such factors, circumstances and considerations as it shall deem relevant from time to time, provided that the sum of any cash compensation or other compensation and the grant date fair value of any equity awards granted under the 2021 Plan as compensation for services as a non-employee director during any fiscal year may not exceed \$ \_\_\_\_\_ in the fiscal year of the non-employee director's initial service and \$ \_\_\_\_\_ in any other fiscal year. The plan administrator may make exceptions to this limit for individual non-employee directors in extraordinary circumstances, as the plan administrator may determine in its discretion, subject to the limitations in the 2021 Plan.

### ***Plan Amendment and Termination***

Our board of directors may amend or terminate the 2021 Plan at any time; however, no amendment, other than an amendment that increases the number of shares available under the 2021 Plan, may materially and adversely affect an award outstanding under the 2021 Plan without the consent of the affected participant and stockholder approval will be obtained for any amendment to the extent necessary to comply with applicable laws. Further, the plan administrator may, without the approval of our stockholders, amend any outstanding stock option or SAR to reduce its price per share, including in the context of corporate transactions or equity restructurings, as described above. The 2021 Plan will remain in effect until the tenth anniversary of its effective date, unless earlier terminated by our board of directors. No awards may be granted under the 2021 Plan after its termination.

### ***Foreign Participants, Claw-Back Provisions, Transferability and Participant Payments***

The plan administrator may modify awards granted to participants who are foreign nationals or employed outside the United States or establish subplans or procedures to address differences in laws, rules, regulations or customs of such foreign jurisdictions. All awards will be subject to any



company claw-back policy as set forth in such claw-back policy or the applicable award agreement. Except as the plan administrator may determine or provide in an award agreement, awards under the 2021 Plan are generally non-transferrable, except by will or the laws of descent and distribution, or, subject to the plan administrator's consent, pursuant to a domestic relations order, and are generally exercisable only by the participant. With regard to tax withholding obligations arising in connection with awards under the 2021 Plan and exercise price obligations arising in connection with the exercise of stock options under the 2021 Plan, the plan administrator may, in its discretion, accept cash, wire transfer or check, shares of our common stock that meet specified conditions, a promissory note, a "market sell order," such other consideration as the plan administrator deems suitable or any combination of the foregoing.

### **2021 Employee Stock Purchase Plan**

Effective the day prior to the first public trading date of our common stock, we intend to adopt and ask our stockholders to approve the 2021 Employee Stock Purchase Plan, or the 2021 ESPP, the material terms of which are summarized below.

#### ***Shares Available for Awards; Administration***

A total of \_\_\_\_\_ shares of our common stock will initially be reserved for issuance under the 2021 ESPP. In addition, the number of shares available for issuance under the 2021 ESPP will be annually increased on January 1 of each calendar year beginning in 2022 and ending in and including 2031, by an amount equal to the lesser of (A) \_\_\_\_\_ % of the shares outstanding on the final day of the immediately preceding calendar year and (B) such smaller number of shares as is determined by our board of directors, provided that no more than \_\_\_\_\_ shares of our common stock may be issued under the 2021 ESPP. Our board of directors or a committee of our board of directors will administer and will have authority to interpret the terms of the 2021 ESPP and determine eligibility of participants. We expect that the compensation committee will be the initial administrator of the 2021 ESPP.

#### ***Eligibility***

All of our employees are eligible to participate in the 2021 ESPP. However, an employee may not be granted rights to purchase stock under our 2021 ESPP if the employee, immediately after the grant, would own (directly or through attribution) stock possessing 5% or more of the total combined voting power or value of all classes of our stock.

#### ***Grant of Rights***

The 2021 ESPP is intended to qualify under Section 423 of the Code and stock will be offered under the 2021 ESPP during offering periods. The length of the offering periods under the 2021 ESPP will be determined by the plan administrator and may be up to twenty-seven months long. Employee payroll deductions will be used to purchase shares on each purchase date during an offering period. The purchase dates for each offering period will be the final trading day in the offering period. Offering periods under the 2021 ESPP will commence when determined by the plan administrator. The plan administrator may, in its discretion, modify the terms of future offering periods.

The 2021 ESPP permits participants to purchase common stock through payroll deductions of up to a specified percentage of their eligible compensation. The plan administrator will establish a maximum number of shares that may be purchased by a participant during any offering period. In addition, no employee will be permitted to accrue the right to purchase stock under the 2021 ESPP at a rate in excess of \$25,000 worth of shares during any calendar year during which such a purchase right is outstanding (based on the fair market value per share of our common stock as of the first day of the offering period).

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On the first trading day of each offering period, each participant will automatically be granted an option to purchase shares of our common stock. The option will expire at the end of the applicable offering period, and will be exercised at that time to the extent of the payroll deductions accumulated during the offering period. The purchase price of the shares, in the absence of a contrary designation, will be 85% of the lower of the fair market value of our common stock on the first trading day of the offering period or on the purchase date. Participants may voluntarily end their participation in the 2021 ESPP at any time during a specified period prior to the end of the applicable offering period, and will be paid their accrued payroll deductions that have not yet been used to purchase shares of common stock. Participation ends automatically upon a participant's termination of employment.

A participant may not transfer rights granted under the 2021 ESPP other than by will or the laws of descent and distribution, and are generally exercisable only by the participant.

### ***Certain Transactions***

In the event of certain non-reciprocal transactions or events affecting our common stock, the plan administrator will make equitable adjustments to the 2021 ESPP and outstanding rights. In the event of certain unusual or non-recurring events or transactions, including a change in control, the plan administrator may provide for (1) either the replacement of outstanding rights with other rights or property or termination of outstanding rights in exchange for cash, (2) the assumption or substitution of outstanding rights by the successor or survivor corporation or parent or subsidiary thereof, if any, (3) the adjustment in the number and type of shares of stock subject to outstanding rights, (4) the use of participants' accumulated payroll deductions to purchase stock on a new purchase date prior to the next scheduled purchase date and termination of any rights under ongoing offering periods or (5) the termination of all outstanding rights.

### ***Plan Amendment***

The plan administrator may amend, suspend or terminate the 2021 ESPP at any time. However, stockholder approval will be obtained for any amendment that increases the aggregate number or changes the type of shares that may be sold pursuant to rights under the 2021 ESPP, changes the corporations or classes of corporations whose employees are eligible to participate in the 2021 ESPP or changes the 2021 ESPP in any manner that would cause the 2021 ESPP to no longer be an employee stock purchase plan within the meaning of Section 423(b) of the Code.

## **2017 Plan**

Our board of directors and stockholders have approved our 2017 Plan, under which we may grant stock options, restricted stock awards, restricted stock units and other stock-based awards to employees, directors and consultants of our company or its subsidiaries. We have reserved a total of 24,200,000 shares of our common stock for issuance under the 2017 Plan.

Following the effectiveness of the 2021 Plan, we will not make any further grants under the 2017 Plan. However, the 2017 Plan will continue to govern the terms and conditions of the outstanding awards granted under it. Shares of our common stock subject to awards granted under the 2017 Plan that are forfeited, lapse unexercised or are settled in cash and which following the effective date of the 2021 Plan are not issued under the 2017 Plan will be available for issuance under the 2021 Plan. As of March 31, 2021, a total of 19,371,746 shares of our common stock were subject to outstanding stock options issued under the 2017 Plan and no other awards were outstanding under the 2017 Plan.

### ***Eligibility and Administration***

Our employees, officers, and directors, along with consultants to the Company, are eligible to receive awards under the 2017 Plan. Our board of directors or a committee thereof is authorized to

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administer the 2017 Plan. Subject to the express terms and conditions of the 2017 Plan, the plan administrator has the authority to make all determinations and interpretations under the plan, prescribe all forms for use with the plan and adopt, amend and repeal rules, guidance and practices for the administration of the 2017 Plan. Our board may delegate to one or more committees of our board. The plan administrator also sets the terms and conditions of all awards under the plan, including any vesting and vesting acceleration conditions.

### **Awards**

The 2017 Plan provides for the grant of stock options (including NSOs and ISOs), restricted stock, restricted stock units and other stock-based awards.

### **Certain Transactions**

The plan administrator has broad discretion to adjust the provisions of the 2017 Plan and the terms and conditions of existing and future awards, including with respect to the aggregate number and kind of shares subject to the 2017 Plan and awards granted pursuant to the 2017 Plan and the purchase or exercise price of awards granted pursuant to the 2017 Plan, in order to prevent substantial dilution or enlargement of the rights of participants under the 2017 Plan in the event of certain transactions and events affecting our common stock, such as a reorganization, merger, consolidation, combination, repurchase, recapitalization, liquidation, dissolution, or sale, transfer, exchange or other disposition of assets of the Company, or sale or exchange of the Company's common stock or other securities of the Company, issuance of warrants or other rights to purchase common stock of the Company or other securities of the Company. The plan administrator may also provide for the assumption, substitution, acceleration, replacement or cash-out of awards in the event of the transactions mentioned above.

### **Amendment and Termination**

Our board of directors or compensation committee (to the extent permitted by law) may suspend or terminate the 2017 Plan at any time and from time to time. Furthermore, we must generally obtain stockholder approval to increase the number of shares available under the 2017 Plan (other than in connection with certain corporate events, as described above) or to the extent required by applicable law, rule or regulation (including any applicable stock exchange rule).

## CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following includes a summary of transactions since January 1, 2018 to which we have been a party in which the amount involved exceeded or will exceed the lesser of \$120,000 or one percent of the average of our total assets at year end for the last two completed fiscal years, and in which any of our directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our capital stock or any member of the immediate family of any of the foregoing persons had or will have a direct or indirect material interest, other than equity and other compensation, termination, change in control and other arrangements, which are described under "Executive and Director Compensation." We also describe below certain other transactions with our directors, executive officers and stockholders.

### Preferred Stock Financings

*Series A Preferred Stock Financing.* From August 2017 to June 2019, we issued and sold to investors in private placements an aggregate of 56,775,232 shares of our Series A preferred stock at a purchase price of \$0.50 per share, for aggregate consideration of approximately \$28.4 million.

*Series B Preferred Stock Financing.* From January 2020 to August 2020, we issued and sold to investors in private placements an aggregate of 32,399,999 shares of our Series B preferred stock at a purchase price of \$1.50 per share, for aggregate consideration of approximately \$48.6 million.

*Series C Preferred Stock Financing.* In March 2021, we issued and sold to investors in private placements an aggregate of 41,833,328 shares of our Series C preferred stock at a purchase price of \$3.00 per share, for aggregate consideration of approximately \$125.5 million.

The following table sets forth the aggregate number of shares of our capital stock acquired by beneficial owners of more than 5% of our capital stock in the financing transactions described above. Each share of our Series A preferred stock, Series B preferred stock and Series C preferred stock identified in the following table will convert into shares of common stock upon the closing of this offering.

<u>Participants</u>	<u>Series A Preferred Stock</u>	<u>Series B Preferred Stock</u>	<u>Series C Preferred Stock</u>
<b>5% or Greater Stockholders(1)</b>			
Entities affiliated with Flagship Pioneering	56,775,232	20,000,000	8,333,333
HarbourVest Partners L.P.	—	6,666,667	3,333,333
Entities affiliated with Fidelity	—	—	8,333,333

(1) Additional details regarding these stockholders and their equity holdings are provided in this prospectus under the caption "Principal Stockholders."

Some of our directors are associated with our principal stockholders as indicated in the table below:

<u>Director</u>	<u>Principal Stockholder</u>
Noubar B. Afeyan, Ph.D.	Entities affiliated with Flagship Pioneering
John Mendlein, Ph.D., J.D.	Entities affiliated with Flagship Pioneering
David A. Berry, M.D., Ph.D.	Entities affiliated with Flagship Pioneering

### Investor Rights Agreement

We entered into a Second Amended and Restated Investors' Rights Agreement in March 2021 with the holders of our preferred stock, including entities with which certain of our directors are related.

The agreement provides, among other things, for certain rights relating to the registration of such holders' common stock, including shares issuable upon conversion of preferred stock. See "Description of Capital Stock—Registration Rights" for additional information.

### **Voting Agreement**

We entered into a Second Amended and Restated Voting Agreement in March 2021, pursuant to which the following directors were elected to serve as members on our board of directors and, as of the date of this prospectus, continue to so serve: Noubar B. Afeyan, Ph.D., David A. Berry, M.D., Ph.D., John Mendlein, Ph.D., J.D., Richard A. Young, Ph.D., Mary T. Szela and Mahesh Karande. Mahesh Karande was selected to serve on our board of directors in his capacity as our chief executive officer. Drs. Afeyan and Berry were initially selected to serve on our board of directors as representatives of holders of our preferred stock, as designated by entities affiliated with Flagship Pioneering. Ms. Szela and Drs. Mendlein and Young were selected to serve on our board of directors as independent directors, as designated by the holders of a majority of the voting power of the outstanding shares of preferred stock.

The voting agreement will terminate upon the closing of this offering, and members previously elected to our board of directors pursuant to this agreement will continue to serve as directors until they resign, are removed or their successors are duly elected by the holders of our common stock. The composition of our board of directors after this offering is described in more detail under "Management—Board Composition and Election of Directors."

### **Flagship Management Service Agreement**

In July 2016, we entered into a ten-year management service agreement with Flagship Pioneering, or Flagship to provide management services, including accounting, human resources, information technology, legal, and consultation. We also agreed to reimburse Flagship for certain expenses, including insurance and benefits, partner and related fees, and software licenses incurred on our behalf. For the years ended December 31, 2020 and 2019, we paid Flagship \$0.9 million and \$1.1 million, respectively, in management services fees and other reimbursements.

### **Flagship License Agreement**

In March 2019, we entered into a license agreement with Flagship Pioneering Innovations V, Inc., or Flagship, an affiliate of certain beneficial owners of more than 5% of our capital stock, pursuant to which we received an exclusive, worldwide, royalty-bearing, transferable, sublicensable license under certain patent rights owned or controlled by Flagship. There were no payments made under the agreement during the years ended December 31, 2020 and 2019. For more information regarding the agreement with Flagship, see "Business — License Agreements."

### **Whitehead License Agreements**

In May 2019, we entered into an exclusive license agreement with the Whitehead Institute for Biomedical Research, or WIBR, pursuant to which we received an exclusive, worldwide, royalty-bearing, sublicensable license under certain patent rights owned or controlled by WIBR. We made payments under the agreement of less than \$0.1 million in each of the years ended December 31, 2020 and 2019. The patents in-licensed by us from WIBR pursuant to the agreement claim inventions created by, among others, Dr. Young, one of our directors. Pursuant to WIBR's policy on the ownership, distribution and commercial development of WIBR's technology, or the WIBR Policy, inventors of intellectual property invented at WIBR, including the inventors of patents licensed to us

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under the agreement, are entitled to a portion of the net royalty income derived from such inventions. Accordingly, pursuant to the WIBR Policy, Dr. Young is entitled to receive a portion of the amounts we pay to WIBR under the agreement. Accordingly, Dr. Young received approximately \$2,000 and \$2,800 from WIBR under the WIBR Policy during the years ended December 31, 2020 and 2019, respectively, due to payments we made under the agreement. For more information regarding the agreement with WIBR, see “Business — License Agreements.”

In May 2019, we entered into a co-exclusive license agreement with WIBR pursuant to which we received a co-exclusive, worldwide, royalty-bearing, sublicensable license under certain patent rights owned or controlled by WIBR. We made payments under the agreement of less than \$0.1 million during each of the years ended December 31, 2020 and 2019. The patents in-licensed by us from WIBR pursuant to the agreement claim inventions created by, among others, Dr. Young, one of our directors. Pursuant to the WIBR Policy, inventors of intellectual property invented at WIBR, including the inventors of patents licensed to us under the agreement, are entitled to a portion of the net royalty income derived from such inventions. Accordingly, pursuant to the WIBR Policy, Dr. Young is entitled to receive a portion of the amounts we pay to WIBR under the agreement. Accordingly, Dr. Young received approximately \$1,000 and \$1,700 from WIBR under the WIBR Policy during the years ended December 31, 2020 and 2019, respectively, due to payments we made under the agreement. For more information regarding the agreement with WIBR, see “Business — License Agreements.”

### **Sublease Agreement with LARONDE, Inc. (formerly known as VL50, Inc.)**

In August 2020, we entered into a sublease agreement with LARONDE, Inc., a company affiliated with certain beneficial owners of more than 5% of our capital stock, for a portion of laboratory and office space in Cambridge, Massachusetts. The term of the sublease agreement commenced on August 27, 2020 and terminates on September 30, 2024.

### **Sublease Agreement with Cygnal Therapeutics, Inc.**

In September 2019, we entered into a sublease agreement with Cygnal Therapeutics, Inc., a company affiliated with certain beneficial owners of more than 5% of our capital stock, for a portion of laboratory and office space in Cambridge, Massachusetts. The term of the sublease agreement commenced on September 20, 2019 and terminates on September 30, 2021.

### **Shared Space Arrangement with Senda Biosciences, Inc. (formerly known as Kintai Therapeutics, Inc.)**

In July 2020, we entered into a shared space arrangement with Kintai Therapeutics, Inc., a company affiliated with certain beneficial owners of more than 5% of our capital stock, for a portion of laboratory and office space in Cambridge, Massachusetts. The term of the shared space arrangement commenced on August 1, 2020 and terminates on July 31, 2022.

### **Indemnification Agreements**

We intend to enter into indemnification agreements with each of our directors and executive officers. These agreements, among other things, require us or will require us to indemnify each director (and in certain cases their related venture capital funds) and executive officer to the fullest extent permitted by Delaware law, including indemnification of expenses such as attorneys’ fees, judgments, fines and settlement amounts incurred by the director or executive officer in any action or proceeding, including any action or proceeding by or in right of us, arising out of the person’s services as a director or executive officer. For further information, see “Executive and Director Compensation—Limitations of Liability and Indemnification.”

## **Policies and Procedures for Related Person Transactions**

Our board of directors will adopt a written related person transaction policy, to be effective upon the closing of this offering, setting forth the policies and procedures for the review and approval or ratification of related person transactions. This policy will cover, with certain exceptions set forth in Item 404 of Regulation S-K under the Securities Act, any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships, in which we were or are to be a participant, where the amount involved exceeds \$120,000 in any fiscal year, or, for so long as we qualify as a smaller reporting company, the lesser of \$120,000 or one percent of the average of our total assets at year end for the last two completed fiscal years, and a related person had, has or will have a direct or indirect material interest, including without limitation, purchases of goods or services by or from the related person or entities in which the related person has a material interest, indebtedness, guarantees of indebtedness and employment by us of a related person. In reviewing and approving any such transactions, our audit committee will be tasked to consider all relevant facts and circumstances, including, but not limited to, whether the transaction is on terms comparable to those that could be obtained in an arm's length transaction and the extent of the related person's interest in the transaction. All of the transactions described in this section will have occurred prior to the adoption of this policy.

## PRINCIPAL STOCKHOLDERS

The following table sets forth information with respect to the beneficial ownership of our common stock, as of June 30, 2021 by:

- each person or group of affiliated persons known by us to beneficially own more than 5% of our common stock;
- each of our named executive officers;
- each of our directors; and
- all of our executive officers and directors as a group.

The number of shares beneficially owned by each stockholder is determined under rules issued by the Securities and Exchange Commission. Under these rules, beneficial ownership includes any shares as to which the individual or entity has sole or shared voting power or investment power. Applicable percentage ownership is based on 148,564,165 shares of common stock outstanding as of June 30, 2021, assuming the conversion of all outstanding shares of our preferred stock into shares of our common stock. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options, warrants or other rights held by such person that are currently exercisable or will become exercisable within 60 days of June 30, 2021 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person. Unless noted otherwise, the address of all listed stockholders is 20 Acorn Park Drive, Cambridge, Massachusetts 02140. Each of the stockholders listed has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.

Name of Beneficial Owner	Shares of Common Stock Beneficially Owned	Percentage of Common Stock Beneficially Owned	
		Before this Offering	After this Offering
<b>5% or Greater Stockholders</b>			
Entities affiliated with Flagship Pioneering(1)	93,408,565	62.87%	%
HarbourVest Partners L.P.(2)	10,000,000	6.73%	%
Entities affiliated with Fidelity(3)	8,333,333	5.61%	%
<b>Named Executive Officers and Directors</b>			
Mahesh Karande(4)	2,822,350	1.87%	%
Roger Sawhney, M.D.(5)	471,152	* %	%
Thomas McCauley, Ph.D.(6)	557,026	* %	%
Noubar B. Afeyan, Ph.D.(1)	—	— %	%
David A. Berry, M.D., Ph.D.	—	— %	%
Luke M. Beshar	—	— %	%
Elliott M. Levy, M.D.	—	— %	%
John Mendlein, Ph.D., J.D.(7)	313,594	* %	%
Mary T. Szela(8)	158,338	* %	%
Richard A. Young, Ph.D.	3,000,000	2.02%	%
All executive officers and directors (10 persons)(9)	7,322,460	4.80%	%

\* Less than 1%.

(1) Includes (a) 8,300,000 shares held by Flagship VentureLabs V, L.P. ("VentureLabs V"), (b) 22,275,232 shares held by Flagship Ventures Fund V, L.P. ("Flagship Fund V"), (c) 4,112,000 shares held by Flagship V VentureLabs Rx Fund, L.P. ("Flagship Fund V Rx"), (d) 31,721,334 shares held by Flagship Pioneering Fund VI, L.P. ("Flagship Fund VI"), (e) 18,333,333 shares



held by Flagship Pioneering Special Opportunities Fund II, L.P. (“Flagship Opportunities Fund II”), (f) 3,666,667 shares held by Nutritional Health LTP Fund, L.P. (“Nutritional LTP”) and (g) 4,999,999 shares held by FPN, L.P. (“FPN Fund” and together with VentureLabs V, Flagship Fund V, Flagship Fund V Rx, Flagship Fund VI, Flagship Opportunities Fund II and Nutritional LTP, the “Flagship Funds”). Flagship Fund V is a member of VentureLabs V. VentureLabs V Manager LLC (“VentureLabs V Manager”) is the manager of VentureLabs V. Flagship Pioneering, Inc. (“Flagship Pioneering”) is the manager of VentureLabs V Manager. The General Partner of Flagship Fund V and Flagship Fund V Rx is Flagship Ventures Fund V General Partner LLC (“Flagship V GP”). The General Partner of Flagship Pioneering VI is Flagship Pioneering Fund VI General Partner LLC (“Flagship Pioneering VI GP”). The General Partner of Flagship Opportunities Fund II is Flagship Pioneering Special Opportunities Fund II General Partner LLC (“Flagship Opportunities Fund II GP”). The general partner of FPN Fund is FPN General Partner LLC (“FPN GP”). The manager of Flagship Pioneering VI GP, Flagship Opportunities Fund II GP, and FPN GP is Flagship Pioneering. The general partner of Nutritional LTP is Nutritional Health LTP Fund General Partner LLC (“Nutritional LTP GP” and, together with VentureLabs V Manager, Flagship Pioneering, Flagship V GP, Flagship Pioneering VI GP, Flagship Opportunities Fund II GP and FPN GP, the “Flagship General Partners”). Noubar B. Afeyan, Ph.D. (“Dr. Afeyan”) is the sole director of Flagship Pioneering and may be deemed to have beneficial ownership of all the shares held by VentureLabs V, Flagship Fund VI, Flagship Opportunities Fund II and FPN Fund. In addition, Dr. Afeyan serves as the sole manager of Flagship V GP and is the sole member and manager of Nutritional LTP GP and may be deemed to have beneficial ownership of all the shares held by Flagship Fund V, Flagship Fund V Rx and Nutritional LTP. None of the Flagship General Partners nor Dr. Afeyan directly own any of the shares held by the Flagship Funds, and each of the Flagship General Partners and Dr. Afeyan disclaims beneficial ownership of such shares except to the extent of its or his pecuniary interest therein. The mailing address of the Flagship Funds is 55 Cambridge Parkway, Suite 800E, Cambridge, MA 02142.

- (2) Includes 10,000,000 shares of common stock that can be acquired pursuant to the conversion of Series B Preferred Stock and Series C Preferred Stock held by SMRS-TOPE LLC. SMRS-TOPE LLC is ultimately owned by certain retirement systems associated with the State of Michigan. SMRS-TOPE LLC is managed by HarbourVest Partners, L.P., which is a registered investment advisor that has many accounts and funds under management. The mailing address of SMRS-TOPE LLC is c/o HarbourVest Partners, LLC, One Financial Center, Boston, MA 02111.
- (3) Includes (a) 343,492 shares held by Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund (“Fidelity Series Growth”), (b) 1,698,709 shares held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund (“Fidelity Growth”), (c) 1,807,672 shares held by Fidelity Growth Company Commingled Pool (“Fidelity Growth Commingled Pool”), (d) 316,793 shares held by Fidelity Mt. Vernon Street Trust: Fidelity Growth Company K6 Fund (“Fidelity Growth K6 Fund”) and (e) 4,166,667 shares held by Fidelity Select Portfolios: Biotechnology Portfolio (“Fidelity Select”). These accounts are managed by direct or indirect subsidiaries of FMR LLC. Abigail P. Johnson is a Director, the Chairman, the Chief Executive Officer and the President of FMR LLC. Members of the Johnson family, including Abigail P. Johnson, are the predominant owners, directly or through trusts, of Series B voting common shares of FMR LLC, representing 49% of the voting power of FMR LLC. The Johnson family group and all other Series B shareholders have entered into a shareholders’ voting agreement under which all Series B voting common shares will be voted in accordance with the majority vote of Series B voting common shares. Accordingly, through their ownership of voting common shares and the execution of the shareholders’ voting agreement, members of the Johnson family may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR LLC. Neither FMR LLC nor Abigail P. Johnson has the sole power to vote or direct the voting of the shares owned directly by the various investment companies registered under the Investment Company Act (“Fidelity Funds”) advised by Fidelity Management & Research Company LLC (“FMR Co”), a wholly owned subsidiary of FMR LLC, which power resides with the Fidelity Funds’ Boards of

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Trustees. FMR Co. carries out the voting of the shares under written guidelines established by the Fidelity Funds' Boards of Trustees. The mailing address of the Fidelity funds is 245 Summer St., Boston, MA 02210.

- (4) Includes 2,420,350 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.
- (5) Includes 471,152 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.
- (6) Includes 557,026 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.
- (7) Includes 313,594 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.
- (8) Includes 158,338 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.
- (9) Includes (i) 3,402,000 shares of common stock and (ii) 3,920,460 shares of common stock that can be acquired pursuant to outstanding share options, including options that will be exercisable within 60 days of June 30, 2021.

## DESCRIPTION OF CAPITAL STOCK

### General

The following description summarizes some of the terms of our amended and restated certificate of incorporation and amended and restated bylaws that will become effective upon the closing of this offering, our outstanding warrant, the investors' rights agreement and of the General Corporation Law of the State of Delaware. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description, you should refer to our amended and restated certificate of incorporation, amended and restated bylaws, warrant and investors' rights agreement, copies of which have been or will be filed as exhibits to the registration statement of which this prospectus is a part, as well as the relevant provisions of the General Corporation Law of the State of Delaware. The description of our common stock and preferred stock reflects changes to our capital structure that will occur immediately prior the closing of this offering.

Following the closing of this offering, our authorized capital stock will consist of \_\_\_\_\_ shares of common stock, par value \$0.001 per share, and \_\_\_\_\_ shares of preferred stock, par value \$0.001 per share.

As of March 31, 2021, there were 17,173,168 shares of our common stock outstanding and 131,008,559 shares of our common stock issuable upon the automatic conversion of all outstanding shares of our preferred stock in connection with this offering, held of record by 35 stockholders.

### Common Stock

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. An election of directors by our stockholders shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election. Subject to the supermajority votes for some matters, other matters shall be decided by the affirmative vote of our stockholders having a majority in voting power of the votes cast by the stockholders present or represented and voting on such matter. Our amended and restated certificate of incorporation and amended and restated bylaws also provide that our directors may be removed only for cause and only by the affirmative vote of the holders of at least two-thirds in voting power of the outstanding shares of capital stock entitled to vote thereon. In addition, the affirmative vote of the holders of at least two-thirds in voting power of the outstanding shares of capital stock entitled to vote thereon is required to amend or repeal, or to adopt any provision inconsistent with, several of the provisions of our amended and restated certificate of incorporation. See below under “—Anti-Takeover Effects of Delaware Law and Our Certificate of Incorporation and Bylaws—Amendment of Charter Provisions.” Holders of common stock are entitled to receive proportionately any dividends as may be declared by our board of directors, subject to any preferential dividend rights of any series of preferred stock that we may designate and issue in the future.

In the event of our liquidation or dissolution, the holders of common stock are entitled to receive proportionately our net assets available for distribution to stockholders after the payment of all debts and other liabilities and subject to the prior rights of any outstanding preferred stock. Holders of common stock have no preemptive, subscription, redemption or conversion rights. Our outstanding shares of common stock are, and the shares offered by us in this offering will be, when issued and paid for, validly issued, fully paid and nonassessable. The rights, preferences and privileges of holders of common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

## Preferred Stock

Under the terms of our amended and restated certificate of incorporation that will become effective upon the closing of this offering, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Upon the closing of this offering, there will be no shares of preferred stock outstanding, and we have no present plans to issue any shares of preferred stock.

## Warrants

In connection with entering into our loan and security agreement with Pacific Western Bank, as amended, we issued PacWest Bancorp a warrant to purchase 350,000 shares of Series A preferred stock at an exercise price of \$0.50 per share. Upon the closing of this offering, the warrant will automatically become a warrant to purchase \_\_\_\_\_ shares of our common stock at an exercise price of \$ \_\_\_\_\_ per share. The warrant expires on March 9, 2028.

## Options

As of March 31, 2021, options to purchase 19,371,746 shares of our common stock were outstanding under our 2017 Plan, of which 4,550,703 were exercisable and of which 14,821,043 were unvested as of that date.

## Registration Rights

Holders of \_\_\_\_\_ shares of our common stock are entitled to certain rights with respect to the registration of such shares for public resale under the Securities Act, pursuant to a Second Amended and Restated Investors' Rights Agreement, or the Investors' Rights Agreement, by and among us and certain of our stockholders, until the rights otherwise terminate pursuant to the terms of the Investors' Rights Agreement. The registration of shares of common stock as a result of the following rights being exercised would enable holders to trade these shares without restriction under the Securities Act when the applicable registration statement is declared effective.

### **Form S-1 Registration Rights**

If at any time beginning 180 days after the closing date of this offering the holders of registrable securities request in writing that we effect a registration with respect to all or part of such registrable securities then outstanding and having an anticipated aggregate offering price that would exceed \$10,000,000, net of expenses, we may be required to register their shares. We are obligated to effect at most two registrations in response to these demand registration rights. If the holders requesting registration intend to distribute their shares by means of an underwriting, the managing underwriter of such offering will have the right to limit the numbers of shares to be underwritten for reasons related to the marketing of the shares.

### ***Piggyback Registration Rights***

If at any time after this offering we propose to register any shares of our common stock under the Securities Act, subject to certain exceptions, the holders of registrable securities will be entitled to notice of the registration and to include their shares of registrable securities in the registration. If our proposed registration involves an underwriting, the managing underwriter of such offering will have the right to limit the number of shares to be underwritten for reasons related to the marketing of the shares.

### ***Form S-3 Registration Rights***

If, at any time after we become entitled under the Securities Act to register our shares on a registration statement on Form S-3, the holders of at least 30% of the registrable securities request in writing that we effect a registration with respect to registrable securities at an aggregate price to the public in the offering of at least \$5,000,000, we will be required to effect such registration; provided, however, that we will not be required to effect such a registration if, within any twelve month period, we have already effected two registrations on Form S-3 for the holders of registrable securities.

### ***Expenses and Indemnification***

Ordinarily, other than underwriting discounts and commissions, we will be required to pay all expenses incurred by us related to any registration effected pursuant to the exercise of these registration rights. These expenses may include all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of our counsel and reasonable fees and disbursements of a counsel for the selling securityholders. Additionally, we have agreed to indemnify selling stockholders for damages, and any legal or other expenses reasonably incurred, arising from or based upon any untrue statement or alleged untrue statement of a material fact contained in any registration statement, an omission or alleged omission to state a material fact required to be stated in any registration statement, or necessary to make the statements therein not misleading, or any violation or alleged violation by the indemnifying party of securities laws, subject to certain exceptions.

### ***Termination of Registration Rights***

The registration rights terminate upon the earlier of (i) five years after the effective date of the registration statement relating to our IPO, (ii) immediately before the closing of a deemed liquidation event, as defined in our current certificate of incorporation and (iii) at such time after consummation of our IPO as Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such holders' shares without limitation during a three-month period without registration, or if any holder is an affiliate of the Company immediately after the consummation of our IPO, at such time as such holder is no longer an affiliate of the Company.

### **Anti-Takeover Effects of Delaware Law and Our Certificate of Incorporation and Bylaws**

Some provisions of Delaware law, our restated certificate of incorporation and our restated bylaws could make the following transactions more difficult: an acquisition of us by means of a tender offer; an acquisition of us by means of a proxy contest or otherwise; or the removal of our incumbent officers and directors. It is possible that these provisions could make it more difficult to accomplish or could deter transactions that stockholders may otherwise consider to be in their best interest or in our best interests, including transactions which provide for payment of a premium over the market price for our shares.

These provisions, summarized below, are intended to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to

acquire control of us to first negotiate with our board of directors. We believe that the benefits of the increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging these proposals because negotiation of these proposals could result in an improvement of their terms.

#### ***Undesignated Preferred Stock***

The ability of our board of directors, without action by the stockholders, to issue up to 10,000,000 shares of undesignated preferred stock with voting or other rights or preferences as designated by our board of directors could impede the success of any attempt to change control of us. These and other provisions may have the effect of deferring hostile takeovers or delaying changes in control or management of our company.

#### ***Stockholder Meetings***

Our restated bylaws provide that a special meeting of stockholders may be called only by our chairman of the board, chief executive officer or president (in the absence of a chief executive officer), or by a resolution adopted by a majority of our board of directors.

#### ***Requirements for Advance Notification of Stockholder Nominations and Proposals***

Our restated bylaws establish advance notice procedures with respect to stockholder proposals to be brought before a stockholder meeting and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors.

#### ***Elimination of Stockholder Action by Written Consent***

Our restated certificate of incorporation eliminates the right of stockholders to act by written consent without a meeting.

#### ***Staggered Board***

Our board of directors is divided into three classes. The directors in each class will serve for a three-year term, one class being elected each year by our stockholders. For more information on the classified board, see "Management—Board Composition and Election of Directors." This system of electing and removing directors may tend to discourage a third-party from making a tender offer or otherwise attempting to obtain control of us, because it generally makes it more difficult for stockholders to replace a majority of the directors.

#### ***Removal of Directors***

Our restated certificate of incorporation provides that no member of our board of directors may be removed from office by our stockholders except for cause and, in addition to any other vote required by law, upon the approval of the holders of at least two-thirds in voting power of the outstanding shares of stock entitled to vote in the election of directors.

#### ***Stockholders Not Entitled to Cumulative Voting***

Our restated certificate of incorporation does not permit stockholders to cumulate their votes in the election of directors. Accordingly, the holders of a majority of the outstanding shares of our common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they choose, other than any directors that holders of our preferred stock may be entitled to elect.

### ***Delaware Anti-Takeover Statute***

We are subject to Section 203 of the General Corporation Law of the State of Delaware, which prohibits persons deemed to be “interested stockholders” from engaging in a “business combination” with a publicly held Delaware corporation for three years following the date these persons become interested stockholders unless the business combination is, or the transaction in which the person became an interested stockholder was, approved in a prescribed manner or another prescribed exception applies. Generally, an “interested stockholder” is a person who, together with affiliates and associates, owns, or within three years prior to the determination of interested stockholder status did own, 15% or more of a corporation’s voting stock. Generally, a “business combination” includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. The existence of this provision may have an anti-takeover effect with respect to transactions not approved in advance by the board of directors.

### ***Choice of Forum***

Our restated certificate of incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for: (1) any derivative action or proceeding brought on our behalf; (2) any action asserting a claim of breach of a fiduciary duty or other wrongdoing by any of our directors, officers, employees or agents to us or our stockholders; (3) any action asserting a claim against us arising pursuant to any provision of the General Corporation Law of the State of Delaware or our certificate of incorporation or bylaws; (4) any action to interpret, apply, enforce or determine the validity of our certificate of incorporation or bylaws; or (5) any action asserting a claim governed by the internal affairs doctrine; provided that the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Securities Act or the Exchange Act, or to any claim for which the federal courts have exclusive jurisdiction. For instance, the provision would not apply to actions arising under federal securities laws, including suits brought to enforce any liability or duty created by the Securities Act, Exchange Act, or the rules and regulations thereunder. Our restated certificate of incorporation further provides that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. Our restated certificate of incorporation also provides that any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of and to have consented to this choice of forum provision. These provisions may have the effect of discouraging lawsuits against our directors, officers, employees, and agents as it may limit any stockholder’s ability to bring a claim in a judicial forum that such stockholder finds favorable for disputes with us or our directors, officers, employees, or agents and result in increased costs for investors to bring a claim. It is possible that a court of law could rule that the choice of forum provision contained in our restated certificate of incorporation is inapplicable or unenforceable if it is challenged in a proceeding or otherwise.

### ***Amendment of Charter Provisions***

The amendment of any of the above provisions, except for the provision making it possible for our board of directors to issue preferred stock and the provision prohibiting cumulative voting, would require approval by holders of at least two-thirds in voting power of the outstanding shares of stock entitled to vote thereon.

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The provisions of Delaware law, our restated certificate of incorporation and our restated bylaws could have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they may also inhibit temporary fluctuations in the market price of our common stock that often result from actual or rumored hostile takeover attempts. These provisions may also have the effect of preventing changes in the composition of our board and management. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock will be Computershare, Inc.

**Stock Exchange Listing**

We have applied to have our common stock listed on The Nasdaq Global Market under the symbol "OMGA."



## SHARES ELIGIBLE FOR FUTURE SALE

Immediately prior to this offering, there was no public market for our common stock. Future sales of substantial amounts of our common stock in the public market, or the perception that such sales may occur, could adversely affect the market price of our common stock.

Upon the closing of this offering, we will have outstanding an aggregate of \_\_\_\_\_ shares of common stock, assuming the issuance of \_\_\_\_\_ shares of common stock offered by us in this offering, the automatic conversion of all outstanding shares of our preferred stock into 131,008,559 shares of our common stock and no exercise of options or warrants after March 31, 2021. Of these shares, all shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our “affiliates,” as that term is defined in Rule 144 under the Securities Act, whose sales will be subject to the Rule 144 resale restrictions described below, other than the holding period requirement.

The remaining \_\_\_\_\_ shares of common stock will be “restricted securities,” as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rules 144 or 701 under the Securities Act, which are summarized below. We expect that substantially all of these shares will be subject to the 180-day lock-up period under the lock-up agreements described below. Upon expiration of the lock-up period, we estimate that approximately \_\_\_\_\_ shares will be available for sale in the public market, subject in some cases to applicable volume limitations under Rule 144.

In addition, of the 19,371,746 shares of our common stock that were subject to stock options outstanding as of March 31, 2021, options to purchase 4,550,703 shares of common stock were vested as of March 31, 2021 and, upon exercise, these shares will be eligible for sale subject to the lock-up agreements described below and Rules 144 and 701 under the Securities Act, as applicable.

### Lock-Up Agreements

We and each of our directors and executive officers and holders of substantially all of our outstanding capital stock, have agreed that, without the prior written consent of Goldman Sachs & Co. LLC, Jefferies LLC and Piper Sandler & Co., we and they will not, subject to certain exceptions, during the period ending 180 days after the date of this prospectus, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for common stock; or enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of our common stock, whether any transaction described above is to be settled by delivery of our common stock or such other securities, in cash or otherwise.

Upon the expiration of the applicable lock-up periods, substantially all of the shares subject to such lock-up restrictions will become eligible for sale, subject to the limitations discussed above. For a further description of these lock-up agreements, please see “Underwriting.”

### Rule 144

#### *Affiliate Resales of Restricted Securities*

In general, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is an affiliate of ours, or who was an affiliate at any time during the

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90 days before a sale, who has beneficially owned shares of our common stock for at least six months would be entitled to sell in “broker’s transactions” or certain “riskless principal transactions” or to market makers, a number of shares within any three-month period that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately \_\_\_\_\_ shares immediately after this offering; or
- the average weekly trading volume in our common stock on the Nasdaq Global Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Affiliate resales under Rule 144 are also subject to the availability of current public information about us. In addition, if the number of shares being sold under Rule 144 by an affiliate during any three-month period exceeds 5,000 shares or has an aggregate sale price in excess of \$50,000, the seller must file a notice on Form 144 with the Securities and Exchange Commission and Nasdaq concurrently with either the placing of a sale order with the broker or the execution directly with a market maker.

### ***Non-Affiliate Resales of Restricted Securities***

In general, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is not an affiliate of ours at the time of sale, and has not been an affiliate at any time during the three months preceding a sale, and who has beneficially owned shares of our common stock for at least six months but less than a year, is entitled to sell such shares subject only to the availability of current public information about us. If such person has held our shares for at least one year, such person can resell under Rule 144(b)(1) without regard to any Rule 144 restrictions, including the 90-day public company requirement and the current public information requirement.

Non-affiliate resales are not subject to the manner of sale, volume limitation or notice filing provisions of Rule 144.

### **Rule 701**

In general, under Rule 701, any of an issuer’s employees, directors, officers, consultants or advisors who purchases shares from the issuer in connection with a compensatory stock or option plan or other written agreement before the effective date of a registration statement under the Securities Act is entitled to sell such shares 90 days after such effective date in reliance on Rule 144. An affiliate of the issuer can resell shares in reliance on Rule 144 without having to comply with the holding period requirement, and non-affiliates of the issuer can resell shares in reliance on Rule 144 without having to comply with the current public information and holding period requirements.

The Securities and Exchange Commission has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Exchange Act, along with the shares acquired upon exercise of such options, including exercises after an issuer becomes subject to the reporting requirements of the Exchange Act.

### **Equity Plans**

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of common stock subject to outstanding stock options and common stock issued or issuable under our stock plans. We expect to file the registration statement covering shares offered pursuant to our stock plans shortly after the date of this prospectus, permitting the resale of such shares by non-affiliates in the public market without restriction under the Securities Act and the sale by affiliates in the public market, subject to compliance with the resale provisions of Rule 144.

## Registration Rights

Upon the closing of this offering, the holders of \_\_\_\_\_ shares of common stock, which includes all of the shares of common stock issuable upon the automatic conversion of our preferred stock upon the closing of this offering, or their transferees will be entitled to various rights with respect to the registration of these shares under the Securities Act. Registration of these shares under the Securities Act would result in these shares becoming fully tradable without restriction under the Securities Act immediately upon the effectiveness of the registration, except for shares purchased by affiliates. See “Description of Capital Stock—Registration Rights” for additional information. Shares covered by a registration statement will be eligible for sale in the public market upon the expiration or release from the terms of the lock-up agreement described above.

## MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

The following discussion is a summary of the material U.S. federal income tax consequences to Non-U.S. Holders (as defined below) of the purchase, ownership and disposition of our common stock issued pursuant to this offering, but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local or non-U.S. tax laws are not discussed. This discussion is based on the U.S. Internal Revenue Code of 1986, as amended (the "Code"), Treasury Regulations promulgated thereunder, judicial decisions and published rulings and administrative pronouncements of the U.S. Internal Revenue Service (the "IRS"), in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a Non-U.S. Holder. We have not sought and will not seek any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the purchase, ownership and disposition of our common stock.

This discussion is limited to Non-U.S. Holders that hold our common stock as a "capital asset" within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a Non-U.S. Holder's particular circumstances, including the impact of the Medicare contribution tax on net investment income and the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including, without limitation:

- U.S. expatriates and former citizens or long-term residents of the United States;
- persons holding our common stock as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies and other financial institutions;
- brokers, dealers or traders in securities;
- "controlled foreign corporations," "passive foreign investment companies" and corporations that accumulate earnings to avoid U.S. federal income tax;
- partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;
- persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- "qualified foreign pension funds" as defined in Section 897(l)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds.

If an entity treated as a partnership for U.S. federal income tax purposes holds our common stock, the tax treatment of a partner in the partnership will depend on the status of the partner, the activities of the partnership and certain determinations made at the partner level. Accordingly, partnerships holding our common stock and the partners in such partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them.

**THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION**

**OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF OUR COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.**

**Definition of a Non-U.S. Holder**

For purposes of this discussion, a “Non-U.S. Holder” is any beneficial owner of our common stock that is neither a “U.S. person” nor an entity treated as a partnership for U.S. federal income tax purposes. A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation created or organized under the laws of the United States, any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (i) is subject to the primary supervision of a U.S. court and all substantial decisions of which are subject to the control of one or more “United States persons” (within the meaning of Section 7701(a)(30)

of the Code), or (ii) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

**Distributions**

As described in the section titled “Dividend Policy,” we do not anticipate declaring or paying any dividends in the foreseeable future. However, if we do make distributions of cash or property on our common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and first be applied against and reduce a Non-U.S. Holder’s adjusted tax basis in its common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described below under “—Sale or Other Taxable Disposition.”

Subject to the discussion below regarding effectively connected income, dividends paid to a Non-U.S. Holder will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty, provided the Non-U.S. Holder furnishes a valid IRS Form W-8BEN or W-8BEN-E (or other applicable documentation) certifying qualification for the lower treaty rate). A Non-U.S. Holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaties.

If dividends paid to a Non-U.S. Holder are effectively connected with the Non-U.S. Holder’s conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such dividends are attributable), the Non-U.S. Holder will be exempt from the U.S. federal withholding tax described above. To claim the exemption, the Non-U.S. Holder must furnish to the applicable withholding agent a valid IRS Form W-8ECI, certifying that the dividends are effectively connected with the Non-U.S. Holder’s conduct of a trade or business within the United States.

Any such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular rates applicable to U.S. persons. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected dividends, as adjusted for certain items. Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

### **Sale or Other Taxable Disposition**

A Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other taxable disposition of our common stock unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such gain is attributable);
- the Non-U.S. Holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our common stock constitutes a U.S. real property interest ("USRPI") by reason of our status as a U.S. real property holding corporation ("USRPHC") for U.S. federal income tax purposes.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the regular rates applicable to U.S. persons. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected gain, as adjusted for certain items.

A Non-U.S. Holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on gain realized upon the sale or other taxable disposition of our common stock, which may be offset by U.S. source capital losses of the Non-U.S. Holder (even though the individual is not considered a resident of the United States), provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we currently are not, and do not anticipate becoming, a USRPHC. Because the determination of whether we are a USRPHC depends, however, on the fair market value of our USRPIS relative to the fair market value of our non-U.S. real property interests and our other business assets, there can be no assurance we currently are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition of our common stock by a Non-U.S. Holder will not be subject to U.S. federal income tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market, and such Non-U.S. Holder owned, actually and constructively, 5% or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or other taxable disposition or the Non-U.S. Holder's holding period.

Non-U.S. Holders should consult their tax advisors regarding potentially applicable income tax treaties that may provide for different rules.

### **Information Reporting and Backup Withholding**

Payments of dividends on our common stock will not be subject to backup withholding, provided the Non-U.S. Holder certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN,

W-8BEN-E or W-8ECI, or otherwise establishes an exemption. However, information returns are required to be filed with the IRS in connection with any distributions on our common stock paid to the Non-U.S. Holder, regardless of whether such distributions constitute dividends or whether any tax was actually withheld. In addition, proceeds from the sale or other taxable disposition of our common stock within the United States or conducted through certain U.S.-related brokers generally will not be subject to backup withholding or information reporting if the applicable withholding agent receives the certification described above or the Non-U.S. Holder otherwise establishes an exemption. Proceeds of a disposition of our common stock conducted through a non-U.S. office of a non-U.S. broker that does not have certain enumerated relationships with the United States generally will not be subject to backup withholding or information reporting. Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

#### **Additional Withholding Tax on Payments Made to Foreign Accounts**

Withholding taxes may be imposed under Sections 1471 to 1474 of the Code (such Sections commonly referred to as the Foreign Account Tax Compliance Act ("FATCA")) on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or, subject to the proposed Treasury Regulations discussed below, gross proceeds from the sale or other disposition of, our common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (i) the foreign financial institution undertakes certain diligence and reporting obligations, (ii) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (i) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally applies to payments of dividends on our common stock. While withholding under FATCA would have applied also to payments of gross proceeds from the sale or other disposition of stock beginning on or after January 1, 2019, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

## UNDERWRITING

We and the underwriters named below have entered into an underwriting agreement with respect to the shares being offered. Subject to certain conditions, each underwriter has severally agreed to purchase the number of shares indicated in the following table. Goldman Sachs & Co. LLC, Jefferies LLC and Piper Sandler & Co. are the representatives of the underwriters.

<u>Underwriters</u>	<u>Number of Shares</u>
Goldman Sachs & Co. LLC	
Jefferies LLC	
Piper Sandler & Co.	
Wedbush Securities Inc.	
<b>Total</b>	

The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below unless and until this option is exercised. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters have an option to buy up to an additional \_\_\_\_\_ shares from us to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. They may exercise that option for 30 days. If any shares are purchased pursuant to this option, the underwriters will severally purchase shares in approximately the same proportion as set forth in the table above.

The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters by us. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase up to \_\_\_\_\_ additional shares from us.

	<u>No Exercise</u>	<u>Full Exercise</u>
Per Share	\$	\$
Total	\$	\$

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to \$ \_\_\_\_\_ per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms.

The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part. Sales of shares made outside of the United States may be made by affiliates of the underwriters.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make internet distributions on the same basis as other allocations.

We and our executive officers, directors, and holders of substantially all of our common stock and securities convertible into or exchangeable for our common stock have agreed or will agree with the



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underwriters, subject to certain exceptions, not to dispose of or hedge any of our or their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of Goldman Sachs & Co. LLC, Jefferies LLC and Piper Sandler & Co. See the section of this prospectus titled “Shares Eligible for Future Sale” for a discussion of certain transfer restrictions.

Prior to the offering, there has been no public market for the shares. The initial public offering price will be negotiated among us and the representatives. Among the factors to be considered in determining the initial public offering price of the shares, in addition to prevailing market conditions, will be our historical performance, estimates of our business potential and earnings prospects, an assessment of our management and the consideration of the above factors in relation to market valuation of companies in related businesses.

We have applied to list our common stock on the Nasdaq Global Market under the symbol “OMGA.”

In connection with the offering, the underwriters may purchase and sell shares of our common stock in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A “covered short position” is a short position that is not greater than the amount of additional shares for which the underwriters’ option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. “Naked” short sales are any short sales that create a short position greater than the amount of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Purchases to cover a short position and stabilizing transactions, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of our stock, and together with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of the common stock. As a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. The underwriters are not required to engage in these activities and may end any of these activities at any time. These transactions may be effected on the Nasdaq Global Market, in the over-the-counter market or otherwise.

We estimate that our share of the total expenses of the offering, excluding underwriting discounts and commissions, will be approximately \$                      million. We have agreed to reimburse the underwriters for certain of their expenses in an amount up to \$

We have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to the issuer and to persons and entities with relationships with the issuer, for which they received or will receive customary fees and expenses. In particular, we have entered into an engagement letter with Wedbush Securities Inc., or Wedbush, pursuant to which Wedbush has agreed to provide us with advisory services from time to time for customary fees of up to 0.21% of the gross proceeds from this offering.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively traded securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities or instruments of the issuer (directly, as collateral securing other obligations or otherwise) or persons and entities with relationships with the issuer. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

#### **European Economic Area**

In relation to each Member State of the European Economic Area (each, a “Member State”), no offer of shares of our common stock may be made to the public in that Member State other than:

- to any legal entity which is a qualified investor as defined in the Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Regulation), subject to obtaining the prior consent of the representatives; or
- in any other circumstances falling within Article 1(4) of the Prospectus Regulation, provided that no such offer of shares shall require us or any of our representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the representatives and us that it is a “qualified investor” as defined in the Prospectus Regulation.

In the case of any shares being offered to a financial intermediary as that term is used in Article 5 of the Prospectus Regulation, each such financial intermediary will be deemed to have represented,

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acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a nondiscretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Member State to qualified investors as so defined or in circumstances in which the prior consent of the representatives has been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an “offer of shares to the public” in relation to any shares in any Member State means the communication in any form and by means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase shares, the expression “Prospectus Regulation” means Regulation (EU) 2017/1129 (as amended).

This European Economic Area selling restriction is in addition to any other selling restrictions set out below.

### **United Kingdom**

In the United Kingdom, this prospectus is only addressed to and directed at qualified investors who are (i) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order); or (ii) high net worth entities and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “relevant persons”). Any investment or investment activity to which this prospectus relates is available only to relevant persons and will only be engaged in with relevant persons. Any person who is not a relevant person should not act or rely on this prospectus or any of its contents.

### **Canada**

The securities may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations. Any resale of the securities must be made in accordance with an exemption form, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

### **Hong Kong**

The securities may not be offered or sold in Hong Kong by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies

(Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong) (“Companies (Winding Up and Miscellaneous Provisions) Ordinance”) or which do not constitute an invitation to the public within the meaning of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong), or Securities and Futures Ordinance, or (ii) to “professional investors” as defined in the Securities and Futures Ordinance and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, and no advertisement, invitation or document relating to the securities may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” in Hong Kong as defined in the Securities and Futures Ordinance and any rules made thereunder.

## Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined under Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”)) under Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to conditions set forth in the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation shall not be transferable for 6 months after that corporation has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer in that corporation’s securities pursuant to Section 275(1A) of the SFA, (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore, or Regulation 32.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a trust (where the trustee is not an accredited investor (as defined in Section 4A of the SFA)) whose sole purpose is to hold investments and each beneficiary of the trust is an accredited investor, the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferable for 6 months after that trust has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction (whether such amount is to be paid for in cash or by exchange of securities or other assets), (3) where no consideration is or will be given for the transfer, (4) where the

transfer is by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32.

### **Japan**

The securities have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended), or the FIEA. The securities may not be offered or sold, directly or indirectly, in Japan or to or for the benefit of any resident of Japan (including any person resident in Japan or any corporation or other entity organized under the laws of Japan) or to others for reoffering or resale, directly or indirectly, in Japan or to or for the benefit of any resident of Japan, except pursuant to an exemption from the registration requirements of the FIEA and otherwise in compliance with any relevant laws and regulations of Japan.

### **Australia**

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission, or ASIC, in relation to the offering. This offering document does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001 (the "Corporations Act"), and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the shares may only be made to persons (the "Exempt Investors") who are "sophisticated investors" (within the meaning of section 708(8) of the Corporations Act), "professional investors" (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the shares without disclosure to investors under Chapter 6D of the Corporations Act.

The shares applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring shares must observe such Australian on-sale restrictions.

This offering document contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this offering document is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

### **Dubai International Financial Centre**

This offering document relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority, or DFSA. This offering document is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth in this prospectus and has no responsibility for the offering document. The securities to which this offering document relates may be

illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this offering document you should consult an authorized financial advisor.

### **Switzerland**

We have not and will not register with the Swiss Financial Market Supervisory Authority, or FINMA, as a foreign collective investment scheme pursuant to Article 119 of the Federal Act on Collective Investment Scheme of 23 June 2006, as amended, or CISA, and accordingly the securities being offered pursuant to this prospectus have not and will not be approved, and may not be licensable, with FINMA. Therefore, the securities have not been authorized for distribution by FINMA as a foreign collective investment scheme pursuant to Article 119 CISA and the securities offered hereby may not be offered to the public (as this term is defined in Article 3 CISA) in or from Switzerland. The securities may solely be offered to "qualified investors," as this term is defined in Article 10 CISA, and in the circumstances set out in Article 3 of the Ordinance on Collective Investment Scheme of 22 November 2006, as amended, or CISO, such that there is no public offer. Investors, however, do not benefit from protection under CISA or CISO or supervision by FINMA. This prospectus and any other materials relating to the securities are strictly personal and confidential to each offeree and do not constitute an offer to any other person. This prospectus may only be used by those qualified investors to whom it has been handed out in connection with the offer described in this prospectus and may neither directly or indirectly be distributed or made available to any person or entity other than its recipients. It may not be used in connection with any other offer and shall in particular not be copied and/or distributed to the public in Switzerland or from Switzerland. This prospectus does not constitute an issue prospectus as that term is understood pursuant to Article 652a and/or 1156 of the Swiss Federal Code of Obligations. We have not applied for a listing of the securities on the SIX Swiss Exchange or any other regulated securities market in Switzerland, and consequently, the information presented in this prospectus does not necessarily comply with the information standards set out in the listing rules of the SIX Swiss Exchange and corresponding prospectus schemes annexed to the listing rules of the SIX Swiss Exchange.

## LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Latham & Watkins LLP. Certain legal matters will be passed upon for the underwriters by Goodwin Procter LLP. Latham & Watkins LLP and certain attorneys and investment funds affiliated with the firm own shares of our convertible preferred stock which will be converted into less than 1% of our common stock prior to the completion of this offering.

## EXPERTS

The financial statements as of December 31, 2020 and 2019 and for the years then ended included in this prospectus, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein (which report expresses an unqualified opinion on the financial statements and includes an explanatory paragraph referring to our ability to continue as a going concern). Such financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed with the Securities and Exchange Commission a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits and schedules filed therewith. For further information about us and the common stock offered hereby, we refer you to the registration statement and the exhibits and schedules filed thereto. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement.

You may read our SEC filings, including this registration statement, over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov). Upon the completion of this offering, we will be subject to the information reporting requirements of the Exchange Act and we will file reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available for review at the SEC's website referred to above. We also maintain a website at [www.omegatherapeutics.com](http://www.omegatherapeutics.com), at which, following the completion of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on or accessible through our website is not a part of this prospectus or the registration statement of which it forms a part, and the inclusion of our website address in this prospectus is an inactive textual reference only.

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of Omega Therapeutics, Inc.

### Opinion on the Financial Statements

We have audited the accompanying balance sheet of Omega Therapeutics, Inc. (the "Company") as of December 31, 2020 and 2019, the related statements of operations and comprehensive loss, redeemable convertible preferred stock and stockholders' deficit, and cash flows, for each of the two years in the period ended December 31, 2020 and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

### Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company's recurring losses from operations incurred since inception, expectation of continuing operating losses for the foreseeable future, and the need to raise additional capital to finance its future operations raise substantial doubt about its ability to continue as a going concern. Management's evaluation of events and conditions and management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

*/s/ Deloitte & Touche LLP*

Boston, Massachusetts  
May 7, 2021

We have served as the Company's auditor since 2020.

**Omega Therapeutics, Inc.**  
**Balance sheets**  
(in thousands, except share and per share amounts)

	<u>December 31,</u>	
	<u>2020</u>	<u>2019</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 22,951	\$ 2,274
Prepaid expenses and other current assets	1,052	380
Total current assets	24,003	2,654
Property and equipment, net	3,482	2,833
Restricted cash	341	341
Other assets	257	292
Total assets	<u>\$ 28,083</u>	<u>\$ 6,120</u>
<b>Liabilities, redeemable convertible preferred stock, and stockholders' deficit</b>		
Current liabilities:		
Accounts payable	\$ 1,063	\$ 917
Accrued expenses	3,277	1,145
Other current liabilities	359	165
Long-term debt, current portion	3,000	—
Total current liabilities	7,699	2,227
Long-term debt, net	8,732	11,892
Other liabilities	1,055	1,212
Total liabilities	17,486	15,331
Commitments and contingencies (Note 8)		
Redeemable convertible preferred stock:		
Series A redeemable convertible preferred stock, par value of \$0.001 per share; 57,125,232 shares authorized; 56,775,232 shares issued and outstanding as of December 31, 2020 and 2019; liquidation value of \$25,500 as of December 31, 2020 and 2019	26,708	26,708
Series B redeemable convertible preferred stock, par value of \$0.001 per share; 50,000,000 shares authorized as of December 31, 2020; 32,399,999 shares issued and outstanding as of December 31, 2020; liquidation value of \$48,600 as of December 31, 2020	48,517	—
Stockholders' deficit:		
Common stock, \$0.001 par value; 137,700,000 and 81,150,000 shares authorized as of December 31, 2020 and 2019, respectively; 16,869,171 and 14,262,230 issued and outstanding as of December 31, 2020 and 2019, respectively	17	16
Additional paid-in capital	1,580	843
Accumulated deficit	(66,225)	(36,778)
Total stockholders' deficit	(64,628)	(35,919)
Total liabilities, redeemable convertible preferred stock, and stockholders' deficit	<u>\$ 28,083</u>	<u>\$ 6,120</u>

*The accompanying notes are an integral part of these financial statements.*

**Omega Therapeutics, Inc.**  
**Statements of operations and comprehensive loss**  
**(in thousands, except share and per share amounts)**

	<b>Year ended December 31,</b>	
	<b>2020</b>	<b>2019</b>
Operating expenses:		
Research and development	\$ 21,063	\$ 11,931
General and administrative	6,236	4,227
Related party expense, net	1,346	1,181
Total operating expenses	<u>28,645</u>	<u>17,339</u>
Loss from operations	(28,645)	(17,339)
Other expense, net:		
Interest expense, net	(777)	(595)
Other expense, net	(25)	(11)
Total other expense, net	<u>(802)</u>	<u>(606)</u>
Net loss and comprehensive loss	<u>\$ (29,447)</u>	<u>\$ (17,945)</u>
Net loss per common stock attributable to common stockholders, basic and diluted	<u>\$ (2.00)</u>	<u>\$ (1.43)</u>
Weighted-average common stock used in net loss per share attributable to common stockholders, basic and diluted	<u>14,756,671</u>	<u>12,538,575</u>

*The accompanying notes are an integral part of these financial statements.*

**Omega Therapeutics, Inc.**  
**Statements of redeemable convertible preferred stock and stockholders' deficit**  
(in thousands, except share amounts)

	PREFERRED STOCK - SERIES A		PREFERRED STOCK - SERIES B		COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	ACCUMULATED DEFICIT	TOTAL STOCKHOLDERS' DEFICIT
	SHARES	PAR VALUE	SHARES	PAR VALUE	SHARES	PAR VALUE			
<b>As of January 1, 2019</b>	40,775,232	\$ 18,732	—	\$ —	12,192,592	\$ 16	\$ 484	\$ (18,833)	\$ (18,333)
Issuance of Series A redeemable convertible preferred stock, net of issuance costs of \$24	16,000,000	7,976	—	—	—	—	—	—	—
Issuance of common stock for options exercised	—	—	—	—	194,638	—	24	—	24
Vesting of restricted stock	—	—	—	—	1,875,000	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	335	—	335
Net loss	—	—	—	—	—	—	—	(17,945)	(17,945)
<b>As of December 31, 2019</b>	<u>56,775,232</u>	<u>\$ 26,708</u>	<u>—</u>	<u>\$ —</u>	<u>14,262,230</u>	<u>\$ 16</u>	<u>\$ 843</u>	<u>\$ (36,778)</u>	<u>\$ (35,919)</u>
Issuance of Series B redeemable convertible preferred stock, net of issuance costs of \$83	—	—	32,399,999	48,517	—	—	—	—	—
Issuance of common stock for options exercised	—	—	—	—	741,628	1	101	—	102
Vesting of restricted stock	—	—	—	—	1,875,000	—	—	—	—
Common stock repurchased	—	—	—	—	(9,687)	—	(1)	—	(1)
Stock-based compensation	—	—	—	—	—	—	637	—	637
Net loss	—	—	—	—	—	—	—	(29,447)	(29,447)
<b>As of December 31, 2020</b>	<u>56,775,232</u>	<u>\$ 26,708</u>	<u>32,399,999</u>	<u>\$ 48,517</u>	<u>16,869,171</u>	<u>\$ 17</u>	<u>\$ 1,580</u>	<u>\$ (66,225)</u>	<u>\$ (64,628)</u>

*The accompanying notes are an integral part of these financial statements.*

**Omega Therapeutics, Inc.**  
**Statements of cash flows**  
(in thousands)

	<u>Year ended December 31,</u>	
	<u>2020</u>	<u>2019</u>
<b>Operating activities</b>		
Net loss	\$ (29,447)	\$ (17,945)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	1,146	794
Amortization of debt issuance costs and debt discount	48	36
Change in fair value of warrant liability	(3)	(3)
Stock-based compensation expense	637	335
Deferred rent	(107)	(77)
Loss on disposal of equipment	28	—
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(663)	(244)
Other assets	35	23
Accounts payable	138	671
Accrued expenses and other current liabilities	2,295	754
Other liabilities	(240)	(23)
Net cash used in operating activities	<u>(26,133)</u>	<u>(15,679)</u>
<b>Investing activities</b>		
Purchases of property and equipment	<u>(1,808)</u>	<u>(885)</u>
Net cash used in investing activities	<u>(1,808)</u>	<u>(885)</u>
<b>Financing activities</b>		
Proceeds from issuance of redeemable convertible preferred stock	48,600	8,000
Equity issuance costs	(83)	(24)
Proceeds from issuances of long-term debt	—	4,000
Payment of financing fees	—	(15)
Proceeds from exercise of stock options	101	24
Net cash provided by financing activities	<u>48,618</u>	<u>11,985</u>
<b>Net increase (decrease) in cash, cash equivalents and restricted cash</b>	<u>20,677</u>	<u>(4,579)</u>
Cash, cash equivalents and restricted cash—beginning of period	<u>2,615</u>	<u>7,194</u>
Cash, cash equivalents and restricted cash—end of period	<u>\$ 23,292</u>	<u>\$ 2,615</u>
<b>Reconciliation of cash, cash equivalents and restricted cash</b>		
Cash and cash equivalents	\$ 22,951	\$ 2,274
Restricted cash	341	341
Cash, cash equivalents and restricted cash	<u>\$ 23,292</u>	<u>\$ 2,615</u>
<b>Supplemental disclosures of cash flow information</b>		
Cash paid for interest	<u>\$ 732</u>	<u>\$ 560</u>
<b>Supplemental disclosure of noncash investing and financing activities</b>		
Purchase of property and equipment included accounts payable and accrued expenses	<u>\$ 23</u>	<u>\$ 4</u>
Fair value attributed to success fee obligation	<u>\$ 194</u>	<u>\$ —</u>

*The accompanying notes are an integral part of these financial statements.*

**Omega Therapeutics, Inc.**  
**Notes to financial statements**

**1. Nature of the business and basis of presentation**

***Organization***

Omega Therapeutics, Inc. (the “Company” or “Omega”) is a development-stage biopharmaceutical company. The Company’s goal is to pioneer a new class of DNA-sequence-targeting, mRNA-encoded therapeutics to fundamentally transform human medicine in the service of patients. Its OMEGA Epigenomic Programming platform is designed to coopt nature’s universal operating system by harnessing the power of epigenetics, the mechanism for gene control and cell differentiation. The Company was incorporated in July 2016 (“inception”) as a Delaware corporation and its offices are in Cambridge, Massachusetts.

***Liquidity and going concern***

Since its inception, the Company has devoted substantially all of the resources to building its platform and advancing development of its portfolio of programs, establishing and protecting its intellectual property, conducting research and development activities, organizing and staffing the Company, business planning, raising capital and providing general and administrative support for these operations. The Company is subject to risks and uncertainties common to early-stage companies in the biotechnology industry including, but not limited to, technical risks associated with the successful research, development and manufacturing of product candidates, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations and the ability to secure additional capital to fund operations. Current and future programs will require significant research and development efforts, including extensive preclinical and clinical testing and regulatory approval prior to commercialization. These efforts require significant amounts of additional capital, adequate personnel and infrastructure. Even if the Company’s drug development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

As presented in the financial statements, the Company has incurred substantial losses since inception and had a net loss of \$29.4 million for the year ended December 31, 2020. As of December 31, 2020, the Company had an accumulated deficit of \$66.2 million, with cash used in operating activities totaling \$26.1 million for the year ended December 31, 2020. The Company expects to generate operating losses and negative operating cash flows for the foreseeable future.

Management believes that cash and cash equivalents of \$23.0 million at December 31, 2020, along with the additional funding subsequent to December 31, 2020 from the issuance of Series C redeemable convertible preferred stock (“Series C Preferred Stock”) of aggregate proceeds of \$125.5 million as described in Note 17, *Subsequent events*, will not be sufficient to fund its operations for twelve months from the date these financial statements are issued. If the Company cannot obtain the necessary funding, it will need to delay, scale back or eliminate some or all of its research and development programs; consider other various strategic alternatives, including a merger or sale of the Company; or cease operations. The Company currently has no sources of revenue and its ability to continue as a going concern is dependent on its ability to raise capital to fund its future business plans. Additionally, volatility in the capital markets and general economic conditions in the United States may be a significant obstacle to raising the required funds. These factors raise substantial doubt about the Company’s ability to continue as a going concern. The accompanying financial statements do not include any adjustments that might result from the outcome of these uncertainties. Accordingly, the financial statements have been prepared on a basis that assumes the Company will continue as a going concern which contemplates the realization of assets and satisfaction of liabilities and commitments in the ordinary course of business.

### ***Impact of the COVID-19 pandemic***

The worldwide COVID-19 pandemic may affect the Company's ability to initiate and complete preclinical studies, delay the initiation of its future clinical trials, or have other adverse effects on the Company's business, results of operations, financial condition and prospects. In addition, the pandemic has caused substantial disruption in the financial markets and may adversely impact economies worldwide, both of which could adversely affect the Company's business, operations and ability to raise funds to support its operations.

The Company is following, and plans to continue to follow, recommendations from federal, state and local governments regarding workplace policies, practices and procedures. In response to the direction from state and local governmental authorities, the Company has restricted access to its facility to those individuals who must perform critical research and laboratory support activities that must be completed on site, limited the number of such people that can be present at its facility at any one time and required that most of its employees work remotely. In addition, the third-party contract research organizations and contract manufacturing organizations that the Company engages have faced in the past and may face in the future disruptions that could affect its ability to initiate and complete preclinical studies, including disruptions in procuring items that are essential for its research and development activities, such as, for example, raw materials used in the manufacture of its product candidates and laboratory supplies for its preclinical studies, in each case, for which there may be shortages because of ongoing efforts to address the COVID-19 pandemic.

The Company cannot be certain what the overall impact of the COVID-19 pandemic will be on its business, and the pandemic has the potential to adversely affect the Company's business, financial condition, results of operations and prospects.

### ***Basis of presentation***

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Any reference in these notes to applicable guidance is meant to refer to the authoritative GAAP as found in the Accounting Standards Codification ("ASC"), and Accounting Standards Update ("ASU"), of the Financial Accounting Standards Board ("FASB"). All amounts herein are expressed in U.S. dollars ("USD") unless otherwise noted.

## **2. Summary of significant accounting policies**

### ***Use of estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and expenses, and the disclosure of contingent assets and liabilities as of and during the reporting period. The Company bases its estimates and assumptions on historical experience when available and on various factors that it believes to be reasonable under the circumstances.

Significant estimates and assumptions reflected in these financial statements include, but are not limited to, the selection of useful lives of property and equipment, the fair values of common stock, redeemable convertible preferred stock, warrants, and success fee obligation, and stock-based compensation. Actual results could differ from these estimates. Changes in estimates are reflected in reported results in the period in which they become known.

### ***Cash and cash equivalents***

The Company considers all highly liquid investments with an original maturity of three months or less at the date of purchase to be cash equivalents. Cash and cash equivalents are recorded at cost, which

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approximates fair value. Financial instruments that potentially expose the Company to concentrations of credit risk consist primarily of cash and cash equivalents, and the Company does not believe that it is subject to unusual credit risk beyond the normal credit risk associated with commercial banking relationships. As of December 31, 2020 and 2019, the Company did not hold any cash equivalents.

### **Restricted cash**

Restricted cash represents collateral provided for letters of credit issued as security deposit in connection with the Company's office lease.

### **Debt issuance costs**

Costs incurred in connection with the issuance of the Company's long-term debt have been recorded as a direct reduction against the debt and amortized over the life of the associated debt as a component of interest expense using the effective interest method.

### **Guarantees and indemnifications**

As permitted under Delaware law, the Company indemnifies its officers, directors, consultants, and employees for certain events or occurrences that happen by reason of the relationship with, or position held at, the Company. Through December 31, 2020 and 2019, the Company had not experienced any losses related to these indemnification obligations, and no claims were outstanding. The Company does not expect significant claims related to these indemnification obligations and, consequently, concluded that the fair value of these obligations is negligible, and no related liabilities were established.

### **Property and equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation expense is recognized using the straight-line method over the estimated useful life of each asset category as follows:

<u>Asset category</u>	<u>Estimated useful life</u>
Computer equipment and software	3 years
Laboratory equipment and office furniture	5 years
Leasehold improvements	Shorter of useful life or remaining lease term

Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation are removed from the accounts and any resulting gain or loss is included in loss from operations. Expenditures for repairs and maintenance are charged to expense as incurred.

### **Accrued research and development expenses**

The Company estimates accrued research and development expenses based on its estimates of the services received and efforts expended pursuant to quotes and contracts with third-party service providers, including contract research organizations ("CROs") and contract development and manufacturing organizations ("CDMOs") that supply, conduct and manage preclinical studies on the Company's behalf. The financial terms of these agreements are subject to negotiation, vary from contract to contract and may result in uneven payment flows. There may be instances in which payments made to its vendors will exceed the level of services provided and result in a prepayment of the expense, in which it will be evaluated for current or long-term classification based on when it is expected to be realized. In accruing service fees, the Company estimates the time period over which services will be performed and the level of effort to be expended in each period. If the actual timing of the performance of services or the level of effort varies from the estimate, the Company adjusts the



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accrual or the amount of prepaid expenses accordingly. Although the Company does not expect its estimates to be materially different from amounts actually incurred, its understanding of the status and timing of services performed relative to the actual status and timing of services performed may vary and may result in changes in estimates that increase or decrease amounts recognized in any particular period. To date, there have not been any material adjustments to its prior estimates of accrued research and development expenses.

### ***Warrant liability***

Warrants for the purchase of Series A redeemable convertible preferred stock ("Series A Preferred Stock") issued in connection with the loan and security agreement ("Loan Agreement") with Pacific Western Bank ("PWB") are classified as a liability on the balance sheets at their fair value on the date of issuance. At the end of each reporting period, the change in estimated fair value during the period is recognized as a component of other income (expense), net in the statements of operations and comprehensive loss. The fair value of the warrants is remeasured at the end of each reporting period until such time as the warrants are no longer considered derivative instruments, or until the earlier of the exercise of the warrants or the expiration of the warrants, at which time the liabilities will be reclassified to an equity component.

### ***Success fee obligation***

The Loan Agreement, as amended, with PWB, requires the Company to pay a success fee of \$0.2 million ("success fee obligation") upon the occurrence of a specified liquidity event as described in the Loan Agreement, such as a strategic sale, a merger, or an initial public offering ("IPO"). The Company determined that this obligation represented a freestanding derivative instrument. Accordingly, the success fee obligation was classified as a liability on the Company's balance sheets and initially recorded at fair value, with changes in fair value for each reporting period recognized in other income (expense), net in the statements of operations and comprehensive loss. The fair value of such obligation is remeasured at the end of each reporting period until the liability is settled.

### ***Deferred rent***

The Company's real estate operating leases provide for scheduled annual rent increases throughout the lease terms. The Company recognizes the effects of the scheduled rent increases on a straight-line basis over the full terms of the leases. Tenant improvement allowances, if any, provided by a landlord are recorded as deferred rent and amortized as reductions to rent expense over the lease terms.

### ***Impairment of long-lived assets***

The Company evaluates its long-lived assets, which consist primarily of property and equipment for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to the future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds the fair value of the asset. There were no impairment losses recognized during the years ended December 31, 2020 and 2019.

### ***Fair value measurements***

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an

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orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Financial assets and liabilities carried at fair value are to be classified and disclosed in one of the following three levels of the fair value hierarchy, of which the first two are considered observable and the last is considered unobservable:

- Level 1—Quoted prices in active markets for identical assets or liabilities.
- Level 2—Observable inputs (other than Level 1 quoted prices), such as quoted prices in active markets for similar assets or liabilities, quoted prices in markets that are not active for identical or similar assets or liabilities, or other inputs that are observable or can be corroborated by observable market data.
- Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to determining the fair value of the assets or liabilities, including pricing models, discounted cash flow methodologies and similar techniques.

The fair value of the Company's cash and cash equivalents and restricted cash are measured through quoted market prices. Other current assets, accounts payable and accrued liabilities approximate their fair values as of December 31, 2020 and 2019, due to their short-term nature. The carrying value of the Company's debt approximates its fair value due to its variable interest rate, which approximates a market interest rate. The warrant liability and the success fee obligation associated with the Loan Agreement contain unobservable inputs that reflect the Company's own assumptions in which there is little, if any, market activity at the measurement date, thus the Company's warrant liability and the success fee obligation are measured at their fair values on a recurring basis using unobservable inputs. See further discussion in Note 7, *Fair value of financial instruments*.

### ***Redeemable convertible preferred stock***

The Company has classified redeemable convertible preferred stock as temporary equity on the accompanying balance sheets because it could become redeemable upon occurrence of a deemed liquidation event that is outside of the Company's control. The Company has not adjusted the carrying values of the redeemable convertible preferred stock to its redemption value because it is uncertain whether or when a deemed liquidation event would occur. If a deemed liquidation event becomes probable, the carrying value will be adjusted to the redemption value at that time. See further discussion in Note 10, *Redeemable convertible preferred stock*.

### ***Research and development expenses***

Research and development expenses are charged to expense as incurred. Research and development expenses consist of costs incurred in performing research and development activities, including salaries and bonuses, stock-based compensation, employee benefits, facilities costs, laboratory supplies, depreciation, consulting fees, cost of licensing technology and external contract research and development and manufacturing expenses. Costs for certain research and development activities are recognized based on the terms of the individual arrangements, which may differ from the pattern of costs incurred, and are reflected in the financial statements as prepaid or accrued research and development costs. Nonrefundable advance payments for goods or services to be received in the future for use in research and development activities are recorded as prepaid expenses and expensed as the related goods are delivered or the services are performed.

### ***Stock-based compensation***

The Company's stock-based compensation program allows for grants of stock options and restricted stock awards. Stock-based compensation awards are granted to employees and non-employees.

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The Company recognizes all stock-based compensation awards to employees and non-employees as expense in the statements of operations and comprehensive loss based on their fair values. For stock option awards, the Company estimates the fair value using the Black-Scholes option pricing model. The fair value of the Company's common stock is used to determine the fair value of restricted stock awards.

Stock-based compensation awards are subject to service vesting conditions, and forfeitures are recorded as they occur. Compensation expense related to awards to employees with service-based vesting conditions is recognized on a straight-line basis based on the grant date fair value over the associated service period of the award, which is generally the vesting term. Prior to the adoption of ASU No. 2018-07, *Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting* ("ASU No. 2018-07") as discussed below under "Recently Adopted Accounting Pronouncements", the measurement date for non-employee awards was generally the date the services were completed, resulting in financial reporting period adjustments to stock-based compensation during the vesting terms for changes in the fair value of the awards. Since the adoption of ASU 2018-07 as of January 1, 2020, the measurement date for non-employee awards is the date of grant without changes in the fair value of the award. Stock-based compensation costs for non-employees are recognized as expense over the vesting period on a straight-line basis.

The Black-Scholes option pricing model requires inputs based on certain subjective assumptions, including (i) the expected stock price volatility, (ii) the expected term of the award, (iii) the risk-free interest rate, and (iv) expected dividends. Due to the lack of a public market for the Company's common stock and lack of company-specific historical and implied volatility data, the Company has based its computation of expected volatility on the historical volatility of a representative group of public companies with similar characteristics to the Company, including stage of product development and life science industry focus. The historical volatility is calculated based on a period of time commensurate with the expected term assumption. The Company uses the simplified method as prescribed by the Securities and Exchange Commission Staff Accounting Bulletin No. 107, *Share-Based Payment*, to calculate the expected term for options granted to employees and non-employees, whereby, the expected term equals the arithmetic average of the vesting term and the original contractual term of the options due to its lack of sufficient historical data. The risk-free interest rate is based on U.S. Treasury securities with a maturity date commensurate with the expected term of the associated award. The expected dividend yield is assumed to be zero as the Company has never paid dividends and has no current plans to pay any dividends on its common stock.

Due to the absence of an active market during the years ended December 31, 2020 and 2019 for the Company's common stock, the Company utilized methodologies in accordance with the framework of the American Institute of Certified Public Accountants Technical Practice Aid, *Valuation of Privately-Held Company Equity Securities Issued as Compensation*, to estimate the fair value of its common stock. In determining the exercise prices for options granted, the Company has considered the estimated fair value of the common stock as of the measurement date. The estimated fair value of the common stock has been determined at each grant date based upon a variety of factors, including the illiquid nature of the common stock, arm's-length sales of the Company's capital stock (including redeemable convertible preferred stock), the effect of the rights and preferences of the preferred shareholders, and the prospects of a liquidity event. Among other factors are the Company's financial position and historical financial performance, the status of technological developments within the Company's research, the composition and ability of the current research and management team, an evaluation or benchmark of the Company's competition, and the current business climate in the marketplace. Significant changes to the key assumptions underlying the factors used could result in different fair values of common stock at each valuation date.

**Patent costs**

All patent-related costs incurred in connection with filing and prosecuting patent applications are expensed as incurred as patents have no future alternative use.

**Income taxes**

The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the Company's financial statements and tax returns. Deferred tax assets and liabilities are determined based upon the differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities and for loss and credit carryforwards, using enacted tax rates expected to be in effect in the year in which the differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance if it is more likely than not that these assets may not be realized. As of December 31, 2020 and 2019, the Company has recorded a full valuation allowance against its deferred tax assets. The Company determines whether it is more likely than not that a tax position will be sustained upon examination. If it is not more likely than not that a position will be sustained, none of the benefit attributable to the position is recognized. The tax benefit to be recognized for any tax position that meets the more-likely-than-not recognition threshold is calculated as the largest amount that is more than 50% likely of being realized upon resolution of the contingency. The Company accounts for interest and penalties related to uncertain tax positions as part of its provision for income taxes.

**Comprehensive loss**

The Company did not have any other comprehensive income or loss for any periods presented and, therefore comprehensive loss did not differ from net loss.

**Net loss per share**

The Company follows the two-class method when computing net loss per share, as the Company has issued shares that meet the definition of participating securities. The two-class method determines net loss per share for each class of common and participating securities according to dividends declared or accumulated and participation rights in undistributed earnings. The two-class method requires income available to common stockholders for the period to be allocated between common and participating securities based upon their respective rights to receive dividends as if all income for the period had been distributed.

Basic net loss per share attributable to common stockholders is computed by dividing the net loss attributable to common stockholders by the weighted average number of common stock outstanding for the period. Diluted net loss attributable to common stockholders is computed by adjusting net loss attributable to common stockholders to reallocate undistributed earnings based on the potential impact of dilutive securities. Diluted net loss per share attributable to common stockholders is computed by dividing the diluted net loss attributable to common stockholders by the weighted average number of common stock outstanding for the period, including potential dilutive common shares assuming the dilutive effect of common stock equivalents.

The Company's redeemable convertible preferred stock contractually entitles the holders of such shares to participate in dividends but does not contractually require the holders of such shares to participate in losses of the Company. Accordingly, in periods in which the Company reports a net loss, such losses are not allocated to such participating securities. In periods in which the Company reports a net loss attributable to common stockholders, diluted net loss per share attributable to common stockholders is the same as basic net loss per share attributable to common stockholders, since dilutive common shares are not assumed to have been issued if their effect is anti-dilutive. The Company reported a net loss attributable to common stockholders for the years ended December 31, 2020 and 2019.

### **Segment and geographic information**

Operating segments are defined as components of an entity about which discrete information is available for evaluation by the chief operating decision maker, or CODM, or decision-making group, in deciding how to allocate resources and in assessing performance. The CODM is the Company's Chief Executive Officer. The CODM views its operations as and manages its business in one operating segment operating exclusively in the United States.

### **Recently issued accounting pronouncements**

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* ("ASU 2016-02"), which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e., lessees and lessors). The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less may be accounted for similar to existing guidance for operating leases today. As the Company has elected to use the extended transition period for complying with new or revised accounting standards as available under the Jumpstart Our Business Startups Act ("JOBS Act"), the standard is effective for the Company beginning January 1, 2022, with early adoption permitted. The Company is currently evaluating the impact that the adoption of ASU 2016-02 will have on its financial statements.

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes-Simplifying the Accounting for Income Taxes* ("ASU 2019-12"). ASU 2019-12 eliminates certain exceptions related to the approach for intraperiod tax allocation, the methodology for calculating income taxes in an interim period and the recognition of deferred tax liabilities for outside basis differences. The new guidance also simplifies aspects of the accounting for franchise taxes, enacted changes in tax laws or rates and clarifies the accounting for transactions that result in a step-up in the tax basis of goodwill. Adoption of the standard requires certain changes to be made prospectively and certain others to be made retrospectively. As the Company has elected to use the extended transition period for complying with new or revised accounting standards as available under the JOBS Act, the standard is effective for the Company beginning January 1, 2022, with early adoption permitted. The Company is currently evaluating the impact that the adoption of ASU 2019-12 will have on its financial statements.

### **Recently adopted accounting pronouncements**

In June 2018, the FASB issued ASU No. 2018-07, *Improvements to Nonemployee Share-Based Payment Accounting* ("ASU 2018-07"). ASU 2018-07 aims to simplify the accounting for share-based payments to nonemployees by aligning it to the accounting for share-based payments to employees including determining the fair value of the award on the date of grant and recognizing the stock-based compensation expense as of the respective vesting date. The new standard also requires companies to elect to either measure the awards to non-employees over an estimated expected term or contractual term as well as elect to estimate forfeitures or account for forfeitures as they occur. ASU 2018-07 is effective for fiscal years and interim periods within those fiscal years beginning after December 15, 2019 and is to be adopted using a modified retrospective approach with a cumulative catch-up to retained earnings recorded for equity-classified awards for which a measurement date has not been established as of the date of adoption. The Company adopted ASU 2018-07 effective January 1, 2020, and the adoption of the new standard did not have a material impact on the Company's financial statements and related disclosures.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirement for Fair Value Measurement* ("ASU

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2018-13”), which changes the disclosure requirements on fair value measurements in Topic 820. The guidance eliminates certain disclosure requirements that are no longer considered cost beneficial and adds new disclosure requirement for Level 3 fair value measurements. The Company adopted ASU 2018-13 effective January 1, 2020, and the adoption of the new standard did not have a material impact on the Company’s financial statements and related disclosures.

### 3. Prepaid expenses and other current assets

Prepaid expenses and other current assets consisted of the following (in thousands):

	December 31,	
	2020	2019
Prepaid rent	\$ —	\$170
Prepaid software	78	96
Prepaid research and development	653	—
Prepaid other	128	109
Other receivables	193	5
Prepaid expenses and other current assets	<u>\$1,052</u>	<u>\$380</u>

### 4. Property and equipment, net

Property and equipment, net consists of the following (in thousands):

	December 31,	
	2020	2019
Leasehold improvements	\$ 1,378	\$ 1,202
Lab equipment	3,444	2,745
Furniture and fixtures	985	187
Computer equipment	129	90
Construction in process	16	—
Total property and equipment	5,952	4,224
Less accumulated depreciation	(2,470)	(1,391)
Property and equipment, net	<u>\$ 3,482</u>	<u>\$ 2,833</u>

Depreciation expense for the years ended December 31, 2020 and 2019 was \$1.1 million and \$0.8 million, respectively.

### 5. Accrued expenses

Accrued expenses consist of the following (in thousands):

	December 31,	
	2020	2019
Employee related expenses	\$1,124	\$ 746
Research costs	1,724	141
Consulting fees	165	156
Interest	44	44
Other	220	58
Total	<u>\$3,277</u>	<u>\$1,145</u>

## 6. Term Loan

On March 9, 2018 (“Closing Date”), the Company entered into the Loan Agreement with PWB, a California state-chartered bank. Under the Loan Agreement, the Company may borrow amounts not to exceed \$8.0 million, which consisted of Tranche I and Tranche II, with the Tranche I funded on the Closing Date and Tranche II funded no later than 18 months from the Closing Date. The Company borrowed \$3.5 million under Tranche I on the Closing Date and \$4.5 million under Tranche II in August 2018, and the full amount of \$8.0 million was to be repaid beginning 18 months from the Closing Date in thirty equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 5.00%, due monthly starting the first month after the Closing Date.

In conjunction with the Loan Agreement, under Tranche I, the Company issued a warrant to PWB to purchase 87,500 shares of Series A Preferred Stock at the initial strike price of \$0.50 per share. The warrant is exercisable for a 10-year period. Additionally, the warrant shall be exercisable for an additional number of shares of Series A Preferred Stock equal to the amount borrowed under Tranche II multiplied by 0.0125. In no event shall the warrant be exercisable for more than 200,000 shares of Series A Preferred Stock. Upon closing of Tranche II, the warrant was not exercised for additional number of shares of Series A Preferred Stock. In lieu of exercising the warrant, PWB may, in whole or in part, convert the warrant into a number of shares of Series A Preferred Stock, determined by (a) dividing the aggregate fair market value of the Series A Preferred Stock shares minus the aggregate warrant price of such shares by (b) the fair market value of one share of Series A Preferred Stock. The fair market value of the Series A Preferred Stock shares shall be determined based upon either the publicly traded closing price on the date of the conversion or, if not publicly traded, a value deemed appropriate by the Company’s board of directors. Refer to Note 7, *Fair value of financial instruments*, for further discussion on the valuation methodology and inputs for the determination of the fair value of the warrants.

On September 30, 2019, the Company entered into an amendment to the Loan Agreement (the “First Amendment”), in which PWB made an additional term loan pursuant to a new Tranche III to the Company in an aggregate principal amount of \$12.0 million. The proceeds of the term loan pursuant to Tranche III were first applied to the repayment in full of all outstanding principal and accrued interest on the outstanding term loan of \$8.0 million borrowed pursuant to Tranche I and Tranche II; the remaining cash proceeds of \$4.0 million was used for general working capital and for capital expenditures purposes. The maturity date of the additional term loan was initially March 9, 2022, and it would have been repaid beginning on January 9, 2020 in twenty-seven equal installments. However, the first closing of the Company’s Series B Preferred Stock financing in January 2020 satisfied the cash proceeds milestone noted in the First Amendment, in which the maturity date of the amended term loan was extended to June 9, 2023, and the term loan was to be repaid beginning in January 2021 in thirty equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after September 30, 2019. The Company incurred \$15 thousand of debt issuance costs, which was recorded as a direct reduction against the additional term loan and amortized over the life of the associated term loan as a component of interest expense using the effective interest method.

In conjunction with the First Amendment, the Company also issued a warrant to purchase 350,000 shares of Series A Preferred Stock, which effectively restated and replaced the original warrant agreement. The strike price of the amended warrant is \$0.50 per share, and the term remains unchanged, expiring in March 2028. No warrants have been exercised to date. Refer to Note 7, *Fair value of financial instruments*, for further discussion on the valuation methodology and inputs for the determination of the fair value of the warrants.

As the warrants issued are freestanding financial instruments that are exercisable for contingently redeemable shares, they were initially recorded at fair value on the date of issuance as a liability, with

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a corresponding discount recorded against the face value of the term loan. The discount was accreted against the face value of the term loan over its remaining term as additional interest expense. At the end of each reporting period, the change in estimated fair value of the warrants during the period is recognized as a component of other income (expense), net in the statements of operations and comprehensive loss.

On January 22, 2020, the Loan Agreement was further amended (the "Second Amendment") to extend the principal repayment start date, from January 9, 2020 as noted in the First Amendment to February 9, 2020; the number of repayment installments was also amended from twenty-seven equal installments to twenty-six equal installments. No additional proceeds were taken under the Second Amendment, and there were no other material amendments to the terms and conditions.

On December 30, 2020, the Loan Agreement was further amended (the "Third Amendment") to extend the principal repayment date. No additional proceeds were taken under the Third Amendment. The maturity date of the term loan was extended to June 30, 2023, and it is to be repaid beginning on June 30, 2021 in twenty-four equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after December 30, 2020. The Company incurred \$15 thousand of debt issuance costs, which have been recorded as a direct reduction against the term loan and amortized over the life of the associated term loan as a component of interest expense using the effective interest method.

In accordance with the Third Amendment, in the event that the Company has satisfied the cash proceeds milestone, as defined in the Third Amendment, the principal repayment date will be extended to December 31, 2021 and the maturity date will be extended to December 31, 2023. Additionally, the Company is required to pay a success fee of \$0.2 million upon the occurrence of a specified liquidity event, as described in the Loan Agreement, which includes an IPO. The Company determined that this obligation represented a freestanding financial instrument. Accordingly, the success fee obligation was classified as a liability on the Company's balance sheet and initially recorded at fair value, with changes in fair value for each reporting period recognized in other income (expense), net in the statement of operations and comprehensive loss. The fair value of such obligation is remeasured at the end of each reporting period until the liability is settled.

As of December 31, 2020, the long-term debt, current portion was \$3.0 million, and the long-term debt was \$9.0 million. The Company's outstanding term loan balance was comprised of the following (in thousands):

	December 31,	
	2020	2019
Principal	\$12,000	\$12,000
Unamortized debt discount	(268)	(108)
Net carrying amount	<u>\$11,732</u>	<u>\$11,892</u>

The Company determined that the expected life of the debt was equal to the term on the term loan. The effective interest rate on the liability component ranged from 5.53% to 7.51% for the period from the date of issuance through December 31, 2020. The following table sets forth total interest expense recognized related to the term loan (in thousands):

	Year ended December 31,	
	2020	2019
Contractual interest expense	\$ 732	\$ 559
Amortization of debt issuance costs and debt discount	48	36
Total interest expense	<u>\$ 780</u>	<u>\$ 595</u>



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As of December 31, 2020 and 2019, accrued interest on the term loan was \$44 thousand.

The Company is required to repay the following principal amounts in connection with its term loan (in thousands):

2021	3,000
2022	6,000
2023	3,000
	<u>\$12,000</u>

### 7. Fair value of financial instruments

The fair value of the Company's financial instruments is summarized in the tables below (in thousands):

	December 31, 2020			Total
	Level 1	Level 2	Level 3	
<b>Financial Liabilities</b>				
Warrant liability	\$ —	\$ —	\$ 124	\$124
Success fee obligation	—	—	194	194
Total	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 318</u>	<u>\$318</u>

	December 31, 2019			Total
	Level 1	Level 2	Level 3	
<b>Financial Liabilities</b>				
Warrant liability	\$ —	\$ —	\$ 127	\$127

The Company's warrant liability and success fee obligation contain unobservable inputs that reflected the Company's own assumptions in which there is little, if any, market activity at the measurement date. Accordingly, the Company's warrant liability and success fee obligation are measured at fair value on a recurring basis using unobservable inputs at each reporting period and are classified as Level 3 inputs. The warrant liability is shown as non-current liabilities on the balance sheets as they are deemed more probable than not by the Company to be settled in longer than one year.

The fair values of the warrants are estimated using the Black-Scholes option-pricing model. The expected terms represent the remaining contractual term of the warrants. The risk-free interest rate is determined by reference to the U.S. Treasury yield curve for time periods approximately equal to the remaining contractual term of the warrants. The expected dividend is zero as the Company has not paid nor does it anticipate paying any dividends on its common stock in the foreseeable future. The Company historically has been a private company and lacks company-specific historical and implied volatility information of its stock. Therefore, it estimates its expected stock volatility based on the historical volatility of publicly traded peer companies for a term equal to the remaining contractual term of the warrants.

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The assumptions used in the Black-Scholes option-pricing model for the warrants were as follows:

	Year ended December 31,	
	2020	2019
Expected volatility	73.09 - 77.79%	72.45 - 73.58%
Risk-free interest rate	0.58 - 0.65%	1.65 - 1.88%
Expected dividend yield	0.00%	0.00%
Expected term (in years)	7.2 - 7.9	8.2 - 8.5

The fair value of the warrants will be remeasured at each reporting period, with changes in fair value recognized in the statements of operations and comprehensive loss. The changes in the fair value of the warrant liability during the years ended December 31, 2020 and 2019 are immaterial.

The fair value of the success fee obligation was determined using the probability-weighted expected return method. The key estimates and assumptions impacting the fair value include the probability of achieving a specified liquidity event, the expected timing of achieving a liquidity event and discount rate. The fair value of the success fee obligation is remeasured at each reporting period, with changes in fair value recognized in the statement of operations and comprehensive loss, until such liability is settled. The success fee obligation is recorded as current liabilities on the balance sheet as it is deemed more probable than not by the Company to be settled in less than one year.

The following reflects the significant quantitative inputs used to determine the valuation of the success fee obligation upon the amendment of the Loan Agreement executed in December 2020:

Discount rate	6.0%
Expected timing of achieving liquidity events (years)	0.5 - 1
Probability of achieving liquidity events	1% - 99%

The following table provides a roll-forward of the fair values of the Company's warrant liability and the success fee obligation for which fair value is determined by Level 3 inputs (in thousands):

	Warrant liability	Success fee obligation
Fair value as of January 1, 2019	\$ 76	\$ —
Issuance of warrant	54	—
Change in fair value	(3)	—
Fair value as of December 31, 2019	127	—
Initial fair value of success fee obligation	—	194
Change in fair value	(3)	—
Fair value as of December 31, 2020	<u>\$ 124</u>	<u>\$ 194</u>

## 8. Commitments and contingencies

### *Operating leases*

In 2017, the Company entered a noncancelable operating lease agreement to lease its office space in Cambridge, Massachusetts, which will expire in September 2024. The Company is required to pay property taxes, insurance, and normal maintenance costs. The operating lease contains predetermined fixed escalations of minimum rentals during the lease term. During 2018, the Company received \$1.1 million of landlord-funded leasehold improvements related to the leased office space. The landlord-funded leasehold improvements were recorded as property and equipment, net and deferred rent in the balance sheets and

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are being amortized as a reduction to rent expense over the life of the lease. In 2019 and 2020, the Company entered into sublease agreements with two related parties to sublease this office and laboratory space. Refer to Note 15, *Related party transactions*, for further details.

On July 13, 2020, the Company entered into a Shared Space Arrangement (“the Arrangement”) with Senda Biosciences (“Senda”, also formerly known as Kintai Therapeutics, Inc.) to share one-third of Senda’s 69,867 square feet of leased space at 20 Acorn Park Drive, Cambridge, Massachusetts. Senda is a related party as it is an affiliate of Flagship Pioneering (“Flagship”). The Arrangement commenced on August 1, 2020 and continues through July 31, 2022 with two options to extend the term of the Arrangement for a period of 24 months each. The operating lease contains predetermined fixed escalations of minimum rentals during the lease term, and the Company is required to pay property taxes, insurance, and normal maintenance costs. During the year ended December 31, 2020, the Company paid Senda \$1.0 million for rental expenses, in addition to \$0.7 million of reimbursement for office furniture purchases. As of December 31, 2020, the Company did not have any outstanding payments due to Senda.

The Company recognizes the rental expense on a straight-line basis over the life of the respective lease from the date the Company takes possession of the office and records the difference between amounts charged to operations and amounts paid as deferred rent. Rent expense for the years ended December 31, 2020 and 2019 was \$2.2 million and \$1.3 million, respectively.

As of December 31, 2020, the future minimum lease payments for the Company’s facility operating leases for each of the years ending December 31 were as follows (in thousands):

2021	3,322
2022	2,618
2023	1,563
2024	1,205
Total minimum lease payments	<u>\$8,708</u>

## 9. License agreements

### ***Flagship Pioneering Innovations V, Inc.***

In March 2019, the Company entered into an exclusive license agreement with Flagship Pioneering Innovations V, Inc., an affiliate of one of the Company’s principal stockholders, under which the Company was granted an exclusive, worldwide, royalty-bearing, sublicensable, transferable license under specified patent rights to develop, manufacture and commercialize licensed products (the “Flagship License”). Under the terms of the Flagship License, the Company is obligated to pay low single digit percentage royalties on net sales of licensed products by the Company. Royalties shall be paid by the Company on a country-by-country basis until expiration or abandonment of the last valid patent claim covering such licensed product in such country. The Company is also obligated to reimburse Flagship for patent prosecution costs.

The royalty payment is contingent upon sales of license products under the Flagship License. As such, when such expense is considered probable and estimable at the commencement of sales, the Company will account for the royalty expense as cost of sales for the amount it is obligated.

### ***Whitehead Institute for Biomedical Research***

In May 2019, the Company entered into an exclusive license agreement with the Whitehead Institute for Biomedical Research (“WIBR”), an affiliate of one of the Company’s board members, under which the Company was granted an exclusive, worldwide, royalty-bearing, sublicensable license under

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specified patent rights to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes (the "WIBR Exclusive License"). Under the terms of the WIBR Exclusive License, the Company paid a nonrefundable upfront fee of less than \$0.1 million, which was recorded as an expense for the year ended December 31, 2019. The Company is obligated to pay WIBR annual license maintenance fees of less than \$0.1 million and low single digit percentage royalties on net sales of licensed products by the Company and its affiliates and sublicensees. Additionally, the Company is required to make milestone payments of up to \$1.7 million in the aggregate for each of the first three licensed products (excluding backup products) upon the achievement of specified clinical and regulatory milestones. In addition, the Company is required to pay to WIBR a percentage of the non-royalty payments that it receives from sublicensees of the WIBR Exclusive License. This percentage ranges from zero to low double-digits and will be based upon the stage of development of the licensed product at the time such sublicense is executed.

In May 2019, the Company also entered into a co-exclusive license agreement with WIBR under which the Company was granted a co-exclusive, worldwide, royalty-bearing, sublicensable license under specified patent rights to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes (the "WIBR Co-Exclusive License"). Under the terms of the WIBR Co-Exclusive License, the Company paid a nonrefundable upfront fee of less than \$0.1 million, which was recorded as an expense for the year ended December 31, 2019. The Company is obligated to pay WIBR annual license maintenance fees of less than \$0.1 million and sub single digit percentage royalties on net sales of licensed products by the Company and its affiliates and sublicensees as well as low single digit percentage royalties on licensed service income received by the Company and its affiliates. Additionally, the Company is required to make milestone payments of up to \$1.9 million in the aggregate for each of the first three licensed products (excluding backup products) upon the achievement of specified clinical, regulatory, and sublicensing milestones. In addition, the Company is required to pay to WIBR annual fees of less than \$0.1 million for each sublicense agreement.

During the years ended December 31, 2020 and 2019, the Company recognized expenses of less than \$0.1 million for the license maintenance fees and \$0.1 million for the upfront fee payments, respectively. There was no outstanding payment due to WIBR as of December 31, 2020, and an immaterial amount of outstanding payment was due to WIBR as of December 31, 2019.

The annual maintenance fees will be recorded as an expense on an annual basis based on the stated amount for the applicable year. Upon determination that a milestone payment is probable to occur, the amount due will be recorded as research and development. As the triggering of these milestone payments was not considered probable during 2020 and 2019, no expense has been recorded for these milestones during the years ended December 31, 2020 and 2019. Lastly, the royalty payments and the sublicense non-royalty payments are contingent upon sales of license products or execution of a sublicense agreement under the WIBR Exclusive and Co-Exclusive Licenses. As such, when such expenses are considered probable and estimable at the commencement of sales or execution of a sublicense agreement, the Company will accrue royalty expense and sublicense non-royalty payments, as applicable, for the amount the Company is obligated.

### ***Acuitas Therapeutics, Inc.***

In October 2020, the Company entered into a development and option agreement (the "Development and Option Agreement") with Acuitas Therapeutics, Inc. ("Acuitas"). Under the terms of the Development and Option Agreement, the parties agreed to jointly develop certain products combining the Company's gene modulating therapeutics with Acuitas's . Additionally, in accordance with the Development and Option Agreement, the Company has options to obtain non-exclusive, worldwide, sublicensable licenses under Acuitas's patents and know-how related to lipid nanoparticle

technology (“Acuitas LNP Technology”) with respect to two specified targets (e.g., OEC constructs) (“Reserved Targets”) to develop and commercialize one or more therapeutic products relating to such targets. For each option and Reserved Target, the Company is obligated to pay an annual technology access fee and target reservation and maintenance fees collectively in the low-mid six figures until such Reserved Targets is removed from the Reserved Target list or until the Company exercises an option with respect to such Reserved Target. In the event that the Company exercises the options, the Company will pay \$1.5 million for the first non-exclusive license and \$1.75 million for the second non-exclusive license. Under the terms of the Development and Option Agreement, the Company is also responsible for the FTE funding obligations and reimbursements to Acuitas for certain development and material costs incurred by them, which is currently approximately \$0.4 million per year.

During the year ended December 31, 2020, the Company recorded an aggregate of \$0.8 million of research and development expenses, consisting of the payments made for technology access fees, target reservation and maintenance fees, and the development and material costs incurred by Acuitas.

The option exercise fees under the Development and Option Agreement will be recorded as research and development expense, if and when the Company exercises such options. Additionally, the technology access fees, target reservation and maintenance fees, expenses associated with the FTE funding obligations and reimbursements for development and material costs incurred by Acuitas are recorded as research and development expense when incurred.

## **10. Redeemable convertible preferred stock**

### ***Series A Redeemable Convertible Preferred Stock***

On August 4, 2017, the Company entered into a Series A Preferred Stock Purchase Agreement (“Series A Agreement”) with certain investors (the “Purchasers”). Under the Series A Agreement, the Company issued an aggregate of 13,000,000 shares (the “Initial Shares”) of Series A Preferred Stock at a purchase price of \$0.50 per share for aggregate proceeds of \$6.5 million. In addition, promissory notes were issued by the Company in the aggregate principal amount of \$2.8 million plus \$54 thousand in accrued interest (collectively, the “Bridge Notes”), which were exchanged for an aggregate of 5,775,232 shares of Series A Preferred Stock (the “Conversion Shares”). The Company incurred issuance costs of \$15 thousand in connection with the issuance of the Initial Shares.

The Series A Agreement also includes rights for each Purchaser to purchase additional Series A Preferred Stock upon the achievement of certain milestone events, in which the Company met in 2018 and therefore issued additional 22,000,000 shares of Series A Preferred Stock, at the Series A purchase price of \$0.50 per share for aggregate proceeds of \$11.0 million. On June 27, 2018, the Company amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional 200,000 shares of Series A Preferred Stock for a total of 40,975,232 authorized shares of Series A Preferred Stock. In connection with the issuance of the additional Series A Preferred Stock in 2018, the Company incurred \$7 thousand of issuance costs.

On June 10, 2019, the Company amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional Series A Preferred Stock for a total of 56,975,232 authorized shares of Series A Preferred Stock. Simultaneously, in June 2019, the Company issued the additional 16,000,000 shares of Series A Preferred Stock, at the Series A purchase price of \$0.50 per share for aggregate proceeds of \$8.0 million. In connection with the issuance of Series A Preferred Stock in 2019, the Company incurred \$24 thousand of issuance costs. On October 1, 2019, the Company further amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional 150,000 shares of both common stock and Series A Preferred Stock for a total of 81,150,000 authorized shares of common stock and 57,125,232 authorized shares of Series A Preferred Stock.

No additional shares were issued under the Series A Preferred Stock Purchase Agreement after June 2019.

**Series B Redeemable Convertible Preferred Stock**

On January 27, 2020, the Company issued 24,066,666 shares of Series B redeemable convertible preferred stock (“Series B Preferred Stock”) at a purchase price of \$1.50 per share for aggregate proceeds of \$36.1 million. On June 2, 2020, the Company issued an additional 3,333,333 shares of Series B Preferred Stock at the purchase price of \$1.50 per share for aggregate proceeds of \$5.0 million. On August 3, 2020, the Company issued 5,000,000 shares of Series B Preferred Stock at the purchase price of \$1.50 per share for aggregate proceeds of \$7.5 million. No additional shares of Series B Preferred Stock were issued after August 2020. In connection with the issuance of Series B Preferred Stock in 2020, the Company incurred \$83 thousand of issuance costs.

The redeemable convertible preferred stock consisted of the following (in thousands, except for share data):

	December 31, 2020				
	Preferred Stock Authorized	Preferred stock issued and outstanding	Carrying value	Liquidation preference	Common stock issuable upon conversion
Series A Preferred Stock	57,125,232	56,775,232	\$ 26,708	\$ 25,500	56,775,232
Series B Preferred Stock	50,000,000	32,399,999	48,517	48,600	32,399,999
	<u>107,125,232</u>	<u>89,175,231</u>	<u>\$ 75,225</u>	<u>\$ 74,100</u>	<u>89,175,231</u>

	December 31, 2019				
	Preferred Stock Authorized	Preferred stock issued and outstanding	Carrying value	Liquidation preference	Common stock issuable upon conversion
Series A Preferred Stock	57,125,232	56,775,232	\$ 26,708	\$ 25,500	56,775,232

The following is a summary of the rights and preferences of the Series A and Series B Preferred Stock (collectively the “Preferred Stock”) as of December 31, 2020 and 2019:

**Conversion**— Each share of Preferred Stock is convertible, at the option of the holder into an equal amount of fully paid and non-assessable shares of common stock as is determined by dividing the respective original Preferred Stock issue price by the respective Preferred Stock Conversion Price in effect at the time of conversion. The Series A and Series B Conversion Price are \$0.50 and \$1.50, respectively, subject to appropriate adjustment as set forth in the Company’s Amended and Restated Certificate of Incorporation, as amended and restated. As such, the shares of Preferred Stock currently convert on a one-for-one basis. No fractional shares of common stock will be issued.

Upon either (a) the closing of the sale of shares of common stock, in a firm-commitment underwritten public offering with at least \$35,000,000 of gross proceeds to the Company or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of a majority in voting power of the then-outstanding shares of Preferred Stock, then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of common stock, at the applicable conversion ratio then in effect, and (ii) such shares may not be reissued by the Company.

**Dividends**— The holders of Preferred Stock are entitled to receive noncumulative dividends if and when declared by the Company’s board of directors. The Company may not declare, pay or set aside any dividends on shares of any other series of capital stock of the Company, other than

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dividends on common stock payable in common stock, unless the holders of the Preferred Stock first receive, or simultaneously receive, a dividend on each outstanding share of Series A and Series B Preferred Stock. No dividends were declared or paid during the years ended December 31, 2020 and 2019.

**Voting Rights**— The holders of Preferred Stock are entitled to vote, together with the holders of common stock as a single class, on matters submitted to stockholders for a vote. The holders of Preferred Stock are entitled to the number of votes equal to the number of shares of common stock into which each such share of Preferred Stock could convert.

**Liquidation Preference**— While the Preferred Stock is not redeemable at the option of the holders, the shares are redeemable for cash in certain change of control events that are beyond the control of the Company. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, or deemed liquidation event (as described below), the holders of the Preferred Stock are entitled to receive a liquidation preference in priority over the holders of common stock, at an amount per share equal to the greater of i) the respective original Preferred Stock issue price plus any declared but unpaid dividends, or ii) the amount per share payable had all shares of Preferred Stock been converted to common stock immediately prior to such liquidation. If assets available for distribution are insufficient to satisfy the liquidation payment to holders in full, assets available for distribution will be allocated among holders based on their pro rata shareholdings. When holders are satisfied in full, any excess assets available for distribution will be allocated ratably among common stockholders based on their pro rata shareholdings.

Unless the holders of a majority of the then-outstanding shares of Preferred Stock, consenting or voting together as a single class, elect otherwise, a deemed liquidation event shall include a merger or consolidation (other than one in which stockholders of the Company own a majority by voting power of the outstanding shares of the surviving or acquiring corporation) or a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Company.

### **11. Common stock**

The holders of common stock are entitled to one vote for each share of common stock. Subject to the payment in full of all preferential dividends to which the holders of the preferred stock are entitled, the holders of common stock shall be entitled to receive dividends out of funds legally available. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after the payment or provision for payment of all debts and liabilities of the Company and all preferential amounts to which the holders of preferred stock are entitled with respect to the distribution of assets in liquidation, the holders of common stock shall be entitled to share ratably in the remaining assets of the Company available for distribution.

As of December 31, 2020, the Company has reserved 56,775,232 and 32,399,999 shares of common stock for the potential conversion of Series A and Series B Preferred Stock, respectively, and 11,521,868 shares of common stock for the potential exercise of outstanding stock options under the 2017 Equity Incentive Plan ("2017 Plan").

### **12. Equity incentive plan**

#### ***2017 Equity Incentive Plan***

In June 2017, the Company's board of directors adopted the 2017 Plan, which provided for the grant of qualified incentive stock options and nonqualified stock options, restricted stock or other awards to the Company's employees and non-employees for the issuance or purchase of shares of the

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Company's common stock. As of December 31, 2019, the 2017 Plan allowed for the issuance of up to 7,300,000 shares of common stock, and it was amended to provide up to 14,700,000 shares of common stock for the issuance of stock options and restricted stock in 2020. As of December 31, 2020, there were 2,108,961 shares of common stock available for future grant under the 2017 Plan.

The 2017 Plan is administered by the Company's board of directors. The exercise prices, vesting and other restrictions are determined at the discretion of the board of directors, except that the exercise price per share of stock options may not be less than 100% of the fair market value of the common stock on the date of grant. Stock options awarded under the 2017 Plan expire 10 years after the grant date unless the board of directors sets a shorter term. Vesting periods for awards under the 2017 Plan are determined at the discretion of the board of directors. Incentive stock options and nonqualified stock options granted to employees and non-employees typically vest over four years. Certain stock options provide for accelerated vesting if there is a change in control, as defined in the 2017 Plan.

For the years ended December 31, 2020 and 2019, the Company recorded stock-based compensation expense of \$0.6 million and \$0.3 million, respectively, allocated to research and development and general and administrative expenses in the statements of operations and comprehensive loss as follows (in thousands):

	Year ended December 31,	
	2020	2019
Research and development	\$ 299	\$ 251
General and administrative	338	84
Total stock-based compensation expense	<u>\$ 637</u>	<u>\$ 335</u>

### **Stock options**

The assumptions used in the Black-Scholes option-pricing model for stock options granted were as follows:

	Year ended December 31,	
	2020	2019
Expected volatility	72.44 - 79.02%	72.08 - 73.98%
Weighted-average risk-free interest rate	1.00%	1.91%
Expected dividend yield	0.00%	0.00%
Weighted-average expected term (in years)	5.91	6.11



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A summary of option activity under the 2017 Plan during the year ended December 31, 2020 was as follows:

	Number of options	Weighted average exercise price	Weighted average remaining contractual life (years)	Aggregate intrinsic value (1) (in thousands)
Outstanding as of December 31, 2019	6,552,358	\$ 0.14	9.38	\$ 20
Granted	6,438,938	0.42		
Exercised	(741,628)	0.14		
Forfeitures	(727,800)	0.24		
Outstanding as of December 31, 2020	<u>11,521,868</u>	0.29	8.86	4,467
Vested and expected to vest as of December 31, 2020	<u>11,521,868</u>	0.29	8.86	4,467
Exercisable as of December 31, 2020	<u>2,713,892</u>	0.14	8.17	1,453

(1) The aggregate intrinsic value is calculated as the difference between the exercise price of the underlying options and the estimated fair value of the common stock for the options that were in the money as of December 31, 2020 and 2019.

The weighted-average grant date fair value per share of stock options granted during the years ended December 31, 2020 and 2019 was \$0.28 and \$0.09, respectively. The aggregate intrinsic value of stock options exercised during the years ended December 31, 2020 and 2019 was \$0.4 million and \$3 thousand, respectively.

The aggregate grant date fair value of stock options vested during the years ended December 31, 2020 and 2019 were \$0.3 million and \$44 thousand, respectively.

As of December 31, 2020, there was \$1.7 million of unrecognized compensation cost related to unvested stock options, which is expected to be recognized over a weighted-average period of approximately 3.14 years.

### **Restricted stock**

In 2017, the Company issued 7,500,000 shares of restricted common stock to certain scientific founders, having a fair value of \$0.8 million, and subject to vesting over a period of 4 years.

If the holders of restricted common stock cease to have a business relationship with the Company prior to the vesting of such shares, the Company may reacquire any unvested shares of common stock held by these individuals for the original purchase price, and in certain instances for no consideration. The unvested shares of restricted common stock are not considered outstanding shares for accounting purposes until the shares vest.

A summary of the status of and change in unvested restricted stock as of December 31, 2020 was as follows:

	Shares	Weighted- average grant date fair value
Unvested as of December 31, 2019	1,875,000	\$ 0.11
Issued	—	—
Vested	<u>(1,875,000)</u>	<u>0.11</u>
Unvested as of December 31, 2020	<u>—</u>	<u>\$ —</u>

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The aggregate fair value of restricted shares that vested during each of the years ended December 31, 2020 and 2019 was \$0.2 million.

As the restricted stock was fully vested in 2020, there was no remaining unrecognized stock-based compensation expense related to restricted stock.

### 13. Net loss per share attributable to common stockholders

For periods in which the Company reports a net loss attributable to common stockholders, potentially dilutive securities have been excluded from the computation of diluted net loss per share as their effects would be anti-dilutive. Therefore, the weighted average number of shares of common stock outstanding used to calculate both basic and diluted net loss per share attributable to common stockholders is the same.

The following table summarizes the computation of basic and diluted net loss per share attributable to common stockholders of the Company (in thousands except share and per share amounts):

	Year ended December 31,	
	2020	2019
Numerator:		
Net loss attributable to common stockholders	\$ (29,447)	\$ (17,945)
Denominator:		
Weighted average number of common stock, basic and diluted	14,756,671	12,538,575
Net loss per common stock attributable to common stockholders, basic and diluted	\$ (2.00)	\$ (1.43)

The Company excluded the following potential common stock, presented based on amounts outstanding at period end, from the computation of diluted net loss per share attributable to common stockholders because including them would have had an anti-dilutive effect:

	Year ended December 31,	
	2020	2019
Redeemable convertible preferred stock	89,175,231	56,775,232
Unvested restricted stock	—	1,875,000
Outstanding options to purchase common stock	11,521,868	6,552,358
Warrants	350,000	350,000
Total	101,047,099	65,552,590

### 14. Income taxes

A reconciliation of the U.S. federal statutory income tax rate to the Company's effective income tax rate is as follows:

	Year ended December 31,	
	2020	2019
U.S. federal statutory income tax rate	21.0%	21.0%
State income taxes, net of federal benefit	7.7	7.4
Research and development tax credits	2.8	2.0
Nondeductible/ nontaxable permanent items	(0.5)	(0.6)
Change in valuation allowance	(30.8)	(29.8)
Other	(0.2)	—
Effective income tax rate	0%	0%

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The components of the Company's deferred taxes are as follows (in thousands):

	December 31,	
	2020	2019
Deferred tax assets:		
Net operating loss carryforwards	\$ 17,320	\$ 9,612
Research and development credit carryforwards	2,424	1,162
Accrued expenses	539	484
Stock-based compensation	9	11
Intangibles	167	182
Total deferred tax assets	20,459	11,451
Less: valuation allowance	(20,217)	(11,159)
Deferred tax assets, net	242	292
Deferred tax liabilities:		
Depreciation	(242)	(292)
Total deferred tax liabilities	(242)	(292)
Net deferred taxes	\$ —	\$ —

The Company had no income tax expense due to the operating loss incurred for the years ended December 31, 2020 and 2019. Management has evaluated the positive and negative evidence bearing upon the realizability of the Company's net deferred tax assets and has determined that it is more likely than not that the Company will not recognize the benefits of the net deferred tax assets. As a result, the Company has recorded a full valuation allowance as of December 31, 2020 and 2019. The valuation allowance increased by \$9.1 million in 2020, due to the increase in deferred tax assets, primarily resulting from the net operating loss carryforwards, research and development tax credits, and deductible accrued expenses.

Realization of the future tax benefits is dependent on many factors, including the Company's ability to generate taxable income within the net operating loss carryforward period. Under the provisions of the Internal Revenue Code, certain substantial changes in the Company's ownership, including a sale of the Company or significant changes in ownership due to sales of equity, may have limited, or may limit in the future, the amount of net operating loss carryforwards, which could be used annually to offset future taxable income. The Company has not completed a study to assess whether a change of control has occurred or whether there have been multiple changes of control since the Company's formation due to the significant complexity and cost associated with such study and because there could be additional changes in control in the future. As a result, the Company is not able to estimate the effect of the change in control, if any, on the Company's ability to utilize net operating loss and research and development credit carryforwards in the future.

As of December 31, 2020, the Company had \$63.6 million of federal and \$62.6 million of state net operating loss carryforwards. If not utilized, both the federal and state net operating loss carryforwards have components that begin to expire starting in 2036. Of the \$63.6 million federal net operating loss carryforwards, \$58.1 million of net operating loss generated from 2018 to 2020 will not expire. Additionally, as of December 31, 2020, the Company had \$1.4 million of federal and \$1.3 million of Massachusetts tax credits that expire starting in 2036 and 2031, respectively.

As of December 31, 2019, the Company had \$35.2 million of federal and \$34.9 million of state net operating loss carryforwards. If not utilized, both the federal and state net operating loss carryforwards have components that begin to expire starting in 2036. Included in the \$35.2 million federal net operating loss carryforwards is \$29.8 million of net operating loss generated in 2018 and 2019 that will

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not expire. Additionally, as of December 31, 2019, the Company had \$0.6 million of federal and \$0.7 million of Massachusetts tax credits that will expire starting in 2036 and 2031, respectively.

As of December 31, 2020 and 2019, the Company had no uncertain tax positions. The Company will recognize both interest and penalties associated with unrecognized tax benefits as a component of income tax expense. The Company has not recorded any interest or penalties for unrecognized tax benefits since its inception.

The Company filed income tax returns in the United States and the Commonwealth of Massachusetts in all tax years since inception. The tax years 2019 and 2018 remain open to examination by these jurisdictions, as carryforward attributes generated in past years may be adjusted in a future period. The Company is not currently under examination by the Internal Revenue Service or any other taxing authority for these years.

### **15. Related party transactions**

The majority ownership of the Company is held by Flagship. Fully diluted Flagship ownership was 70.9% and 81.1% as of December 31, 2020 and 2019, respectively. Flagship provides management services (accounting, human resources, information technology, legal and consultation) to the Company. Flagship is also reimbursed for certain expenses, including insurance and benefits, partner and related fees, and software licenses incurred on the Company's behalf. For the years ended December 31, 2020 and 2019, the Company incurred \$0.9 million and \$1.1 million, respectively, for the management services fees and other reimbursements that Flagship incurred on the Company's behalf. These expenses are recorded as related party expense in the accompanying statements of operations and comprehensive loss. As of December 31, 2020 and 2019, the Company did not have any outstanding payments due to Flagship.

In September 2020, the Company sublet the entire space of its 325 Vassar Street facility, approximately 19,404 square feet, to LARONDE, Inc. ("LARONDE", formerly known as VL50, Inc.), which is an affiliate of Flagship. The sublease term will expire at the end of the Company's lease agreement with the landlord in September 2024. The rental rate for the sublease arrangement is equal to the Company's rental obligation per the agreement with BMR-325 Vassar Street LLC, reduced by the sublease income received from Cygnal Therapeutics, Inc ("Cygnal"), approximating \$1.3 million per year. The sublessee is obligated to pay all real estate taxes and costs related to the subleased premises, including cost of operations, maintenance, repair, replacement and property management. Under the sublease agreement, the Company received rental income of \$0.6 million, which was recorded as a reduction of rental expenses, during the year ended December 31, 2020. As of December 31, 2020, there was no outstanding receivable due from LARONDE.

In September 2019, the Company sublet approximately 1,445 square feet of its 325 Vassar Street facility to Cygnal, which is an affiliate of Flagship, for two years. The rental rate for the sublease arrangement is equal to the Company's rental obligation per the agreement with BMR-325 Vassar Street LLC, approximating \$0.1 million per year. The sublessee is obligated to pay all real estate taxes and costs related to the subleased premises, including cost of operations, maintenance, repair, replacement and property management. Under the sublease agreement, the Company received rental income of \$0.1 million and \$36 thousand, which was recorded as reduction of rental expenses, during the years ended December 31, 2020 and 2019, respectively. There was no outstanding receivable due from Cygnal as of December 31, 2020, and an immaterial amount of outstanding receivable was due from Cygnal as of December 31, 2019.

### **16. Employee benefits**

In 2018, the Company established a defined-contribution plan under Section 401(k) of the Internal Revenue Code, or the 401(k) Plan. The 401(k) Plan covers all employees who meet defined minimum

age and service requirements and allows participants to defer a portion of their annual compensation on a pre-tax basis. The Company is not required to make and has not made any matching contributions to the 401(k) Plan to date.

## **17. Subsequent events**

The Company evaluated all subsequent events through May 7, 2021, the date that these financial statements were issued to determine if such events should be reflected in these financial statements.

### ***Non-exclusive license agreement with Acuitas***

As discussed in Note 9, *License agreements*, the Acuitas' Development and Option Agreement grants the Company options to obtain a license under the Acuitas LNP Technology. In March 2021, the Company exercised the first option under the Development and Option Agreement and entered into a non-exclusive license agreement with Acuitas (the "Acuitas License Agreement") under which the Company was granted a non-exclusive, worldwide, sublicensable license under the Acuitas LNP Technology to research, develop, manufacture, and commercially exploit products consisting of the Company's gene modulating therapeutics and Acuitas's lipid nanoparticles. In connection with the option exercise, the Company paid Acuitas an option exercise fee of \$1.5 million. Under the Acuitas License Agreement, the Company is required to pay Acuitas an annual license maintenance fee in the high six figures until the Company achieves a particular development milestone. Acuitas is entitled to receive potential clinical and regulatory milestone payments of up to \$18.0 million in the aggregate. With respect to the sale of each licensed products, the Company is also obligated to pay Acuitas low single digit percentage royalties on net sales of the licensed products by the Company and its affiliates and sublicensees in a given country until the last to occur, in such country, of (i) the expiration or abandonment of all licensed patent rights covering the licensed product, (ii) expiration of any regulatory exclusivity for the licensed product, or (iii) ten years from the first commercial sale of the licensed product.

### ***Issuance and sale of Series C Preferred Stock***

In March 2021, the Company issued and sold 41,833,328 shares of Series C Preferred Stock, at a price of \$3.00 per share, for gross proceeds of \$125.5 million. The terms of the Series C Preferred Stock are substantially the same as the terms of the Series A and Series B Preferred Stock. In connection with the issuance, the Company increased the number of authorized shares of preferred stock from 107,125,232 shares to 132,858,564 shares.

### ***Extension of debt repayment date and maturity date***

As a result of the closing of Series C Preferred Stock, the Company has satisfied the cash proceeds milestone as defined in the Third Amendment, in which the Company has received gross cash proceeds of more than \$50.0 million from the issuance of new preferred stock prior to June 30, 2021. Accordingly, the principal repayment date of the term loan will be extended to December 31, 2021 and the maturity date will be extended to December 31, 2023. There are no other changes to the terms as a result of the achievement of the cash proceeds milestone.

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**Omega Therapeutics, Inc.**  
**Condensed Balance Sheets**  
(in thousands, except share and per share amounts)  
(Unaudited)

	<u>March 31,</u> <u>2021</u>	<u>December 31,</u> <u>2020</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 137,767	\$ 22,951
Prepaid expenses and other current assets	2,017	1,052
Total current assets	139,784	24,003
Property and equipment, net	3,644	3,482
Restricted cash	341	341
Other assets	303	257
Total assets	<u>\$ 144,072</u>	<u>\$ 28,083</u>
<b>Liabilities, redeemable convertible preferred stock, and stockholders' deficit</b>		
Current liabilities:		
Accounts payable	\$ 3,353	\$ 1,063
Accrued expenses	4,511	3,277
Other current liabilities	362	359
Long-term debt, current portion	1,500	3,000
Total current liabilities	9,726	7,699
Long-term debt, net	10,274	8,732
Other liabilities	1,356	1,055
Total liabilities	21,356	17,486
Commitments and contingencies (Note 8)		
Redeemable convertible preferred stock:		
Series A redeemable convertible preferred stock, par value of \$0.001 per share; 57,125,232 shares authorized; 56,775,232 shares issued and outstanding as of March 31, 2021 and December 31, 2020; liquidation value of \$25,500 as of March 31, 2021 and December 31, 2020	26,708	26,708
Series B redeemable convertible preferred stock, par value of \$0.001 per share; 32,399,999 and 50,000,000 shares authorized as of March 31, 2021 and December 31, 2020, respectively; 32,399,999 shares issued and outstanding as of March 31, 2021 and December 31, 2020; liquidation value of \$48,600 as of March 31, 2021 and December 31, 2020	48,517	48,517
Series C redeemable convertible preferred stock, par value of \$0.001 per share; 43,333,333 shares authorized as of March 31, 2021; 41,833,328 shares issued and outstanding as of March 31, 2021; liquidation value of \$125,500 as of March 31, 2021	125,368	—
Stockholders' deficit:		
Common stock, \$0.001 par value; 175,000,000 and 137,700,000 shares authorized as of March 31, 2021 and December 31, 2020, respectively; 17,173,168 and 16,869,171 issued and outstanding as of March 31, 2021 and December 31, 2020, respectively	17	17
Additional paid-in capital	1,819	1,580
Accumulated deficit	(79,713)	(66,225)
Total stockholders' deficit	<u>(77,877)</u>	<u>(64,628)</u>
Total liabilities, redeemable convertible preferred stock, and stockholders' deficit	<u>\$ 144,072</u>	<u>\$ 28,083</u>

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

**Omega Therapeutics, Inc.**  
**Condensed Statements of Operations and Comprehensive Loss**  
**(in thousands, except share and per share amounts)**  
**(Unaudited)**

	<u>Three months ended March 31,</u>	
	<u>2021</u>	<u>2020</u>
Operating expenses:		
Research and development	\$ 9,748	\$ 3,521
General and administrative	2,745	1,365
Related party expense, net	449	342
Total operating expenses	<u>12,942</u>	<u>5,228</u>
Loss from operations	(12,942)	(5,228)
Other expense, net:		
Interest expense, net	(212)	(194)
Change in fair value of warrant liability	(330)	4
Other expense, net	(4)	—
Total other expense, net	<u>(546)</u>	<u>(190)</u>
Net loss and comprehensive loss	<u>\$ (13,488)</u>	<u>\$ (5,418)</u>
Net loss per common stock attributable to common stockholders, basic and diluted	<u>\$ (0.79)</u>	<u>\$ (0.37)</u>
Weighted-average common stock used in net loss per share attributable to common stockholders, basic and diluted	<u>16,987,457</u>	<u>14,552,754</u>

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

**Omega Therapeutics, Inc.**  
**Condensed Statements of Redeemable Convertible Preferred Stock and Stockholders' Deficit**  
**(in thousands, except share amounts)**  
**(Unaudited)**

	PREFERRED STOCK - SERIES A		PREFERRED STOCK - SERIES B		PREFERRED STOCK - SERIES C		COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	ACCUMULATED DEFICIT	TOTAL STOCKHOLDERS' DEFICIT
	SHARES	PAR VALUE	SHARES	PAR VALUE	SHARES	PAR VALUE	SHARES	PAR VALUE			
<b>As of January 1, 2020</b>	56,775,232	\$ 26,708	—	\$ —	—	\$ —	14,262,230	\$ 16	\$ 843	\$ (36,778)	\$ (35,919)
Issuance of Series B redeemable convertible preferred stock, net of issuance costs of \$62	—	—	24,066,666	36,038	—	—	—	—	—	—	—
Issuance of common stock for options exercised	—	—	—	—	—	—	58,892	—	7	—	7
Vesting of restricted stock	—	—	—	—	—	—	468,750	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	—	—	145	—	145
Net loss	—	—	—	—	—	—	—	—	—	(5,418)	(5,418)
<b>As of March 31, 2020</b>	<u>56,775,232</u>	<u>\$ 26,708</u>	<u>24,066,666</u>	<u>\$ 36,038</u>	<u>—</u>	<u>\$ —</u>	<u>14,789,872</u>	<u>\$ 16</u>	<u>\$ 995</u>	<u>\$ (42,196)</u>	<u>\$ (41,185)</u>
	PREFERRED STOCK - SERIES A		PREFERRED STOCK - SERIES B		PREFERRED STOCK - SERIES C		COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	ACCUMULATED DEFICIT	TOTAL STOCKHOLDERS' DEFICIT
	SHARES	PAR VALUE	SHARES	PAR VALUE	SHARES	PAR VALUE	SHARES	PAR VALUE			
<b>As of January 1, 2021</b>	56,775,232	\$ 26,708	32,399,999	\$ 48,517	—	\$ —	16,869,171	\$ 17	\$ 1,580	\$ (66,225)	\$ (64,628)
Issuance of Series C redeemable convertible preferred stock, net of issuance costs of \$132	—	—	—	—	41,833,328	125,368	—	—	—	—	—
Issuance of common stock for options exercised	—	—	—	—	—	—	303,997	—	45	—	45
Stock-based compensation	—	—	—	—	—	—	—	—	194	—	194
Net loss	—	—	—	—	—	—	—	—	—	(13,488)	(13,488)
<b>As of March 31, 2021</b>	<u>56,775,232</u>	<u>\$ 26,708</u>	<u>32,399,999</u>	<u>\$ 48,517</u>	<u>41,833,328</u>	<u>\$ 125,368</u>	<u>17,173,168</u>	<u>\$ 17</u>	<u>\$ 1,819</u>	<u>\$ (79,713)</u>	<u>\$ (77,877)</u>

*The accompanying notes are an integral part of these unaudited condensed financial statements.*



**Omega Therapeutics, Inc.**  
**Condensed Statements of Cash Flows**  
(in thousands)  
(Unaudited)

	Three months ended March 31,	
	2021	2020
<b>Operating activities</b>		
Net loss	\$ (13,488)	\$ (5,418)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	302	216
Amortization of debt issuance costs and debt discount	42	12
Change in fair value of warrant liability	330	(4)
Change in fair value of success fee obligation	3	—
Stock-based compensation expense	194	145
Deferred rent	(25)	(22)
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(966)	172
Other assets	(45)	—
Accounts payable	2,291	(398)
Accrued expenses and other current liabilities	818	(435)
Other liabilities	(5)	—
Net cash used in operating activities	<u>(10,549)</u>	<u>(5,732)</u>
<b>Investing activities</b>		
Purchases of property and equipment	(48)	(68)
Net cash used in investing activities	<u>(48)</u>	<u>(68)</u>
<b>Financing activities</b>		
Proceeds from issuance of redeemable convertible preferred stock	125,500	36,100
Equity issuance costs	(132)	(62)
Proceeds from exercise of stock options	45	7
Net cash provided by financing activities	<u>125,413</u>	<u>36,045</u>
<b>Net increase in cash, cash equivalents and restricted cash</b>	<b>114,816</b>	<b>30,245</b>
Cash, cash equivalents and restricted cash—beginning of period	23,292	2,615
Cash, cash equivalents and restricted cash—end of period	<u>\$ 138,108</u>	<u>\$ 32,860</u>
<b>Reconciliation of cash, cash equivalents and restricted cash</b>		
Cash and cash equivalents	\$ 137,767	\$ 32,519
Restricted cash	341	341
Cash, cash equivalents and restricted cash	<u>\$ 138,108</u>	<u>\$ 32,860</u>
<b>Supplemental disclosures of cash flow information</b>		
Cash paid for interest	<u>\$ 164</u>	<u>\$ 182</u>
<b>Supplemental disclosure of noncash investing and financing activities</b>		
Purchase of property and equipment included accounts payable and accrued expenses	<u>\$ 416</u>	<u>\$ 86</u>

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

**Omega Therapeutics, Inc.**  
**Notes to Condensed Financial Statements**  
**(unaudited)**

**1. Nature of the Business and Basis of Presentation**

***Organization***

Omega Therapeutics, Inc. (the “Company” or “Omega”) is a development-stage biopharmaceutical company. The Company’s goal is to pioneer a new class of DNA-sequence-targeting, mRNA-encoded therapeutics to fundamentally transform human medicine in the service of patients. Its OMEGA Epigenomic Programming platform is designed to coopt nature’s universal operating system by harnessing the power of epigenetics, the mechanism for gene control and cell differentiation. The Company was incorporated in July 2016 (“inception”) as a Delaware corporation and its offices are in Cambridge, Massachusetts.

***Liquidity and Going Concern***

Since its inception, the Company has devoted substantially all of the resources to building its platform and advancing development of its portfolio of programs, establishing and protecting its intellectual property, conducting research and development activities, organizing and staffing the Company, business planning, raising capital and providing general and administrative support for these operations. The Company is subject to risks and uncertainties common to early-stage companies in the biotechnology industry including, but not limited to, technical risks associated with the successful research, development and manufacturing of product candidates, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations and the ability to secure additional capital to fund operations. Current and future programs will require significant research and development efforts, including extensive preclinical and clinical testing and regulatory approval prior to commercialization. These efforts require significant amounts of additional capital, adequate personnel and infrastructure. Even if the Company’s drug development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

As presented in the unaudited condensed financial statements, the Company has incurred substantial losses since inception and had a net loss of \$13.5 million for the three months ended March 31, 2021. As of March 31, 2021, the Company had an accumulated deficit of \$79.7 million and cash and cash equivalents of \$137.8 million, with cash used in operating activities totaling \$10.5 million for the three months ended March 31, 2021. The Company expects to generate operating losses and negative operating cash flows for the foreseeable future.

Management believes that cash and cash equivalents of \$137.8 million at March 31, 2021 will not be sufficient to fund its operations for twelve months from the date these unaudited condensed financial statements are issued. If the Company cannot obtain the necessary funding, it will need to delay, scale back or eliminate some or all of its research and development programs; consider other various strategic alternatives, including a merger or sale of the Company; or cease operations. The Company currently has no sources of revenue and its ability to continue as a going concern is dependent on its ability to raise capital to fund its future business plans. Additionally, volatility in the capital markets and general economic conditions in the United States may be a significant obstacle to raising the required funds. These factors raise substantial doubt about the Company’s ability to continue as a going concern. The accompanying unaudited condensed financial statements do not include any adjustments that might result from the outcome of these uncertainties. Accordingly, the unaudited condensed financial statements have been prepared on a basis that assumes the Company will continue as a going concern which contemplates the realization of assets and satisfaction of liabilities and commitments in the ordinary course of business.

### ***COVID-19-Related Significant Risks and Uncertainties***

With the ongoing concern related to the COVID-19 pandemic, the Company is following, and plans to continue to follow, recommendations from federal, state and local governments regarding workplace policies, practices and procedures. In response to the direction from state and local governmental authorities, the Company has restricted access to its facility to those individuals who must perform critical research and laboratory support activities that must be completed on site, limited the number of such people that can be present at its facility at any one time and required that certain employees work remotely if possible. The Company expects to continue incurring additional costs to ensure it adheres to the guidelines instituted by the federal, state and local governments and to provide a safe working environment to its onsite employees.

The extent to which the COVID-19 pandemic impacts the Company's business, its corporate development objectives, results of operations and financial condition, and the fair value of and market for its common stock, will depend on future developments that are highly uncertain and cannot be predicted with confidence at this time, such as the ultimate duration of the pandemic, travel restrictions, quarantines, social distancing and business closure requirements, and the effectiveness of actions taken globally to contain and treat the disease. Disruptions to the global economy, disruption of global healthcare systems, and other significant impacts of the COVID-19 pandemic could have a material adverse effect on the Company's business, financial condition, results of operations and growth prospects.

While the COVID-19 pandemic did not significantly impact the Company's business or results of operations during the three months ended March 31, 2021, the length and extent of the pandemic, its consequences, and containment efforts will determine the future impact on the Company's operations and financial condition.

### ***Basis of Presentation***

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Any reference in these notes to applicable guidance is meant to refer to the authoritative GAAP as found in the Accounting Standards Codification ("ASC"), and Accounting Standards Update ("ASU"), of the Financial Accounting Standards Board ("FASB"). All amounts herein are expressed in U.S. dollars ("USD") unless otherwise noted.

## **2. Summary of Significant Accounting Policies**

### ***Unaudited Condensed Financial Information***

The accompanying unaudited condensed financial statements included herein have been prepared, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). The unaudited condensed financial statements have been prepared on the same basis as audited financial statements, except certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted from this report, as is permitted by such rules and regulations. In the opinion of management, the information furnished reflects all adjustments, all of which are of a normal and recurring nature, necessary for a fair representation of the results for the reported periods. The results for the three months ended March 31, 2021 are not necessarily indicative of results to be expected for the year ending December 31, 2021, any other interim periods, or any future year or period.

### **Use of Estimates**

The preparation of the unaudited condensed financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and expenses, and the disclosure of contingent assets and liabilities as of and during the reporting period. The Company bases its estimates and assumptions on historical experience when available and on various factors that it believes to be reasonable under the circumstances.

Significant estimates and assumptions reflected in these unaudited condensed financial statements include, but are not limited to, the selection of useful lives of property and equipment, the fair values of common stock, redeemable convertible preferred stock, warrants, success fee obligation, and stock-based compensation. Actual results could differ from these estimates. Changes in estimates are reflected in reported results in the period in which they become known.

### **Summary of Significant Accounting Policies**

The Company's significant accounting policies are described in Note 2, "Summary of significant accounting policies," to the Company's audited financial statements included in the Prospectus. There have been no material changes to the significant accounting policies during the three months ended March 31, 2021.

### **Recently Issued Accounting Pronouncements**

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* ("ASU 2016-02"), which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e., lessees and lessors). The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less may be accounted for similar to existing guidance for operating leases today. As the Company has elected to use the extended transition period for complying with new or revised accounting standards as available under the Jumpstart Our Business Startups Act ("JOBS Act"), the standard is effective for the Company beginning January 1, 2022, with early adoption permitted. The Company is currently evaluating the impact that the adoption of ASU 2016-02 will have on its financial statements.

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes-Simplifying the Accounting for Income Taxes* ("ASU 2019-12"). ASU 2019-12 eliminates certain exceptions related to the approach for intraperiod tax allocation, the methodology for calculating income taxes in an interim period and the recognition of deferred tax liabilities for outside basis differences. The new guidance also simplifies aspects of the accounting for franchise taxes, enacted changes in tax laws or rates and clarifies the accounting for transactions that result in a step-up in the tax basis of goodwill. Adoption of the standard requires certain changes to be made prospectively and certain others to be made retrospectively. As the Company has elected to use the extended transition period for complying with new or revised accounting standards as available under the JOBS Act, the standard is effective for the Company beginning January 1, 2022, with early adoption permitted. The Company is currently evaluating the impact that the adoption of ASU 2019-12 will have on its financial statements.

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### 3. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following (in thousands):

	<u>March 31,</u> <u>2021</u>	<u>December 31,</u> <u>2020</u>
Prepaid software	\$ 68	\$ 78
Prepaid research and development	1,510	653
Prepaid other	191	128
Other receivables	248	193
Prepaid expenses and other current assets	<u>\$ 2,017</u>	<u>\$ 1,052</u>

### 4. Property and Equipment, Net

Property and equipment, net consists of the following (in thousands):

	<u>March 31,</u> <u>2021</u>	<u>December 31,</u> <u>2020</u>
Leasehold improvements	\$ 1,378	\$ 1,378
Lab equipment	3,492	3,444
Furniture and fixtures	985	985
Computer equipment	129	129
Construction in process	432	16
Total property and equipment	6,416	5,952
Less accumulated depreciation	<u>(2,772)</u>	<u>(2,470)</u>
Property and equipment, net	<u>\$ 3,644</u>	<u>\$ 3,482</u>

Depreciation expense for the three months ended March 31, 2021 and 2020 was \$0.3 million and \$0.2 million, respectively.

### 5. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	<u>March 31,</u> <u>2021</u>	<u>December 31,</u> <u>2020</u>
Employee related expenses	\$ 479	\$ 1,124
Research costs	2,846	1,724
Consulting fees	160	165
Interest	60	44
Other	966	220
Total	<u>\$ 4,511</u>	<u>\$ 3,277</u>

### 6. Term Loan

On March 9, 2018 ("Closing Date"), the Company entered into the Loan Agreement with Pacific Western Bank ("PWB"), a California state-chartered bank. Under the Loan Agreement, the Company may borrow amounts not to exceed \$8.0 million, consisted of Tranche I and Tranche II, with the Tranche I funded on the Closing Date and Tranche II funded no later than 18 months from the Closing Date. The Company borrowed \$3.5 million under Tranche I on the Closing Date and \$4.5 million under Tranche II in August 2018, and the full amount of \$8.0 million was to be repaid beginning 18 months

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from the Closing Date in thirty equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 5.00%, due monthly starting the first month after the Closing Date.

In conjunction with the Loan Agreement, under Tranche I, the Company issued a warrant to PWB to purchase 87,500 shares of Series A redeemable convertible preferred stock ("Series A Preferred Stock") at the initial strike price of \$0.50 per share. The warrant is exercisable for a 10-year period. Additionally, the warrant shall be exercisable for an additional number of shares of Series A Preferred Stock equal to the amount borrowed under Tranche II multiplied by 0.0125. In no event shall the warrant be exercisable for more than 200,000 shares of Series A Preferred Stock. Upon closing of Tranche II, the warrant was not exercised for additional number of shares of Series A Preferred Stock. In lieu of exercising the warrant, PWB may, in whole or in part, convert the warrant into a number of shares of Series A Preferred Stock, determined by (a) dividing the aggregate fair market value of the Series A Preferred Stock shares minus the aggregate warrant price of such shares by (b) the fair market value of one share of Series A Preferred Stock. The fair market value of the Series A Preferred Stock shares shall be determined based upon either the publicly traded closing price on the date of the conversion or, if not publicly traded, a value deemed appropriate by the Company's board of directors. Refer to Note 7, *Fair value of financial instruments*, for further discussion on the valuation methodology and inputs for the determination of the fair value of the warrants.

On September 30, 2019, the Company entered into an amendment to the Loan Agreement (the "First Amendment"), in which PWB made an additional term loan pursuant to a new Tranche III to the Company in an aggregate principal amount of \$12.0 million. The proceeds of the term loan pursuant to Tranche III were first applied to the repayment in full of all outstanding principal and accrued interest on the outstanding term loan of \$8.0 million borrowed pursuant to Tranche I and Tranche II; the remaining cash proceeds of \$4.0 million was used for general working capital and for capital expenditures purposes. The maturity date of the additional term loan was initially March 9, 2022, and it would have been repaid beginning on January 9, 2020 in twenty-seven equal installments. However, the first closing of the Company's Series B redeemable convertible preferred stock ("Series B Preferred Stock") financing in January 2020 satisfied the cash proceeds milestone noted in the First Amendment, in which the maturity date of the amended term loan was extended to June 9, 2023, and the term loan was to be repaid beginning in January 2021 in thirty equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after September 30, 2019. The Company incurred \$15 thousand of debt issuance costs, which was recorded as a direct reduction against the additional term loan and amortized over the life of the associated term loan as a component of interest expense using the effective interest method.

In conjunction with the First Amendment, the Company also issued a warrant to purchase 350,000 shares of Series A Preferred Stock, which effectively restated and replaced the original warrant agreement. The strike price of the amended warrant is \$0.50 per share, and the term remains unchanged, expiring in March 2028. No warrants have been exercised to date. Refer to Note 7, *Fair value of financial instruments*, for further discussion on the valuation methodology and inputs for the determination of the fair value of the warrants.

As the warrants issued are freestanding financial instruments that are exercisable for contingently redeemable shares, they were initially recorded at fair value on the date of issuance as a liability, with a corresponding discount recorded against the face value of the term loan. The discount was accreted against the face value of the term loan over its remaining term as additional interest expense. At the end of each reporting period, the change in estimated fair value of the warrants during the period is recognized as a component of other income (expense), net in the statements of operations and comprehensive loss.

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On January 22, 2020, the Loan Agreement was further amended (the "Second Amendment") to extend the principal repayment start date, from January 9, 2020 as noted in the First Amendment to February 9, 2020; the number of repayment installments was also amended from twenty-seven equal installments to twenty-six equal installments. No additional proceeds were taken under the Second Amendment, and there were no other material amendments to the terms and conditions.

On December 30, 2020, the Loan Agreement was further amended (the "Third Amendment") to extend the principal repayment date. No additional proceeds were taken under the Third Amendment. The maturity date of the term loan was extended to June 30, 2023, and it is to be repaid beginning on June 30, 2021 in twenty-four equal installments, including interest at a floating annual rate equal to the greater of (i) 0.75% above the prime rate then in effect and (ii) 6.00%, due monthly starting the first month after December 30, 2020. The Company incurred \$15 thousand of debt issuance costs, which have been recorded as a direct reduction against the term loan and amortized over the life of the associated term loan as a component of interest expense using the effective interest method.

In accordance with the Third Amendment, in the event that the Company has satisfied the cash proceeds milestone, as defined in the Third Amendment, the principal repayment date will be extended to December 31, 2021 and the maturity date will be extended to December 31, 2023. As a result of the closing of Series C redeemable convertible preferred stock ("Series C Preferred Stock") in March 2021, as further discussed in Note 10, *Redeemable convertible preferred stock*, the Company satisfied the cash proceeds milestone as defined in the Third Amendment, in which the Company received gross cash proceeds of more than \$50.0 million from the issuance of new preferred stock prior to June 30, 2021. Accordingly, the principal repayment date of the term loan was extended to December 31, 2021 and the maturity date was extended to December 31, 2023. There are no other changes to the terms as a result of the achievement of the cash proceeds milestone.

Additionally, the Company is required to pay a success fee of \$0.2 million upon the occurrence of a specified liquidity event, as described in the Loan Agreement, which includes an initial public offering. The Company determined that this obligation represented a freestanding financial instrument. Accordingly, the success fee obligation was classified as a liability on the Company's balance sheets and initially recorded at fair value, with changes in fair value for each reporting period recognized in other income (expense), net in the statements of operations and comprehensive loss. The fair value of such obligation is remeasured at the end of each reporting period until the liability is settled.

As of March 31, 2021 and December 31, 2020, the long-term debt, current portion was \$1.5 million and \$3.0 million, and the long-term debt was \$10.5 million and \$9.0 million, respectively. The Company's outstanding term loan balance was comprised of the following (in thousands):

	<u>March 31,</u> <u>2021</u>	<u>December 31,</u> <u>2020</u>
Principal	\$ 12,000	\$ 12,000
Unamortized debt discount	(226)	(268)
Net carrying amount	<u>\$ 11,774</u>	<u>\$ 11,732</u>

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The Company determined that the expected life of the debt was equal to the term on the term loan. The effective interest rate on the liability component ranged from 5.53% to 7.51% for the period from the date of issuance through March 31, 2021. The following table sets forth total interest expense recognized related to the term loan (in thousands):

	Three months ended March 31,	
	2021	2020
Contractual interest expense	\$ 180	\$ 182
Amortization of debt issuance costs and debt discount	42	12
Total interest expense	<u>\$ 222</u>	<u>\$ 194</u>

At March 31, 2021 and December 31, 2020, accrued interest on the term loan was \$60 thousand and \$44 thousand, respectively.

The Company is required to repay the following principal amounts in connection with its term loan (in thousands):

2021 (remaining 9 months)	\$ —
2022	6,000
2023	6,000
	<u>\$12,000</u>

## 7. Fair Value of Financial Instruments

The fair value of the Company's financial instruments is summarized in the tables below (in thousands):

Financial Liabilities	March 31, 2021			Total
	Level 1	Level 2	Level 3	
Warrant liability	\$ —	\$ —	\$ 454	\$454
Success fee obligation	—	—	197	197
Total	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 651</u>	<u>\$651</u>

Financial Liabilities	December 31, 2020			Total
	Level 1	Level 2	Level 3	
Warrant liability	\$ —	\$ —	\$ 124	\$124
Success fee obligation	—	—	194	194
Total	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 318</u>	<u>\$318</u>

The Company's warrant liability and success fee obligation contain unobservable inputs that reflected the Company's own assumptions in which there is little, if any, market activity at the measurement date. Accordingly, the Company's warrant liability and success fee obligation are measured at fair value on a recurring basis using unobservable inputs at each reporting period and are classified as Level 3 inputs. The warrant liability is recorded as other liabilities on the balance sheets as they are deemed more probable than not by the Company to be settled in longer than one year.



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The fair values of the warrants are estimated using the Black-Scholes option-pricing model. The expected terms represent the remaining contractual term of the warrants. The risk-free interest rate is determined by reference to the U.S. Treasury yield curve for time periods approximately equal to the remaining contractual term of the warrants. The expected dividend is zero as the Company has not paid nor does it anticipate paying any dividends on its common stock in the foreseeable future. The Company historically has been a private company and lacks company-specific historical and implied volatility information of its stock. Therefore, it estimates its expected stock volatility based on the historical volatility of publicly traded peer companies for a term equal to the remaining contractual term of the warrants.

The assumptions used in the Black-Scholes option-pricing model for the warrants were as follows:

	Three months ended March 31,	
	2021	2020
Expected volatility	77.42%	73.09%
Risk-free interest rate	1.40%	0.63%
Expected dividend yield	0.00%	0.00%
Expected term (in years)	6.9	7.9

The fair value of the warrants will be remeasured at each reporting period, with changes in fair value recognized in the statements of operations and comprehensive loss. The change in the fair value of the warrant liability during the three months ended March 31, 2021 was \$0.3 million, and there was an immaterial change in the fair value of the warrant liability during the three months ended March 31, 2020.

The fair value of the success fee obligation was determined using the probability-weighted expected return method. The key estimates and assumptions impacting the fair value include the probability of achieving a specified liquidity event, the expected timing of achieving a liquidity event and discount rate. The fair value of the success fee obligation is remeasured at each reporting period, with changes in fair value recognized in the statement of operations and comprehensive loss, until such liability is settled. During the three months ended March 31, 2021, the change in the fair value of the success fee obligation was immaterial. The success fee obligation is recorded as other current liabilities on the balance sheets as it is deemed more probable than not by the Company to be settled in less than one year.

The following reflects the significant quantitative inputs used to determine the valuation of the success fee obligation during the three months ended March 31, 2021:

Discount rate	6.0%
Expected timing of achieving liquidity events (years)	0.25
Probability of achieving liquidity events	1% -99%

The following table provides a roll-forward of the fair values of the Company's warrant liability and the success fee obligation for which fair value is determined by Level 3 inputs (in thousands):

	Warrant liability	Success fee obligation
Fair value at January 1, 2021	\$ 124	\$ 194
Change in fair value	330	3
Fair value at March 31, 2021	<u>\$ 454</u>	<u>\$ 197</u>

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	Warrant liability	Success fee obligation
Fair value at January 1, 2020	\$ 127	\$ —
Change in fair value	(4)	—
Fair value at March 31, 2020	<u>\$ 123</u>	<u>\$ —</u>

## 8. Commitments and Contingencies

### Operating Leases

In 2017, the Company entered a noncancelable operating lease agreement to lease its office space in Cambridge, Massachusetts, which will expire in September 2024. The Company is required to pay property taxes, insurance, and normal maintenance costs. The operating lease contains predetermined fixed escalations of minimum rentals during the lease term. During 2018, the Company received \$1.1 million of landlord-funded leasehold improvements related to the leased office space. The landlord-funded leasehold improvements were recorded as property and equipment, net and deferred rent in the balance sheets and are being amortized as a reduction to rent expense over the life of the lease. In 2019 and 2020, the Company entered into sublease agreements with two related parties to sublease this office and laboratory space. Refer to Note 15, *Related party transactions*, for further details.

On July 13, 2020, the Company entered into a Shared Space Arrangement (“the Arrangement”) with Senda Biosciences, Inc. (“Senda”, also formerly known as Kintai Therapeutics, Inc.) to share one-third of Senda’s 69,867 square feet of leased space at 20 Acorn Park Drive, Cambridge, Massachusetts. Senda is a related party as it is an affiliate of Flagship Pioneering (“Flagship”). The Arrangement commenced on August 1, 2020 and continues through July 31, 2022 with two options to extend the term of the Arrangement for a period of 24 months each. The operating lease contains predetermined fixed escalations of minimum rentals during the lease term, and the Company is required to pay property taxes, insurance, and normal maintenance costs. During the three months ended March 31, 2021, the Company incurred \$0.6 million for rental expenses. As of March 31, 2021 and December 31, 2020, the Company did not have any outstanding payments due to Senda.

The Company recognizes the rental expense on a straight-line basis over the life of the respective lease from the date the Company takes possession of the office and records the difference between amounts charged to operations and amounts paid as deferred rent. Rent expense under both lease agreements for the three months ended March 31, 2021 and 2020 was \$0.8 million and \$0.3 million, respectively.

As of March 31, 2021, the future minimum lease payments for the Company’s facility operating leases were as follows (in thousands):

2021 (remaining 9 months)	\$2,508
2022	2,618
2023	1,563
2024	1,205
Total minimum lease payments	<u>\$7,894</u>

## 9. License Agreements

### ***Flagship Pioneering Innovations V, Inc.***

In March 2019, the Company entered into an exclusive license agreement with Flagship Pioneering Innovations V, Inc., an affiliate of one of the Company's principal stockholders, under which the Company was granted an exclusive, worldwide, royalty-bearing, sublicensable, transferable license under specified patent rights to develop, manufacture and commercialize licensed products (the "Flagship License"). Under the terms of the Flagship License, the Company is obligated to pay low single digit percentage royalties on net sales of licensed products by the Company. Royalties shall be paid by the Company on a country-by-country basis until expiration or abandonment of the last valid patent claim covering such licensed product in such country. The Company is also obligated to reimburse Flagship for patent prosecution costs.

The royalty payment is contingent upon sales of licensed products under the Flagship License. As such, when such expense is considered probable and estimable at the commencement of sales, the Company will account for the royalty expense as cost of sales for the amount it is obligated.

### ***Whitehead Institute for Biomedical Research***

In May 2019, the Company entered into an exclusive license agreement with the Whitehead Institute for Biomedical Research ("WIBR"), an affiliate of one of the Company's board members, under which the Company was granted an exclusive, worldwide, royalty-bearing, sublicensable license under specified patent rights to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes (the "WIBR Exclusive License"). Under the terms of the WIBR Exclusive License, the Company paid a nonrefundable upfront fee of less than \$0.1 million upon the commencement of the exclusive license agreement. The Company is obligated to pay WIBR annual license maintenance fees of less than \$0.1 million and low single digit percentage royalties on net sales of licensed products by the Company and its affiliates and sublicensees. Additionally, the Company is required to make milestone payments of up to \$1.7 million in the aggregate for each of the first three licensed products (excluding backup products) upon the achievement of specified clinical, regulatory, and sublicensing milestones. In addition, the Company is required to pay to WIBR a percentage of the non-royalty payments that it receives from sublicensees of the WIBR Exclusive License. This percentage ranges from zero to low double-digits and will be based upon the stage of development of the licensed product at the time such sublicense is executed.

In May 2019, the Company also entered into a co-exclusive license agreement with WIBR under which the Company was granted a co-exclusive, worldwide, royalty-bearing, sublicensable license under specified patent rights to research, make, have made, use, sell, offer to sell, lease and import products and to perform and have performed licensed processes (the "WIBR Co-Exclusive License"). Under the terms of the WIBR Co-Exclusive License, the Company paid a nonrefundable upfront fee of less than \$0.1 million upon the commencement of the co-exclusive license agreement. The Company is obligated to pay WIBR annual license maintenance fees of less than \$0.1 million and sub single digit percentage royalties on net sales of licensed products by the Company and its affiliates and sublicensees as well as low single digit percentage royalties on licensed service income received by the Company and its affiliates. Additionally, the Company is required to make milestone payments of up to \$1.9 million in the aggregate for each of the first three licensed products (excluding backup products) upon the achievement of specified clinical and regulatory milestones. In addition, the Company is required to pay to WIBR annual fees of less than \$0.1 million for each sublicense agreement.

For both of the three-month periods ended March 31, 2021 and 2020, the Company recognized expenses of less than \$0.1 million for the license maintenance fees. There was an immaterial amount

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of outstanding payment due to WIBR as of March 31, 2021, and there was no outstanding payment due to WIBR as of December 31, 2020.

The annual maintenance fees will be recorded as an expense on an annual basis based on the stated amount for the applicable year. Upon determination that a milestone payment is probable to occur, the amount due will be recorded as research and development. As the triggering of these milestone payments was not considered probable during both of the three-month periods ended March 31, 2021 and 2020, no expense has been recorded for these milestones during these periods. Lastly, the royalty payments and the sublicense non-royalty payments are contingent upon sales of licensed products or execution of a sublicense agreement under the WIBR Exclusive and Co-Exclusive Licenses. As such, when such expenses are considered probable and estimable at the commencement of sales or execution of a sublicense agreement, the Company will accrue royalty expense and sublicense non-royalty payments, as applicable, for the amount the Company is obligated.

### ***Acuitas Therapeutics, Inc.***

In October 2020, the Company entered into a development and option agreement (the "Development and Option Agreement") with Acuitas Therapeutics, Inc. ("Acuitas"). Under the terms of the Development and Option Agreement, the parties agreed to jointly develop certain products combining the Company's gene modulating therapeutics with Acuitas's lipid nanoparticles. Additionally, in accordance with the Development and Option Agreement, the Company has options to obtain non-exclusive, worldwide, sublicensable licenses under Acuitas's patents and know-how related to lipid nanoparticle technology ("Acuitas LNP Technology") with respect to two specified targets (e.g., OEC constructs) ("Reserved Targets") to develop and commercialize one or more therapeutic products relating to such targets. For each option and Reserved Target, the Company is obligated to pay an annual technology access fee and target reservation and maintenance fees collectively in the low-mid six figures until such Reserved Target is removed from the Reserved Target list or until the Company exercises an option with respect to such Reserved Target. In the event that the Company exercises the options, the Company will pay \$1.5 million for the first non-exclusive license and \$1.75 million for the second non-exclusive license. Under the terms of the Development and Option Agreement, the Company is also responsible for the FTE funding obligations and reimbursements to Acuitas for certain development and material costs incurred by them, which is currently approximately \$0.4 million per year.

In March 2021, the Company exercised the first option under the Development and Option Agreement and entered into a non-exclusive license agreement with Acuitas (the "Acuitas License Agreement") under which the Company was granted a non-exclusive, worldwide, sublicensable license under the Acuitas LNP Technology to research, develop, manufacture, and commercially exploit products consisting of the Company's gene modulating therapeutics and Acuitas's lipid nanoparticles. In connection with the option exercise, the Company paid Acuitas an option exercise fee of \$1.5 million. Under the Acuitas License Agreement, the Company is required to pay Acuitas an annual license maintenance fee in the high six figures until the Company achieves a particular development milestone. Acuitas is entitled to receive potential clinical and regulatory milestone payments of up to \$18.0 million in the aggregate. With respect to the sale of each licensed products, the Company is also obligated to pay Acuitas low single digit percentage royalties on net sales of the licensed products by the Company and its affiliates and sublicensees in a given country until the last to occur, in such country, of (i) the expiration or abandonment of all licensed patent rights covering the licensed product, (ii) expiration of any regulatory exclusivity for the licensed product, or (iii) ten years from the first commercial sale of the licensed product.

During the three months ended March 31, 2021, the Company recorded an aggregate of \$1.6 million of research and development expenses, consisting of the option exercise fee, the costs of services performed by Acuitas, the material costs and the reimbursable costs incurred.

The option exercise fees under the Development and Option Agreement was recorded as research and development expense upon the Company's exercise of the first option. Additionally, the technology access fees, target reservation and maintenance fees, expenses associated with the FTE funding obligations and reimbursements for development and material costs incurred by Acuitas are recorded as research and development expense when incurred. The annual maintenance fee will be recorded as an expense on an annual basis based on the stated amount for the applicable year. Upon determination that a milestone payment is probable to occur, the amount due will be recorded as research and development expense. As the triggering of these milestone payments was not considered probable during the three months ended March 31, 2021, no expense has been recorded for these milestones during the period. Lastly, the royalty payment is contingent upon sales of licensed products under the Acuitas License Agreement. As such, when such expenses are considered probable and estimable at the commencement of sales, the Company will accrue royalty expense for the amount the Company is obligated.

## **10. Redeemable Convertible Preferred Stock**

### ***Series A Redeemable Convertible Preferred Stock***

On August 4, 2017, the Company entered into a Series A Preferred Stock Purchase Agreement ("Series A Agreement") with certain investors (the "Purchasers"). Under the Series A Agreement, the Company issued an aggregate of 13,000,000 shares (the "Initial Shares") of Series A Preferred Stock at a purchase price of \$0.50 per share for aggregate proceeds of \$6.5 million. In addition, promissory notes were issued by the Company in the aggregate principal amount of \$2.8 million plus \$54 thousand in accrued interest (collectively, the "Bridge Notes"), which were exchanged for an aggregate of 5,775,232 shares of Series A Preferred Stock (the "Conversion Shares"). The Company incurred issuance costs of \$15 thousand in connection with the issuance of the Initial Shares.

The Series A Agreement also includes rights for each Purchaser to purchase additional Series A Preferred Stock upon the achievement of certain milestone events, in which the Company met in 2018 and therefore issued additional 22,000,000 shares of Series A Preferred Stock, at the Series A purchase price of \$0.50 per share for aggregate proceeds of \$11.0 million. On June 27, 2018, the Company amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional 200,000 shares of Series A Preferred Stock for a total of 40,975,232 authorized shares of Series A Preferred Stock. In connection with the issuance of the additional Series A Preferred Stock in 2018, the Company incurred \$7 thousand of issuance costs.

On June 10, 2019, the Company amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional Series A Preferred Stock for a total of 56,975,232 authorized shares of Series A Preferred Stock. Simultaneously, in June 2019, the Company issued the additional 16,000,000 shares of Series A Preferred Stock, at the Series A purchase price of \$0.50 per share for aggregate proceeds of \$8.0 million. In connection with the issuance of Series A Preferred Stock in 2019, the Company incurred \$24 thousand of issuance costs. On October 1, 2019, the Company further amended the Amended and Restated Certificate of Incorporation to authorize the issuance of an additional 150,000 shares of both common stock and Series A Preferred Stock for a total of 81,150,000 authorized shares of common stock and 57,125,232 authorized shares of Series A Preferred Stock.

No additional shares were issued under the Series A Preferred Stock Purchase Agreement after June 2019.

**Series B Redeemable Convertible Preferred Stock**

On January 27, 2020, the Company issued 24,066,666 shares of Series B Preferred Stock at a purchase price of \$1.50 per share for aggregate proceeds of \$36.1 million. On June 2, 2020, the Company issued an additional 3,333,333 shares of Series B Preferred Stock at the purchase price of \$1.50 per share for aggregate proceeds of \$5.0 million. On August 3, 2020, the Company issued 5,000,000 shares of Series B Preferred Stock at the purchase price of \$1.50 per share for aggregate proceeds of \$7.5 million. No additional shares of Series B Preferred Stock were issued after August 2020. In connection with the issuance of Series B Preferred Stock in 2020, the Company incurred \$83 thousand of issuance costs.

**Series C Redeemable Convertible Preferred Stock**

In March 2021, the Company issued an aggregate of 41,833,328 shares of Series C Preferred Stock, at a price of \$3.00 per share, for gross proceeds of \$125.5 million. The terms of the Series C Preferred Stock are substantially the same as the terms of the Series A and Series B Preferred Stock. No additional shares of Series C Preferred Stock were issued after March 2021. In connection with the issuance of Series C Preferred Stock in March 2021, the Company incurred \$0.1 million of issuance costs. The Company further amended its Amended and Restated Certificate of Incorporation to increase the authorized preferred stock issuable from 107,125,232 shares to 132,858,564 shares.

The redeemable convertible preferred stock consisted of the following (in thousands, except for share data):

	March 31, 2021				
	Preferred Stock Authorized	Preferred stock issued and outstanding	Carrying value	Liquidation preference	Common stock issuable upon conversion
Series A Preferred Stock	57,125,232	56,775,232	\$ 26,708	\$ 25,500	56,775,232
Series B Preferred Stock	32,399,999	32,399,999	48,517	48,600	32,399,999
Series C Preferred Stock	43,333,333	41,833,328	125,368	125,500	41,833,328
	<u>132,858,564</u>	<u>131,008,559</u>	<u>\$ 200,593</u>	<u>\$ 199,600</u>	<u>131,008,559</u>

	December 31, 2020				
	Preferred Stock Authorized	Preferred stock issued and outstanding	Carrying value	Liquidation preference	Common stock issuable upon conversion
Series A Preferred Stock	57,125,232	56,775,232	\$ 26,708	\$ 25,500	56,775,232
Series B Preferred Stock	50,000,000	32,399,999	48,517	48,600	32,399,999
	<u>107,125,232</u>	<u>89,175,231</u>	<u>\$ 75,225</u>	<u>\$ 74,100</u>	<u>89,175,231</u>

The following is a summary of the rights and preferences of the Series A, Series B and Series C Preferred Stock (collectively the "Preferred Stock") as of March 31, 2021 and December 31, 2020:

**Conversion—** Each share of Preferred Stock is convertible, at the option of the holder into an equal amount of fully paid and non-assessable shares of common stock as is determined by dividing the respective original Preferred Stock issue price by the respective Preferred Stock Conversion Price in effect at the time of conversion. The Series A, Series B and Series C Conversion Price shall be equal to \$0.50, \$1.50 and \$3.00, respectively, subject to appropriate adjustment as set forth in the

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Company's Amended and Restated Certificate of Incorporation, as amended and restated. As such, the shares of Preferred Stock currently convert on a one-for-one basis. No fractional shares of common stock will be issued.

Upon either (a) the closing of the sale of shares of common stock, in a firm-commitment underwritten public offering with at least \$35,000,000 of gross proceeds to the Company or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of a majority in voting power of the then-outstanding shares of Preferred Stock, then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of common stock, at the applicable conversion ratio then in effect, and (ii) such shares may not be reissued by the Company.

**Dividends**— The holders of Preferred Stock are entitled to receive noncumulative dividends if and when declared by the Company's board of directors. The Company may not declare, pay or set aside any dividends on shares of any other series of capital stock of the Company, other than dividends on common stock payable in common stock, unless the holders of the Preferred Stock first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock. No dividends were declared as of March 31, 2021 and December 31, 2020 or paid during the three months ended March 31, 2021 and 2020.

**Voting Rights**— The holders of Preferred Stock are entitled to vote, together with the holders of common stock as a single class, on matters submitted to stockholders for a vote. The holders of Preferred Stock are entitled to the number of votes equal to the number of shares of common stock into which each such share of Preferred Stock could convert.

**Liquidation Preference**— While the Preferred Stock is not redeemable at the option of the holders, the shares are redeemable for cash in certain change of control events that are beyond the control of the Company. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, or deemed liquidation event (as described below), the holders of the Preferred Stock are entitled to receive a liquidation preference in priority over the holders of common stock, at an amount per share equal to the greater of i) the respective original Preferred Stock issue price plus any declared but unpaid dividends, or ii) the amount per share payable had all shares of Preferred Stock been converted to common stock immediately prior to such liquidation. If assets available for distribution are insufficient to satisfy the liquidation payment to holders in full, assets available for distribution will be allocated among holders based on their pro rata shareholdings. When holders are satisfied in full, any excess assets available for distribution will be allocated ratably among common stockholders based on their pro rata shareholdings.

Unless the holders of a majority of the then-outstanding shares of Preferred Stock, consenting or voting together as a single class, elect otherwise, a deemed liquidation event shall include a merger or consolidation (other than one in which stockholders of the Company own a majority by voting power of the outstanding shares of the surviving or acquiring corporation) or a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Company.

### **11. Common Stock**

The Company was authorized to issue up to 137,700,000 shares of common stock with a \$0.001 par value per share as of December 31, 2020. In March 2021, the Company increased the authorized common stock shares issuable to 175,000,000.

The holders of common stock are entitled to one vote for each share of common stock. Subject to the payment in full of all preferential dividends to which the holders of the preferred stock are entitled, the holders of common stock shall be entitled to receive dividends out of funds legally available. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after the

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payment or provision for payment of all debts and liabilities of the Company and all preferential amounts to which the holders of preferred stock are entitled with respect to the distribution of assets in liquidation, the holders of common stock shall be entitled to share ratably in the remaining assets of the Company available for distribution.

As of March 31, 2021, the Company has reserved an aggregate of 131,008,559 shares of common stock for the potential conversion of Series A, Series B and Series C Preferred Stock, and 19,371,746 shares of common stock for the potential exercise of outstanding stock options under the 2017 Equity Incentive Plan ("2017 Plan").

## 12. Equity Incentive Plan

### 2017 Equity Incentive Plan

In June 2017, the Company's board of directors adopted the 2017 Plan, which provided for the grant of qualified incentive stock options and nonqualified stock options, restricted stock or other awards to the Company's employees and non-employees for the issuance or purchase of shares of the Company's common stock. As of December 31, 2020, the 2017 Plan allowed for the issuance of up to 14,700,000 shares of common stock, and it was amended to provide up to 24,200,000 shares of common stock for the issuance of stock options and restricted stock in March 2021. As of March 31, 2021, there were 3,455,086 shares of common stock available for future grant under the 2017 Plan.

The 2017 Plan is administered by the Company's board of directors. The exercise prices, vesting and other restrictions are determined at the discretion of the board of directors, except that the exercise price per share of stock options may not be less than 100% of the fair market value of the common stock on the date of grant. Stock options awarded under the 2017 Plan expire 10 years after the grant date unless the board of directors sets a shorter term. Vesting periods for awards under the 2017 Plan are determined at the discretion of the board of directors. Incentive stock options and nonqualified stock options granted to employees and non-employees typically vest over four years. Certain stock options provide for accelerated vesting if there is a change in control, as defined in the 2017 Plan.

For the three months ended March 31, 2021 and 2020, the Company recorded stock-based compensation expense of \$0.2 million and \$0.1 million, respectively, allocated to research and development and general and administrative expenses in the statements of operations and comprehensive loss as follows (in thousands):

	Three months ended March 31,	
	2021	2020
Research and development	\$ 63	\$ 75
General and administrative	131	70
Total stock-based compensation expense	<u>\$ 194</u>	<u>\$ 145</u>

### Stock Options

The assumptions used in the Black-Scholes option-pricing model for stock options granted were as follows:

	Three months ended March 31,	
	2021	2020
Expected volatility	79.92 - 80.18%	72.44 - 74.37%
Weighted-average risk-free interest rate	1.15%	1.61%
Expected dividend yield	0.00%	0.00%
Weighted-average expected term (in years)	6.10	5.86



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A summary of option activity under the 2017 Plan during the three months ended March 31, 2021 was as follows:

	Number of options	Weighted average exercise price	Weighted average remaining contractual life (years)	Aggregate intrinsic value (1) (in thousands)
Outstanding as of January 1, 2021	11,521,868	\$ 0.29	8.86	\$ 4,467
Granted	8,279,000	1.50		
Exercised	(303,997)	0.15		
Forfeitures	(125,125)	0.30		
Outstanding at March 31, 2021	<u>19,371,746</u>	0.81	9.25	13,354
Vested and expected to vest as of March 31, 2021	<u>19,371,746</u>	0.81	9.25	13,354
Exercisable as of March 31, 2021	<u>3,052,287</u>	0.15	8.31	4,125

(1) The aggregate intrinsic value is calculated as the difference between the exercise price of the underlying options and the estimated fair value of the common stock for the options that were in the money as of March 31, 2021.

The weighted-average grant date fair value per share of stock options granted during the three months ended March 31, 2021 was \$1.03. The aggregate intrinsic value of stock options exercised during the three months ended March 31, 2021 was \$0.4 million.

As of March 31, 2021, there was \$10.0 million of unrecognized compensation cost related to unvested stock options, which is expected to be recognized over a weighted-average period of approximately 3.81 years.

### **Restricted Stock**

In 2017, the Company issued 7,500,000 shares of restricted common stock to certain scientific founders, having a fair value of \$0.8 million, and subject to vesting over a period of 4 years.

If the holders of restricted common stock cease to have a business relationship with the Company prior to the vesting of such shares, the Company may reacquire any unvested shares of common stock held by these individuals for the original purchase price, and in certain instances for no consideration. The unvested shares of restricted common stock are not considered outstanding shares for accounting purposes until the shares vest.

As the restricted stock was fully vested in 2020, there was no remaining unrecognized stock-based compensation expense related to restricted stock.

### **13. Net Loss per Share Attributable to Common Stockholders**

For periods in which the Company reports a net loss attributable to common stockholders, potentially dilutive securities have been excluded from the computation of diluted net loss per share as their effects would be anti-dilutive. Therefore, the weighted average number of shares of common stock outstanding used to calculate both basic and diluted net loss per share attributable to common stockholders is the same.

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The following table summarizes the computation of basic and diluted net loss per share attributable to common stockholders of the Company (in thousands except share and per share amounts):

	Three months ended March 31,	
	2021	2020
Numerator:		
Net loss attributable to common stockholders	\$ (13,488)	\$ (5,418)
Denominator:		
Weighted average number of common stock, basic and diluted	16,987,457	14,552,754
Net loss per common stock attributable to common stockholders, basic and diluted	\$ (0.79)	\$ (0.37)

The Company excluded the following potential common stock, presented based on amounts outstanding at period end, from the computation of diluted net loss per share attributable to common stockholders because including them would have had an anti-dilutive effect:

	Three months ended March 31,	
	2021	2020
Redeemable convertible preferred stock	131,008,559	80,841,898
Unvested restricted stock	—	1,406,250
Outstanding options to purchase common stock	19,371,746	9,681,717
Warrants	350,000	350,000
Total	150,730,305	92,279,865

## 14. Income Taxes

During the three months ended March 31, 2021 and 2020, the Company recorded a full valuation allowance on federal and state deferred tax assets since management does not forecast the Company to be in a taxable position in the near future.

## 15. Related Party Transactions

The majority ownership of the Company is held by Flagship. Fully diluted Flagship ownership was 54.5% and 70.9% as of March 31, 2021 and December 31, 2020, respectively. Flagship provides management services (accounting, human resources, information technology, legal and consultation) to the Company. Flagship is also reimbursed for certain expenses, including insurance and benefits, partner and related fees, and software licenses incurred on the Company's behalf. For the three months ended March 31, 2021 and 2020, the Company incurred \$0.2 million and \$0.3 million, respectively, for the management services fees and other reimbursements that Flagship incurred on the Company's behalf. These expenses are recorded as related party expense in the accompanying statements of operations and comprehensive loss. As of March 31, 2021 and December 31, 2020, the Company did not have any outstanding payments due to Flagship.

In September 2020, the Company sublet the entire space of its 325 Vassar Street facility, approximately 19,404 square feet, to LARONDE, Inc. ("LARONDE", formerly known as VL50, Inc.), which is an affiliate of Flagship. The sublease term will expire at the end of the Company's lease agreement with the landlord in September 2024. The rental rate for the sublease arrangement is equal to the Company's rental obligation per the agreement with BMR-325 Vassar Street LLC, reduced by the sublease income received from Cygnal Therapeutics, Inc. ("Cygnal"), approximating \$1.3 million per year. The sublessee is obligated to pay all real estate taxes and costs related to the subleased premises, including cost of operations, maintenance, repair, replacement and property management.

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Under the sublease agreement, the Company received rental income of \$0.5 million during the three months ended March 31, 2021, which was recorded as a reduction of rental expenses and reflected as related party expense in the accompanying statement of operations and comprehensive loss. As of March 31, 2021, there was \$0.2 million outstanding receivable due from LARONDE, which was recorded as prepaid expenses and other current assets in the accompanying balance sheet. There was no outstanding receivable due from LARONDE as of December 31, 2020.

In September 2019, the Company sublet approximately 1,445 square feet of its 325 Vassar Street facility to Cygnal, which is an affiliate of Flagship, for two years. The rental rate for the sublease arrangement is equal to the Company's rental obligation per the agreement with BMR-325 Vassar Street LLC, approximating \$0.1 million per year. The sublessee is obligated to pay all real estate taxes and costs related to the subleased premises, including cost of operations, maintenance, repair, replacement and property management. Under the sublease agreement, the Company received rental income of less than \$0.1 million during both of the three-month periods ended March 31, 2021 and 2020, which was recorded as a reduction of rental expenses and reflected as related party expense in the accompanying statements of operations and comprehensive loss. There was an immaterial amount of outstanding receivable due from Cygnal as of March 31, 2021, which was recorded as prepaid expenses and other current assets in the accompanying balance sheet. There was no outstanding receivable due from Cygnal as of December 31, 2020.

### **16.Subsequent Events**

The Company evaluated all subsequent events through June 21, 2021, the date that these unaudited condensed financial statements were issued to determine if such events should be reflected in these unaudited condensed financial statements.

## Shares



## Common Stock

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## Prospectus

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Goldman Sachs & Co. LLC

Jefferies  
Wedbush PacGrow

Piper Sandler

, 2021

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**Part II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 13. Other Expenses of Issuance and Distribution.**

The following table indicates the expenses to be incurred in connection with the offering described in this registration statement, other than underwriting discounts and commissions, all of which will be paid by us. All amounts are estimated except the Securities and Exchange Commission registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the Nasdaq listing fee.

	<u>Amount</u>
Securities and Exchange Commission registration fee	\$10,910
FINRA filing fee	\$ 15,500
Initial listing fee	*
Accountants' fees and expenses	*
Legal fees and expenses	*
Transfer Agent's fees and expenses	*
Printing and engraving expenses	*
Miscellaneous	*
<b>Total expenses</b>	<b>\$ *</b>

\* To be filed by amendment.

**Item 14. Indemnification of Directors and Officers.**

Section 102 of the General Corporation Law of the State of Delaware permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our restated certificate of incorporation provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability, except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation, or a person serving at the request of the corporation for another corporation, partnership, joint venture, trust or other enterprise in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

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Our restated certificate of incorporation provides that we will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (other than an action by or in the right of us) by reason of the fact that he or she is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom, if such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. Our restated certificate of incorporation provides that we will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of us to procure a judgment in our favor by reason of the fact that the Indemnitee is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to us, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by us against all expenses (including attorneys' fees) actually and reasonably incurred in connection therewith. Expenses must be advanced to an Indemnitee under certain circumstances.

We have entered into indemnification agreements with each of our directors and officers. These indemnification agreements may require us, among other things, to indemnify our directors and officers for some expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by a director or officer in any action or proceeding arising out of his or her service as one of our directors or officers, or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

In any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act of 1933, as amended, or the Securities Act, against certain liabilities.

### **Item 15. Recent Sales of Unregistered Securities.**

Set forth below is information regarding shares of capital stock issued by us within the past three years. Also included is the consideration received by us for such shares and information relating to the section of the Securities Act, or rule of the Securities and Exchange Commission, under which exemption from registration was claimed.

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### (a) Issuance of Capital Stock.

From August 2017 to June 2019, the registrant issued an aggregate of 51,000,000 shares of Series A preferred stock for aggregate consideration of \$25.5 million and 5,775,232 shares of Series A Preferred Stock in converted promissory notes upon the cancellation of principal debt totaling \$2,833,534 principal plus \$54,081 accrued interest to accredited investors pursuant to Section 4(a)(2) of the Securities Act as a transaction not involving a public offering.

From January 2020 to August 2020, the registrant issued an aggregate of 32,399,999 shares of Series B preferred stock for aggregate consideration of approximately \$48.6 million to accredited investors pursuant to Section 4(a)(2) of the Securities Act as a transaction not involving a public offering.

In March 2021, the registrant issued an aggregate of 41,833,328 shares of Series C preferred stock for aggregate consideration of approximately \$125.5 million to accredited investors pursuant to Section 4(a)(2) of the Securities Act as a transaction not involving a public offering.

### (b) Equity Grants.

From June 30, 2018 through June 30, 2021 the registrant granted stock options to purchase an aggregate of 22,772,485 shares of its common stock with exercise prices ranging between \$0.11 and \$1.73 per share to employees, non-employees, and directors in connection with services provided to the registrant by such parties, in reliance on the exemption provided by Rule 701 promulgated under the Securities Act or pursuant to Section 4(a)(2) of the Securities Act as transactions not involving a public offering.

### (c) Warrants.

On September 30, 2019, the registrant issued an amended and restated warrant to purchase up to an aggregate of 350,000 shares of Series A preferred stock to PacWest Bancorp pursuant to Section 4(a)(2) of the Securities Act as a transaction not involving a public offering.

## **Item 16. Exhibits and Financial Statement Schedules.**

### (a) Exhibits.

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
1.1*	Underwriting Agreement
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant, as amended (currently in effect)</a>
3.2	<a href="#">Bylaws of the Registrant (currently in effect)</a>
3.3*	Form of Restated Certificate of Incorporation of the Registrant (to be effective upon the closing of this offering)
3.4*	Form of Restated Bylaws of the Registrant (to be effective upon the closing of this offering)
4.1	<a href="#">Amended and Restated Investors' Rights Agreement, dated March 4, 2021</a>
4.2*	Specimen Stock Certificate evidencing the shares of common stock

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<u>Exhibit Number</u>	<u>Description of Exhibit</u>
4.3	<a href="#">Amended and Restated Warrant to Purchase Stock issued to PacWest Bancorp, dated September 30, 2019, to purchase Series A preferred stock</a>
5.1*	Opinion of Latham & Watkins LLP
10.1	<a href="#">2017 Equity Incentive Plan, as amended, and form of option agreements thereunder</a>
10.2*	2021 Incentive Award Plan and form of option agreements thereunder
10.3*	2021 Employee Stock Purchase Plan
10.4*	Non-Employee Director Compensation Program
10.5	<a href="#">Offer Letter between Mahesh Karande and the Registrant, dated March 2, 2019</a>
10.6	<a href="#">Offer Letter between Tom McCauley and the Registrant, dated July 10, 2019</a>
10.7	<a href="#">Offer Letter between Roger Sawhney and the Registrant, dated March 25, 2020</a>
10.8*	Form of Indemnification Agreement for Directors and Officers
10.9*	Shared Space Arrangement between Kintai Therapeutics, Inc. and the Registrant, dated July 13, 2020
10.10*	Lease Agreement between BMR-325 Vassar Street LLC and the Registrant, dated November 30, 2017
10.11*	Loan and Security Agreement between Pacific Western Bank and the Registrant, dated March 9, 2018, as amended on September 30, 2019, January 22, 2020 and December 30, 2020.
10.12†	<a href="#">License Agreement between Flagship Pioneering Innovations V, Inc. and the Registrant, dated March 12, 2019</a>
10.13†	<a href="#">Exclusive License Agreement between the Whitehead Institute for Biomedical Research and the Registrant, dated May 22, 2019</a>
10.14†	<a href="#">Co-Exclusive License Agreement between the Whitehead Institute for Biomedical Research and the Registrant, dated May 22, 2019</a>
10.15†	<a href="#">Development and Option Agreement between Acuitas Therapeutics, Inc. and the Registrant, dated October 5, 2020, as amended</a>
10.16†	<a href="#">Non-Exclusive License Agreement between Acuitas Therapeutics, Inc. and the Registrant, dated March 22, 2021</a>
23.1	<a href="#">Consent of Deloitte &amp; Touche LLP, Independent Registered Public Accounting Firm</a>
23.2*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
24.1	<a href="#">Power of Attorney (included on signature page)</a>

\* To be filed by amendment.

† Portions of this exhibit (indicated by asterisks) have been redacted in compliance with Regulation S-K Item 601(b)(10)(iv).

(b) Financial Statement Schedules. Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.



**Item 17. Undertakings.**

The undersigned registrant hereby undertakes to provide to the underwriter, at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- (2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**SIGNATURES**

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Cambridge, Commonwealth of Massachusetts, on this 9<sup>th</sup> day of July, 2021.

**Omega Therapeutics, Inc.**

By: /s/ Mahesh Karande

Mahesh Karande  
President and Chief Executive Officer

## SIGNATURES AND POWER OF ATTORNEY

We, the undersigned officers and directors of Omega Therapeutics, Inc., hereby severally constitute and appoint Mahesh Karande and Roger Sawhney, M.D., and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him and in his name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities held on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Mahesh Karande</u> Mahesh Karande	President, Chief Executive Officer and Director (principal executive officer)	July 9, 2021
<u>/s/ Roger Sawhney, M.D.</u> Roger Sawhney, M.D.	Chief Financial Officer (principal financial officer and principal accounting officer)	July 9, 2021
<u>/s/ Noubar B. Afeyan, Ph.D.</u> Noubar B. Afeyan, Ph.D.	Chairman of the Board of Directors	July 9, 2021
<u>/s/ David A. Berry, M.D., Ph.D.</u> David A. Berry, M.D., Ph.D.	Director	July 9, 2021
<u>/s/ Luke M. Beshar</u> Luke M. Beshar	Director	July 9, 2021
<u>/s/ Elliot M. Levy, M.D.</u> Elliott M. Levy, M.D.	Director	July 9, 2021
<u>/s/ John Mendlein, Ph.D., J.D.</u> John Mendlein, Ph.D., J.D.	Director	July 9, 2021
<u>/s/ Mary T. Szela</u> Mary T. Szela	Director	July 9, 2021
<u>/s/ Richard A. Young, Ph.D.</u> Richard A. Young, Ph.D.	Director	July 9, 2021

**CERTIFICATE OF AMENDMENT  
TO  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
OMEGA THERAPEUTICS, INC.**

Pursuant to Section 242 of the  
General Corporation Law of the State of Delaware

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Omega Therapeutics, Inc. (the “**Corporation**”), a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware,

**DOES HEREBY CERTIFY:**

1. The Board of Directors of the Corporation duly adopted resolutions by written consent in accordance with Section 141(f) of the General Corporation Law of the State of Delaware recommending and declaring advisable that the Amended and Restated Certificate of Incorporation of the Corporation, as amended (the “**Restated Certificate**”), be further amended and that such amendment be submitted to the stockholders of the Corporation for their consideration, as follows:

**RESOLVED**, that the first sentence of Article FOURTH of the Restated Certificate be amended and restated in its entirety to read as follows:

“The total number of shares of all classes of stock which the Corporation shall have authority to issue is 307,858,564, consisting of (i) 175,000,000 shares of Common Stock, \$0.001 par value per share (“**Common Stock**”), and (ii) 132,858,564 shares of Preferred Stock, \$0.001 par value per share (“**Preferred Stock**”).”

2. The stockholders of the Corporation duly approved said proposed amendment by written consent in accordance with Section 228 of the General Corporation Law of the State of Delaware.

3. The aforesaid amendment has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

**IN WITNESS WHEREOF**, this Certificate of Amendment to Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 29th day of March, 2021.

**OMEGA THERAPEUTICS, INC.**

By: /s/ Mahesh Karande

Name: Mahesh Karande

Title: President and Chief Executive Officer

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
OMEGA THERAPEUTICS, INC.**

(Pursuant to Sections 242 and 245 of the  
General Corporation Law of the State of Delaware)

Omega Therapeutics, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the “**General Corporation Law**”),

**DOES HEREBY CERTIFY:**

1. That the name of this corporation is Omega Therapeutics, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on July 13, 2016 under the name VL42, Inc.

2. That the Board of Directors duly adopted resolutions proposing to amend and restate the Amended and Restated Certificate of Incorporation of this corporation, as amended, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

**RESOLVED**, that the Amended and Restated Certificate of Incorporation of this corporation, as amended, be amended and restated in its entirety to read as follows:

**FIRST:** The name of this corporation is Omega Therapeutics, Inc. (the “**Corporation**”).

**SECOND:** The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, Zip Code 19801. The name of its registered agent at such address is The Corporation Trust Company.

**THIRD:** The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

**FOURTH:** The total number of shares of all classes of stock which the Corporation shall have authority to issue is 296,858,564, consisting of (i) 164,000,000 shares of Common Stock, \$0.001 par value per share (“**Common Stock**”), and (ii) 132,858,564 shares of Preferred Stock, \$0.001 par value per share (“**Preferred Stock**”).

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation or pursuant to the General Corporation Law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Amended and Restated Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

57,125,232 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series A Preferred Stock**” with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations, 32,399,999 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series B Preferred Stock**” with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations and 43,333,333 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series C Preferred Stock**” with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to “Sections” or “Subsections” in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Dividends. The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in this Amended and Restated Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of the applicable series of Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a

share of the applicable series of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of the applicable series of Preferred Stock determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Series A Original Issue Price (as defined below), Series B Original Issue Price (as defined below) or Series C Original Issue Price (as defined below), as the case may be; provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Preferred Stock pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest dividend to the Preferred Stock. The “**Series A Original Issue Price**” shall mean \$0.50 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock. The “**Series B Original Issue Price**” shall mean \$1.50 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock. The “**Series C Original Issue Price**” shall mean \$3.00 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series C Preferred Stock.

## 2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred Stock then outstanding, the holders of shares of Series B Preferred Stock then outstanding and the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid, on a *pari passu* basis, out of the assets of the Corporation available for distribution to its stockholders, and in the event of a Deemed Liquidation Event (as defined below), the holders of shares of Series A Preferred Stock then outstanding, the holders of shares of Series B Preferred Stock then outstanding and the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid, on a *pari passu* basis, out of the consideration payable to stockholders in such Deemed Liquidation Event or out of the Available Proceeds (as defined below), as applicable, before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to (i) in the case of the Series A Preferred Stock, the greater of (A) the Series A Original Issue Price, plus any dividends declared but unpaid thereon, or (B) such amount per share as would have been payable had all shares of Series A Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this clause (i) is hereinafter referred to as the “**Series A Liquidation Amount**”), (ii) in the case of the Series B Preferred Stock, the greater of (A) the Series B Original Issue Price, plus any dividends declared but unpaid thereon, or (B) such amount per share as would have been payable had all shares of Series B Preferred Stock been

converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this clause (ii) is hereinafter referred to as the “**Series B Liquidation Amount**”) and (iii) in the case of the Series C Preferred Stock, the greater of (A) the Series C Original Issue Price, plus any dividends declared but unpaid thereon, or (B) such amount per share as would have been payable had all shares of Series C Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this clause (iii) is hereinafter referred to as the “**Series C Liquidation Amount**”). If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock, the holders of shares of Series B Preferred Stock and the holders of shares of Series C Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1, the holders of shares of Series A Preferred Stock, the holders of shares of Series B Preferred Stock and the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, after the payment in full of all Series A Liquidation Amounts required to be paid to the holders of shares of Series A Preferred Stock, all Series B Liquidation Amounts required to be paid to the holders of shares of Series B Preferred Stock and all Series C Liquidation Amounts required to be paid to the holders of shares of Series C Preferred Stock, in the case of a voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the remaining assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event, the consideration not payable to the holders of shares of Series A Preferred Stock, the holders of shares of Series B Preferred Stock or the holders of shares of Series C Preferred Stock pursuant to Section 2.1 or the remaining Available Proceeds, as the case may be, in each case, shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder.

### 2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**” unless (i) the holders of a majority in voting power of the outstanding shares of Preferred Stock, consenting or voting (as the case may be) together as a single class (the “**Requisite Holders**”) and (ii) holders (excluding the Founding Investor (as defined in the Series C Preferred Stock Purchase Agreement, dated on or about the Series C Original Issue Date (as defined below), by and among the Company and the other parties named therein)) of at least 1,666,666 shares of Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Preferred Stock) (clauses (i) and (ii) collectively the “**Requisite Majority**”), elect otherwise by written notice sent to the Corporation at least ten (10) days prior to the effective date of any such event:

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,



except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly-owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (provided that, for the purpose of this Subsection 2.3.1, all shares of Common Stock issuable upon exercise of Options (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged); or

(b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly-owned subsidiary of the Corporation.

### 2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the stockholders of the Corporation in such Deemed Liquidation Event shall be paid to the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2.

(b) In the event of a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth (90<sup>th</sup>) day after the Deemed Liquidation Event advising such

holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Preferred Stock, and (ii) if the holders of a majority in voting power of the then outstanding shares of Preferred Stock so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation (the “**Board of Directors**”), including the Preferred Director (as defined below)), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the “**Available Proceeds**”), on the one hundred fiftieth (150<sup>th</sup>) day after such Deemed Liquidation Event, to redeem all outstanding shares of Series A Preferred Stock at a price per share equal to the Series A Liquidation Amount, all outstanding shares of Series B Preferred Stock at a price per share equal to the Series B Liquidation Amount and all outstanding shares of Series C Preferred Stock at a price per share equal to the Series C Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem a pro rata portion of each holder’s shares of Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders. The Corporation shall send written notice of the mandatory redemption (the “**Redemption Notice**”) to each holder of record of Preferred Stock not less than forty (40) days prior to the date of any such redemption (the “**Redemption Date**”). The Redemption Notice shall state: (1) the number of shares of each series of Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice; (2) the Redemption Date, the Series A Liquidation Amount, the Series B Liquidation Amount and the Series C Liquidation Amount; (3) the date upon which the holder’s right to convert such shares terminates (as determined in accordance with Subsection 4.1); and (4) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Preferred Stock to be redeemed. On or before the Redemption Date, each holder of shares of Preferred Stock to be redeemed on the Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 4, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Series A Liquidation Amount, the Series B Liquidation Amount and the Series C Liquidation Amount for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Preferred Stock represented by a certificate are redeemed, a new certificate, instrument or book entry representing the unredeemed shares of Preferred Stock shall promptly be issued to such holder. If the Redemption Notice shall have been duly given, and if on the Redemption Date the Series

A Liquidation Amount, the Series B Liquidation Amount and the Series C Liquidation Amount payable upon redemption of the Preferred Stock to be redeemed on the Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that any certificates evidencing any of the shares of Preferred Stock so called for redemption shall not have been surrendered, all rights with respect to such shares of Preferred Stock shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Series A Liquidation Amount, the Series B Liquidation Amount and the Series C Liquidation Amount, as the case may be, without interest upon surrender of any such certificate or certificates therefor. Prior to the distribution or redemption provided for in this Subsection 2.3.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.3.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities to be paid or distributed to such holders pursuant to such Deemed Liquidation Event in accordance with this Section 2, including without limitation, Subsection 2.3.1. The value of such property, rights or securities shall be determined in good faith by the Board of Directors, including the approval of the Preferred Director.

2.3.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the “**Additional Consideration**”), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.3.4, consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

### 3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as

provided by law or by the other provisions of this Amended and Restated Certificate of Incorporation, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class and on an as-converted to Common Stock basis.

3.2 Election of Directors. The holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the “**Preferred Director**”). Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of shares of Series A Preferred Stock, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series A Preferred Stock fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Subsection 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred Stock elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Subsection 3.2, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.

3.3 Preferred Stock Protective Provisions. At any time when shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation) the written consent or affirmative vote of the Requisite Holders given in writing or by vote at a meeting, consenting or voting (as the case may be) together as a single class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

3.3.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation or any other Deemed Liquidation Event, or consent to any of the foregoing;

3.3.2 amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation;

3.3.3 create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks

junior to the Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption, or increase the authorized number of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Preferred Stock or increase the authorized number of shares of any additional class or series of capital stock of the Corporation unless the same ranks junior to the Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption;

3.3.4 (i) reclassify, alter or amend any existing security of the Corporation that is *pari passu* with the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock in respect of any such right, preference or privilege, or (ii) reclassify, alter or amend any existing security of the Corporation that is junior to the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to or *pari passu* with the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock in respect of any such right, preference or privilege;

3.3.5 purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof;

3.3.6 create, or authorize the creation of, or issue, or authorize the issuance of any debt security or create any lien or security interest (except for purchase money liens or statutory liens of landlords, mechanics, materialmen, workmen, warehousemen and other similar persons arising or incurred in the ordinary course of business) or incur other indebtedness for borrowed money, including but not limited to obligations and contingent obligations under guarantees, or permit any subsidiary to take any such action with respect to any debt security, lien, security interest or other indebtedness for borrowed money unless such debt security, lien, security interest or other indebtedness for borrowed money has received the prior approval of the Board of Directors, including the approval of the Preferred Director;

3.3.7 create, or hold capital stock in, any subsidiary (including without limitation, a wholly-owned subsidiary) other than capital stock held on the date of this Amended and Restated Certificate of Incorporation, or permit any direct or indirect subsidiary to create, or hold capital stock in, any subsidiary (including without limitation, a wholly-owned

subsidiary) other than capital stock held on the date of this Amended and Restated Certificate of Incorporation, to create, or authorize the creation of, or issue or obligate itself to issue, any shares of any class or series of capital stock, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary;

3.3.8 increase or decrease the authorized number of directors constituting the Board of Directors; or

3.3.9 adopt any equity incentive plan, or increase the shares of Common Stock reserved for issuance under the Corporation's 2017 Equity Incentive Plan or any other equity incentive plan.

3.4 Series A Preferred Stock Protective Provisions. At any time when shares of Series A Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation) the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series A Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) as a separate class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect, amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the holders of the Series A Preferred Stock; provided, however, for the avoidance of doubt, that any amendment of this Amended and Restated Certificate of Incorporation to authorize a new series of capital stock that is senior to or on parity with the Series A Preferred Stock with respect to dividends, liquidation, redemption and/or voting shall not be deemed to adversely affect the Series A Preferred Stock

3.5 Series B Preferred Stock Protective Provisions. At any time when shares of Series B Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation) the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series B Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) as a separate class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect, amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the holders of the Series B Preferred Stock; provided, however, for the avoidance of doubt, that any amendment of this Amended and Restated Certificate of Incorporation to authorize a new series of capital stock that is senior to or on parity with the Series B Preferred Stock with respect to dividends, liquidation, redemption and/or voting shall not be deemed to adversely affect the Series B Preferred Stock.

3.6 Series C Preferred Stock Protective Provisions. At any time when shares of Series C Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation) the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series C Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) as a separate class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect, amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the holders of the Series C Preferred Stock; provided, however, for the avoidance of doubt, that any amendment of this Amended and Restated Certificate of Incorporation to authorize a new series of capital stock that is senior to or on parity with the Series C Preferred Stock with respect to dividends, liquidation, redemption and/or voting shall not be deemed to adversely affect the Series C Preferred Stock.

#### 4. Optional Conversion.

The holders of the Preferred Stock shall have conversion rights as follows (the “**Conversion Rights**”):

##### 4.1 Right to Convert.

###### 4.1.1 Conversion Ratios.

(a) Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Series A Conversion Price (as defined below) in effect at the time of conversion. The “**Series A Conversion Price**” shall initially be equal to \$0.50. Such initial Series A Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

(b) Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Series B Original Issue Price by the Series B Conversion Price (as defined below) in effect at the time of conversion. The “**Series B Conversion Price**” shall initially be equal to \$1.50. Such initial Series B Conversion Price, and the rate at which shares of Series B Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

(c) Each share of Series C Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Series C Original Issue

Price by the Series C Conversion Price (as defined below) in effect at the time of conversion. The “**Series C Conversion Price**” shall initially be equal to \$3.00. Such initial Series C Conversion Price, and the rate at which shares of Series C Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a notice of redemption of any shares of Preferred Stock pursuant to Subsection 2.3.2(b), the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors, including the Preferred Director.

#### 4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation’s transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder’s shares of Preferred Stock and, if applicable, any event on which such conversion is contingent and (b) if such holder’s shares are certificated, surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder’s name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the “**Conversion Time**”), and the shares of Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Preferred Stock, or



to his, her or its nominees, (x) in the event such shares are certificated, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and (y) in the event such shares are uncertificated, a notice of issuance of uncertificated shares and may, upon written request, issue and deliver a certificate for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and may, if applicable and upon written request, issue and deliver a certificate for the number (if any) of shares of Preferred Stock represented by any surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Amended and Restated Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Series A Preferred Stock, the Series B Preferred Stock or the Series C Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of such series of Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C

Conversion Price shall be made for any declared but unpaid dividends on the Series A Preferred Stock, the Series B Preferred Stock or the Series C Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

#### 4.4 Adjustments to Conversion Prices for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) “**Option**” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) “**Series C Original Issue Date**” shall mean the date on which the first share of Series C Preferred Stock was issued.

(c) “**Convertible Securities**” shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Series C Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (1) and (2), collectively, “**Exempted Securities**”):

(i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4.7 or 4.8;

(iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors, including the approval of the Preferred Director;

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;

(v) shares of Common Stock issued in the Corporation's first underwritten public offering of Common Stock under the Securities Act of 1933, as amended (the "**Securities Act**");

(vi) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors, including the approval of the Preferred Director; or

(vii) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, marketing or other similar agreements or strategic partnerships approved by the Board of Directors, including the approval of the Preferred Director.

4.4.2 No Adjustment of Conversion Price. No adjustment in the Series A Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock. No adjustment in the Series B Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock. No adjustment in the Series C Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Series C Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price pursuant to the terms of Subsection 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as the case may be, as would have been obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price to an amount which exceeds the lower of (i) the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price pursuant to the terms of Subsection 4.4.4 (either because the consideration per share (determined pursuant to Subsection 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, then in effect, or because such Option or Convertible Security was issued before the Series C Original Issue Date), are revised after the Series C Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price pursuant to the terms of Subsection 4.4.4, the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, shall be readjusted to such Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as the case may be, as would have been obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as the case may be, that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Series C Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the Series A Conversion Price in effect immediately prior to such issuance or deemed issuance, the Series B Conversion Price in effect immediately prior to such issuance or deemed issuance and/or the Series C Conversion Price in effect immediately prior to such issuance or deemed issuance, as the case may be, then the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price, as the case may be, shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP<sub>2</sub>" shall mean (1) in the case of an adjustment to the Series A Conversion Price, the Series A Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock, (2) in the case of an adjustment to the Series B Conversion Price, the Series B Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock and (3) in the case of an adjustment to the Series C Conversion Price, the Series C Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock;

(b) "CP<sub>1</sub>" shall mean (1) in the case of an adjustment to the Series A Conversion Price, the Series A Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock, (2) in the case of an adjustment to the Series B Conversion Price, the Series B Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock and (3) in the case of an adjustment to the Series C Conversion Price, the Series C Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issuance or deemed issuance);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued or deemed issued at a price per share equal to CP<sub>1</sub> (determined by dividing the aggregate consideration received by the Corporation in respect of such issuance or deemed issuance by CP<sub>1</sub>); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property. Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issuance or deemed issuance, as determined in good faith by the Board of Directors, including the Preferred Director; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors, including the Preferred Director.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price pursuant to the terms of Subsection 4.4.4, and such issuance dates occur within a period of no more than ninety (90) days from the first such issuance to the final such issuance, then, upon the final such issuance, the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price, as the case may be, shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Series C Original Issue Date effect a subdivision of the outstanding Common Stock, the Series A Conversion Price in effect immediately before such subdivision, the Series B Conversion Price in effect immediately before such subdivision

and the Series C Conversion Price in effect immediately before such subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Series C Original Issue Date combine the outstanding shares of Common Stock, the Series A Conversion Price in effect immediately before such combination, the Series B Conversion Price in effect immediately before such combination and the Series C Conversion Price in effect immediately before such combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series C Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Series A Conversion Price in effect immediately before such event, the Series B Conversion Price in effect immediately before such event and the Series C Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Series A Conversion Price then in effect, the Series B Conversion Price then in effect or the Series C Conversion Price then in effect, as the case may be, by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series A Conversion Price, the Series B Conversion Price and the Series C Conversion Price, as the case may be, shall be recomputed accordingly as of the close of business on such record date and thereafter the Series A Conversion Price, the Series B Conversion Price and the Series C Conversion Price, as the case may be, shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) no such adjustment shall be made with respect to the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price, as the case may be, if the holders of the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock, as the case may be, simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Series A Preferred Stock, Series B Preferred Stock and/or Series C Preferred Stock, as the case may be, had been converted into shares of Common Stock on the date of such event.



4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series C Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.5, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Series A Preferred Stock, one share of Series B Preferred Stock or one share of Series C Preferred Stock, as the case may be, immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors, including the Preferred Director) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price, as the case may be) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price, the Series B Conversion Price and/or the Series C Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable, but in any event not later than ten (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred Stock, Series B Preferred Stock and/or Series C Preferred Stock, as the case may be, a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock, as the case may be, is convertible) and showing in detail the facts upon which such adjustment or

readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Series A Preferred Stock, Series B Preferred Stock and/or Series C Preferred Stock, as the case may be, furnish or cause to be furnished to such holder a certificate setting forth (i) the Series A Conversion Price then in effect, the Series B Conversion Price then in effect and/or the Series C Conversion Price then in effect, as the case may be, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of the Series A Preferred Stock, the Series B Preferred Stock and/or the Series C Preferred Stock, as the case may be.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation, then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act resulting in at least \$35,000,000 of gross proceeds to the Corporation or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Majority (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the “**Mandatory Conversion Time**”), then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate as calculated pursuant to Subsection 4.1.1 and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Subsection 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5.2. As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall (a) (x) in the event that such shares are certificated, issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, or (y) in the event that such shares are uncertificated, issue and deliver to such holder, or to his, her or its nominee, a notice of issuance of uncertificated shares and may, upon written request, issue and deliver a certificate for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof, and (b) pay cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of each applicable series of Preferred Stock accordingly.

6. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption.

7. Waiver. Any of the rights, powers, preferences and other terms of the Series A Preferred Stock set forth herein may be waived, either prospectively or retrospectively, on behalf of all holders of Series A Preferred Stock by the affirmative written consent or vote of the holders of a majority of the shares of Series A Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series B Preferred Stock set forth herein may be waived, either prospectively or retrospectively, on behalf of all holders of Series B Preferred Stock by the affirmative written consent or vote of the holders of a majority of the shares of Series B Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series C Preferred Stock set forth herein may be waived, either prospectively or retrospectively, on behalf of all holders of Series C Preferred Stock by the affirmative written consent or vote of the holders of a majority of the shares of Series C Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Preferred Stock as set forth in Sections 2.3.1 and 5.1(b) requiring the consent of the Requisite Majority, may be waived, either prospectively or retrospectively, on behalf of all holders of Preferred Stock by the Requisite Majority. Any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein, except as otherwise provided in this Section 7, may be waived, either prospectively or retrospectively, on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the Requisite Holders.

8. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

**FIFTH:** Subject to any additional vote required by this Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

**SIXTH:** Subject to any additional vote required by this Amended and Restated Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. Each director shall be entitled to one vote on each matter presented to the Board of Directors; provided, however, that, so long as the holders of Series A Preferred Stock are entitled to elect the Preferred Director, the affirmative vote of the Preferred Director shall be required for the authorization by the Board of Directors of any of the matters set forth in Section 5.5 of the Second Amended and Restated Investors' Rights Agreement, dated on or about the date hereof, by and among the Corporation and the other parties thereto, as such agreement may be amended and/or restated from time to time.

**SEVENTH:** Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**EIGHTH:** Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

**NINTH:** To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

**TENTH:** The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (a) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (b) any holder of Preferred Stock or any partner, member, director, stockholder, employee, affiliate or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, the persons referred to in clauses (a) and (b) are “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation while such Covered Person is performing services in such capacity. Any repeal or modification of this Article Tenth will only be prospective and will not affect the rights under this Article Tenth in effect at the time of the occurrence of any actions or omissions to act giving rise to liability. Notwithstanding anything to the contrary contained elsewhere in this Amended and Restated Certificate of Incorporation, the affirmative vote of the Requisite Holders will be required to amend or repeal, or to adopt any provisions inconsistent with this Article Tenth.

**ELEVENTH:** Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation’s stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Delaware General Corporation Law or the Corporation’s certificate of incorporation or bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not

subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. If any provision or provisions of this Article Eleventh shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article Eleventh (including, without limitation, each portion of any sentence of this Article Eleventh containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

**TWELFTH:** Unless the Corporation consents in writing to the selection of an alternate forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Any person or entity purchasing or otherwise acquiring any interest in any security of the Corporation shall be deemed to have notice of and consented to this Article Twelfth.

**THIRTEENTH:** The following indemnification provisions shall apply to the persons enumerated below.

1. Right to Indemnification of Directors and Officers. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an “**Indemnified Person**”) who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys’ fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 3 of this Article Thirteenth, the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board of Directors.

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

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

4. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board of Directors in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board of Directors.

5. Advancement of Expenses of Employees and Agents. The Corporation may pay the expenses (including attorneys' fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board of Directors.

6. Non-Exclusivity of Rights. The rights conferred on any person by this Article Thirteenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of this Amended and Restated Certificate of Incorporation, the Bylaws of the Corporation, or any agreement, or pursuant to any vote of stockholders or disinterested directors or otherwise.

7. Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise shall be reduced by any amount such person may collect as indemnification from such other Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise.

8. Insurance. The Board of Directors may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance:

(a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Thirteenth; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Thirteenth.

9. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article Thirteenth shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's heirs, executors and administrators.

\* \* \*

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Section 228 of the General Corporation Law.

4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this corporation's Amended and Restated Certificate of Incorporation, as amended, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.



**IN WITNESS WHEREOF**, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 4th day of March, 2021.

By: /s/ Mahesh Karande

Name: Mahesh Karande

Title: President and Chief Executive Officer

AMENDED AND RESTATED  
BYLAWS  
OF  
OMEGA THERAPEUTICS, INC.

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## ARTICLE I

### STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President or, if not so designated, at the principal office of the corporation. The Board of Directors may, in its sole discretion, determine that a meeting shall not be held at any place, but may instead be held solely by means of remote communication in a manner consistent with the General Corporation Law of the State of Delaware.

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President (which date shall not be a legal holiday in the place where the meeting is to be held).

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by only the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President, and may not be called by any other person or persons. The Board of Directors may postpone or reschedule any previously scheduled special meeting of stockholders. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

1.4 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, if any, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Voting List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least 10 days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during

ordinary business hours, at the principal place of business of the corporation. If the meeting is to be held at a physical location (and not solely by means of remote communication), then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. The list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the holders of a majority in voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of capital stock is required by law or the Certificate of Incorporation, the holders of a majority in voting power of the shares of such class or classes or series of the capital stock of the corporation issued and outstanding and entitled to vote on such matter, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to the vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by the chairman of the meeting or by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place, if any, of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders, or to express consent or dissent to corporate action without a meeting, may vote or express such consent or dissent in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote or act for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Secretary of the corporation. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented at the meeting and voting affirmatively or negatively on such matter (or if there are two or more classes or series of stock entitled to vote as separate classes, then in the case of each such class or series, the holders of a majority in voting power of the shares of stock of that class or series present or represented at the meeting and voting affirmatively or negatively on such matter), except when a different vote is required by law, the Certificate of Incorporation or these Bylaws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

1.10 Conduct of Meetings.

(a) Chairman of Meeting. Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence, by the President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) Rules, Regulations and Procedures. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

### 1.11 Action without Meeting.

(a) Taking of Action by Consent. Any action required or permitted to be taken at any annual or special meeting of stockholders of the corporation may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote on such action were present and voted. Except as otherwise provided by the Certificate of Incorporation, stockholders may act by written consent to elect directors; provided, however, that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

(b) Electronic Transmission of Consents. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the Board of Directors. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

(c) Notice of Taking of Corporate Action. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the corporation.



## ARTICLE II

### DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number, Election and Qualification. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the corporation shall be established from time to time by the stockholders or the Board of Directors. The directors shall be elected at the annual meeting of stockholders by such stockholders as have the right to vote on such election. Election of directors need not be by written ballot. Directors need not be stockholders of the corporation.

2.3 Chairman of the Board; Vice Chairman of the Board. The Board of Directors may appoint from its members a Chairman of the Board and a Vice Chairman of the Board, neither of whom need be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.7 of these Bylaws. If the Board of Directors appoints a Vice Chairman of the Board, such Vice Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors. Unless otherwise provided by the Board of Directors, the Chairman of the Board or, in the Chairman's absence, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board of Directors.

2.4 Tenure. Each director shall hold office until the next annual meeting of stockholders and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.5 Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed pursuant to Section 2.2 of these Bylaws shall constitute a quorum of the Board of Directors. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.6 Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting of the Board of Directors duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number is required by law or by the Certificate of Incorporation.

2.7 Removal. Except as otherwise provided by the General Corporation Law of the State of Delaware, any one or more or all of the directors of the corporation may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except that the directors elected by the holders of a particular class or series of stock may be removed without cause only by vote of the holders of a majority of the outstanding shares of such class or series.

2.8 Vacancies. Subject to the rights of holders of any series of Preferred Stock to elect directors, unless and until filled by the stockholders, any vacancy or newly-created directorship on the Board of Directors, however occurring, may be filled by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of such director's predecessor in office, and a director chosen to fill a position resulting from a newly-created directorship shall hold office until the next annual meeting of stockholders and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.9 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at some later time or upon the happening of some later event.

2.10 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.11 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

2.12 Notice of Special Meetings. Notice of the date, place, if any, and time of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person or by telephone at least 24 hours in advance of the meeting, (b) by sending written notice by reputable overnight courier, telecopy, facsimile or electronic transmission, or delivering written notice by hand, to such director's last known business, home or electronic transmission address at least 48 hours in advance of the meeting, or (c) by sending written notice by first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.13 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.14 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.15 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation with such lawfully delegable powers and duties as the Board of Directors thereby confers, to serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these Bylaws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these Bylaws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

2.16 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

### **ARTICLE III**

#### **OFFICERS**

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a written resignation to the corporation at its principal office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event. Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 President; Chief Executive Officer. Unless the Board of Directors has designated another person as the corporation's Chief Executive Officer, the President shall be the Chief Executive Officer of the corporation. The Chief Executive Officer shall have general charge and supervision of the business of the corporation subject to the direction of the Board of Directors, and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to such officer by the Board of Directors. The President shall perform such other duties and shall have such other powers as the Board of Directors or the Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

3.8 Vice Presidents. Each Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.9 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.10 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these Bylaws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.11 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.12 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

## ARTICLE IV

### CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Stock Certificates; Uncertificated Shares. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the corporation's stock shall be uncertificated shares. Every holder of stock of the corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, representing the number of shares held by such holder registered in certificate form. Each such certificate shall be signed in a manner that complies with Section 158 of the General Corporation Law of the State of Delaware.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these Bylaws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of each certificate representing shares of such class or series of stock, provided that in lieu of the foregoing requirements there may be set forth on the face or back of each certificate representing shares of such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to Sections 151, 202(a) or 218(a) of the General Corporation Law of the State of Delaware or, with respect to Section 151 of the General Corporation Law of the State of Delaware, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Shares of stock of the corporation shall be transferable in the manner prescribed by law and in these Bylaws. Transfers of shares of stock of the corporation shall be made only on the books of the corporation or by transfer agents designated to transfer shares of stock of the corporation. Subject to applicable law, shares of stock represented by certificates shall be transferred only on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these Bylaws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these Bylaws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders or to express consent (or dissent) to corporate action without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not precede the date on which the resolution fixing the record date is adopted, and such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 10 days after the date of adoption of a record date for a consent without a meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders entitled to express consent to corporate action without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first consent is properly delivered to the corporation. If no record date is fixed, the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

4.6 Regulations. The issue, transfer, conversion and registration of shares of stock of the corporation shall be governed by such other regulations as the Board of Directors may establish.

## ARTICLE V

### GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these Bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time of the event for which notice is to be given, shall be deemed equivalent to notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in any such waiver. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, the President or the Treasurer may waive notice of, vote, or appoint any person or persons to vote, on behalf of the corporation at, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability. Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

5.8 Pronouns. All pronouns used in these Bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.



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## ARTICLE VI

### AMENDMENTS

6.1 By the Board of Directors. These Bylaws may be altered, amended or repealed, in whole or in part, or new bylaws may be adopted by the Board of Directors.

6.2 By the Stockholders. These Bylaws may be altered, amended or repealed, in whole or in part, or new bylaws may be adopted by the affirmative vote of the holders of a majority of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at any annual meeting of stockholders, or at any special meeting of stockholders, provided notice of such alteration, amendment, repeal or adoption of new bylaws shall have been stated in the notice of such special meeting.

## SECOND AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

THIS SECOND AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT (the "**Agreement**") is made as of March 4, 2021, by and among Omega Therapeutics, Inc., a Delaware corporation (the "**Company**"), and each of the investors listed on Schedule A hereto (each of which is referred to in this Agreement as an "**Investor**", and together with any subsequent investors, or transferees, who become parties hereto as "Investors" pursuant to Subsection 6.9, the "**Investors**").

**RECITALS**

**WHEREAS**, certain of the Investors (the "**Existing Investors**") possess registration rights, information rights, rights of first offer, and other rights pursuant to an Amended and Restated Investors' Rights Agreement, dated as of January 27, 2020, among the Company and such Investors (the "**Prior Agreement**");

**WHEREAS**, the Existing Investors desire to amend and restate the Prior Agreement in its entirety and to accept the rights created pursuant to this Agreement in lieu of the rights granted to them under the Prior Agreement; and

**WHEREAS**, concurrently with the execution of this Agreement, the Company and certain of the Investors are entering into a Series C Preferred Stock Purchase Agreement of even date herewith (as the same may be amended and/or restated from time to time, the "**Purchase Agreement**"), pursuant to which such Investors have agreed to purchase shares of Series C Preferred Stock (as defined below).

**NOW, THEREFORE**, the Company and the Existing Investors hereby agree to amend and restate the Prior Agreement in its entirety as set forth herein, and all of the parties hereto further agree as follows:

1. **Definitions**. For purposes of this Agreement:

1.1 "**Affiliate**" means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including without limitation any general partner, managing member, officer or director of such Person or any venture capital fund or other investment fund now or hereafter existing that is controlled by one or more general partners, managing members or investment advisers of, or shares the same management company or investment adviser with, such Person.

1.2 "**Board**" means the Company's Board of Directors.

1.3 "**Certificate of Incorporation**" means the Company's Amended and Restated Certificate of Incorporation, as amended and/or restated from time to time.

1.4 "**Common Stock**" means shares of the Company's common stock, par value \$0.001 per share.

1.5 “**Damages**” means any loss, damage, claim, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, claim, or liability (or any action in respect thereof) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (ii) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (iii) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

1.6 “**Derivative Securities**” means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

1.7 “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.8 “**Excluded Registration**” means (i) a registration relating to the sale or grant of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, equity incentive or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; (iii) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered; or (v) a registration relating to the IPO.

1.9 “**Form S-1**” means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

1.10 “**Form S-3**” means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits forward incorporation of substantial information by reference to other documents filed by the Company with the SEC.

1.11 “**GAAP**” means generally accepted accounting principles in the United States as in effect from time to time.

1.12 “**Holder**” means any holder of Registrable Securities who is a party to this Agreement.

1.13 “**Immediate Family Member**” means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.14 “**Initiating Holders**” means, collectively, Holders who properly initiate a registration request under this Agreement.

1.15 “**IPO**” means the Company’s first underwritten public offering of its Common Stock under the Securities Act.

1.16 “**Key Employee**” means any executive-level employee.

1.17 “**Major Investor**” means any Investor that, individually or together with such Investor’s Affiliates, holds (i) at least 3,333,333 shares of Series B Preferred Stock (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof) and/or (ii) at least 1,666,666 shares of Series C Preferred Stock (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof).

1.18 “**New Securities**” means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities.

1.19 “**Person**” means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.20 “**Preferred Director**” means the director of the Company that the holders of record of the shares of Series A Preferred Stock are entitled to elect as a separate class pursuant to the Certificate of Incorporation.

1.21 “**Preferred Stock**” means the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock.

1.22 “**Registrable Securities**” means (i) the Common Stock issuable or issued upon conversion of the Preferred Stock; (ii) the Common Stock held by Flagship VentureLabs V LLC or any Affiliate thereof as of the date hereof; (iii) any Common Stock, or any Common Stock issued or issuable (directly or indirectly) upon conversion and/or exercise of any other securities of the Company, held by the Investors on the date hereof or acquired by the Investors prior to the IPO; and (iv) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clause (i), (ii) and (iii) above; excluding in all cases, however, any Registrable Securities sold or otherwise disposed of by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Subsection 6.1, and excluding any shares for which registration rights have terminated pursuant to Subsection 2.13 of this Agreement.

1.23 “**Registrable Securities then outstanding**” means the number of shares determined by adding the number of shares of outstanding Common Stock that are Registrable Securities and the number of shares of Common Stock issuable (directly or indirectly) pursuant to then exercisable and/or convertible securities that are Registrable Securities.

hereof. 1.24 “**Restricted Securities**” means the securities of the Company required to be notated with the legend set forth in Subsection 2.12(b)

1.25 “**SEC**” means the Securities and Exchange Commission.

1.26 “**SEC Rule 144**” means Rule 144 promulgated by the SEC under the Securities Act.

1.27 “**SEC Rule 145**” means Rule 145 promulgated by the SEC under the Securities Act.

1.28 “**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.29 “**Selling Expenses**” means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Subsection 2.6.

1.30 “**Series A Preferred Stock**” means the Company’s Series A Preferred Stock, par value \$0.001 per share.

1.31 “**Series B Preferred Stock**” means the Company’s Series B Preferred Stock, par value \$0.001 per share.

1.32 “**Series C Preferred Stock**” means the Company’s Series C Preferred Stock, par value \$0.001 per share.

2. Registration Rights. The Company covenants and agrees as follows:

2.1 Demand Registration.

(a) Form S-1 Demand. If at any time after the earlier of (i) five (5) years after the date of this Agreement or (ii) one hundred eighty (180) days after the effective date of the registration statement for the IPO, the Company receives a request from Holders of a majority of the Registrable Securities then outstanding that the Company file a Form S-1 registration statement for which the anticipated aggregate offering price would exceed \$10,000,000, then the Company shall (i) within ten (10) days after the date such request is given, give notice thereof (the “**Demand Notice**”) to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within sixty (60) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Subsection 2.1(c) and Subsection 2.3.

(b) Form S-3 Demand. If at any time when it is eligible to use a Form S-3 registration statement, the Company receives a request from Holders of at least thirty percent

(30%) of the Registrable Securities then outstanding that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price of at least \$5,000,000, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within forty-five (45) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Subsection 2.1(c) and Subsection 2.3.

(c) Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Subsection 2.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Board it would be materially detrimental to the Company and its stockholders for such registration statement to either become effective or remain effective for as long as such registration statement otherwise would be required to remain effective, because such action would (i) materially interfere with a significant acquisition, corporate reorganization, or other similar transaction involving the Company; (ii) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (iii) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then the Company shall have the right to defer taking action with respect to such filing, and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period of not more than ninety (90) days after the request of the Initiating Holders is given; provided, however, that the Company may not invoke this right more than once in any twelve (12) month period; and provided further that the Company shall not register any securities for its own account or that of any other stockholder during such ninety (90) day period other than an Excluded Registration.

(d) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Subsection 2.1(a)(i) during the period that is sixty (60) days before the Company's good faith estimate of the date of filing of, and ending on a date that is one hundred eighty (180) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; (ii) after the Company has effected two registrations pursuant to Subsection 2.1(a); or (iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Subsection 2.1(b). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Subsection 2.1(b) (i) during the period that is thirty (30) days before the Company's good faith estimate of the date of filing of, and ending on a date that is ninety (90) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; or (ii) if the Company has effected two registrations pursuant to Subsection 2.1(b) within the twelve (12) month period immediately preceding the date of such request. A registration shall not be counted as "effected" for purposes of this Subsection 2.1(d) until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration (other than due to the Initiating Holders having learned of a material adverse change in the

condition, business or prospects of the Company from that known to the Initiating Holders at the time of their request for registration), elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Subsection 2.6, in which case such withdrawn registration statement shall be counted as “effected” for purposes of this Subsection 2.1(d); provided, that if such withdrawal is during a period the Company has deferred taking action pursuant to Subsection 2.1(c), then the Initiating Holders may withdraw their request for registration and such registration will not be counted as “effected” for purposes of this Subsection 2.1(d).

2.2 Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its securities under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Subsection 2.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Subsection 2.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Subsection 2.6.

### 2.3 Underwriting Requirements.

(a) If, pursuant to Subsection 2.1, the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Subsection 2.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by a majority in interest of the Initiating Holders, subject only to the reasonable approval of the Company. In such event, the right of any Holder to include such Holder’s Registrable Securities in such registration shall be conditioned upon such Holder’s participation in such underwriting and the inclusion of such Holder’s Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Subsection 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Subsection 2.3, if the managing underwriter(s) advise(s) the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; provided, however, that the number of Registrable Securities held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest one hundred (100) shares.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Subsection 2.2, the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders accept the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares. Notwithstanding the foregoing, in no event shall (i) the number of Registrable Securities included in the offering be reduced unless all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering, or (ii) the number of Registrable Securities included in the offering be reduced below thirty percent (30%) of the total number of securities included in such offering, unless such offering is the IPO, in which case the selling Holders may be excluded further if the underwriters make the determination described above and no other stockholder's securities are included in such offering. For purposes of the provision in this Subsection 2.3(b) concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned by all Persons included in such "selling Holder," as defined in this sentence.

(c) For purposes of Subsection 2.1, a registration shall not be counted as "effected" if, as a result of an exercise of the underwriter's cutback provisions in Subsection 2.3(a), fewer than fifty percent (50%) of the total number of Registrable Securities that Holders have requested to be included in such registration statement are actually included.

2.4 Obligations of the Company. Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a



period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, however, that (i) such one hundred twenty (120) day period shall be extended for a period of time equal to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, such one hundred twenty (120) day period shall be extended, if necessary, to keep the registration statement effective until all such Registrable Securities are sold;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, and the prospectus used in connection with such registration statement, as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; provided that the Company shall not be required to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any managing underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

In addition, the Company shall ensure that, at all times after any registration statement covering a public offering of securities of the Company under the Securities Act shall have become effective, its insider trading policy shall provide that the Company's directors may implement a trading program under Rule 10b5-1 of the Exchange Act.

2.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder's Registrable Securities.

2.6 Expenses of Registration. All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 2, including all registration, filing, and qualification fees; printers' and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements of one counsel for the selling Holders selected by the Holders of a majority of the Registrable Securities to be registered ("**Selling Holder Counsel**"), shall be borne and paid by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Subsection 2.1 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to one registration pursuant to Subsection 2.1(a) or Subsection 2.1(b), as the case may be; provided further that if, at the time of such withdrawal, the Holders shall have learned of a material adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request and have withdrawn the request with reasonable promptness after learning of such information then the Holders shall not be required to pay any of such expenses and shall not forfeit their right to one registration pursuant to Subsection 2.1(a) or Subsection 2.1(b). All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

2.7 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.8 Indemnification. If any Registrable Securities are included in a registration statement under this Section 2:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Subsection 2.8(a) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Subsection 2.8(b) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall the aggregate amounts payable by any Holder by way of indemnity or contribution under Subsections 2.8(b) and 2.8(d) exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Subsection 2.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Subsection 2.8, give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the

right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Subsection 2.8, to the extent that such failure materially prejudices the indemnifying party's ability to defend such action. The failure to give notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Subsection 2.8.

(d) To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Subsection 2.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Subsection 2.8 provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any party hereto for which indemnification is provided under this Subsection 2.8, then, and in each such case, such parties will contribute to the aggregate losses, claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (x) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (y) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Subsection 2.8(d), when combined with the amounts paid or payable by such Holder pursuant to Subsection 2.8(b), exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of willful misconduct or fraud by such Holder.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Subsection 2.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2, and otherwise shall survive the termination of this Agreement.

2.9 Reports Under Exchange Act. With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

2.10 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would (i) provide to such holder or prospective holder the right to include securities in any registration on other than either a pro rata basis with respect to the Registrable Securities or on a subordinate basis after all Holders have had the opportunity to include in the registration and offering all shares of Registrable Securities that they wish to so include or (ii) allow such holder or prospective holder to initiate a demand for registration of any securities held by such holder or prospective holder; provided that this limitation shall not apply to Registrable Securities acquired by any additional Investor who becomes a party to this Agreement in accordance with Subsection 6.9.

2.11 "Market Stand-off" Agreement. Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on

the date of the final prospectus relating to the IPO and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days plus such additional period up to eighteen (18) additional days as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2241 or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto, without the consent of the Holders of a majority of the Registrable Securities), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Subsection 2.11 shall apply only to the IPO, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement for such IPO, and shall be applicable to the Holders only if all officers and directors are subject to the same restrictions and the Company uses commercially reasonable efforts to obtain a similar agreement from all stockholders individually owning more than five percent (5%) of the outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding shares of Preferred Stock). The underwriters in connection with such registration are intended third party beneficiaries of this Subsection 2.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Subsection 2.11 or that are necessary to give further effect thereto.

#### 2.12 Restrictions on Transfer.

(a) The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred in violation of this Agreement, and the Company shall not recognize and shall issue stop-transfer instructions to its transfer agent with respect to any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

(b) Each certificate, instrument or book entry representing (i) the Preferred Stock, (ii) the Registrable Securities, and (iii) any other securities issued in respect of the securities referenced in clauses (i) and (ii), upon any stock split, stock dividend, recapitalization, merger, consolidation, or similar event, shall (unless otherwise permitted by the provisions of Subsection 2.12(c)) be notated with a legend substantially in the following form:

THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED

UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SHARES MAY NOT BE SOLD, PLEDGED, OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR A VALID EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.

THE SECURITIES REPRESENTED HEREBY MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Subsection 2.12.

(c) The holder of such Restricted Securities, by acceptance of ownership thereof, agrees to comply in all respects with the provisions of this Section 2. Before any proposed sale, pledge, or transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such Restricted Securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Restricted Securities may be effected without registration under the Securities Act, whereupon the Holder of such Restricted Securities shall be entitled to sell, pledge, or transfer such Restricted Securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with SEC Rule 144 or (y) in any transaction in which such Holder distributes Restricted Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Subsection 2.12. Each certificate, instrument or book entry representing the Restricted Securities transferred as above provided shall be notated with, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Subsection 2.12(b), except that such certificate, instrument or book entry shall not be notated with such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

2.13 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Subsection 2.1 or Subsection 2.2 shall terminate, and any shares held by a Holder shall cease to be Registrable Securities (and, for the avoidance of doubt, all rights to receive any notices hereunder or to vote,

consent to, waive or otherwise exercise any rights with respect to any amendment, consent, waiver or other right hereunder shall terminate), upon the earliest to occur of:

(a) immediately before the closing of a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation;

(b) such time after consummation of the IPO as (i) SEC Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such Holder's shares without limitation during a three-month period without registration or (ii) if such Holder is an Affiliate of the Company immediately after the consummation of the IPO, such Holder is no longer an Affiliate of the Company; and

(c) the fifth (5<sup>th</sup>) anniversary of the IPO.

### 3. Information Rights.

3.1 Delivery of Financial Statements. The Company shall deliver to each Major Investor, provided that the Board has not reasonably determined that such Major Investor is (or, in the case of a Major Investor that is an individual, is employed by or serves as a consultant to) a competitor of the Company:

(a) as soon as practicable, but in any event within one hundred twenty (120) days after the end of each fiscal year of the Company beginning with the fiscal year ending December 31, 2020 (or such later time as the Board, including the Preferred Director, may determine), (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and a comparison between (x) the actual amounts as of and for such fiscal year and (y) the comparable amounts for the prior year and as included in the Budget (as defined in Subsection 3.1(c)) for such year, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, and (iii) a statement of stockholders' equity as of the end of such year, all such financial statements audited and certified by independent public accountants selected by the Company and approved by the Board, including the Preferred Director (provided that such audit requirement may be waived by the Board, including the Preferred Director);

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company (or such later time as the Board, including the Preferred Director, may determine), unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP); and

(c) as soon as practicable, but in any event within thirty (30) days after the beginning of each fiscal year (or such later time as the Board, including the Preferred Director, may determine), a budget for such fiscal year (collectively, the "**Budget**"), approved by the Board and prepared on a quarterly basis, including balance sheets, income statements, and statements of cash flow for such months and, promptly after prepared, any other budgets or revised budgets prepared by the Company.



If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Notwithstanding anything else in this Subsection 3.1 to the contrary, the Company may cease providing the information set forth in this Subsection 3.1 during the period starting with the date sixty (60) days before the Company's good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company's covenants under this Subsection 3.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

3.2 Inspection. The Company shall permit each Major Investor (provided that the Board has not reasonably determined that such Major Investor is, or, in the case of a Major Investor that is an individual, is employed by or serves as a consultant to, a competitor of the Company), at such Major Investor's expense, to visit and inspect the Company's properties; examine its books of account and records; and discuss the Company's affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Subsection 3.2 to provide access to any information that it reasonably and in good faith considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

3.3 Termination of Information Rights. The covenants set forth in Subsections 3.1 and 3.2 shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) immediately before a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, whichever event occurs first.

3.4 Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company's intention to file a registration statement or any information provided in connection with a request for a waiver under or an amendment of any term of this Agreement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Subsection 3.4 by such Investor), (b) is or has been independently developed or conceived by such Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to such Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Subsection 3.4; (iii) to any

existing or prospective Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, regulation, rule, court order or subpoena, provided that such Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure.

#### 4. Rights to Future Stock Issuances.

4.1 Right of First Offer. Subject to the terms and conditions of this Subsection 4.1 and applicable securities laws, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to each Major Investor. A Major Investor shall be entitled to apportion the right of first offer hereby granted to it among itself and its Affiliates in such proportions as it deems appropriate; provided that each such Affiliate agrees to enter into this Agreement, the Second Amended and Restated Voting Agreement of even date herewith among the Company, the Investors and the other parties named therein, as the same may be amended and/or restated from time to time, and the Second Amended and Restated Right of First Refusal and Co-Sale Agreement of even date herewith among the Company, certain of the Investors and the other parties named therein, as the same may be amended and/or restated from time to time, as an “**Investor**” under each such agreement.

(a) The Company shall give notice (the “**Offer Notice**”) to each Major Investor, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By notification to the Company within twenty (20) days after the Offer Notice is given, each Major Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by such Major Investor bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Preferred Stock and any other Derivative Securities then outstanding). At the expiration of such twenty (20) day period, the Company shall promptly notify each Major Investor that elects to purchase or acquire all the shares available to it (each, a “**Fully Exercising Investor**”) of any other Major Investor’s failure to do likewise. During the ten (10) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the New Securities for which Major Investors were entitled to subscribe but that were not subscribed for by the Major Investors which is equal to the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of Preferred Stock and any other Derivative Securities then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by all Fully Exercising Investors who wish to purchase such unsubscribed shares. The closing of any sale pursuant to this Subsection 4.1(b) shall occur within the later of ninety (90) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Subsection 4.1(c).

(c) If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Subsection 4.1(b), the Company may, during the ninety (90) day period following the expiration of the periods provided in Subsection 4.1(b), offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Major Investors in accordance with this Subsection 4.1.

(d) The right of first offer in this Subsection 4.1 shall not be applicable to (i) Exempted Securities (as defined in the Certificate of Incorporation); (ii) shares of Common Stock issued in the IPO; or (iii) shares of Series B Preferred Stock issued pursuant to the Purchase Agreement.

4.2 Termination. The covenants set forth in Subsection 4.1 shall terminate and be of no further force or effect (a) immediately before the consummation of the IPO, (b) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (c) immediately before a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, whichever event occurs first.

#### 5. Additional Covenants.

5.1 Insurance. The Company shall use its commercially reasonable efforts to maintain in effect, from financially sound and reputable insurers, Directors and Officers liability insurance in an amount and on terms and conditions satisfactory to the Board, and will use commercially reasonable efforts to cause such insurance policy to be maintained until such time as the Board determines that such insurance should be discontinued. The policy shall not be cancelable by the Company without prior approval by the Board, including the Preferred Director.

5.2 Employee Agreements. The Company will cause (i) each Person now or hereafter employed by it or by any subsidiary (or engaged by the Company or any subsidiary as a consultant/independent contractor) with access to confidential information and/or trade secrets to enter into a nondisclosure and proprietary rights assignment agreement and (ii) each Key Employee to enter into a one (1) year noncompetition and nonsolicitation agreement, each in a form acceptable to the Board, including the Preferred Director. In addition, the Company shall not amend, modify, terminate, waive, or otherwise alter, in whole or in part, any of the above-referenced agreements or any restricted stock agreement between the Company and any employee, without the prior approval of the Board, including the Preferred Director.

5.3 Employee Stock. Unless otherwise approved by the Board, including the Preferred Director, all future employees and consultants of the Company who purchase, receive options to purchase, or receive awards of shares of the Company's capital stock after the date hereof shall be required to execute restricted stock or option agreements, as applicable, providing

for (i) vesting of shares over a four (4) year period, with the first twenty-five percent (25%) of such shares vesting following twelve (12) months of continued employment or service, and the remaining shares vesting in equal quarterly installments over the following thirty-six (36) months, and (ii) a market stand-off provision substantially similar to that in Subsection 2.11. Without the prior approval of the Board, including the Preferred Director, the Company shall not amend, modify, terminate, waive or otherwise alter, in whole or in part, any stock purchase, stock restriction or option agreement with any existing employee or service provider if such amendment would cause it to be inconsistent with this Subsection 5.3. In addition, unless otherwise approved by the Board, including the Preferred Director, the Company shall retain (and not waive) a “right of first refusal” on employee transfers until the IPO and shall have the right to repurchase unvested shares at cost upon termination of employment of a holder of restricted stock.

5.4 Qualified Small Business Stock. The Company shall use commercially reasonable efforts to cause the shares of Preferred Stock issued by the Company on or before January 27, 2020, as well as any shares into which such shares are converted, within the meaning of Section 1202(f) of the Internal Revenue Code (the “**Code**”), to constitute “qualified small business stock” as defined in Section 1202(c) of the Code; provided, however, that such requirement shall not be applicable if the Board determines, in its good-faith business judgment, that such qualification is inconsistent with the best interests of the Company. The Company shall submit to its stockholders (including the Investors) and to the Internal Revenue Service any reports that may be required under Section 1202(d)(1)(C) of the Code and the regulations promulgated thereunder. In addition, within twenty (20) business days after any Investor’s written request therefor, the Company shall, at its option, either (i) deliver to such Investor a written statement indicating whether (and what portion of) such Investor’s interest in the Company constitutes “qualified small business stock” as defined in Section 1202(c) of the Code or (ii) deliver to such Investor such factual information in the Company’s possession as is reasonably necessary to enable such Investor to determine whether (and what portion of) such Investor’s interest in the Company constitutes “qualified small business stock” as defined in Section 1202(c) of the Code.

5.5 Matters Requiring Preferred Director Approval. So long as the holders of Series A Preferred Stock are entitled, as a separate class, to elect the Preferred Director, the Company hereby covenants and agrees with the Investors that it shall not, without approval of the Board, which approval must include the affirmative vote of the Preferred Director:

(a) make, or permit any subsidiary to make, any loan or advance to, or own any stock or other securities of, any subsidiary or other corporation, partnership, or other entity unless it is wholly owned by the Company;

(b) make, or permit any subsidiary to make, any loan or advance to any Person, including, without limitation, any employee or director of the Company or any subsidiary, except advances and similar expenditures in the ordinary course of business or under the terms of an employee stock or option plan approved by the Board, including the Preferred Director;

(c) guarantee, directly or indirectly, or permit any subsidiary to guarantee, directly or indirectly, any indebtedness except for trade accounts of the Company or any subsidiary arising in the ordinary course of business;

- (d) make any investment inconsistent with any investment policy approved by the Board;
- (e) incur any aggregate indebtedness in excess of \$100,000 that is not already included in a budget approved by the Board, other than trade credit incurred in the ordinary course of business;
- (f) otherwise enter into or be a party to any transaction with any director, officer, or employee of the Company or any “associate” (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such Person, except for transactions contemplated by this Agreement and the Purchase Agreement, transactions resulting in payments to or by the Company in an aggregate amount less than \$100,000 per year, or transactions made in the ordinary course of business and pursuant to reasonable requirements of the Company’s business and upon fair and reasonable terms that are approved by a majority of the Board;
- (g) hire, terminate, or change the compensation of the executive officers or any other employees that report directly to the Chief Executive Officer or the Chief Operating Officer of the Company, including approving any option grants or stock awards to such executive officers or employees;
- (h) change the principal business of the Company, enter new lines of business, or exit the current line of business;
- (i) sell, assign, license, pledge, or encumber material technology or intellectual property, other than licenses granted in the ordinary course of business;
- (j) adopt any equity incentive plan, or increase the shares of Common Stock reserved for issuance under the Company’s 2017 Equity Incentive Plan or adopt any other equity incentive plan; or
- (k) enter into any corporate strategic relationship involving the payment, contribution, or assignment by the Company or to the Company of money or assets greater than \$100,000.

5.6 Board Matters. The Company shall reimburse the nonemployee directors for all reasonable out-of-pocket travel expenses incurred (consistent with the Company’s travel policy) in connection with attending meetings of the Board. The Company shall cause to be established, as soon as practicable after request of the Board, including the Preferred Director, and will maintain, an audit and compensation committee, each of which shall consist solely of non-management directors. Each committee of the Board shall include the Preferred Director unless the Preferred Director otherwise notifies the Company in writing.

5.7 Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board as in effect immediately before such transaction, whether such obligations are contained in the Company’s Bylaws, the Certificate of Incorporation, or elsewhere, as the case may be.

5.8 Indemnification Matters. The Company hereby acknowledges that one (1) or more of the directors nominated to serve on the Board of Directors by the Investors (each an “**Investor Director**”) may have certain rights to indemnification, advancement of expenses and/or insurance provided by one or more of the Investors and certain of their Affiliates (collectively, the “**Investor Indemnitors**”). The Company hereby agrees (a) that it is the indemnitor of first resort (*i.e.*, its obligations to any such Investor Director are primary and any obligation of the Investor Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Investor Director are secondary), (b) that it shall be required to advance the full amount of expenses incurred by such Investor Director and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement by or on behalf of any such Investor Director to the extent legally permitted and as required by the Company’s Certificate of Incorporation or Bylaws of the Company (or any agreement between the Company and such Investor Director), without regard to any rights such Investor Director may have against the Investor Indemnitors, and, (c) that it irrevocably waives, relinquishes and releases the Investor Indemnitors from any and all claims against the Investor Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Investor Indemnitors on behalf of any such Investor Director with respect to any claim for which such Investor Director has sought indemnification from the Company shall affect the foregoing and the Investor Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Investor Director against the Company. The Investor Directors and the Investor Indemnitors are intended third-party beneficiaries of this Subsection 5.8 and shall have the right, power and authority to enforce the provisions of this Subsection 5.8 as though they were a party to this Agreement.

5.9 Right to Conduct Activities. The Company hereby agrees and acknowledges that certain of the Investors are in the business of venture capital investing and that such Investors (together with their Affiliates) review the business plans and related proprietary information of many enterprises, some of which may compete directly or indirectly with the Company’s business (as currently conducted or as currently propose to be conducted). The Company hereby agrees that, to the extent permitted under applicable law, such Investors (and their Affiliates) shall not be liable to the Company for any claim arising out of, or based upon, (i) the investment by such Investors (or their Affiliates) in any entity competitive with the Company, or (ii) actions taken by any partner, officer or other representative of such Investors (or their Affiliates) to assist any such competitive company, whether or not such action was taken as a member of the board of directors of such competitive company or otherwise, and whether or not such action has a detrimental effect on the Company; provided, however, that the foregoing shall not relieve (x) any of the Investors from liability associated with the unauthorized disclosure of the Company’s confidential information obtained pursuant to this Agreement, or (y) any director or officer of the Company from any liability associated with his or her fiduciary duties to the Company.

5.10 FCPA. The Company agrees that it shall not (and shall not permit any of its subsidiaries or controlled affiliates or any of its or their respective directors, officers, managers,

employees, independent contractors, representatives or agents to) promise, authorize or make any payment to, or otherwise contribute any item of value to, directly or indirectly, to any third party, including any Non-U.S. Official (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the “FCPA”)), in each case, in violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-bribery or anticorruption law. The Company further agrees that it shall (and shall cause each of its subsidiaries and controlled affiliates to) cease all of its or their respective activities, as well as remediate any actions taken by the Company, its subsidiaries or controlled affiliates, or any of their respective directors, officers, managers, employees, independent contractors, representatives or agents in violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-bribery or anti-corruption law. The Company further agrees that it shall (and shall cause each of its subsidiaries and controlled affiliates to) maintain systems of internal controls (including, but not limited to, accounting systems, purchasing systems and billing systems) to ensure compliance with the FCPA, the U.K. Bribery Act, or any other applicable anti-bribery or anti-corruption law. Upon request, the Company agrees to provide responsive information and/or certifications concerning its compliance with applicable anti-corruption laws. The Company shall, and shall cause any direct or indirect subsidiary or entity controlled by it, whether now in existence or formed in the future, to comply with the FCPA. The Company shall use its best efforts to cause any direct or indirect subsidiary, whether now in existence or formed in the future, to comply in all material respects with all applicable laws.

5.11 Termination of Covenants. The covenants set forth in this Section 5, except for Subsection 5.7 and Subsection 5.8, shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) immediately before a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, whichever event occurs first.

## 6. Miscellaneous.

6.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities that (i) is an Affiliate of a Holder; (ii) is a Holder’s Immediate Family Member or trust for the benefit of an individual Holder or one or more of such Holder’s Immediate Family Members; or (iii) after such transfer, holds at least 100,000 shares of Registrable Securities (subject to appropriate adjustment for stock splits, stock dividends, combinations, and other recapitalizations); provided, however, that (x) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Subsection 2.11. For the purposes of determining the number of shares of Registrable Securities held by a transferee, the holdings of a transferee (1) that is an Affiliate or stockholder of a Holder; (2) who is a Holder’s Immediate Family Member; or (3) that is a trust for the benefit of an individual Holder or such Holder’s Immediate Family Member shall be aggregated together and with those of the transferring Holder; provided further that all transferees who would not qualify individually for assignment of rights shall, as a condition to the applicable transfer, establish a single attorney-in-fact for the purpose of exercising any rights, receiving notices, or taking any action under this Agreement. The terms and conditions of

this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.2 Governing Law. This Agreement and any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without regard to conflict of law principles that would result in the application of any law other than the law of the Commonwealth of Massachusetts.

6.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.4 Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

6.5 Notices.

(a) All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or: (i) personal delivery to the party to be notified; (ii) when sent, if sent by electronic mail or facsimile during the recipient's normal business hours, and if not sent during normal business hours, then on the recipient's next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after the business day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company, or to such electronic mail address, facsimile number, or address as subsequently modified by written notice given in accordance with this Subsection 6.5. If notice is given to the Company, a copy (which shall not constitute notice) shall also be sent to Peter N. Handrinos, Latham & Watkins LLP, 200 Clarendon Street, Boston, Massachusetts 02116, Facsimile No: (617) 948-6001, Electronic Mail: [XXX]@lw.com.

(b) Consent to Electronic Notice. Each Investor consents to the delivery of any stockholder notice pursuant to the General Corporation Law of the State of Delaware (the "**DGCL**"), as amended or superseded from time to time, by electronic transmission pursuant to Section 232 of the DGCL (or any successor thereto) at the electronic mail address or the facsimile number set forth below such Investor's name on Schedule A hereto, as updated from time to time by notice to the Company, or as on the books of the Company. Each Investor agrees to promptly notify the Company of any change in such stockholder's electronic mail address, and that failure to do so shall not affect the foregoing.



6.6 Amendments and Waivers. Any term of this Agreement may be amended, modified or terminated and the observance of any term of this Agreement may be waived (either generally or in a particular instance, and either retroactively or prospectively) only with the written consent of the Company (with the approval of the Board, including the Preferred Director) and the holders of a majority of the Registrable Securities then outstanding; provided that the Company may in its sole discretion waive compliance with Subsection 2.12(c) (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Subsection 2.12(c) shall be deemed to be a waiver); and provided further that any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party. Notwithstanding the foregoing, (a) this Agreement may not be amended, modified or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor, unless such amendment, modification, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 4 with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction) and (b) Subsection 3.1 and Subsection 3.2, Section 4 and any other section of this Agreement applicable to the Major Investors (including this clause (b) of this Subsection 6.6) may not be amended, modified, terminated or waived without the written consent of the holders of a majority of the Registrable Securities then outstanding and held by the Major Investors. Notwithstanding the foregoing, Schedule A hereto may be amended by the Company from time to time to add transferees of any Registrable Securities in compliance with the terms of this Agreement without the consent of the other parties; and Schedule A hereto may also be amended by the Company after the date of this Agreement without the consent of the other parties to add information regarding any additional Investor who becomes a party to this Agreement in accordance with Subsection 6.9. Any amendment, modification, termination, or waiver effected in accordance with this Subsection 6.6 shall be binding on all parties hereto, regardless of whether any such party has consented thereto. No waivers of or exceptions to any term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision.

6.7 Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

6.8 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such Affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

6.9 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of Preferred Stock after the date hereof, whether pursuant to the Purchase Agreement or otherwise, any purchaser of such shares of Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed an "Investor" for all purposes

hereunder. No action or consent by the Investors shall be required for such joinder to this Agreement by such additional Investor, so long as such additional Investor has agreed in writing to be bound by all of the obligations as an "Investor" hereunder.

6.10 Entire Agreement. This Agreement (including any Schedules and Exhibits hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties is expressly canceled. Upon the effectiveness of this Agreement, the Prior Agreement shall be deemed amended and restated and superseded and replaced in its entirety by this Agreement, and shall be of no further force or effect.

6.11 Dispute Resolution. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the state courts of the Commonwealth of Massachusetts and to the jurisdiction of the United States District Court for the District of Massachusetts for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

WAIVER OF JURY TRIAL: EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.12 Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6.13 Further Assurances. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instruments or documents and to take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Second Amended and Restated Investors' Rights Agreement as of the date first written above.

**OMEGA THERAPEUTICS, INC.**

By: /s/ Mahesh Karande  
Name: Mahesh Karande  
Title: President and Chief Executive Officer

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**FLAGSHIP VENTURES FUND V, L.P.**

By: Flagship Ventures Fund V General Partner LLC,  
its General Partner

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Manager

**FLAGSHIP V VENTURELABS RX FUND, L.P.**

By: Flagship Ventures Fund V General Partner LLC,  
its General Partner

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Manager

**FLAGSHIP VENTURELABS V LLC**

By: Flagship VentureLabs V Manager LLC, its Manager  
By: Flagship Pioneering Inc., its sole member

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Chief Executive Officer

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**FLAGSHIP PIONEERING FUND VI, L.P.**

By: Flagship Pioneering Fund VI General Partner LLC,  
its General Partner

By: Flagship Pioneering, Inc., its Manager

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Chief Executive Officer

**NUTRITIONAL HEALTH LTP FUND, L.P.**

By: Nutritional Health LTP Fund General Partner LLC,  
its General Partner

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Member

**FLAGSHIP PIONEERING SPECIAL  
OPPORTUNITIES FUND II, L.P.**

By: Flagship Pioneering Special Opportunities Fund II  
General Partner LLC, its General Partner

By: Flagship Pioneering, Inc., its Manager

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Chief Executive Officer

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTOR:**

**FPN, L.P.**

By: FPN General Partner LLC, its general partner

By: Flagship Pioneering, Inc., its manager

By: /s/ Noubar B. Afeyan

Name: Noubar B. Afeyan, Ph.D.

Title: Chief Executive Officer

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTOR:**

**SMRS-TOPE LLC**

By: HVST-TOPE LLC,  
Its Managing Member

By: HarbourVest Partners L.P.  
Its Manager

By: HarbourVest Partners, LLC  
Its General Partner

By: /s/ Matthew H. Cheng

Name: Matthew H. Cheng

Title: Principal

*Signature Page – Second Amended and Restated Investors' Rights Agreement*



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**INVESTOR:**

**ALEXANDRIA VENTURE INVESTMENTS, LLC,  
a Delaware limited liability company**

By: Alexandria Real Estate Equities, Inc.,  
A Maryland corporation, managing member

By: /s/ Aaron Jacobsen

Name: Aaron Jacobsen

Title: SVP – Venture Counsel

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**DIKIGOROS HOLDINGS LLC**

By: /s/ Peter N. Handrinos

Name: Peter N. Handrinos

Title: Member

**VP COMPANY INVESTMENTS 2018, LLC**

By: /s/ Peter N. Handrinos

Name: Peter N. Handrinos

Title: Member of the Management Committee

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTOR:**

**STATE OF WISCONSIN INVESTMENT BOARD**

By: /s/ Christopher P. Prestigiacomo

Name: Christopher P. Prestigiacomo

Title: Portfolio Manager

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTOR:**

**BLACKROCK HEALTH SCIENCES TRUST II**

By: BlackRock Advisors, LLC, its Investment Adviser

By: /s/ Hongying Erin Xie

Name: Hongying Erin Xie

Title: Managing Director

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**OCTAGON INVESTMENTS MASTER FUND LP**

By: Octagon Capital Advisors LP, its Investment Manager

By:  /s/ Ting Jia

Name: Ting Jia

Title: Managing Member

**OCTAGON PRIVATE OPPORTUNITIES FUND LP**

By: Octagon Capital Advisors LP, its Investment Manager

By:  /s/ Ting Jia

Name: Ting Jia

Title: Managing Member

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**COWEN HEALTHCARE INVESTMENTS III LP**

By: Cowen Healthcare Investments III GP LLC,  
its general partner

By: /s/ Kevin Raidy

Name: Kevin Raidy

Title: Managing Partner

**CHIEF III LP**

By: Cowen Healthcare Investments III GP LLC,  
its General Partner

By: /s/ Kevin Raidy

Name: Kevin Raidy

Title: Managing Partner

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**SPHERA GLOBAL HEALTHCARE MASTER FUND**

By: /s/ Doron Breen

Name: Doron Breen

Title: Director

**SPHERA BIOTECH MASTER FUND, LP**

By: /s/ Doron Breen

Name: Doron Breen

Title: Director of General Partner

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTORS:**

**MONASHEE SOLITARIO FUND LP**

By: Monashee Investment Management, LLC  
Its Investment Advisor

By: /s/ Jeff Muller

Name: Jeff Muller

Title: CCO

**DS LIQUID DIV RVA MON LLC**

By: Monashee Investment Management, LLC  
Its Investment Advisor

By: /s/ Jeff Muller

Name: Jeff Muller

Title: CCO

*Signature Page – Second Amended and Restated Investors' Rights Agreement*



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**INVESTOR:**

**IIP OSC XXVIII, A SERIES OF IRVING INVESTORS  
PRIVATES OSC, LLC**

By: /s/ Jeremy Abelson

Name: Jeremy Abelson

Title: Manager

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

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**INVESTOR:**

**LOGOS OPPORTUNITIES FUND II, L.P.**

By: Logos Opportunities GP, LLC Its General Partner

By: /s/ Graham Walmsley

Name: Graham Walmsley

Title: Managing Member

By: /s/ Arsani William

Name: Arsani William

Title: Managing Partner

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the parties have executed this Second Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTOR:**

**INVUS PUBLIC EQUITIES, L.P.**

By: /s/ Raymond Debbane

Name: Raymond Debbane

Title: President of its General Partner

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the parties have executed this Second Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTOR:**

**LIFESCI VENTURE PARTNERS II, LP**

By: /s/ Paul Yook

Name: Paul Yook

Title: Managing Member

**LIFESCI VENTURE MASTER SPV, LLC**

By: /s/ Paul Yook

Name: Paul Yook

Title: Managing Member

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the parties have executed this Second Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTOR:**

**POINT72 BIOTECH PRIVATE INVESTMENTS, LLC**

By: /s/ Vincent Tortorella

Name: Vincent Tortorella

Title: Authorized Signatory

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the undersigned party has executed this Second Amended and Restated Investors' Rights Agreement as of the date set forth below.

**INVESTORS:**

**MIRAE ASSET CELLTRION NEW GROWTH FUND I**

By: Mirae Asset Capital Co., Ltd., its Manager

Date of Execution: March 17, 2021

By: /s/ Ji Kwang Chung  
Name: Ji Kwang Chung  
Title: Managing Director

**MIRAE ASSET CAPITAL CO., LTD.**

Date of Execution: March 17, 2021

By: /s/ Ji Kwang Chung  
Name: Ji Kwang Chung  
Title: Managing Director

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the undersigned party has executed this Second Amended and Restated Investors' Rights Agreement as of the date set forth below.

**INVESTOR:**

**MIRAE ASSET INNOVATIVE GROWTH FUND**

By: Mirae Asset Venture Investment Co., Ltd., its Manager

Date of Execution: March 17, 2021

By: /s/ Eung Suk Kim

Name: Eung Suk Kim

Title: Chief Executive Officer

*Signature Page – Second Amended and Restated Investors' Rights Agreement*

IN WITNESS WHEREOF, the undersigned party has executed this Second Amended and Restated Investors' Rights Agreement as of the date set forth below.

**INVESTOR:**

**TERRA MAGNUM FUND I, LP**

Date of Execution: March 15, 2021

By: /s/ Hongxia (Sha) Wang\_\_\_\_\_

Name: Hongxia (Sha) Wang

Title: Founding Partner

*Signature Page – Second Amended and Restated Investors' Rights Agreement*



IN WITNESS WHEREOF, the undersigned party has executed this Second Amended and Restated Investors' Rights Agreement as of the date set forth below.

**INVESTORS:**

**FIDELITY SELECT PORTFOLIOS:  
BIOTECHNOLOGY PORTFOLIO**

Date of Execution: March 17, 2021

By: /s/ Chris Maher  
Name: Chris Maher  
Title: Authorized Signatory

**FIDELITY MT. VERNON STREET TRUST:  
FIDELITY SERIES GROWTH COMPANY FUND**

Date of Execution: March 17, 2021

By: /s/ Chris Maher  
Name: Chris Maher  
Title: Authorized Signatory

**FIDELITY MT. VERNON STREET TRUST:  
FIDELITY GROWTH COMPANY FUND**

Date of Execution: March 17, 2021

By: /s/ Chris Maher  
Name: Chris Maher  
Title: Authorized Signatory

**FIDELITY MT. VERNON STREET TRUST:  
FIDELITY GROWTH COMPANY K6 FUND**

Date of Execution: March 17, 2021

By: /s/ Chris Maher  
Name: Chris Maher  
Title: Authorized Signatory

**FIDELITY GROWTH COMPANY COMMINGLED POOL**

Date of Execution: March 17, 2021

By: /s/ Chris Maher  
Name: Chris Maher  
Title: Authorized Signatory

## SCHEDULE A

### Investors

Flagship Ventures Fund V, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

Flagship V VentureLabs Rx Fund, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

Flagship VentureLabs V LLC  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

Flagship Pioneering Fund VI, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

Nutritional Health LTP Fund, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

Flagship Pioneering Special Opportunities Fund II, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

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SMRS-TOPE LLC  
c/o HarbourVest Partners, LLC  
One Financial Center, 44th Floor  
Boston, MA 02111  
Attention: Lenny Li  
Email: [\[XXX\]@harbourvest.com](mailto:[XXX]@harbourvest.com)  
Fax: (617) 350 0305

with copy to:

Debevoise & Plimpton LLP  
919 Third Avenue  
New York, New York 10022  
Attention: David J. Schwartz  
Email: [\[XXX\]@debevoise.com](mailto:[XXX]@debevoise.com)  
Facsimile: (212) 909 6836

Alexandria Venture Investments, LLC  
26 N. Euclid Ave.  
Pasadena, CA 91101  
Fax: (626) 578-0770  
Electronic Mail: [AREinvestments@are.com](mailto:AREinvestments@are.com)

Dikigoros Holdings LLC  
P.O. Box 827  
Dover, MA 02030  
Fax: (617) 948-6061  
Electronic Mail: [\[XXX\]@lw.com](mailto:[XXX]@lw.com)

VP Company Investments 2018, LLC  
c/o Latham & Watkins LLP  
Attention: CFO  
555 West Fifth Street, Suite 800  
Los Angeles, CA 90013-1021  
Fax: (213) 891-7123  
Electronic Mail: [investment.adminstration@lw.com](mailto:investment.adminstration@lw.com)

FPN, L.P.  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Fax: 617-868-1115  
Electronic Mail: [legalnotices@flagshippioneering.com](mailto:legalnotices@flagshippioneering.com)

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State of Wisconsin Investment Board

121 East Wilson Street

Madison, WI 53703

Electronic Mail:

[XXX][@swib.state.wi.us](mailto:[XXX]@swib.state.wi.us)

Blackrock Health Sciences Trust II

c/o BlackRock

60 State Street, 19th/20th Floor

Boston, MA 02109

Attn: Erin Xie

Email: [\[XXX\]@blackrock.com](mailto:[XXX]@blackrock.com) and [FEPMAssistantsUS@blackrock.com](mailto:FEPMAssistantsUS@blackrock.com)

with copy to:

c/o BlackRock, Inc.

Office of the General Counsel

40 East 52nd Street

New York, NY 10022

Attn: David Maryles and Reid Fitzgerald

Email: [legaltransactions@blackrock.com](mailto:legaltransactions@blackrock.com)

Cowen Healthcare Investments III LP

c/o CHI Advisors LLC

599 Lexington Ave., 19th Floor

New York, NY 10022

Email: [CHIInvTeam@cowen.com](mailto:CHIInvTeam@cowen.com); [Legal@cowen.com](mailto:Legal@cowen.com)

CHI EF III LP

c/o CHI Advisors LLC

599 Lexington Ave., 19th Floor

New York, NY 10022

Email: [CHIInvTeam@cowen.com](mailto:CHIInvTeam@cowen.com); [Legal@cowen.com](mailto:Legal@cowen.com)

Octagon Investments Master Fund LP

654 Madison Avenue, 16th Floor,

New York, NY 10065

Email: [\[XXX\]@octagoninvest.com](mailto:[XXX]@octagoninvest.com)

Octagon Private Opportunities Fund LP

654 Madison Avenue, 16th Floor,

New York, NY 10065

Email: [\[XXX\]@octagoninvest.com](mailto:[XXX]@octagoninvest.com)

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Sphera Biotech Master Fund, LP  
21 Ha'arbaa Street  
Tel Aviv, Israel  
Email: [\[XXX\]@spherafund.com](mailto:[XXX]@spherafund.com)

Sphera Global Healthcare Master Fund  
21 Ha'arbaa Street  
Tel Aviv, Israel  
Email: [\[XXX\]@spherafund.com](mailto:[XXX]@spherafund.com)

Monashee Solitario Fund LP  
c/o Monashee Investment Management LLC  
75 Park Plaza, 2nd Floor  
Boston, MA 02116  
Email: [\[XXX\]@Monasheecap.com](mailto:[XXX]@Monasheecap.com)

DS Liquid Div RVA MON LLC  
c/o Monashee Investment Management LLC  
75 Park Plaza, 2nd Floor  
Boston, MA 02116  
Email: [\[XXX\]@Monasheecap.com](mailto:[XXX]@Monasheecap.com)

IIP OSC XXVIII, A Series of Irving Investors Privates OSC, LLC  
205 Detroit Street, Suite 400  
Denver, CO 80206  
Email: [\[XXX\]@irvinginvestors.com](mailto:[XXX]@irvinginvestors.com)

Logos Opportunities Fund II, L.P.  
c/o Logos Capital  
1 Letterman Drive, Suite D3-700  
San Francisco, CA 94129  
Attention: Virginia Yee  
Email: [\[XXX\]@logoscaptial.com](mailto:[XXX]@logoscaptial.com)

Invus Public Equities, L.P.  
c/o The Invus Group, LLC  
750 Lexington Avenue  
New York, NY 10022  
Attention: Raymond Debbane  
Email: [\[XXX\]@invus.com](mailto:[XXX]@invus.com); [\[XXX\]@invus.com](mailto:[XXX]@invus.com); [\[XXX\]@invus.com](mailto:[XXX]@invus.com); [\[XXX\]@invus.com](mailto:[XXX]@invus.com)

---

LifeSci Venture Master SPV, LLC  
c/o Paul Yook  
LifeSci Venture Management, LLC  
250 West 55th Street, 34th Floor  
New York, NY 10019  
Email: [XXX]@lifesciventure.com

LifeSci Venture Partners II, LP  
c/o Paul Yook  
LifeSci Venture Management, LLC  
250 West 55th Street, 34th Floor  
New York, NY 10019  
Email: [XXX]@lifesciventure.com

Point72 Biotech Private Investments, LLC  
c/o Point72, L.P.  
72 Cummings Point Road  
Stamford, CT 06902  
Attn: David Schaffer  
Email: [XXX]@Point72.com

MIRAE ASSET Innovative Growth Fund  
c/o Mirae Asset Venture Investment Co. Ltd.  
18F, Parnas Tower, 521, Teheran-ro, Gangnam-gu  
Seoul, Republic of Korea, 06141  
Email: [XXX]@miraeasset.com

MIRAE ASSET Capital Co., Ltd  
c/o Mirae Asset Capital Co. Ltd., Investment Division  
18F, Parnas Tower, 521, Teheran-ro, Gangnam-gu  
Seoul, Republic of Korea, 06141  
Email: [XXX]@miraeasset.com

MIRAE ASSET Celltrion New Growth Fund I  
c/o Mirae Asset Capital Co. Ltd., Investment Division  
18F, Parnas Tower, 521, Teheran-ro, Gangnam-gu  
Seoul, Republic of Korea, 06141  
Email: [XXX]@miraeasset.com

Terra Magnum Fund I, LP  
c/o Terra Magnum Ltd.  
4701 Sangamore Rd  
Ste 100N - 1018  
Bethesda, MD 20816-2558  
Attn: Sha Wang, Founding Partner  
Email: [XXX]@terramagnumcap.com

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Fidelity Select Portfolios: Biotechnology Portfolio  
Mag & Co.  
c/o Brown Brothers Harriman & Co.  
Attn: Corporate Actions /Vault  
140 Broadway  
New York, NY 10005  
Email: [BBH.Fidelity.CA.Notifications@BBH.com](mailto:BBH.Fidelity.CA.Notifications@BBH.com)

Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund  
Mag & Co.  
c/o Brown Brothers Harriman & Co.  
Attn: Corporate Actions /Vault  
140 Broadway  
New York, NY 10005  
Email: [BBH.Fidelity.CA.Notifications@BBH.com](mailto:BBH.Fidelity.CA.Notifications@BBH.com)

Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund  
BNY Mellon  
PO Box 392002  
Pittsburgh PA 15230  
Email: [fidelitycorporateevents@bnymellon.com](mailto:fidelitycorporateevents@bnymellon.com)

Fidelity Growth Company Commingled Pool  
Mag & Co.  
c/o Brown Brothers Harriman & Co.  
Attn: Corporate Actions /Vault  
140 Broadway  
New York, NY 10005  
Email: [BBH.Fidelity.CA.Notifications@BBH.com](mailto:BBH.Fidelity.CA.Notifications@BBH.com)

Fidelity Mt. Vernon Street Trust : Fidelity Growth Company K6 Fund  
BNY Mellon  
PO Box 392002  
Pittsburgh PA 15230  
Email: [fidelitycorporateevents@bnymellon.com](mailto:fidelitycorporateevents@bnymellon.com)

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR PURSUANT TO RULE 144 OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

### AMENDED AND RESTATED WARRANT TO PURCHASE STOCK

Corporation:	OMEGA THERAPEUTICS, INC.
Number of Shares:	350,000
Class of Stock:	Series A Preferred Stock
Initial Exercise Price:	\$0.50 per share
Original Issue Date:	March 9, 2018
Restatement Date:	September 30, 2019
Expiration Date:	March 9, 2028

**THIS AMENDED AND RESTATED WARRANT CERTIFIES THAT**, for good and valuable consideration, the receipt of which is hereby acknowledged, PACWEST BANCORP or its permitted assignee or transferee (“**Holder**”) is entitled to purchase up to the number of fully paid and nonassessable shares of Series A Preferred Stock (the “**Shares**”) of OMEGA THERAPEUTICS, INC., a Delaware corporation (the “**Company**”), at the initial exercise price per Share (the “**Warrant Price**”) as set forth above and as adjusted pursuant to the terms of this Amended and Restated Warrant (this “**Warrant**”), subject to the provisions and upon the terms and conditions set forth in this Warrant.

This Warrant amends and restates that certain Warrant to Purchase Stock, dated as of March 9, 2018 (the “**Prior Warrant**”), previously issued by the Company to Pacific Western Bank (the “**Prior Holder**”), which Prior Warrant was subsequently assigned and transferred by the Prior Holder to PacWest Bancorp. The Prior Warrant is hereby amended and restated in its entirety to read as set forth in this Warrant and shall no longer be of any force or effect.

## ARTICLE 1

### EXERCISE

**1.1 Method of Exercise.** Holder may exercise this Warrant by delivering this Warrant and a duly executed Notice of Exercise in substantially the form attached as Appendix 1 to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.2, Holder shall also deliver to the Company a check for the aggregate Warrant Price for the Shares being purchased.

**1.2 Conversion Right.** In lieu of exercising this Warrant as specified in Section 1.1, Holder may from time to time convert this Warrant, in whole or in part, into a number of Shares determined by dividing (a) (i) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this Warrant minus (ii) the aggregate Warrant Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Section 1.3. In connection with each such conversion, or other exercise of this Warrant pursuant to Section 1.1, Holder shall be deemed to have restated each of the representations and warranties in Section 3.5 of this Warrant as of the date thereof.

**1.3 Fair Market Value.** If the Shares are traded regularly in a public market, the fair market value of the Shares shall be the closing price of the Shares (or the closing price of the Company’s stock into which the Shares are convertible, calculated on an as-converted basis) reported for the business day immediately before Holder delivers its Notice of Exercise to the Company. If the Shares are not regularly traded in a public market, the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

**1.4 Delivery of Certificate and New Warrant.** Promptly after Holder exercises this Warrant and the Company receives payment of the aggregate Warrant Price or converts this Warrant, the Company shall deliver to



Holder certificates for the Shares acquired or, if such Shares are not certificated, the Company shall reflect Holder's ownership of such Shares by book entry in the Company's books and records and, if this Warrant has not been fully exercised or converted and has not expired, the Company shall deliver to Holder a new warrant representing the Shares not so acquired.

**1.5 Replacement of Warrants.** On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company at its expense shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

#### **1.6 Treatment of Warrant Upon Acquisition of the Company.**

**1.6.1 "Acquisition."** For the purpose of this Warrant, "Acquisition" means (a) any sale, exclusive license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company, or (b) any reorganization, consolidation, merger or sale of the voting securities of the Company (other than a merger or consolidation effective exclusively to change the Company's domicile) or any other transaction, in each case, where the holders of the Company's securities before the transaction beneficially own less than 50% of the outstanding voting securities of the surviving entity after the transaction (other than a bona fide equity financing exclusively for capital raising purposes in which the Company sells and issues equity securities to institutional investors).

**1.6.2 Exercise Upon Acquisition.** Upon the closing of any Acquisition in which the consideration to be received by the Company's stockholders consists of cash, marketable securities, or a combination of both cash and marketable securities, this Warrant shall be deemed to have been automatically converted pursuant to Section 1.2, and thereafter Holder shall participate in the Acquisition on the same terms as other holders of the same class of securities of the Company; *provided, however*, that if the fair market value of the Shares, as determined pursuant to Section 1.3, in connection with such Acquisition is less than the aggregate Warrant Price, then this Warrant shall terminate without exercise or conversion immediately prior, and subject, to the closing of such Acquisition.

**1.6.3 Assumption of Warrant.** Upon the closing of any Acquisition not referred to in Section 1.6.2, the successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid at the closing of such Acquisition for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant; *provided, however*, that if the fair market value of the Shares, as determined pursuant to Section 1.3, in connection with such Acquisition is less than the aggregate Warrant Price, then this Warrant shall terminate without exercise or conversion immediately prior, and subject, to the closing of such Acquisition.

## **ARTICLE 2**

### **ADJUSTMENTS TO THE SHARES**

**2.1 Stock Dividends, Splits, Etc.** If the Company declares or pays a dividend on its common stock payable in common stock, or other securities, or subdivides the outstanding common stock into a greater amount of common stock, then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend or subdivision occurred.

**2.2 Reclassification, Exchange or Substitution.** Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant, or any consolidation or merger of the Company with or into another entity, or any transfer of all or substantially all of the assets of the Company, as part of any such reclassification, exchange, substitution or other event, or any such consolidation, merger or sale, lawful provision shall be made so that the Holder thereafter shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification,

exchange, substitution, or other event, or such consolidation, merger or sale. Such an event shall include, without limitation, any automatic conversion of the outstanding or issuable securities of the Company of the same class or series as the Shares to common stock pursuant to the terms of the Company's Amended and Restated Certificate of Incorporation, as amended and/or restated from time to time (the "**Certificate of Incorporation**"), upon the closing of a registered public offering of the Company's common stock. The Company or its successor shall promptly issue to Holder a new warrant, in replacement hereof, for such new securities or other property. The new warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 2 including, without limitation, adjustments to the Warrant Price and to the number of securities or property issuable upon exercise of the new warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, substitutions, or other events, or consolidations, mergers or sales.

**2.3 Adjustments for Combinations, Etc.** If the outstanding Shares are combined or consolidated, by reclassification, reverse split or otherwise, into a lesser number of Shares, the Warrant Price shall be proportionately increased and the number of Shares issuable under this Warrant shall be proportionately decreased. If the outstanding Shares are subdivided, split or multiplied, by reclassification, a stock dividend resulting in the issuance of additional Shares or otherwise, into a greater number of Shares, the Warrant Price shall be proportionately decreased and the number of Shares issuable under this Warrant shall be proportionately increased.

**2.4 Certificate as to Adjustments.** Upon each adjustment of the Warrant Price, the Company at its expense shall promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

**2.5 Fractional Shares.** No fractional Shares shall be issuable upon exercise or conversion of this Warrant and the Number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of this Warrant, the Company shall eliminate such fractional share interest by paying Holder, at Holder's request, an amount computed by multiplying the fractional interest by the fair market value of a full Share, as determined by the Company's Board of Directors.

### ARTICLE 3

#### REPRESENTATIONS AND COVENANTS OF THE COMPANY AND HOLDER

**3.1 Representations and Warranties of the Company.** The Company hereby represents and warrants to the Holder as follows as of the Restatement Date:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the lowest price per share at which the Company has sold any share of Series A Preferred Stock as of the Restatement Date.

(b) All Shares which may be issued upon the exercise of the purchase right represented by this Warrant, and all securities, if any, issuable upon conversion of the Shares, in accordance with the Certificate of Incorporation, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(c) The Company's capitalization table delivered to Holder is true and complete as of the Restatement Date.

**3.2 Notice of Certain Events.** The Company shall provide Holder with not less than 5 days prior written notice of, including a description of the material facts surrounding, any of the following events: (a) declaration of any dividend or distribution upon its common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend; (b) offering for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights (other than pursuant to contractual preemptive or

other participation rights held by certain of the Company's stockholders); (c) effecting any reclassification or recapitalization of common stock; or (d) the merger or consolidation with or into any other corporation, or sale, lease, license, or conveyance of all or substantially all of its assets, or liquidation, dissolution or winding up.

**3.3 Information Rights.** Prior to the initial public offering of the Company's common stock, and for so long as the Holder holds this Warrant and/or any of the Shares, the Company shall deliver to the Holder (a) within one hundred eighty (180) days after the end of each fiscal year of the Company, the annual audited financial statements of the Company certified by independent public accountants of recognized standing, *provided* that if any audit requirement pursuant to the IRA (as defined below) is waived pursuant to the terms of the IRA, the Company shall provide annual Company prepared financial statements as and when delivered to stockholders party to the IRA, and (b) if required to provide to any or all stockholders of the Company under that certain Investors' Rights Agreement among the Company and the other parties thereto dated as of August 4, 2017, as may be amended from time to time (the "**IRA**"), with respect to the first three quarters of each fiscal year, the Company's quarterly, unaudited financial statements, in each case, at the same time as the Company delivers the same to the stockholders of the Company; provided, however, the Company shall not be required to provide the foregoing so long as the Loan and Security Agreement dated March 9, 2018 between the Company and Pacific Western Bank (as amended, restated, supplemented or otherwise modified from time to time) is in effect and the Company may cease providing the information set forth in this Section 3.3 during any period that it ceases providing similar information to its Major Investors (as defined in the IRA) pursuant to the terms of the IRA. The information rights set forth in this Section 3.3 shall terminate and be of no further force and effect upon the earliest of (a) the closing of the Company's initial public offering of its common stock pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**Securities Act**"), (b) the consummation of a Deemed Liquidation Event (as defined in the Certificate of Incorporation) or (c) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Securities Exchange Act of 1934, as amended.

**3.4 Registration Under Securities Act of 1933, as amended.** The Company agrees that, upon exercise or conversion of this Warrant, the shares of common stock issuable upon conversion of the Shares shall be deemed "Registrable Securities" and, solely for purposes of Sections 2 and 6 of the IRA, Holder shall be a "Holder", each as defined in the IRA, and hereby agrees to be bound by the IRA.

**3.5 Holder Investment Representations.** Holder makes the representations to the Company set forth in Exhibit A hereof in connection with the issuance of this Warrant and the Shares (collectively, the "**Securities**").

**3.6 Market Stand-off.** Holder agrees that it shall be subject to the Market Stand-off provisions in Section 2.11 of the IRA or similar lock up provisions in the IRA.

**3.7 Company Agreements.** If upon exercise or conversion of this Warrant (other than in connection with an Acquisition or an initial public offering of the Company's common stock) Holder continues to hold the Shares, upon the request of the Company, Holder shall execute a counterpart signature page to the investor and stockholder agreements governing the rights and obligations with respect to the Company's Series A Preferred Stock.

## ARTICLE 4

### MISCELLANEOUS

**4.1 Integration.** This Warrant amends and restates, in its entirety, the Prior Warrant and constitutes the entire understanding between the Company and the Holder with respect to this Warrant, the Prior Warrant and the Shares.

**4.2 Term: Exercise Upon Expiration.** This Warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiration Date set forth above. If this Warrant has not been exercised prior to the Expiration Date, this Warrant shall be deemed to have been automatically exercised on the Expiration Date by "cashless" conversion pursuant to Section 1.2.

**4.3 Legends.** This Warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted or notated with a legend in substantially the following form:

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY APPLICABLE STATE SECURITIES LAWS, AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR PURSUANT TO RULE 144 OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

**4.4 Compliance with Securities Laws on Transfer.** This Warrant and the Shares issuable upon exercise or conversion of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee and compliance with the terms of this Warrant and Section 2 of the IRA. The Company shall not require Holder to provide an opinion of counsel if the transfer is to any affiliate of Holder or if there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144(d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder's notice of proposed sale.

**4.5 Transfer Procedure.** Subject to the provisions of Section 4.3, Holder may transfer all or part of this Warrant or the Shares issuable upon exercise or conversion of this Warrant (or the securities issuable, directly or indirectly, upon conversion of the Shares, if any) by giving the Company notice of the portion of this Warrant being transferred setting forth the name, address and taxpayer identification number of the transferee and surrendering this Warrant to the Company for reissuance to the transferee(s) (and Holder, if applicable). No surrender or reissuance shall be required for the transfer to an affiliate of Holder. The terms and conditions of this Warrant shall inure to the benefit of, and be binding upon, the Company and Holders hereof and their respective permitted successors and assigns. As of the Restatement Date, neither the Holder nor anyone else has made or executed any assignment, power of attorney, or other assignments or authorization respecting the same that is now outstanding and still in force as to this Warrant, and no person, firm, corporation or other entity has, or had asserted, any right, title, claim, equity, or interest in, to, or respecting such Warrant; and the Holder has not at any time executed any agreement or other document pursuant to which the Holder purported to transfer any right, title, claim, equity or interest in such Warrant, and the Holder is not bound by any agreement to do any of the foregoing.

**4.6 Notices.** All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may be, in writing by the Company or such Holder from time to time.

All notices to the Holder shall be addressed as follows:

PacWest Bancorp  
Attn: Warrant Administrator  
406 Blackwell Street, Suite 240  
Durham, NC 27701

All notices to the Company shall be addressed as follows:

Omega Therapeutics, Inc.  
Attn: President  
c/o Flagship Pioneering  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
Email: legalnotices@flagshippioneering.com

**4.7 Amendments.** This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such amendment change, waiver, discharge or termination is sought.

**4.8 Attorneys' Fees.** In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

**4.9 Governing Law.** This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law that would result in the application of the laws of any other jurisdiction.

**4.10 WAIVER OF JURY TRIAL.** HOLDER AND THE COMPANY ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT ONE THAT MAY BE WAIVED. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, HOLDER AND THE COMPANY WAIVE ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT.

**4.11 Counterparts.** This Warrant may be executed in counterparts, all of which taken together shall constitute one and the same instrument.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Warrant to Purchase Stock as of the date set forth above.

**OMEGA THERAPEUTICS, INC.**

By: /s/ Mahesh Karande

Name: Mahesh Karande

Title: President & CEO

Acknowledged and agreed:

**PACWEST BANCORP**

By: /s/ Jeff Krumpoch

Name: Jeff Krumpoch

Title: SVP/ Corporate Controller

*[Signature Page to Amended and Restated Warrant to Purchase Stock]*

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned hereby elects to purchase \_\_\_\_\_ shares of the \_\_\_\_\_ stock of **OMEGA THERAPEUTICS, INC.** pursuant to the terms of the attached warrant, and tenders herewith payment of the purchase price of such shares in full.

1. The undersigned hereby elects to convert the attached warrant into shares in the manner specified in the warrant. This conversion is exercised with respect to \_\_\_\_\_ of the shares covered by the warrant.

**[Strike paragraph that does not apply.]**

2. Please issue a certificate or certificates representing said shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_  
(Holder's Name)

\_\_\_\_\_  
(Address)

3. The undersigned represents it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws. In support thereof, the undersigned hereby represents and warrants to the Company that the representations and warranties set forth in Exhibit A of the warrant are true and correct as of the date of exercise as to the undersigned.

4. The undersigned acknowledges that it has reviewed the market stand-off provisions set forth in Section 2.11 of the IRA or similar lock up provisions in the IRA and agrees to be bound by such provisions.

**PACWEST BANCORP** or Registered Assignee

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

EXHIBIT A

INVESTMENT REPRESENTATIONS

- a) Holder is aware of the Company's business affairs and financial condition, and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Holder is purchasing the Securities for its own account for investment purposes only, not as a nominee or agent, and not with a view towards, or for resale in connection with, any "distribution" thereof for purposes of the Securities Act of 1933, as amended (the "**Securities Act**"). Holder has such knowledge and experience in financial business matters and Holder is capable of evaluating the merits and risks of the purchase of the Securities and of protecting its interests in connection therewith.
- b) Holder understands that the Securities have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Holder's investment intent as expressed herein.
- c) Holder further understands that the Securities must be held indefinitely, and Holder must therefore bear the economic risk therewith, unless the Securities are subsequently registered under the Securities Act or unless an exemption from registration is otherwise available. In addition, Holder understands that the certificate evidencing the Securities will be imprinted with a legend which prohibits the transfer of the Securities unless they are registered or such registration is not required.
- d) Holder is familiar with the provisions of Rule 144, promulgated pursuant to the Securities Act, which, in substance, permits limited public resale of "restricted securities" acquired, directly or indirectly, from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions.
- e) The Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which requires, among other things, the existence of a public market for the Securities, the availability of certain current public information about the Company, the resale occurring not less than one year after a party has purchased and paid for the security to be sold, the sales being effected through a "broker's transaction" or in transactions directly with a "market maker" and the number of securities being sold during any three-month period not exceeding specified limitations.
- f) Holder further understands that in the event that all of the applicable requirements of Rule 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required.
- g) Holder is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.



**OMEGA THERAPEUTICS, INC.  
2017 EQUITY INCENTIVE PLAN**

**ARTICLE I.  
PURPOSE.**

The purpose of the Plan is to advance the interests of the Company's stockholders by enhancing the Company's ability to attract, retain and motivate persons who make (or are expected to make) important contributions to the Company by providing such persons with equity ownership opportunities and thereby better aligning the interests of such persons with those of the Company's stockholders. Capitalized terms used in the Plan are defined in Article XI below.

**ARTICLE II.  
ELIGIBILITY.**

Service Providers are eligible to be granted Awards under the Plan, subject to the limitations described herein.

**ARTICLE III.  
ADMINISTRATION AND DELEGATION.**

3.1 Administration. The Plan will be administered by the Administrator. The Administrator shall have authority to determine which Service Providers will receive Awards, to grant Awards and to set all terms and conditions of Awards (including, but not limited to, vesting, exercise and forfeiture provisions). In addition, the Administrator shall have the authority to take all actions and make all determinations contemplated by the Plan and to adopt, amend and repeal such administrative rules, guidelines and practices relating to the Plan as it shall deem advisable. The Administrator may correct any defect or ambiguity, supply any omission or reconcile any inconsistency in the Plan or any Award in the manner and to the extent it shall deem necessary or appropriate to carry the Plan and any Awards into effect, as determined by the Administrator. The Administrator shall make all determinations under the Plan in the Administrator's sole discretion and all such determinations shall be final and binding on all persons having or claiming any interest in the Plan or in any Award.

3.2 Appointment of Committees. To the extent permitted by Applicable Laws, the Board may delegate any or all of its powers under the Plan to one or more Committees. The Board may abolish any Committee at any time and re-vest in itself any previously delegated authority.

**ARTICLE IV.  
STOCK AVAILABLE FOR AWARDS.**

4.1 Number of Shares. Subject to adjustment under Article VIII hereof, Awards may be made under the Plan covering up to 24,200,000 shares of Common Stock. If any Award expires or lapses or is terminated, surrendered or canceled without having been fully exercised or is forfeited in whole or in part (including, without limitation, as the result of shares of Common Stock subject to such Award being repurchased by the Company at or below the original issuance price), in any case in a manner that results in any shares of Common Stock covered by such Award not being issued or being so reacquired by the Company, the unused Common Stock covered by such Award shall again be available for the grant of Awards under the Plan. Further, shares of Common Stock delivered (either by actual delivery or attestation) to the Company by a Participant to satisfy the applicable exercise or purchase price of an Award and/or to satisfy any applicable tax withholding obligation (including, without limitation, shares retained by the

Company from the Award being exercised or purchased and/or creating the tax obligation) shall be added to the number of shares of Common Stock available for the grant of Awards under the Plan. However, in the case of Incentive Stock Options, the foregoing provisions shall be subject to any limitations under the Code. Shares of Common Stock issued under the Plan may consist in whole or in part of authorized but unissued shares, shares purchased on the open market or treasury shares.

4.2 Substitute Awards. In connection with a merger or consolidation of an entity with the Company or the acquisition by the Company of property or stock of an entity, the Administrator may grant Awards in substitution for any options or other stock or stock-based awards granted prior to such merger or consolidation by such entity or an affiliate thereof. Substitute Awards may be granted on such terms as the Administrator deems appropriate in the circumstances, notwithstanding any limitations on Awards contained in the Plan. Substitute Awards shall not count against the overall share limit set forth in Section 4.1 hereof, except as may be required by reason of Section 422 of the Code.

## **ARTICLE V. STOCK OPTIONS.**

5.1 General. The Administrator may grant Options to any Service Provider, subject to the limitations on Incentive Stock Options described below. The Administrator shall determine the number of shares of Common Stock to be covered by each Option, the exercise price of each Option and the conditions and limitations applicable to the exercise of each Option, including, without limitation, conditions relating to Applicable Laws, as it considers necessary or advisable.

5.2 Incentive Stock Options. The Administrator may grant Options intended to qualify as Incentive Stock Options only to employees of the Company, any of the Company's present or future "parent corporations" or "subsidiary corporations" as defined in Sections 424(e) or (f) of the Code, respectively, and any other entities the employees of which are eligible to receive Incentive Stock Options under the Code. All Options intended to qualify as Incentive Stock Options shall be subject to and shall be construed consistently with the requirements of Section 422 of the Code. Neither the Company nor the Administrator shall have any liability to a Participant, or any other party, (i) if an Option (or any part thereof) which is intended to qualify as an Incentive Stock Option fails to qualify as an Incentive Stock Option or (ii) for any action or omission by the Administrator that causes an Option not to qualify as an Incentive Stock Option, including, without limitation, the conversion of an Incentive Stock Option to a Non-Qualified Stock Option or the grant of an Option intended as an Incentive Stock Option that fails to satisfy the requirements under the Code applicable to an Incentive Stock Option. Any Option that is intended to qualify as an Incentive Stock Option, but fails to so qualify for any reason, including, without limitation, the portion of any Option becoming exercisable in excess of the \$100,000 limitation described in Treasury Regulation Section 1.422-4, shall be treated as a Non-Qualified Stock Option for all purposes.

5.3 Exercise Price. The Administrator shall establish the exercise price of each Option and specify the exercise price in the applicable Award Agreement. The exercise price shall be not less than 100% of the Fair Market Value on the date the Option is granted. In the case of an Incentive Stock Option granted to an employee who, at the time of grant of the Option, owns (or is treated as owning under Section 424 of the Code) stock representing more than 10% of the voting power of all classes of stock of the Company (or a "parent corporation" or "subsidiary corporation" thereof within the meaning of Sections 424(e) or 424(f) of the Code, respectively), the per share exercise price shall be no less than 110% of the Fair Market Value on the date the Option is granted.

5.4 Duration of Options. Each Option shall be exercisable at such times and subject to such terms and conditions as the Administrator may specify in the applicable Award Agreement, provided that the term of any Option shall not exceed ten years. In the case of an Incentive Stock Option granted to an employee who, at the time of grant of the Option, owns (or is treated as owning under Section 424 of the Code) stock representing more than 10% of the voting power of all classes of stock of the Company (or a "parent corporation" or "subsidiary corporation" thereof within the meaning of Sections 424(e) or 424(f) of the Code, respectively), the term of the Option shall not exceed five years.

5.5 Exercise of Option; Notification of Disposition. Options may be exercised by delivery to the Company of a written notice of exercise, in a form approved by the Administrator (which may be an electronic form), signed by the person authorized to exercise the Option, together with payment in full (i) as specified in Section 5.6 hereof for the number of shares for which the Option is exercised and (ii) as specified in Section 9.5 hereof for any applicable withholding taxes. Unless otherwise determined by the Administrator, an Option may not be exercised for a fraction of a share of Common Stock. If an Option is designated as an Incentive Stock Option, the Participant shall give prompt notice to the Company of any disposition or other transfer of any shares of Common Stock acquired from the Option if such disposition or transfer is made (i) within two years from the grant date with respect to such Option or (ii) within one year after the transfer of such shares to the Participant (other than any such disposition made in connection with a Change in Control). Such notice shall specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by the Participant in such disposition or other transfer.

5.6 Payment Upon Exercise. Common Stock purchased upon the exercise of an Option granted under the Plan shall be paid for in cash, by wire transfer of immediately available funds or by check, payable to the order of the Company, or, subject to Section 10.8, any Company insider trading policy (including, without limitation, any blackout periods) and Applicable Laws, by:

(a) If the Company is a Publicly Listed Company, unless the Administrator otherwise determines, (A) delivery of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to pay the exercise price, or (B) delivery by the Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company to deliver promptly to the Company cash or a check sufficient to pay the exercise price, provided in either case, that such amount is paid to the Company at such time as may be required by the Administrator;

(b) delivery (either by actual delivery or attestation) of shares of Common Stock owned by the Participant valued at their Fair Market Value, provided (A) such method of payment is then permitted under Applicable Laws, (B) such Common Stock, if acquired directly from the Company, was owned by the Participant for such minimum period of time, if any, as may be established by the Company at any time, and (C) such Common Stock is not subject to any repurchase, forfeiture, unfulfilled vesting or other similar requirements;

(c) to the extent permitted by the Administrator, surrendering shares of Common Stock then issuable upon exercise of the Option valued at their Fair Market Value on the date of exercise;

(d) to the extent permitted by the Administrator, delivery of a promissory note of the Participant to the Company on terms determined by the Administrator;

(e) to the extent permitted by the Administrator, delivery of property of any other kind which constitutes good and valuable consideration as determined by the Administrator; or

(f) any combination of the above permitted forms of payment (including, without limitation, cash or check).

5.7 Early Exercise of Options. The Administrator may provide in the terms of an Award Agreement that the Service Provider may exercise an Option in whole or in part prior to the full vesting of the Option in exchange for unvested shares of Restricted Stock with respect to any unvested portion of the Option so exercised. Shares of Restricted Stock acquired upon the exercise of any unvested portion of an Option shall be subject to such terms and conditions as the Administrator shall determine.

## **ARTICLE VI. RESTRICTED STOCK; RESTRICTED STOCK UNITS.**

6.1 General. The Administrator may grant Restricted Stock, or the right to purchase Restricted Stock, to any Service Provider, subject to the right of the Company to repurchase all or part of such shares at their issue price or other stated or formula price from the Participant (or to require forfeiture of such shares if issued at no cost) in the event that conditions specified by the Administrator in the applicable Award Agreement are not satisfied prior to the end of the applicable restriction period or periods established by the Administrator for such Award. In addition, the Administrator may grant to Service Providers Restricted Stock Units, which may be subject to vesting and forfeiture conditions during applicable restriction period or periods, as set forth in an applicable Award Agreement.

6.2 Terms and Conditions for All Restricted Stock and Restricted Stock Unit Awards. The Administrator shall determine and set forth in the applicable Award Agreement the terms and conditions applicable to each Restricted Stock and Restricted Stock Unit Award, including, without limitation, the conditions for vesting and repurchase (or forfeiture) and the issue price, in each case, if any.

### 6.3 Additional Provisions Relating to Restricted Stock.

(a) *Dividends*. Participants holding shares of Restricted Stock will be entitled to all ordinary cash dividends paid with respect to such shares to the extent such dividends have a record date that is on or after the date on which the Participant to whom such Restricted Shares are granted becomes the record holder of such Restricted Shares, unless otherwise provided by the Administrator in the applicable Award Agreement. In addition, unless otherwise provided by the Administrator, if any dividends or distributions are paid in shares, or consist of a dividend or distribution to holders of Common Stock of property other than an ordinary cash dividend, the shares or other property will be subject to the same restrictions on transferability and forfeitability as the shares of Restricted Stock with respect to which they were paid. Each dividend payment will be made as provided in the applicable Award Agreement, but in no event later than the end of the calendar year in which the dividends are paid to stockholders of that class of stock or, if later, the 15th day of the third month following the later of (A) the date the dividends are paid to stockholders of that class of stock, and (B) the date the dividends are no longer subject to forfeiture.

(b) *Stock Certificates*. The Company may require that any stock certificates issued in respect of shares of Restricted Stock be deposited in escrow by the Participant, together with a stock power endorsed in blank, with the Company (or its designee).

### 6.4 Additional Provisions Relating to Restricted Stock Units.

(a) *Settlement*. Upon the vesting of a Restricted Stock Unit, the Participant shall be entitled to receive from the Company one share of Common Stock or an amount of cash or other property equal to the Fair Market Value of one share of Common Stock on the settlement date, as the Administrator shall determine and as provided in the applicable Award Agreement. The Administrator may provide that settlement of Restricted Stock Units shall occur upon or as soon as reasonably practicable after the vesting of the Restricted Stock Units or shall instead be deferred, on a mandatory basis or at the election of the Participant, in a manner that complies with Section 409A.

(b) *Voting Rights*. A Participant shall have no voting rights with respect to any Restricted Stock Units unless and until shares are delivered in settlement thereof.

(c) *Dividend Equivalents*. To the extent provided by the Administrator, a grant of Restricted Stock Units may provide a Participant with the right to receive Dividend Equivalents. Dividend Equivalents may be paid currently or credited to an account for the Participant, may be settled in cash and/or shares of Common Stock and may be subject to the same restrictions on transfer and forfeitability as the Restricted Stock Units with respect to which the Dividend Equivalents are paid, as determined by the Administrator, subject, in each case, to such terms and conditions as the Administrator shall establish and set forth in the applicable Award Agreement.

#### **ARTICLE VII. OTHER STOCK-BASED AWARDS.**

Other Stock-Based Awards may be granted hereunder to Participants, including, without limitation, Awards entitling Participants to receive shares of Common Stock to be delivered in the future. Such Other Stock-Based Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan, as stand-alone payments and/or as payment in lieu of compensation to which a Participant is otherwise entitled. Other Stock-Based Awards may be paid in shares of Common Stock, cash or other property, as the Administrator shall determine. Subject to the provisions of the Plan, the Administrator shall determine the terms and conditions of each Other Stock-Based Award, including, without limitation, any purchase price, transfer restrictions, vesting conditions and other terms and conditions applicable thereto, which shall be set forth in the applicable Award Agreement.

#### **ARTICLE VIII. ADJUSTMENTS FOR CHANGES IN COMMON STOCK AND CERTAIN OTHER EVENTS.**

8.1 Certain Transactions or Events. In the event that the Administrator determines that any dividend or other distribution (whether in the form of cash, Common Stock, other securities, or other property), reorganization, merger, consolidation, combination, repurchase, recapitalization, liquidation, dissolution, or sale, transfer, exchange or other disposition of assets of the Company, or sale or exchange of Common Stock or other securities of the Company, issuance of warrants or other rights to purchase Common Stock or other securities of the Company, or other similar corporate transaction or event, as determined by the Administrator, affects the Common Stock such that an adjustment is determined by the Administrator to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended by the Company to be made available under the Plan or with respect to any Award, then the Administrator may, in such manner as it may deem equitable, adjust any or all of:

(a) the number and kind of shares of Common Stock (or other securities or property) with respect to which Awards may be granted or awarded (including, but not limited to, adjustments of the limitations in Section 4.1 hereof on the maximum number and kind of shares which may be issued);

(b) the number and kind of shares of Common Stock (or other securities or property) subject to outstanding Awards;

(c) the grant or exercise price with respect to any Award; and

(d) the terms and conditions of any Awards (including, without limitation, any applicable financial or other performance “targets” specified in an Award Agreement).

8.2 Additional Transactions or Events. In the event of any transaction or event described in Section 8.1 hereof (including, without limitation any change in control) or any unusual or nonrecurring transaction or event affecting the Company or the financial statements or financial condition of the Company, or any change in any Applicable Laws or accounting principles, the Administrator, on such terms and conditions as it deems appropriate, either by the terms of the Award or by action taken and either automatically or upon the Participant's request, is hereby authorized to take any one or more of the following actions whenever the Administrator determines that such action is appropriate in order to (x) prevent dilution or enlargement of the benefits or potential benefits intended by the Company to be made available under the Plan or with respect to any Award granted or issued under the Plan, (y) to facilitate such transaction or event or (z) give effect to such changes in Applicable Laws or accounting principles:

(a) To provide for the cancellation of any such Award in exchange for either an amount of cash or other property with a value equal to the amount that could have been obtained upon the exercise or settlement of the vested portion of such Award or realization of the Participant's rights under the vested portion of such Award, as applicable; provided that, if the amount that could have been obtained upon the exercise or settlement of the vested portion of such Award or realization of the Participant's rights, in any case, is equal to or less than zero, then the vested portion of such Award may be terminated without payment;

(b) To provide that such Award shall vest and, to the extent applicable, be exercisable as to all shares covered thereby, notwithstanding anything to the contrary in the Plan or the provisions of such Award;

(c) To provide that such Award be assumed by the successor or survivor corporation, or a parent or subsidiary thereof, or shall be substituted for by awards covering the stock of the successor or survivor corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and applicable exercise or purchase price, in all cases, as determined by the Administrator;

(d) To make adjustments in the number and type of shares of Common Stock (or other securities or property) subject to outstanding Awards, and/or in the terms and conditions of (including, without limitation, the grant or exercise price), and the criteria included in, outstanding Awards;

(e) To replace such Award with other rights or property selected by the Administrator; and/or

(f) To provide that the Award will terminate and cannot vest, be exercised or become payable after the applicable event.

8.3 Equity Restructurings. In connection with the occurrence of any Equity Restructuring, and notwithstanding anything to the contrary in this Article VIII, the Administrator will equitably adjust each outstanding Award, which adjustments may include adjustments to the number and type of securities subject to each outstanding Award and/or the exercise price or grant price thereof, if applicable, the grant of new Awards to Participants, and/or the making of a cash payment to Participants, as the Administrator deems appropriate to reflect such Equity Restructuring. The adjustments provided under this Section shall be nondiscretionary and shall be final and binding on the affected Participant and the Company; provided that whether an adjustment is equitable shall be determined by the Administrator.

8.4 Administrative Stand Still. In the event of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the shares of Common Stock or the share price of the Common Stock, including, without limitation, any Equity Restructuring, for reasons of administrative convenience the Administrator may refuse to permit the exercise of any Award during a period of up to thirty days prior to the consummation of any such transaction.

8.5 Miscellaneous. Except as expressly provided in the Plan or pursuant to action of the Administrator under the Plan, no Participant shall have any rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any dividend, any increase or decrease in the number of shares of stock of any class or any dissolution, liquidation, merger, or consolidation of the Company or any other corporation. Except as expressly provided in the Plan or pursuant to action of the Administrator under the Plan, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Common Stock subject to an Award or the grant or exercise price of any Award. The existence of the Plan, any Award Agreements and the Awards granted hereunder shall not affect or restrict in any way the right or power of the Company to make or authorize (i) any adjustment, recapitalization, reorganization or other change in the Company's capital structure or its business, (ii) any merger, consolidation dissolution or liquidation of the Company or sale of Company assets or (iii) any sale or issuance of securities, including, without limitation, securities with rights superior to those of the Common Stock or which are convertible into or exchangeable for Common Stock. The Administrator may treat Participants and Awards (or portions thereof) differently under this Article VIII.

**ARTICLE IX.**  
**GENERAL PROVISIONS APPLICABLE TO AWARDS.**

9.1 Transferability. Except as the Administrator may otherwise determine or provide in an Award Agreement or otherwise, in any case in accordance with Applicable Laws, neither Awards nor any interest therein shall not be sold, assigned, transferred, pledged or otherwise encumbered by the person to whom they are granted, either voluntarily or by operation of law, except by will or the laws of descent and distribution, and, during the life of the Participant, shall be exercisable only by the Participant. References to a Participant, to the extent relevant in the context, shall include references to authorized transferees.

9.2 Documentation. Each Award shall be evidenced in an Award Agreement, which may be in such form (written, electronic or otherwise) as the Administrator shall determine. Each Award may contain terms and conditions in addition to those set forth in the Plan.

9.3 Discretion. Except as otherwise provided by the Plan, each Award may be made alone or in addition or in relation to any other Award. The terms of each Award to a Participant need not be identical, and the Administrator need not treat Participants or Awards (or portions thereof) uniformly.

9.4 Termination of Status. The Administrator shall determine the effect on an Award of the disability, death, retirement, authorized leave of absence or any other change or purported change in a Participant's Service Provider status and the extent to which, and the period during which, the Participant, the Participant's legal representative, conservator, guardian or Designated Beneficiary may exercise rights under the Award, if applicable.

9.5 Withholding. Each Participant shall pay to the Company, or make provision satisfactory to the Administrator for payment of, any taxes required by law to be withheld in connection with Awards to such Participant no later than the date of the event creating the tax liability. Except as the Administrator may otherwise determine, all such payments shall be made in cash, by wire transfer of immediately available funds or by certified check. Notwithstanding the foregoing, Participants may satisfy such tax obligations, subject to Section 10.8, any Company insider trading policy (including blackout periods) and Applicable Laws, (i) to the extent permitted by the Administrator, in whole or in part by delivery of Shares, including Shares retained from the Award creating the tax obligation, valued at their Fair Market Value,

and (ii) if there is a public market for Shares at the time the tax obligations are satisfied, unless the Administrator otherwise determines, (A) delivery (including, without limitation, telephonically to the extent permitted by the Company) of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to satisfy the tax obligations, or (B) delivery by the Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company to deliver promptly to the Company cash or a check sufficient to satisfy the tax withholding; provided that such amount is paid to the Company at such time as may be required by the Administrator. The Company may, to the extent permitted by Applicable Laws, deduct any such tax obligations based on minimum statutory withholding rates from any payment of any kind otherwise due to a Participant.

9.6 Amendment of Award. The Administrator may amend, modify or terminate any outstanding Award, including but not limited to, substituting therefor another Award of the same or a different type, changing the date of exercise or settlement, and converting an Incentive Stock Option to a Non-Qualified Stock Option. The Participant's consent to such action shall be required unless (i) the Administrator determines that the action, taking into account any related action, would not materially and adversely affect the Participant, or (ii) the change is permitted under Article VIII and Section 10.6 hereof.

9.7 Conditions on Delivery of Stock. The Company will not be obligated to deliver any shares of Common Stock pursuant to the Plan or to remove restrictions from shares previously delivered under the Plan until (i) all conditions of the Award have been met or removed to the satisfaction of the Company, (ii) in the opinion of the Company's counsel, all other legal matters in connection with the issuance and delivery of such shares have been satisfied, including, without limitation, any applicable securities laws and any applicable stock exchange or stock market rules and regulations, and (iii) the Participant has executed and delivered to the Company such representations or agreements as the Administrator deems necessary or appropriate to satisfy the requirements of any Applicable Laws. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is determined by the Administrator to be necessary to the lawful issuance and sale of any securities hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained.

9.8 Acceleration. The Administrator may at any time provide that any Award shall become vested and/or exercisable in full or in part, free of some or all restrictions or conditions, or otherwise realizable in full or in part, as the case may be.

#### **ARTICLE X. MISCELLANEOUS.**

10.1 No Right To Employment or Other Status. No person shall have any claim or right to be granted an Award, and the grant of an Award shall not be construed as giving a Participant the right to continued employment or any other relationship with the Company. The Company expressly reserves the right at any time to dismiss or otherwise terminate its relationship with a Participant free from any liability or claim under the Plan or any Award, except as expressly provided in an applicable Award Agreement.

10.2 No Rights As Stockholder; Certificates. Subject to the provisions of the applicable Award Agreement, no Participant or Designated Beneficiary shall have any rights as a stockholder with respect to any shares of Common Stock to be distributed with respect to an Award until becoming the record holder of such shares. Notwithstanding any other provision of the Plan, unless otherwise determined by the Administrator or required by any Applicable Laws, the Company shall not be required to deliver to any Participant certificates evidencing shares of Common Stock issued in connection with any Award and instead such shares of Common Stock may be recorded in the books of the Company (or, as applicable, its transfer agent or stock plan administrator). The Company may place legends on stock certificates issued under the Plan deemed necessary or appropriate by the Administrator in order to comply with Applicable Laws.



10.3 Effective Date and Term of Plan. The Plan shall become effective on the date on which it is adopted by the Board. No Awards shall be granted under the Plan after the completion of ten years from the earlier of (i) the date on which the Plan was adopted by the Board or (ii) the date the Plan was approved by the Company's stockholders, but Awards previously granted may extend beyond that date in accordance with the terms of the Plan.

10.4 Amendment of Plan. The Administrator may amend, suspend or terminate the Plan or any portion thereof at any time; provided that no amendment of the Plan shall materially and adversely affect (as determined by the Administrator) any Award outstanding at the time of such amendment without the consent of the affected Participant. Awards outstanding under the Plan at the time of any suspension or termination of the Plan shall continue to be governed in accordance with the terms of the Plan and the applicable Award Agreement, as in effect prior to such suspension or termination. The Board shall obtain stockholder approval of any Plan amendment to the extent necessary to comply with Applicable Laws.

10.5 Provisions for Foreign Participants. The Administrator may modify Awards granted to Participants who are foreign nationals or employed outside the United States or establish subplans or procedures under the Plan to address differences in laws, rules, regulations or customs of such foreign jurisdictions with respect to tax, securities, currency, employee benefit or other matters.

#### 10.6 Section 409A.

(a) *General*. The Company intends that all Awards be structured in compliance with, or to satisfy an exemption from, Section 409A, such that no adverse tax consequences, interest, or penalties under Section 409A apply in connection with any Awards. Notwithstanding anything herein or in any Award Agreement to the contrary, the Administrator may, without a Participant's prior consent, amend this Plan and/or Awards, adopt policies and procedures, or take any other actions (including, without limitation, amendments, policies, procedures and actions with retroactive effect) as are necessary or appropriate to preserve the intended tax treatment of Awards under the Plan, including, without limitation, any such actions intended to (A) exempt this Plan and/or any Award from the application of Section 409A, and/or (B) comply with the requirements of Section 409A, including, without limitation any such regulations, guidance, compliance programs and other interpretative authority that may be issued after the date of grant of any Award. The Company makes no representations or warranties as to the tax treatment of any Award under Section 409A or otherwise. The Company shall have no obligation under this Section 10(f) or otherwise to take any action (whether or not described herein) to avoid the imposition of taxes, penalties or interest under Section 409A with respect to any Award and shall have no liability to any Participant or any other person if any Award, compensation or other benefits under the Plan are determined to constitute non-compliant, "nonqualified deferred compensation" subject to the imposition of taxes, penalties and/or interest under Section 409A.

(b) *Separation from Service*. With respect to any Award that constitutes "nonqualified deferred compensation" under Section 409A, any payment or settlement of such Award that is to be made upon a termination of a Participant's Service Provider relationship shall, to the extent necessary to avoid the imposition of taxes under Section 409A, be made only upon the Participant's "separation from service" (within the meaning of Section 409A), whether such "separation from service" occurs upon or subsequent to the termination of the Participant's Service Provider relationship. For purposes of any such provision of this Plan or any Award Agreement relating to any such payments or benefits, references to a "termination," "termination of employment" or like terms shall mean "separation from service."

(c) *Payments to Specified Employees.* Notwithstanding any contrary provision in the Plan or any Award Agreement, any payment(s) of “nonqualified deferred compensation” that are otherwise required to be made under an Award to a “specified employee” (as defined under Section 409A and determined by the Administrator) as a result of his or her “separation from service” shall, to the extent necessary to avoid the imposition of taxes under Code Section 409A(a)(2)(B)(i), be delayed until the expiration of the six-month period immediately following such “separation from service” (or, if earlier, until the date of death of the specified employee) and shall instead be paid (in a manner set forth in the Award agreement) on the day that immediately follows the end of such six-month period or as soon as administratively practicable thereafter (without interest). Any payments of “nonqualified deferred compensation” under such Award that are, by their terms, payable more than six months following the Participant’s “separation from service” shall be paid at the time or times such payments are otherwise scheduled to be made.

10.7 Limitations on Liability. Notwithstanding any other provisions of the Plan, no individual acting as a director, officer, other employee or agent of the Company will be liable to any Participant, former Participant, spouse, beneficiary, or any other person for any claim, loss, liability, or expense incurred in connection with the Plan or any Award, nor will such individual be personally liable with respect to the Plan because of any contract or other instrument he or she executes in his or her capacity as an Administrator, director, officer, other employee or agent of the Company. The Company will indemnify and hold harmless each director, officer, other employee and agent of the Company to whom any duty or power relating to the administration or interpretation of the Plan has been or will be granted or delegated, against any cost or expense (including, without limitation, attorneys’ fees) or liability (including, without limitation, any sum paid in settlement of a claim with the Administrator’s approval) arising out of any act or omission to act concerning this Plan unless arising out of such person’s own fraud or bad faith.

10.8 Lock-Up Period. By accepting an Award, each Participant agrees that the Participant will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to an initial public offering of any of the Company’s securities and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days, or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports, and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2241 or NYSE Rule 472(f)(4)), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section shall apply only to an initial public offering of the Company’s securities and shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement for such initial public offering. The underwriters in connection with such registration are intended third-party beneficiaries of this Section and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Participant further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section or that are necessary to give further effect thereto.

## 10.9 Right of First Refusal.

(a) Before any shares of Common Stock held by a Participant or any permitted transferee (each, a “**Holder**”) may be sold, pledged, assigned, hypothecated, transferred, or otherwise disposed of (each, a “**Transfer**”), the Company or its assignee(s) shall have a right of first refusal to purchase the shares of Common Stock proposed to be Transferred on the terms and conditions set forth in this Section 10.9 (the “**Right of First Refusal**”). In the event that the Company’s charter, bylaws and/or a stockholders’ agreement applicable to the shares of Common Stock contain a right of first refusal with respect to the shares of Common Stock, such right of first refusal shall apply to the shares of Common Stock to the extent such provisions are more restrictive than the Right of First Refusal set forth in this Section 10.9 and the Right of First Refusal set forth in this Section 10.9 shall not in any way restrict the operation of the Company’s charter, bylaws or the operation of any applicable stockholders’ agreement.

(b) In the event any Holder desires to Transfer any shares of Common Stock, the Holder shall deliver to the Company a written notice (the “**Notice**”) stating: (A) the Holder’s bona fide intention to sell or otherwise Transfer such shares of Common Stock; (B) the name of each proposed purchaser or other transferee (“**Proposed Transferee**”); (C) the number of shares of Common Stock to be Transferred to each Proposed Transferee; and (D) the price for which the Holder proposes to Transfer the shares of Common Stock (the “**Offered Price**”), and the Holder shall offer such shares of Common Stock at the Offered Price to the Company or its assignee(s).

(c) Within twenty-five days after receipt of the Notice, the Company and/or its assignee(s) may elect in writing to purchase all, but not less than all, of the shares of Common Stock proposed to be Transferred to any one or more of the Proposed Transferees by delivery of a written exercise notice to the Holder (a “**Company Notice**”). The purchase price (“**Purchase Price**”) for the shares of Common Stock repurchased under this Section 10.9 shall be the Offered Price.

(d) Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check or wire transfer), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof, within five days after delivery of the Company Notice or in the manner and at the times mutually agreed to by the Company and the Holder. Should the Offered Price specified in the Notice be payable in property other than cash, the Company or its assignee shall have the right to pay the purchase price in the form of cash equal in amount to the value of such property, as determined by the Administrator.

(e) If all or a portion of the shares of Common Stock proposed in the Notice to be Transferred are not purchased by the Company and/or its assignee(s) as provided in this Section 10.9, then the Holder may sell or otherwise Transfer such shares of Common Stock to that Proposed Transferee at the Offered Price or at a higher price; provided that such sale or other Transfer is consummated within sixty days after the date of the Notice; and provided, further, that any such sale or other Transfer is effected in accordance with any Applicable Laws and the Proposed Transferee agrees in writing that the provisions of this Plan and the applicable Award Agreement and any other applicable agreements governing the shares of Common Stock to be Transferred shall continue to apply to the shares of Common Stock in the hands of such Proposed Transferee. If the shares of Common Stock described in the Notice are not Transferred to the Proposed Transferee within such sixty-day period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal, as provided herein, before any shares of Common Stock held by the Holder may be sold or otherwise Transferred.

(f) Anything to the contrary contained in this Section 10.9 notwithstanding and to the extent permitted by the Administrator, the Transfer of any or all of the shares of Common Stock during a Participant's lifetime or upon a Participant's death by will or intestacy to the Participant's Immediate Family or a trust for the benefit of the Participant's Immediate Family shall be exempt from the Right of First Refusal. As used herein, "**Immediate Family**" shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister or stepchild (whether or not adopted). In such case, the transferee or other recipient shall receive and hold the shares of Common Stock so Transferred subject to the provisions of this Plan (including, without limitation, the Right of First Refusal), the applicable Award Agreement and any other applicable agreements governing the shares of Common Stock to be Transferred, and there shall be no further Transfer of such shares of Common Stock except in accordance with the terms of this Section 10.9 (or otherwise as expressly provided under the Plan).

(g) The Right of First Refusal shall terminate as to all shares of Common Stock if the Company becomes a Publicly Listed Company upon such occurrence.

10.10 Data Privacy. As a condition of receipt of any Award, each Participant explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of personal data as described in this paragraph by and among, as applicable, the Company and its subsidiaries and affiliates for the exclusive purpose of implementing, administering and managing the Participant's participation in the Plan. The Company and its subsidiaries and affiliates may hold certain personal information about a Participant, including but not limited to, the Participant's name, home address and telephone number, date of birth, social security or insurance number or other identification number, salary, nationality, job title(s), any shares of stock held in the Company or any of its subsidiaries and affiliates, details of all Awards, in each case, for the purpose of implementing, managing and administering the Plan and Awards (the "**Data**"). The Company and its subsidiaries and affiliates may transfer the Data amongst themselves as necessary for the purpose of implementation, administration and management of a Participant's participation in the Plan, and the Company and its subsidiaries and affiliates may each further transfer the Data to any third parties assisting the Company in the implementation, administration and management of the Plan. These recipients may be located in the Participant's country, or elsewhere, and the Participant's country may have different data privacy laws and protections than the recipients' country. Through acceptance of an Award, each Participant authorizes such recipients to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing the Participant's participation in the Plan, including, without limitation, any requisite transfer of such Data as may be required to a broker or other third party with whom the Company or the Participant may elect to deposit any shares of Common Stock. The Data related to a Participant will be held only as long as is necessary to implement, administer, and manage the Participant's participation in the Plan. A Participant may, at any time, view the Data held by the Company with respect to such Participant, request additional information about the storage and processing of the Data with respect to such Participant, recommend any necessary corrections to the Data with respect to the Participant or refuse or withdraw the consents herein in writing, in any case without cost, by contacting his or her local human resources representative. The Company may cancel Participant's ability to participate in the Plan and, in the Administrator's discretion, the Participant may forfeit any outstanding Awards if the Participant refuses or withdraws his or her consents as described herein. For more information on the consequences of refusal to consent or withdrawal of consent, Participants may contact their local human resources representative.

10.11 Severability. In the event any portion of the Plan or any action taken pursuant thereto shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provisions had not been included, and the illegal or invalid action shall be null and void.

10.12 Governing Documents. In the event of any contradiction between the Plan and any Award Agreement or any other written agreement between a Participant and the Company or any Subsidiary of the Company that has been approved by the Administrator, the terms of the Plan shall govern, unless it is expressly specified in such Award Agreement or other written document that a specific provision of the Plan shall not apply.

10.13 Submission to Jurisdiction; Waiver of Jury Trial. By accepting an Award, each Participant irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of Delaware and of the United States of America, in each case located in the State of Delaware, for any action arising out of or relating to the Plan (and agrees not to commence any litigation relating thereto except in such courts), and further agrees that service of any process, summons, notice or document by U.S. registered mail to the address contained in the records of the Company shall be effective service of process for any litigation brought against it in any such court. By accepting an Award, each Participant irrevocably and unconditionally waives any objection to the laying of venue of any litigation arising out of Plan or Award hereunder in the courts of the State of Delaware or the United States of America, in each case located in the State of Delaware, and further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such litigation brought in any such court has been brought in an inconvenient forum. By accepting an Award, each Participant irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any and all rights to trial by jury in connection with any litigation arising out of or relating to the Plan or any Award hereunder.

10.14 Governing Law. The provisions of the Plan and all Awards made hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware, disregarding choice-of-law principles of the law of any state that would require the application of the laws of a jurisdiction other than such state.

10.15 Restrictions on Shares; Claw-back Provisions. Shares of Common Stock acquired in respect of Awards shall be subject to such terms and conditions as the Administrator shall determine, including, without limitation, restrictions on the transferability of shares of Common Stock, the right of the Company to repurchase shares of Common Stock, the right of the Company to require that shares of Common Stock be transferred in the event of certain transactions, tag-along rights, bring-along rights, redemption and co-sale rights and voting requirements. Such terms and conditions may be additional to those contained in the Plan and may, as determined by the Administrator, be contained in the applicable Award Agreement or in an exercise notice, stockholders' agreement or in such other agreement as the Administrator shall determine, in each case in a form determined by the Administrator. The issuance of such shares of Common Stock shall be conditioned on the Participant's consent to such terms and conditions and the Participant's entering into such agreement or agreements. All Awards (including, without limitation, any proceeds, gains or other economic benefit actually or constructively received by Participant upon any receipt or exercise of any Award or upon the receipt or resale of any shares of Common Stock underlying the Award) shall be subject to the provisions of any claw-back policy implemented by the Company, including, without limitation, any claw-back policy adopted to comply with the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act and any rules or regulations promulgated thereunder, to the extent set forth in such claw-back policy and/or in the applicable Award Agreement.

10.16 Titles and Headings. The titles and headings of the Sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

10.17 Conformity to Securities Laws. Participant acknowledges that the Plan is intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan and all Awards granted hereunder shall be administered only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by Applicable Laws, the Plan and all Award Agreements shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

**ARTICLE XI.**  
**DEFINITIONS. AS USED IN THE PLAN, THE FOLLOWING WORDS AND PHRASES SHALL**  
**HAVE THE FOLLOWING MEANINGS:**

11.1 “**Administrator**” means the Board or a Committee to the extent that the Board’s powers or authority under the Plan have been delegated to such Committee.

11.2 “**Applicable Laws**” means the requirements relating to the administration of equity incentive plans under U.S. federal and state securities, tax and other applicable laws, rules and regulations, the applicable rules of any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws and rules of any foreign country or other jurisdiction where Awards are granted or issued under the Plan.

11.3 “**Award**” means, individually or collectively, a grant under the Plan of Options, Restricted Stock, Restricted Stock Units or Other Stock-Based Awards.

11.4 “**Award Agreement**” means a written agreement evidencing an Award, which agreements may be in electronic medium and shall contain such terms and conditions with respect to an Award as the Administrator shall determine, consistent with and subject to the terms and conditions of the Plan.

11.5 “**Board**” means the Board of Directors of the Company.

11.6 “**Change in Control**” means (i) a merger or consolidation of the Company with or into any other corporation or other entity or person, (ii) a sale, lease, exchange or other transfer in one transaction or a series of related transactions of all or substantially all of the Company’s assets, or (iii) any other transaction, including, without limitation, the sale by the Company of new shares of its capital stock or a transfer of existing shares of capital stock of the Company, the result of which is that a third party that is not an affiliate of the Company or its stockholders (or a group of third parties not affiliated with the Company or its stockholders) immediately prior to such transaction acquires or holds capital stock of the Company representing a majority of the Company’s outstanding voting power immediately following such transaction; provided that the following events shall not constitute a “Change in Control”: (A) a transaction (other than a sale of all or substantially all of the Company’s assets) in which the holders of the voting securities of the Company immediately prior to the merger or consolidation hold, directly or indirectly, a majority of the voting securities in the successor corporation or its parent immediately after the merger or consolidation; (B) a sale, lease, exchange or other transaction in one transaction or a series of related transactions of all or substantially all of the Company’s assets to an affiliate of the Company; (C) an initial public offering of any of the Company’s securities or any other transaction or series of related transactions principally for bona fide equity financing purposes; (D) a reincorporation of the Company solely to change its jurisdiction; or (E) a transaction undertaken for the primary purpose of creating a holding company that will be owned in substantially the same proportion by the persons who held the Company’s securities immediately before such transaction. Notwithstanding the foregoing, if a Change in Control would give rise to a payment or settlement event with respect to any Award that constitutes “nonqualified deferred compensation,” the transaction or event constituting the Change in Control must also constitute a “change in control event” (as defined in Treasury Regulation Section 1.409A-3(i)(5)) in order to give rise to the payment or settlement event for such Award, to the extent required by Section 409A.

11.7 “**Code**” means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

11.8 “**Committee**” means one or more committees or subcommittees of the Board or the Company, which may be comprised of one or more directors and/or executive officers of the Company, in either case, to the extent permitted in accordance with Applicable Laws.

11.9 “**Common Stock**” means the common stock of the Company.

11.10 “**Company**” means Omega Therapeutics, Inc., a Delaware corporation, or any successor thereto. Except where the context otherwise requires, the term “Company” includes any of the Company’s present or future parent or subsidiary corporations as defined in Sections 424(e) or (f) of the Code and any other business venture (including, without limitation, joint venture or limited liability company) in which the Company has a significant interest, as determined by the Administrator.

11.11 “**Consultant**” means any person, including, without limitation, any advisor, engaged by the Company or a parent or subsidiary of the Company to render services to such entity if: (i) the consultant or adviser renders *bona fide* services to the Company; (ii) the services rendered by the consultant or adviser are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company’s securities; and (iii) the consultant or advisor is a natural person, or such other advisor or consultant as is approved by the Administrator.

11.12 “**Designated Beneficiary**” means the beneficiary or beneficiaries designated, in a manner determined by the Administrator, by a Participant to receive amounts due or exercise rights of the Participant in the event of the Participant’s death or incapacity. In the absence of an effective designation by a Participant, “Designated Beneficiary” shall mean the Participant’s estate.

11.13 “**Director**” means a member of the Board.

11.14 “**Disability**” means a permanent and total disability within the meaning of Section 22(e)(3) of the Code, as it may be amended from time to time.

11.15 “**Dividend Equivalents**” means a right granted to a Participant pursuant to Section 6.4(c) hereof to receive the equivalent value (in cash or shares of Common Stock) of dividends paid on shares of Common Stock.

11.16 “**Employee**” means any person, including, without limitation, officers and Directors, employed by the Company (within the meaning of Section 3401(c) of the Code) or any parent or subsidiary of the Company.

11.17 “**Equity Restructuring**” means, as determined by the Administrator, a non-reciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off or recapitalization through a large, nonrecurring cash dividend, that affects the shares of Common Stock (or other securities of the Company) or the share price of Common Stock (or other securities of the Company) and causes a change in the per share value of the Common Stock underlying outstanding Awards.

11.18 “**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

11.19 “**Fair Market Value**” means, as of any date, the value of Stock determined as follows: (i) if the Common Stock is listed on any established stock exchange, its Fair Market Value shall be the closing sales price for such Common Stock as quoted on such exchange for such date, or if no sale occurred on such date, the first market trading day immediately prior to such date during which a sale occurred, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; (ii) if the Common Stock is not traded on a stock exchange but is quoted on a national market or other quotation

system, the last sales price on such date, or if no sales occurred on such date, then on the date immediately prior to such date on which sales prices are reported, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or (iii) in the absence of an established market for the Common Stock, the Fair Market Value thereof shall be determined by the Administrator in its sole discretion.

11.20 “**Incentive Stock Option**” means an “incentive stock option” as defined in Section 422 of the Code.

11.21 “**Non-Qualified Stock Option**” means an Option that is not intended to be or otherwise does not qualify as an Incentive Stock Option.

11.22 “**Option**” means an option to purchase Common Stock.

11.23 “**Other Stock-Based Awards**” means other Awards of shares of Common Stock, and other Awards that are valued in whole or in part by reference to, or are otherwise based on, shares of Common Stock or other property.

11.24 “**Participant**” means a Service Provider who has been granted an Award under the Plan.

11.25 “**Plan**” means this 2017 Equity Incentive Plan.

11.26 “**Publicly Listed Company**” means that the Company or its successor (i) is required to file periodic reports pursuant to Section 12 of the Exchange Act and (ii) the Common Stock is listed on one or more National Securities Exchanges (within the meaning of the Exchange Act) or is quoted on NASDAQ or a successor interdealer quotation system.

11.27 “**Restricted Stock**” means Common Stock awarded to a Participant pursuant to Section 6.1 hereof that is subject to certain vesting conditions and other restrictions.

11.28 “**Restricted Stock Unit**” means an unfunded, unsecured right to receive, on the applicable settlement date, one share of Common Stock or an amount in cash or other consideration determined by the Administrator equal to the value thereof as of such payment date, which right may be subject to certain vesting conditions and other restrictions.

11.29 “**Section 409A**” means Section 409A of the Code and all regulations, guidance, compliance programs and other interpretative authority thereunder.

11.30 “**Securities Act**” means the Securities Act of 1933, as amended from time to time.

11.31 “**Service Provider**” means an Employee, Consultant or Director.

11.32 “**Termination of Service**” means the date the Participant ceases to be a Service Provider.

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**OMEGA THERAPEUTICS, INC.  
2017 EQUITY INCENTIVE PLAN**

**CALIFORNIA SUPPLEMENT**

This supplement is intended to satisfy the requirements of Section 25102(o) of the California Corporations Code and the regulations issued thereunder (“**Section 25102(o)**”). Notwithstanding anything to the contrary contained in the Plan and except as otherwise determined by the Administrator, the provisions set forth in this supplement shall apply to all Awards granted under the Plan to a Participant who is a resident of the State of California on the date of grant (a “**California Participant**”) and which are intended to be exempt from registration in California pursuant to Section 25102(o), and otherwise to the extent required to comply with applicable law (but only to such extent). Definitions in the Plan are applicable to this supplement.

1. Limitation on Securities Issuable under the Plan. The amount of securities issued pursuant to the Plan shall not exceed the amounts permitted under section 260.140.45 of the California code of regulations to the extent applicable.

2. Additional Limitations For Grants. The terms of all Awards shall comply, to the extent applicable, with Section 260.140.41 and 260.140.42 of the California code of regulations.

3. Additional Requirement to Provide Information to California Participants. The Company shall provide to each California Participant, not less frequently than annually, copies of annual financial statements (which need not be audited). The company shall not be required to provide such statements to key persons whose duties in connection with the company assure their access to equivalent information. In addition, this information requirement shall not apply to any plan or agreement that complies with all conditions of Rule 701 of the Securities Act of 1933, as amended; provided that for purposes of determining such compliance, any registered domestic partner shall be considered a “family member” as that term is defined in Rule 701.

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**OMEGA THERAPEUTICS, INC.  
2017 EQUITY INCENTIVE PLAN**

**STOCK OPTION GRANT NOTICE**

Omega Therapeutics, Inc. (the “*Company*”), pursuant to its 2017 Equity Incentive Plan, as amended from time to time (the “*Plan*”), has granted to the participant set forth below (“*Participant*”), an Option to purchase the number of shares of the Company’s Common Stock (referred to herein as “*Shares*”) set forth below. The Option is subject to all of the terms and conditions as set forth herein and in the Stock Option Agreement attached hereto as Exhibit A (the “*Stock Option Agreement*”) and the Plan, each of which is incorporated herein by reference. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Stock Option Grant Notice and the Stock Option Agreement.

**Participant:**

**Grant Date:**

**Vesting Commencement Date:**

**Exercise Price per Share:**

**Total Exercise Price:**

**Total Number of Shares Subject to Option:**

**Expiration Date:**

**Type of Option**

[Incentive Stock Option/Non-Qualified Stock Option]

**Vesting Schedule:**

By his or her signature and the Company’s signature below, Participant agrees to be bound by the terms and conditions of the Plan, the Stock Option Agreement and this Grant Notice. Participant has reviewed the Stock Option Agreement, the Plan and this Grant Notice in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of this Grant Notice, the Stock Option Agreement and the Plan. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator of the Plan upon any questions arising under the Plan or the Option.

**OMEGA THERAPEUTICS, INC.**

**PARTICIPANT**

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

\_\_\_\_\_  
[Participant Name]

## STOCK OPTION AGREEMENT

Omega Therapeutics, Inc. (the “**Company**”) has granted to Participant an Option under the Company’s 2017 Equity Incentive Plan, as amended from time to time (the “**Plan**”), to purchase the number of Shares indicated in the Stock Option Grant Notice (“**Grant Notice**”) to which this Stock Option Agreement (this “**Agreement**”) is attached.

**ARTICLE I.**  
GENERAL

1.2 Defined Terms. Capitalized terms not specifically defined herein shall have the meanings specified in the Plan and the Grant Notice.

1.3 Incorporation of Terms of Plan. The Option is subject to the terms and conditions of the Plan which are incorporated herein by reference. In the event of a conflict between the terms of the Agreement and the Plan, the terms of the Plan shall control.

1.4 Grant of Option. In consideration of Participant’s past and/or continued employment with or service to the Company or a parent or subsidiary and for other good and valuable consideration, effective as of the grant date set forth in the Grant Notice (the “**Grant Date**”), the Company irrevocably grants to Participant an Option to purchase any part or all of an aggregate of the number of Shares set forth in the Grant Notice, upon the terms and conditions set forth in the Plan and this Agreement. Unless designated as a Non-Qualified Stock Option in the Grant Notice, the Option shall be an Incentive Stock Option to the maximum extent permitted by law.

**ARTICLE II.**  
PERIOD OF EXERCISABILITY

2.1 Vesting; Commencement of Exercisability.

(a) Subject to Sections 2.1(b) and 2.3, the Option shall become vested and exercisable in such amounts and at such times as are set forth in the vesting schedule in the Grant Notice (the “**Vesting Schedule**”), except that any Share as to which the Option would be fractionally vested will be accumulated and will vest and become exercisable only when a whole Share has accumulated.

(b) Unless otherwise determined by the Administrator, any portion of the Option that has not become vested and exercisable on or prior to the date of Participant’s Termination of Service shall be forfeited on the date of Participant’s Termination of Service and shall not thereafter become vested or exercisable.

2.2 Duration of Exercisability. The installments provided for in the Vesting Schedule are cumulative. Each such installment which becomes vested and exercisable pursuant to the Vesting Schedule shall remain vested and exercisable until it becomes unexercisable under Section 2.3 or pursuant to the terms of the Plan. Once the Option becomes unexercisable, it shall be forfeited immediately.

2.3 Expiration of Option. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The Expiration Date set forth in the Grant Notice;

(b) The expiration of three months following the date of Participant's Termination of Service, unless such Termination of Service occurs by reason of Participant's death, Disability or Cause;

(c) The expiration of one year following the date of Participant's Termination of Service by reason of Participant's death or Disability; or

(d) The date of Participant's Termination of Service for Cause.

Participant acknowledges that an Incentive Stock Option exercised more than three months after Participant's termination of status as an Employee, other than by reason of death or Disability, will be taxed as a Non-Qualified Stock Option.

"Cause," means "Cause" (or any term of similar effect) as defined in Participant's employment agreement with the Company if such an agreement exists and contains a definition of Cause (or term of similar effect), or, if no such agreement exists or such agreement does not contain a definition of Cause (or term of similar effect), then Cause shall include, but not be limited to: (i) Participant's unauthorized use or disclosure of confidential information or trade secrets of the Company or any material breach of a written agreement between Participant and the Company, including without limitation a material breach of any employment, confidentiality, non-compete, non-solicit or similar agreement; (ii) Participant's commission of, indictment for or the entry of a plea of guilty or *nolo contendere* by Participant to, a felony under the laws of the United States or any state thereof or any crime involving dishonesty or moral turpitude (or any similar crime in any jurisdiction outside the United States); (iii) Participant's negligence or willful misconduct in the performance of Participant's duties or Participant's willful or repeated failure or refusal to substantially perform assigned duties; (iv) any act of fraud, embezzlement, material misappropriation or dishonesty committed by Participant against the Company; or (v) any acts, omissions or statements by Participant which the Company determines to be materially detrimental or damaging to the reputation, operations, prospects or business relations of the Company.

2.4 Special Tax Consequences. If the Option is intended to be an Incentive Stock Option, Participant acknowledges that, to the extent that the aggregate fair market value (determined as of the time the Option is granted) of all Shares with respect to which Incentive Stock Options, including, without limitation, the Option, are first exercisable for the first time by Participant in any calendar year exceeds \$100,000 (or such other limitation as imposed by Section 422(d) of the Code), the Option and such other options (or the applicable portion thereof) shall be treated as not qualifying under Section 422 of the Code but rather shall be considered Non-Qualified Stock Options. Participant further acknowledges that the rule set forth in the preceding sentence shall be applied by taking Options and other "incentive stock options" into account in the order in which they were granted.

### **ARTICLE III. EXERCISE OF OPTION**

3.1 Person Eligible to Exercise. During the lifetime of Participant, only Participant may exercise the Option or any portion thereof. After the death of Participant, any exercisable portion of the Option may, prior to the time when the Option becomes unexercisable under Section 2.3, be exercised by Participant's personal representative or by any person empowered to do so under the deceased Participant's will or under the then applicable laws of descent and distribution.

3.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable under Section 2.3.

3.3 **Manner of Exercise.** The Option, or any exercisable portion thereof, may be exercised solely by delivery to the Secretary of the Company or the Secretary's office, or such other place as may be determined by the Administrator, of all of the following prior to the time when the Option or such portion thereof becomes unexercisable under Section 2.3:

(a) An exercise notice in substantially in the form attached as Exhibit B to the Grant Notice (or such other form as is prescribed by the Administrator) (the "**Exercise Notice**") in writing signed by Participant or any other person then entitled to exercise the Option or portion thereof, stating that the Option or portion thereof is thereby exercised, such notice complying with all applicable rules established by the Administrator; and

(b) Full payment for Shares with respect to which the Option or portion thereof is exercised in accordance with Section 5.6 of the Plan; and

(c) The receipt by the Company of full payment for any applicable withholding tax in cash, by wire transfer of immediately available funds, by check or in such other form as is permitted by the Plan; and

(d) In the event the Option or portion thereof shall be exercised pursuant to Section 3.1 by any person or persons other than Participant, appropriate proof of the right of such person or persons to exercise the Option.

#### **ARTICLE IV. OTHER PROVISIONS**

##### **4.1 Restrictive Legends and Stop-Transfer Orders.**

(a) Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(b) The Company shall not be required: (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement, or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such shares shall have been so transferred.

4.2 **Notices.** Any notice to be given under the terms of this Agreement to the Company shall be addressed to the Company at its principal executive offices in care of the Secretary of the Company, and any notice to be given to Participant shall be addressed to Participant at the most recent address for Participant shown in the Company's records. By a notice given pursuant to this Section 4.2, either party may hereafter designate a different address for notices to be given to that party. Any notice which is required to be given to Participant shall, if Participant is then deceased, be given to the person entitled to exercise his or her Option by written notice under this Section 4.2. Any notice shall be deemed duly given when sent via email or when sent by certified mail (return receipt requested) and deposited (with postage prepaid) in a post office or branch post office regularly maintained by the United States Postal Service.

4.3 **Titles.** Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

4.4 Governing Law; Severability. This Agreement and the Exercise Notice shall be administered, interpreted and enforced under the laws of the State of Delaware, without regard to the conflicts of law principles thereof. Should any provision of this Agreement be determined by a court of law to be illegal or unenforceable, the other provisions shall nevertheless remain effective and shall remain enforceable.

4.5 Conformity to Securities Laws. Participant acknowledges that the Plan is intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, and state securities laws and regulations. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

4.6 Successors and Assigns. The Company may assign any of its rights under this Agreement and the Exercise Notice to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Agreement shall be binding upon Participant and his or her heirs, executors, administrators, successors and assigns.

4.7 Entire Agreement. The Plan and this Agreement (including, without limitation, all Exhibits hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof.

4.8 Lock-Up Period. Participant agrees that Participant will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to an initial public offering of any of the Company's securities and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days, or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports, and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2241 or NYSE Rule 472(f)(4)), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section shall apply only to an initial public offering of the Company's securities and shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement for such initial public offering. The underwriters in connection with such registration are intended third-party beneficiaries of this Section and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Participant further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section or that are necessary to give further effect thereto.

\* \* \* \* \*

**TO STOCK OPTION AGREEMENT**

**FORM OF EXERCISE NOTICE**

Effective as of today, \_\_\_\_\_, \_\_\_\_\_, the undersigned ("**Participant**") hereby elects to exercise Participant's option to purchase \_\_\_\_\_ Shares of Omega Therapeutics, Inc. (the "**Company**") under and pursuant to the Omega Therapeutics, Inc. 2017 Equity Incentive Plan (the "**Plan**") and the Stock Option Agreement dated \_\_\_\_\_, \_\_\_\_\_ (the "**Option Agreement**"). Capitalized terms used herein without definition shall have the meanings given in the Option Agreement.

**Grant Date:** \_\_\_\_\_

**Number of Shares as to which Option is Exercised:** \_\_\_\_\_

**Exercise Price per Share:** \$ \_\_\_\_\_

**Total Exercise Price:** \$ \_\_\_\_\_

**Certificate to be issued in name of:** \_\_\_\_\_

**Cash Payment delivered herewith:** \$ \_\_\_\_\_ (Representing the full Exercise Price for the Shares, as well as any applicable withholding tax)

**Type of Option:**                     Incentive Stock Option             Non-Qualified Stock Option

1. Representations of Participant.

(a) Participant acknowledges that Participant has received, read and understood the Plan and the Option Agreement. Participant agrees to abide by and be bound by their terms and conditions.

(b) Participant acknowledges that Participant is purchasing the Shares for Participant's own account for investment only, and not with a view to, or for sale in connection with, any distribution of the Shares in violation of the Securities Act of 1933, as amended (the "**Securities Act**"), or any rule or regulation under the Securities Act.

(c) Participant has had such opportunity as Participant has deemed adequate to obtain from representatives of the Company such information as is necessary to permit Participant to evaluate the merits and risks of Participant's investment in the Company.

(d) Participant has sufficient experience in business, financial and investment matters to be able to evaluate the risks involved in the purchase of the Shares and to make an informed investment decision with respect to such purchase.

(e) Participant can afford a complete loss of the value of the Shares and is able to bear the economic risk of holding such Shares for an indefinite period.

(f) Participant understands that (i) the Shares have not been registered under the Securities Act and are "restricted securities" within the meaning of Rule 144 under the Securities Act, (ii) the Shares cannot be sold, transferred or otherwise disposed of unless they are subsequently registered under the Securities Act or an exemption from registration is then available; (iii) in any event, the exemption from registration under Rule 144 will not be available for at least one year and even then will not be available unless a public market then exists for the Common Stock, adequate information concerning the Company is then available to the public, and other terms and conditions of Rule 144 are complied with; and (iv) there is now no registration statement on file with the Securities and Exchange Commission with respect to any stock of the Company and the Company has no obligation or current intention to register the Shares under the Securities Act.

2. Tax Consultation. Participant understands that Participant may suffer adverse tax consequences as a result of Participant's purchase or disposition of the Shares. Participant represents that Participant has consulted with any tax consultants Participant deems advisable in connection with the purchase or disposition of the Shares and that Participant is not relying on the Company for any tax advice. Participant is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. Participant understands that Participant (and not the Company) shall be responsible for Participant's tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement.

3. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Participant understands and agrees that the Company shall cause any certificates issued evidencing the Shares to have the legends set forth below or legends substantially equivalent thereto, together with any other legends that may be required by state or federal securities laws:

THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED ("ACT"), NOR HAVE THEY BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE. NO TRANSFER OF SUCH SECURITIES WILL BE PERMITTED UNLESS A REGISTRATION STATEMENT UNDER THE ACT IS IN EFFECT AS TO SUCH TRANSFER, THE TRANSFER IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR IN THE OPINION OF COUNSEL (WHICH MAY BE COUNSEL FOR THE COMPANY) REGISTRATION UNDER THE ACT IS UNNECESSARY IN ORDER FOR SUCH TRANSFER TO COMPLY WITH THE ACT AND WITH APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY. SUCH TRANSFER RESTRICTIONS ARE BINDING ON TRANSFEREES OF THESE SHARES.

(b) Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.



4. Notices. Any notice required or permitted hereunder shall be given in accordance with the provisions set forth in Section 4.2 of the Option Agreement.

5. Further Instruments. Participant hereby agrees to execute such further instruments and to take such further action as the Company requests to carry out the purposes and intent of this Agreement and the Plan, including, without limitation, restrictions on the transferability of shares of Common Stock, the right of the Company to repurchase shares of Common Stock, the right of the Company to require that shares of Common Stock be transferred in the event of certain transactions, tag-along rights, bring-along rights, redemption and co-sale rights and voting requirements in accordance with Section 10.15 of the Plan.

6. Entire Agreement. The Plan and Option Agreement are incorporated herein by reference. This Agreement, the Plan and the Option Agreement constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof.

**ACCEPTED BY:**  
**OMEGA THERAPEUTICS, INC.**

**SUBMITTED BY:**  
**PARTICIPANT**

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

\_\_\_\_\_  
[Participant Name]

**OMEGA THERAPEUTICS, INC.  
2017 EQUITY INCENTIVE PLAN**

**RESTRICTED STOCK GRANT NOTICE**

The participant set forth below ("**Participant**") has been granted Restricted Stock, subject to the terms and conditions of the Omega Therapeutics, Inc. 2017 Equity Incentive Plan, as amended from time to time (the "**Plan**"), and this Restricted Stock Agreement, which includes the terms in this Grant Notice (the "**Grant Notice**") and Exhibit A attached hereto (collectively, this "**Agreement**"). Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Agreement.

**Participant:**

**Grant Date:**

**Vesting Commencement  
Date:**

**Total Number of Shares of  
Restricted Stock:**

**Type of Restricted Stock:**      Common Stock

**Vesting Schedule:**

Both the Company and Participant acknowledge and agree that this Agreement and the Plan constitute the entire agreement between the Company and Participant regarding the terms and conditions of the Restricted Stock awarded hereunder, and that the foregoing supersede all prior communications, agreements, and understandings, written or oral, with respect to the terms and conditions of such Restricted Stock. **ACCORDINGLY, PLEASE BE SURE TO READ ALL OF THIS AGREEMENT (INCLUDING THE GRANT NOTICE AND APPENDIX A) AND THE PLAN.**

**OMEGA THERAPEUTICS, INC.:**

**PARTICIPANT**

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

\_\_\_\_\_

Name: \_\_\_\_\_

[Participant Name]

Title: \_\_\_\_\_

## RESTRICTED STOCK AGREEMENT

As evidenced by this Agreement, the Company has awarded to Participant the number of shares of Restricted Stock under the Plan set forth in the Grant Notice.

ARTICLE I.  
GENERAL

1.1 Definitions. All capitalized terms used in this Agreement without definition shall have the meanings ascribed in the Plan and the Grant Notice.

1.2 Incorporation of Terms. The Restricted Stock is subject to the terms and conditions of the Plan, which are incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan shall control. Participant hereby acknowledges receipt of a copy of the Plan and agrees to execute such further documents as may from time to time be requested by the Company to implement the terms of the Plan, including, without limitation, restrictions on the transferability of shares of Common Stock, the right of the Company to repurchase shares of Common Stock, the right of the Company to require that shares of Common Stock be transferred in the event of certain transactions, tag-along rights, bring-along rights, redemption and co-sale rights and voting requirements in accordance with Section 10.15 of the Plan.

ARTICLE II.  
AWARD OF RESTRICTED STOCK

2.1 Award of Restricted Stock.

(a) Award. On the Grant Date, the Company issued to Participant the number of shares of Restricted Stock set forth in the Grant Notice in consideration of Participant's agreement to remain in the service or employ of the Company or one of its subsidiaries, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged. Such shares of Restricted Stock and any dividends and distributions made or declared with respect to such shares, in each case, whether vested or unvested shall sometimes be referred to herein as "**Shares**."

(b) Book Entry Form; Certificates. At the sole discretion of the Administrator, the Shares will be issued in either (i) uncertificated form, with the Shares recorded in the name of Participant in the books and records of the Company's transfer agent with appropriate notations regarding the Restrictions; or (ii) certificate form subject to the terms of Section 2.1(c). For purposes of this Agreement, "**Restrictions**" shall mean the forfeiture provision in Section 2.2 and the other restrictions set forth in this Agreement or the Plan.

(c) Legend. Shares issued pursuant to this Agreement shall bear such legend or legends as shall be determined by the Administrator.

(d) Escrow. The Secretary of the Company or such other escrow holder as the Company may appoint may retain physical custody of any certificates representing the Shares until all of the Restrictions lapse or shall have been removed.

2.2 Restrictions.

(a) Forfeiture. The Restricted Stock shall vest in accordance with the vesting schedule set forth on the Grant Notice. Except as otherwise determined by the Administrator, any portion

of the Restricted Stock which is not vested pursuant to the Grant Notice as of the date Participant incurs a Termination of Service shall automatically be forfeited by Participant on the date of such Termination of Service without any additional consideration therefore and without any further action by the Company.

(b) Tax Withholding; Conditions to Issuance of Certificates. Notwithstanding any other provision of this Agreement:

(i) Participant is ultimately liable and responsible for all taxes owed in connection with the Restricted Stock, regardless of any action the Company or any of its subsidiaries takes with respect to any tax withholding obligations that arise in connection with the Restricted Stock. Neither the Company nor any of its subsidiaries makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding or vesting of the Restricted Stock or the subsequent sale of shares. The Company and its subsidiaries do not commit and are under no obligation to structure the Restricted Stock to reduce or eliminate Participant's tax liability.

(ii) Prior to any tax withholding becoming due, Participant must make arrangements acceptable to the Administrator to satisfy such withholding and must satisfy such tax withholdings when due. To the extent permitted by the Administrator, the Company (or the employing subsidiary) will withhold a portion of the shares of Restricted Stock that have an aggregate fair market value sufficient to pay the minimum federal, state and local income, employment and any other applicable taxes required to be withheld by the Company or the employing subsidiary with respect to the shares. Notwithstanding any contrary provision of this Agreement, no vested Shares will be released from the Company unless and until satisfactory arrangements (as determined by the Administrator) will have been made by Participant with respect to the payment of any income and other taxes which the Company determines must be withheld or collected as of the vesting date with respect to such Shares. In addition and to the maximum extent permitted by Applicable Law, the Company (or the employing subsidiary) has the right to retain from salary or other amounts payable to Participant, cash having a value sufficient to satisfy any tax withholding obligations (based on minimum statutory rates) that are not satisfied by the withholding of otherwise deliverable Shares or any other arrangements made by Participant.

2.2 Rights as Stockholder. Except as otherwise provided herein, upon the Grant Date, Participant shall have all the rights of a stockholder with respect to the Shares, including without limitation the right to receive any cash or stock dividends or other distributions paid to or made with respect to the Shares, subject to the Restrictions herein.

2.3 Retained Distributions. The Company will retain custody of all cash dividends (without interest) and other distributions ("**Retained Distributions**") made or declared with respect to the Restricted Stock (and such Retained Distributions will be subject to the Restrictions and the other terms and conditions under this Agreement that are applicable to the Restricted Stock) until such time, if ever, as the Restricted Stock with respect to which such Retained Distributions shall have been made, paid or declared shall have become vested pursuant to the Grant Notice or, if earlier, tax withholding is otherwise due with respect to such Restricted Stock. Retained Distributions will automatically be forfeited upon forfeiture of the share of Restricted Stock with respect to which the Retained Distributions were paid or declared.

### ARTICLE III. OTHER PROVISIONS

3.1 Section 83(b) Election. Participant understands that Section 83(a) of the Code taxes as ordinary income the difference between the amount, if any, paid for the Shares and the fair market value of such Shares at the time the forfeiture provision on such Shares lapse or such Shares become

transferable. Participant understands that, notwithstanding the preceding sentence, Participant may elect to be taxed at the time of the Grant Date, rather than at the time the forfeiture provision or transferability restriction lapses, by filing an election under Section 83(b) of the Code (an “**83(b) Election**”) with the Internal Revenue Service within 30 days after the Grant Date. In the event Participant files an 83(b) Election, Participant will recognize ordinary income in an amount equal to the difference between the amount, if any, paid for the Shares and the Fair Market Value of such Shares as of the Grant Date. Participant acknowledges that the foregoing is only a summary of the effect of United States federal income taxation with respect to the Shares awarded hereunder, and does not purport to be complete. PARTICIPANT FURTHER ACKNOWLEDGES THAT THE COMPANY IS NOT RESPONSIBLE FOR FILING PARTICIPANT’S 83(b) ELECTION, AND THE COMPANY HAS DIRECTED PARTICIPANT TO SEEK INDEPENDENT ADVICE REGARDING THE APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE, THE INCOME TAX LAWS OF ANY MUNICIPALITY, STATE OR FOREIGN COUNTRY IN WHICH PARTICIPANT MAY RESIDE, AND THE TAX CONSEQUENCES OF THIS AWARD AND PARTICIPANT’S PARTICIPATION IN THE PLAN. A sample 83(b) Election is attached hereto.

3.2 Governing Law; Severability. This Agreement shall be administered, interpreted and enforced under the laws of the State of Delaware, without regard to the conflicts of law principles thereof. Should any provision of this Agreement be determined by a court of law to be illegal or unenforceable, the other provisions shall nevertheless remain effective and shall remain enforceable.

3.3 Notices. Any notice to be given under the terms of this Agreement to the Company shall be addressed to the Company at its principal executive offices in care of the Secretary of the Company, and any notice to be given to Participant shall be addressed to Participant at the most recent address for Participant shown in the Company’s records. By a notice given pursuant to this Section 3.3, either party may hereafter designate a different address for notices to be given to that party. Any notice shall be deemed duly given when sent via email or when sent by certified mail (return receipt requested) and deposited (with postage prepaid) in a post office or branch post office regularly maintained by the United States Postal Service.

3.4 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Agreement shall be binding upon Participant and his heirs, executors, administrators, successors and assigns.

3.5 Lock-Up Period. Participant agrees that Participant will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to an initial public offering of any of the Company’s securities and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days, or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports, and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2241 or NYSE Rule 472(f)(4)), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section shall apply only to an initial public offering of the Company’s

securities and shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement for such initial public offering. The underwriters in connection with such registration are intended third-party beneficiaries of this Section and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Participant further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section or that are necessary to give further effect thereto.

\* \* \* \* \*

**ELECTION UNDER SECTION 83(B)  
OF THE INTERNAL REVENUE CODE OF 1986**

The undersigned taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include in taxpayer's gross income for the current taxable year the amount of any compensation taxable to taxpayer in connection with taxpayer's receipt of the property described below

1. The name, address, taxpayer identification number and taxable year of the undersigned are as follows:

NAME:

ADDRESS:

SOCIAL SECURITY NO.:

TAXABLE YEAR: 201

2. The property with respect to which the election is made is described as follows: \_\_\_\_\_ shares (the "Shares") of the common stock of Omega Therapeutics, Inc. (the "Company").

3. The date on which the property was transferred is: \_\_\_\_\_, 201 .

4. The property is subject to the following restrictions:

The Shares may not be transferred and are subject to forfeiture under the terms of an agreement between the taxpayer and the Company. These restrictions lapse upon the satisfaction of certain conditions contained in such agreement.

5. The fair market value at the time of transfer, determined without regard to any restriction other than a restriction which by its terms will never lapse, of the transferred property is: \$ \_\_\_\_\_.

6. The amount (if any) paid for such property is: \$ \_\_\_\_\_.

The undersigned has submitted a copy of this statement to the person for whom the services were performed in connection with the undersigned's receipt of the above-described property. The transferee of such property is the person performing the services in connection with the transfer of said property.

The undersigned understands that the foregoing election may not be revoked except with the consent of the Commissioner.

Dated: \_\_\_\_\_,

\_\_\_\_\_  
Taxpayer



215 First Street, Suite 400-S  
Cambridge, MA 02142  
617.949.4360  
omegatherapeutics.com

March 2, 2019

Mahesh Karande  
[XXX]  
[XXX]

Dear Mahesh,

On behalf of Omega Therapeutics (the “Company”), a Flagship Pioneering Company, I am delighted to make this conditional offer of employment with the Company. This offer letter (the “Offer Letter”) and the accompanying documents and agreements summarize and set forth important terms about your employment with the Company.

**1. Starting Date, Position, and Duties.**

a. Your position with the Company shall be President and Chief Executive Officer and, subject to applicable corporate and procedural requirements, you also shall be elected to serve as a member of the Company’s Board of Directors (the “Board”). In your role as Chief Executive Officer, you shall report to the Board. Provided that the above-stated work authorization conditions are met, we anticipate that your employment shall start effective April 8, 2018 or such earlier date as mutually agreed (the “Start Date”). In this key position you shall have responsibility for driving the strategic direction of the Company, as well as oversight of all operational activities of the Company. In your role you are expected to build and supervise a team to execute against objectives and to develop and manage processes and systems to support these functions. You shall also be expected to perform such other services for the Company consistent with your position as Chief Executive Officer, as may be assigned to you from time to time by the Board or its authorized committee. As a member of our team, we expect you to devote all of your professional and working time and energies to the business and affairs of the Company. As a member of the Flagship Pioneering ecosystem, it is expected that the Board of Directors that you may join will be from within the Flagship Pioneering ecosystem. As such, it is understood that you may be asked to join the Board of Directors of one or more Flagship Pioneering companies and will be compensated as agreed between you and such other Boards of Directors.

b. As is generally true for Company employees, you shall be employed on an at-will basis, which means that neither you nor the Company are guaranteeing this employment relationship for any specific period of time. Either of us may choose to end the employment



relationship at any time, for any reason, with or without notice. If any benefit is subject to a benefit plan, the terms of that plan shall control. Other than the terms of this Offer Letter, the Company reserves the right to alter, supplement or rescind its employment procedures, benefits or policies (other than the employment at-will policy) at any time in its sole and absolute discretion and without notice.

c. As stated above, you shall serve as a member of the Board during your employment hereunder. You acknowledge and agree that you shall resign from the Board effective immediately upon the termination of your employment with the Company for any reason.

## 2. Compensation.

a. **Salary.** Your initial base pay shall be at a rate of \$472,000.00 on an annualized basis, minus customary deductions for federal and state taxes and the like, and in accordance with the Company's normal payroll practices. Your annual base salary shall be reviewed for appropriate increases in accordance with the Company's policy, but shall not be decreased except in the case of an across-the-board reduction that is implemented for all similarly situated executives of the Company.

b. **Annual Performance Bonus.** You shall be eligible to receive an annual bonus, with a target bonus opportunity of 50% of your base salary, payable upon the achievement, as determined by the Board in its sole discretion, of specific milestones to be mutually agreed with you in writing. The annual bonus shall be paid to you no later than March 15th of the calendar year immediately following the calendar year in which it was earned. You must be employed by the Company on the last day of the calendar year to which a bonus relates in order to be eligible for and have earned the annual bonus.

c. **Equity Grants.** Subject to the terms and conditions of this Section 2.c. and any applicable policies and agreements (including but not limited to the "Equity Plan" and "Equity Agreements" described below), you shall be eligible for the following option grant:

- i. **Option Grant.** On the Start Date, the Board shall grant you a stock option to purchase 3,784,514 shares of common stock of the Company (the "Sign-On Grant"), which is intended to equal approximately 6.0% of the fully diluted shares of Company stock at the completion of the final tranche of the Series A preferred stock financing (the "Series A Financing"), at a price per share equal to the fair market value of the common stock on the date of grant as determined by the Board. As such, you shall receive, if needed, an additional stock option grant following your Start Date so that at the completion of the final tranche of the Series A financing you shall have stock options equal to 6.0% of the fully diluted shares of Company stock. 25% of the stock option shall

vest on the 1st anniversary of your Start Date, and the remaining 75% of the stock option shall vest quarterly over the 3-year period following such anniversary, subject to your continued employment with the Company. After completion of the Series A Financing you shall be eligible for additional stock option grants as determined by the Board.

- ii. Terms and Conditions.** In all respects, the stock options described in this Section 2 shall be governed by the 2017 Equity Incentive Plan (the “Equity Plan”) (or any successor or additional plan thereto which such stock option is granted) and a stock option agreement in the form of the Company’s standard form of stock option agreement under the Equity Plan (as applicable, an “Equity Agreement”) executed by you pursuant thereto, copies of which have been provided to you. The stock options described in this Section 2 shall be, to the maximum extent permissible, treated as “incentive stock options” within the meaning of Section 422 of the Internal Revenue Code and the rules and regulations thereunder.
- iii. Accelerated Vesting.** If you are subject to an Involuntary Termination (as defined below) outside of a CIC Period (as defined below), then subject to your execution of a Separation Agreement (as defined below) that becomes effective and irrevocable within 60 days following your Separation (as defined below), the vesting and, if applicable, the exercisability of each of your outstanding equity-based awards under the Equity Plan or any additional equity-based plan maintained by the Company or any applicable successor plans thereto, including but not limited to the Sign-On Grant, shall be partially accelerated such that the number of shares subject to each such equity-based award that would have vested during the 12 month period following your Separation (or, in the case of an equity-based award in which vesting of the shares is subject to the achievement of a performance-based condition, then 25% of the shares subject to such equity-based award) shall be vested and, if applicable, exercisable as of the date of your Separation. In addition, if you are subject to an Involuntary Termination during the CIC Period, then subject to your execution of a Separation Agreement that becomes effective and irrevocable within 60 days following your Separation, all of your then-unvested equity-based awards under the Equity Plan or any additional equity-based plan maintained by the Company or any applicable successor plans thereto, including but not limited to the Sign-On Grant, shall be fully accelerated and, if applicable, exercisable as of the date of your Separation.

**d. Benefits.** You shall be eligible to participate in the Company's benefit plans to the same extent as, and subject to the same terms, conditions and limitations applicable to, other Company executives. Summaries of each of the Company's benefit plans are available to you. These benefits may be modified, changed or eliminated from time to time at the sole discretion of the Company, and the provision of such benefits does not change your status as an at-will employee. Where a particular benefit is subject to a formal plan (for example, medical insurance or life insurance), eligibility to participate in and receive any particular benefit is governed solely by the applicable plan document. Each calendar year you shall be eligible to accrue four (4) weeks' vacation and holidays as set forth by the Company and subject to the Company's vacation and holiday policies as in effect from time to time.

**e. Travel and Lodging Allowance.** The Company shall provide you with an allowance of \$5,000 per month for reasonable lodging expenses in the Cambridge, MA vicinity. The Company shall also cover reasonable travel expenses related to your commute between your home location and the Company's office location in Cambridge, MA, provided that air travel shall be by coach and train travel may be by business class. The actual out-of-pocket spend will be grossed up at the appropriate tax rate.

**f. Expense Reimbursement.** The Company shall reimburse you for all ordinary and reasonable out-of-pocket business expenses incurred in furtherance of the Company's business in accordance with the Company's policies with respect thereto as in effect from time to time. You must submit any request for reimbursement no later than ninety (90) days following the date that such business expense is incurred. All reimbursements hereunder shall be made or provided in accordance with the requirements of Section 409A ("Section 409A") of the Internal Revenue Code and the rules and regulations thereunder (the "Code") including, where applicable, the requirement that: (i) any reimbursement is for expenses incurred during your lifetime (or during a shorter period of time specified in this Offer Letter); (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year; (iii) the reimbursement of an eligible expense shall be made no later than the last day of the calendar year following the year in which the expense is incurred; and (iv) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

### **3. Severance Benefit upon Involuntary Termination.**

**a.** Notwithstanding the at-will nature of the parties' relationship, should you be subject to an Involuntary Termination, then conditioned upon your execution of a separation agreement substantially in the form attached hereto as Exhibit A (the "Separation Agreement") that becomes effective and irrevocable within 60 days following your Separation and compliance with your Confidentiality Agreement described below then: (i) the Company shall provide you with continued payment your then current base salary (but prior to taking into account any reduction that triggers Good Reason) for a period of 9 months (or 12 months in the event such Involuntary Termination occurs following the first closing of

the Company's Series B preferred stock financing (the "Series B Financing"), payable in one-time lump-sum payment within 60 days following your Separation; less applicable withholdings, subject to Section 3(i); (ii) any earned, but unpaid annual bonus for the calendar year prior to the calendar year in which your Involuntary Termination occurs; (iii) (x) if the Company is subject to the Consolidated Omnibus Budget Reconciliation Act ("COBRA") or similar state law, (y) the premium subsidy described below is not illegal or discriminatory under the Code, the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act, and (z) if you properly elect to receive benefits under COBRA, then the Company shall provide you, for a period of 9 months (or 12 months in the event such Involuntary Termination occurs following the first closing of the Series B Financing) following your Separation, your COBRA premiums at the Company's normal rate of contribution for employees for your coverage at the level in effect immediately prior to your termination, provided that if the subsidy is limited by clause (y) then you shall receive a monthly cash payment equal to the monthly COBRA premium that you are required to pay for such COBRA coverage; and (iv) subject to the terms and conditions of the Equity Plan (or any successor or additional plan thereto) and Equity Agreements, any portion of an option that has vested or has had the time-based requirement satisfied shall remain outstanding for a period of 12 months following the Separation date or, if earlier, the normal 10-year expiration date of such stock options. In addition, you shall receive all (w) accrued, but unpaid, base salary earned by, but not paid to you, prior to your date of Separation, which will be paid to you on the next payroll date following your date of Separation, (x) any incentive bonus that was earned for the prior calendar year but not paid, which will be paid to you at the same time that bonuses are paid to other executives, (y) any amounts accrued and due under the terms of any employee benefit plan in which you participated while employed (e.g., 401(k)), which will be paid to you at the time provided under the applicable plan and (z) any amounts owing to you under Section 2(f) for reimbursement of expenses incurred by you prior to your date of Separation, which will be paid to you in accordance with the Company's policies with respect thereto (collectively, the "Accrued Benefits").

**b.** For purposes of this Offer Letter, "Cause" means any one or more of the following actions: (i) your material breach of the terms of this Offer Letter or your Employee Non-Competition, Non-Solicitation, Confidentiality and Assignment Agreement; (ii) your material dishonesty, willful misconduct, gross negligence, or reckless conduct, in each case, if such conduct is in connection with the performance of your services to the Company; (iii) your commission of an act of fraud, theft, misappropriation or embezzlement that is, in each case, materially injurious to the Company; (iv) your conviction of, or pleading nolo contendere to, any crime involving moral turpitude felony (other than traffic offenses); or (v) your material violation of a Company policy that had been previously provided to you in writing your willful refusal to to substantially perform your assigned duties to the Company (other than as a result of your mental or physical impairment), provided that such policy compliance or performance of duties would not cause you to violate law. For purpose of clauses (i), (ii), (iii), and (v), "Cause" shall only exist if: (1) the Company delivered to you a

written description of the events or conditions giving rise to your termination for Cause; and (2) if curable, you have been given at least 30 days to cure such events or conditions and you fail to cure such events or conditions within such time period given.

c. For purposes of this Offer Letter, “**Change of Control**” means: (i) any “Person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) becomes the “Beneficial Owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the total voting power represented by the Company’s then outstanding voting securities (excluding for this purpose any such voting securities held by the Company or its affiliates or by any employee benefit plan of the Company) pursuant to a transaction or a series of related transactions which the Board does not approve; or (ii) a merger or consolidation of the Company whether or not approved by the Board, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or the parent of such corporation) more than 50% of the total voting power represented by the voting securities of the Company or such surviving entity or parent of such corporation, as the case may be, outstanding immediately after such merger or consolidation; or (iii) the sale or disposition by the Company of all or substantially all of the Company’s assets in a transaction requiring stockholder approval. “Change of Control” shall be interpreted, if applicable, in a manner, and limited to the extent necessary, so that it shall not cause adverse tax consequences under Section 409A of the Code.

d. For purposes of this Offer Letter, “**CIC Period**” means the period commencing on the date that is three months prior to the date on which a Change of Control occurs and ending on the date that is 12 months following such occurrence.

e. For purposes of this Offer Letter, “**Involuntary Termination**” means either (a) your Termination Without Cause or (b) your Resignation for Good Reason.

f. For purposes of this Offer Letter, “**Resignation for Good Reason**” means a Separation as a result of your resignation within 12 months after one of the following conditions has come into existence without your written consent:

i. A reduction in your base salary, other than in connection with an across-the-board reduction of not more than 10% effecting all similarly situated executives of the Company;

ii. A material diminution of your title, authority, duties or responsibilities;

iii. A requirement that you no longer report to the Board;

- iv. A relocation of your principal workplace by more than 50 miles; or
- v. A material breach of this Offer Letter by the Company.

A Resignation for Good Reason shall not be deemed to have occurred unless you give the Company written notice of the condition within 30 days after the condition comes into existence and the Company fails to remedy the condition within 30 days after receiving your written notice.

g. For purposes of this Offer Letter, “**Separation**” means a “separation from service,” as defined in the regulations under Section 409A of the Code.

h. For purposes of this Offer Letter “**Termination Without Cause**” means a Separation as a result of a termination of your employment by the Company without Cause, provided you are willing and able to continue performing services within the meaning of Treasury Regulation 1.409A-1(n)(1).

i. Any severance payments paid under this Section 3 shall commence within 60 days after the date of termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year and such severance payments constitute deferred compensation subject to Section 409A of the Code, the severance payments begin to be paid in the second calendar year by the last day of such 60-day period; provided, further, that the initial payment shall include a catch-up payment to cover amounts retroactive to the day immediately following the date of termination. Each payment pursuant to this Offer Letter is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

j. Should you voluntarily terminate your employment for any reason (other than for Good Reason) or should your employment be terminated for Cause (whether before or after a Change of Control), then you shall not be entitled to any severance payments described herein, but you shall be entitled to the Accrued Benefits. Nothing in this Section 3 shall alter your status as an at-will employee.

k. **Vesting in the Event of a Change of Control or Death.** Notwithstanding anything to the contrary hereunder or in the Equity Plan (or any successor or other applicable equity plan) or an applicable Equity Agreement, in the event of a Change of Control or your death, then you (or your estate, as applicable) automatically shall vest in all of the then-unvested shares subject to the equity awards under the Equity Plan (or any successor or other applicable equity plan), including, but not limited to the Sign-On Grant and the Equity-Financing Grant, as of the date of the consummation of such Change of Control or the date of death, as applicable.

**4. Certification.** By signing this Offer Letter, you are certifying to the Company that: (a) your employment with the Company does not and shall not require you to breach any agreement entered into by you prior to employment with the Company (i.e., you have not entered into any agreements with previous employers that are in conflict with your obligations to the Company); (b) to the extent you are subject to restrictive agreements with any prior employer that may affect your employment with the Company, you have provided us with a copy of that agreement; (c) your employment with the Company does not violate any order, judgment or injunction applicable to you, and you have provided the Company with a copy of any such order, judgment, or injunction; and (d) all facts you have presented to the Company are accurate and true, including all statements made to the Company pertaining to your education, training, qualifications, licensing and prior work experience on any job application, resume or c.v., or in any interview. Please understand that the Company does not want you to disclose any confidential information belonging to a previous employer or to incorporate the proprietary information of any previous employer into the Company's proprietary information and expects that you shall abide by restrictive covenants to prior employers.

**5. Required I-9 Documentation.** Your employment with the Company is conditioned on your eligibility to work in the United States. For purposes of completing the INS I-9 form, you must provide us sufficient documentation to demonstrate your eligibility to work in the United States on or before your first day of employment.

**6. Confidentiality and Other Obligations.** As part of your employment with the Company, you shall be exposed to, and provided with, valuable confidential and trade secret information concerning the Company and its present and prospective clients. As a result, in order to protect the Company's legitimate business interests, you agree, as a condition of your employment, to enter into the enclosed Employee Non-Solicitation, Confidentiality and Assignment Agreement (the "Confidentiality Agreement"). You must sign and return the Confidentiality Agreement before beginning your employment with the Company.

**7. Section 409A and 280G of the Code.**

**a.** Notwithstanding any other provision of this Offer Letter to the contrary, if any amount (including imputed income) to be paid to you pursuant to this Offer Letter as a result of your termination of employment is "deferred compensation" subject to Section 409A of the Code, and if you are a "Specified Employee" (as defined under Section 409A of the Code) as of the date of your termination of employment hereunder, then, to the extent necessary to avoid the imposition of excise taxes or other penalties under Section 409A of the Code, the payment of benefits, if any, scheduled to be paid by the Company to you hereunder during the first 6-month period following the date of a termination of employment hereunder shall not be paid until the date which is the first business day after six (6) months have elapsed since your termination of employment, or if earlier, your death. Any deferred compensation payments delayed in accordance with the terms of this Section 7.a. shall be paid in a lump sum after 6 months have elapsed since your termination of employment. Any other payments shall be made according to the schedule provided for herein.

**b.** If any of the benefits set forth in this Offer Letter are “deferred compensation” under Section 409A of the Code, any termination of employment triggering payment of such benefits must constitute a “separation from service” under Section 409A of the Code before distribution of such benefits can commence. To the extent that the termination of your employment does not constitute a “separation from service” under Section 409A of the Code (as the result of further services that are reasonably anticipated to be provided by you to the Company at the time your employment terminates), any benefits payable under this Offer Letter that constitute “deferred compensation” under Section 409A of the Code shall be delayed until after the date of a subsequent event constituting a “separation from service” under Section 409A of the Code. For purposes of clarification, this Section 7.b. shall not cause any forfeiture of benefits on your part, but shall only act as a delay until such time as a “separation from service” occurs.

**c.** It is intended that each installment of the payments and benefits provided under this Offer Letter shall be treated as a separate “payment” for purposes of Section 409A of the Code. Neither the Company nor you shall have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A of the Code.

**d.** This Offer Letter shall be interpreted and at all times administered in a manner that avoids the inclusion of compensation in income under Section 409A of the Code. Any provision inconsistent with Section 409A of the Code shall be read out of the Offer Letter. For purposes of clarification, this Section 7.d. shall be a rule of construction and interpretation and nothing in this Section 7.d. shall cause a forfeiture of benefits on the part of you. You acknowledge and agree that the Company does not guarantee the tax treatment or tax consequences associated with any payment or benefit arising under this Offer Letter, including but not limited to consequences related to Section 409A of the Code.

**e.** If any payment or benefit you would receive under this offer letter, when combined with any other payment or benefit you receive pursuant to a Change of Control (for purposes of this section, a “Payment”) would: (i) constitute a “parachute payment” within the meaning of Section 280G the Code; and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the “Excise Tax”), then, if the Company (or any affiliate that would be treated, together with the Company, as a single corporation under Section 280G of the Code and the regulations thereunder) has stock that is readily tradeable on an established securities market (within the meaning of Section 280G of the Code and the regulations thereunder), such Payment shall be either: (A) the full amount of such Payment; or (B) such lesser amount as would result in no portion of the Payment being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local employments taxes, income taxes and the Excise Tax, results in your receipt,



on an after-tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. With respect to subsection (B), if there is more than one method of reducing the payment as would result in no portion of the Payment being subject to the Excise Tax, then you shall determine which method shall be followed, provided that if you fail to make such determination within thirty (30) days after Company has sent you written notice of the need for such reduction, Company may determine the amount of such reduction in its sole discretion. Notwithstanding the foregoing, if a Change of Control occurs prior to the time the Company (and any affiliate that would be treated, together with the Company, as a single corporation under Section 280G of the Code and the regulations thereunder) has stock that is readily tradeable on an established securities market (within the meaning of Section 280G of the Code and the regulations thereunder) and a Payment would constitute a parachute payment and be subject to the Excise Tax, then you and the Company or its applicable affiliate will both cooperate in good faith with the other (including by signing any necessary waivers) to solicit a shareholder vote to approve the Payments, such that no Payment (or portion thereof) would be subject to the Excise Tax. The actions of the Company or its applicable affiliate to this provision are not intended to bind, nor shall be construed as binding, the shareholders of the Company or its applicable affiliate.

**8. General.** This Offer Letter, together with the Confidentiality Agreement and the Equity Agreements and any other agreements specifically referred to herein, embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The terms and provisions of this Offer Letter may be modified or amended only by written agreement executed by the parties hereto, and may be waived (or consent for the departure there from granted) only by a written document executed by the party entitled to the benefits of such terms or provisions. The Company may assign its rights and obligations hereunder to any person or entity that succeeds to all or substantially of the Company's business or assets. You may not assign your rights and obligations hereunder without the prior written consent of the Company and any such attempted assignment by you without the prior written consent of the Company shall be void. This Offer Letter and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal law of Massachusetts, without giving effect to the conflict of law principles thereof. By accepting this offer of employment, you agree that any action, demand, claim or counterclaim in connection with any aspect of your employment with the Company, or any separation of employment (whether voluntary or involuntary) from the Company, shall be brought in the courts of Massachusetts or of the United States of America for the District of Massachusetts, and shall be resolved by a judge alone, and you waive and forever renounce your right to a trial before a civil jury.

**9. Indemnification.** To the fullest extent permitted by the applicable D&O policies of the Company and/or applicable law regarding indemnification, the Company shall indemnify

you against all expenses (including reasonable attorneys' fees and any expenses incurred in establishing a right to indemnification), judgments, fines, settlements and other amounts actually and reasonably incurred by you in connection with any threatened, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative that you are made a party to by reason of the fact that you are or were performing services as an employee, officer, director or agent of the Company or any affiliate thereof, subject to the terms of this Section 9. In addition, such indemnification shall continue as to you even if you have ceased to be an employee, officer, director or agent of the Company and/or any affiliate thereof and shall inure to the benefit of your heirs and estate. The provisions of this Section 9 are in addition to, and not in derogation of, the indemnification provisions of the bylaws and certificate or articles of incorporation of the Company or any affiliate thereof, as each may be amended or restated from time to time. During your employment with the Company and/or any affiliate thereof and from and after the date that your employment is terminated for any reason whatsoever, you shall receive the same benefits provided to any of the officers and directors of the Company or such affiliate, as applicable, under any additional D&O insurance or similar policy, indemnification agreement, policy of the Company or such applicable affiliate or the articles of incorporation or bylaws of the Company or such applicable affiliate, in each case, as may be amended or restated from time to time. This Section 9 shall survive the termination of this Offer Letter.

Because our employment discussions and the terms of your employment are confidential, it is understood that you shall not disclose the fact or terms of such discussions or the terms of your employment with the Company to anyone other than your immediate family and your legal or financial advisor at any time, absent prior written consent from the Company, or as permitted by law.

[Signature Page Follows]

This offer shall remain open, unless sooner revoked by the Company, through March 8, 2019. Please acknowledge acceptance of this employment offer by signing and dating below. Keep one copy for your files and return one executed copy to me.

Mahesh, we greatly look forward to having you on the team.

Very truly yours,

Omega Therapeutics

By: /s/ David Berry

David Berry

Accepted and Agreed to:

/s/ Mahesh Karande

Mahesh Karande

Date: March 2, 2019



July 10, 2019

Tom McCauley  
[XXX]  
[XXX]

Dear Tom,

On behalf of Omega Therapeutics, Inc. (the “Company”), a Flagship Pioneering Company, I am delighted to make this conditional offer of employment with the Company. This offer letter (the “Offer Letter”) and the accompanying documents and agreements summarize and set forth important terms about your employment with the Company.

**1. Starting Date, Position, and Duties.**

**a.** Your initial position shall be *Chief Scientific Officer* reporting to the Company’s CEO. We anticipate that your employment shall start effective **July 29, 2019** (the “Start Date”).

**b.** As a member of our team, we expect you to devote all of your professional and working time and energies to the business and affairs of the Company. Notwithstanding the forgoing, nothing contained herein shall prevent you from managing your personal investments on your own personal time, including the right to make passive investments in the securities of: **(i)** any entity which you do not control, directly or indirectly, and which does not compete with Company, and **(ii)** any publicly held entity so long as your aggregate direct and indirect interest does not exceed five percent (5%) of the issued and outstanding securities of any class of securities of such publicly held entity. You shall not engage in other non-Company related business activities (including board memberships) without Company’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**c.** As is generally true for Company employees, you shall be employed on an at-will basis, which means that neither you nor the Company are guaranteeing this employment relationship for any specific period of time. Either of you or the Company may choose to end the employment relationship at any time, for any reason, with or without notice. The descriptions of benefits and other compensation arrangements set forth herein are meant to be summary in form and may be subject to change. Other than the terms of this Offer Letter, the Company reserves the right to alter, supplement or rescind its employment procedures, benefits or policies (other than the employment at-will policy) at any time in its sole and absolute discretion and without notice.



## 2. Compensation.

**a. Salary.** Your initial base pay shall be at a rate of \$350,000 on an annualized basis, minus customary deductions for federal and state taxes and the like, paid in accordance with the Company's normal payroll practices (the "Annual Salary").

**b. Annual Performance Bonus.** You shall be eligible to receive an annual bonus of up to thirty-five percent (35%) of your Annual Salary (the "Annual Bonus"), payable upon the achievement, as determined by the Company's Board of Directors (the "Board") in its sole discretion, of specific milestones to be mutually agreed in writing. The Annual Bonus shall be paid to you no later than March 15<sup>th</sup> of the calendar year immediately following the calendar year in which it was earned. You must be employed by the Company at the time that the Annual Bonus is paid in order to be eligible for the Annual Bonus.

**c. Equity; Stock Options.** I shall ask the Board to grant you an option or other equivalent instrument (the "Equity Grant") to purchase shares of common stock or equivalent equity incentive units of the Company equal to 1.4% ( 1,114,053 shares) of the fully diluted equity of the Company determined as of the Start Date, at a strike price equal to the fair market value of the Company's common stock or equivalent equity incentive units on the date of grant as determined by the Board. Any grant shall be subject to quarterly vesting, over a four-year period beginning on your first date of employment, subject to a one-year cliff (i.e., 25% of the grant shall vest on the first year anniversary of the Start Date). In all respects, these options shall be governed by the Company's equity incentive plan and applicable grant agreement then in effect.

**d. Benefits.** You shall be eligible to participate in the Company's benefit plans to the same extent as, and subject to the same terms, conditions and limitations applicable to, senior executives of the Company. Summaries of each of the Company's benefit plans are available to you. These benefits may be modified, changed or eliminated from time to time at the sole discretion of the Company, and the provision of such benefits does not change your status as an at-will employee. Where a particular benefit is subject to a formal plan (for example, medical insurance or life insurance), eligibility to participate in and receive any particular benefit is governed solely by the applicable plan document. Each calendar year you shall be eligible to accrue four (4) weeks' vacation and holidays as set forth by the Company and subject to the Company's vacation and holiday policies as in effect from time to time.

**e. Expense Reimbursement.** The Company shall reimburse you for all ordinary and reasonable out-of-pocket business expenses incurred in furtherance of the Company's business in accordance with the Company's policies with respect thereto as in effect from time to time. You must submit any request for reimbursement no later than ninety (90) days following the date that such business expense is incurred. All reimbursements hereunder shall be made or provided in accordance with the requirements of Section 409A ("Section 409A") of the Internal Revenue



Code and the rules and regulations thereunder (the “Code”) including, where applicable, the requirement that: **(i)** any reimbursement is for expenses incurred during your lifetime (or during a shorter period of time specified in this Offer Letter); **(ii)** the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year; **(iii)** the reimbursement of an eligible expense shall be made no later than the last day of the calendar year following the year in which the expense is incurred; and **(iv)** the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

**f. Accrued Obligations.** For purposes of this Offer Letter, “Accrued Obligations” means: (i) the portion of your Annual Salary that has accrued prior to any termination of your employment with the Company and has not yet been paid; (ii) any accrued but unused vacation time pursuant to the Company’s standard policy and practices, and (iii) the amount of any reimbursable expenses properly incurred by you on behalf of the Company prior to any such termination and not yet reimbursed. You shall be paid the Accrued Obligations upon or promptly following any termination of your employment with the Company.

### **3. Severance Benefit upon Termination without Cause.**

**a.** Notwithstanding the at-will nature of the parties’ relationship, should the Company terminate your employment without Cause (as defined below), or should you terminate your employment with the Company for Good Reason (as defined below), you shall be paid the Accrued Obligations promptly upon such termination. In addition, conditioned upon: **(i)** your execution within 45 days after the date of your employment termination and non-revocation of and compliance with a separation agreement which shall contain, among other things, a full and general release of claims to the Company and its affiliates and their respective directors, officers, agents and employees, in a form reasonably satisfactory to the Company, and if your termination is by the Company without Cause, a non-competition covenant that restricts certain competitive activities for a period of one (1) year from the date of termination (provided that if your termination does not qualify as Cause hereunder but qualifies as “Cause” as defined in your Non-Competition Agreement (as defined in Section 6 below), the non-competition covenant will not be contained in the separation agreement, but rather in your Non-Competition Agreement, with which you will be expected to comply) and **(ii)** your compliance with your obligations set forth in your Employee Non-Solicitation, Confidentiality and Assignment Agreement (the “Confidentiality Agreement” as described in Section 6 below), then the Company shall provide you with: **(iii)** payments equal to six (6) months of your then current base salary, payable in periodic installments over six (6) months, in accordance with the Company’s normal payroll practices; **(iv)** any unpaid Annual Bonus the Board determines was earned by you for the year prior to the year in which your employment termination occurs, payable in a lump sum at substantially the same time at which annual bonuses for such year are paid to other Company senior executives (but in no event later than December 31 of the year in which your employment termination occurs); and **(v)** (x) if the Company is subject to the Consolidated Omnibus Budget



Reconciliation Act (“COBRA”) or similar state law, (y) the premium subsidy described below is not illegal or discriminatory under the Code, the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act, and (z) if you properly elect to receive benefits under COBRA, six (6) months of your COBRA premiums at the Company’s normal rate of contribution for employees for your coverage at the level in effect immediately prior to your termination.

**b.** For purposes of this Section 3, “Cause” means any one or more of the following actions: **(i)** your material breach of the terms of this Offer Letter, your Confidentiality Agreement, or your Non-Competition Agreement, to the extent capable of cure, following written notice of such material breach by the Company and a period of thirty (30) days to cure the same; **(ii)** your material dishonesty, willful misconduct, gross negligence, or reckless conduct; **(iii)** your commission of an act of fraud, theft, misappropriation or embezzlement; **(iv)** your conviction of, or pleading nolo contendere to, any crime involving dishonesty or moral turpitude or any felony; or **(v)** your material violation of a Company policy or willful refusal to perform your assigned duties to the Company, to the extent capable of cure, following written notice of such violation or refusal by the Company and a period of thirty (30) days to cure the same.

**c.** For purposes of this Section 3, “Good Reason” shall mean (i) relocation of your office location to a location more than fifty (50) miles from your office location on the Start Date, (ii) a material diminution in your duties, authority or responsibilities, other than in connection with a corporate transaction immediately after which you continue to hold substantially the same position with respect to the Company’s business, substantially as such business exists prior to such corporate transaction, as you held immediately before such corporate transaction but do not hold such position with respect to the successor or surviving entity, (iii) a material reduction in your Annual Salary, other than such a reduction that is implemented in connection with a contemporaneous and proportionate reduction in annual base salaries affecting all other senior executives of the Company, or (iv) material breach by the Company of its covenants and/or obligations under this Offer Letter; provided that, in each of the foregoing clauses (i) through (iv), (A) you provide the Company with written notice that you intend to terminate your employment hereunder for one or more of the grounds set forth in this Section 3.c. within thirty (30) days of the occurrence of the event constituting a ground for Good Reason termination, (B) if such ground is capable of being cured, the Company has failed to cure such ground within a period of thirty (30) days from the date of such written notice, and (C) you terminate by written notice your employment within sixty (60) days from the date you provide the notice described in clause (A) of this Section 3.c.

**d.** Any severance payments paid under this Section 3 shall commence within 60 days after the date of termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the severance payments will begin to be paid in the second calendar year by the last day of such 60-day period; provided, further, that the initial payment shall include a catch-up payment to cover amounts retroactive to the day immediately following the date of termination. Each payment pursuant to this Agreement is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).



e. Should you voluntarily terminate your employment for any reason other than Good Reason, or should your employment be terminated for Cause, then you shall not be entitled to any severance payments described herein. Nothing in this Section 3 shall alter your status as an at-will employee.

**4. Certification.** By signing this Offer Letter, you are certifying to the Company that: **(a)** your employment with the Company does not and shall not require you to breach any agreement entered into by you prior to employment with the Company (i.e., you have not entered into any agreements with previous employers that are in conflict with your obligations to the Company); **(b)** to the extent you may be subject to restrictive agreements with any prior employer that may affect your employment with the Company, you have provided us with a copy of that agreement; **(c)** your employment with the Company does not violate any order, judgment or injunction applicable to you, and you have provided the Company with a copy of any such order, judgment, or injunction; and **(d)** all facts you have presented to the Company are accurate and true, including all statements made to the Company pertaining to your education, training, qualifications, licensing and prior work experience on any job application, resume or *c.v.*, or in any interview. Please understand that the Company does not want you to disclose any confidential information belonging to a previous employer or to incorporate the proprietary information of any previous employer into the Company's proprietary information and expects that you shall abide by restrictive covenants to prior employers.

**5. Required I-9 Documentation.** Your employment with the Company is conditioned on your eligibility to work in the United States. For purposes of completing the INS I-9 form, you must provide us sufficient documentation to demonstrate your eligibility to work in the United States on or before your first day of employment.

**6. Confidentiality and Other Obligations.** As part of your employment with the Company, you shall be exposed to, and provided with, valuable confidential and trade secret information concerning the Company and its present and prospective clients. As a result, in order to protect the Company's legitimate business interests, you understand that your employment by the Company creates a relationship of confidence with respect to confidential and proprietary information belonging to the Company and third parties. In light of the foregoing and as a condition of your employment, you must sign and abide by: **(a)** the Company's standard Confidentiality Agreement, and **(b)** the Company's standard Noncompetition Agreement (the "Non-Competition Agreement"), and **(c)** the Company's standard Waiver of Review Period (the "Waiver"), copies of which are enclosed. As a Company employee, you shall be expected to abide by Company policies and procedures as may be in effect from time to time. You must sign and return the Confidentiality Agreement, Noncompetition Agreement, and Waiver (if applicable) before beginning your employment with the Company.





## **7. Section 409A of the Code.**

**a.** Notwithstanding any other provision of this Offer Letter to the contrary, if any amount (including imputed income) to be paid to you pursuant to this Offer Letter as a result of your termination of employment is “deferred compensation” subject to Section 409A of the Code, and if you are a “Specified Employee” (as defined under Section 409A of the Code) as of the date of your termination of employment hereunder, then, to the extent necessary to avoid the imposition of excise taxes or other penalties under Section 409A of the Code, the payment of benefits, if any, scheduled to be paid by the Company to you hereunder during the first 6-month period following the date of a termination of employment hereunder shall not be paid until the date which is the first business day after six (6) months have elapsed since your termination of employment for any reason other than death. Any deferred compensation payments delayed in accordance with the terms of this Section 6.a. shall be paid in a lump sum after 6-months have elapsed since your termination of employment. Any other payments shall be made according to the schedule provided for herein.

**b.** If any of the benefits set forth in this Offer Letter are “deferred compensation” under Section 409A of the Code, any termination of employment triggering payment of such benefits must constitute a “separation from service” under Section 409A of the Code before distribution of such benefits can commence. To the extent that the termination of your employment does not constitute a “separation from service” under Section 409A of the Code (as the result of further services that are reasonably anticipated to be provided by you to the Company at the time your employment terminates), any benefits payable under this Offer Letter that constitute “deferred compensation” under Section 409A of the Code shall be delayed until after the date of a subsequent event constituting a “separation from service” under Section 409A of the Code. For purposes of clarification, this Section 6.b. shall not cause any forfeiture of benefits on your part, but shall only act as a delay until such time as a “separation from service” occurs.

**c.** It is intended that each installment of the payments and benefits provided under this Offer Letter shall be treated as a separate “payment” for purposes of Section 409A of the Code. Neither the Company nor you shall have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A of the Code.

**d.** This Offer Letter shall be interpreted and at all times administered in a manner that avoids the inclusion of compensation in income under Section 409A of the Code. Any provision inconsistent with Section 409A of the Code shall be read out of the Offer Letter, to the extent that such inconsistent provision can be read out without violation of Section 409A. For purposes of clarification, this Section 6.d. shall be a rule of construction and interpretation and nothing in this Section 6.d. shall cause a forfeiture of benefits on the part of you.



You acknowledge and agree that the Company does not guarantee the tax treatment or tax consequences associated with any payment or benefit arising under this Offer Letter, including but not limited to consequences related to Section 409A of the Code.

**8. Indemnification.** Following the Start Date and during your employment, you will be entitled to indemnification for claims arising out of your employment hereunder to the same extent as other senior executives of the Company.

**9. General.** This Offer Letter, together with the Confidentiality Agreement and any other written agreements specifically referred to herein, embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The terms and provisions of this Offer Letter may be modified or amended only by written agreement executed by the parties hereto, and may be waived (or consent for the departure there from granted) only by a written document executed by the party entitled to the benefits of such terms or provisions. The Company may assign its rights and obligations hereunder to any person or entity that succeeds to all or substantially all of the Company's business. You may not assign your rights and obligations hereunder without the prior written consent of the Company and any such attempted assignment by you without the prior written consent of the Company shall be void. This Offer Letter and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal law of Massachusetts, without giving effect to the conflict of law principles thereof. By accepting this offer of employment, you agree that any action, demand, claim or counterclaim in connection with any aspect of your employment with the Company, or any separation of employment (whether voluntary or involuntary) from the Company, shall be brought in the courts of Massachusetts or of the United States of America for the District of Massachusetts, and shall be resolved by a judge alone, and you waive and forever renounce your right to a trial before a civil jury.

Because our employment discussions and the terms of your employment are confidential, it is understood that you shall not disclose the fact or terms of such discussions or the terms of your employment with the Company to anyone other than your immediate family and your legal or financial advisor at any time, absent prior written consent from the Company, or as permitted by law.

This offer shall remain open, unless sooner revoked by the Company, through **July 20, 2019**. Please acknowledge acceptance of this employment offer by signing and dating below. Keep one copy for your files and return one executed copy to me.

**[Signature Page Follows]**



Tom, we look forward to having you on the team.

Very truly yours,  
Omega Therapeutics, Inc.

/s/ Mahesh Karande

Mahesh Karande, President & CEO

Accepted and Agreed to:

/s/ Tom McCauley  
\_\_\_\_\_  
Tom McCauley

7/14/19  
\_\_\_\_\_  
Date



March 25, 2020

Roger Sawhney  
[XXX]  
[XXX]

Dear Roger,

On behalf of Omega Therapeutics, Inc. (the “Company”), a Flagship Pioneering Company, I am delighted to make this conditional offer of employment with the Company. This offer letter (the “Offer Letter”) and the accompanying documents and agreements summarize and set forth important terms about your employment with the Company.

**1. Starting Date, Position, and Duties.**

- a. Your initial position shall be **Chief Financial Officer and SVP Business Development** reporting to the Company’s CEO. We anticipate that your employment shall start effective **no later than May 4, 2020** (the “Start Date”).

b. As a member of our team, we expect you to devote all of your professional and working time and energies to the business and affairs of the Company. Notwithstanding the forgoing, nothing contained herein shall prevent you from managing your personal investments on your own personal time, including the right to make passive investments in the securities of: **(i)** any entity which you do not control, directly or indirectly, and which does not compete with Company, and **(ii)** any publicly held entity so long as your aggregate direct and indirect interest does not exceed five percent (5%) of the issued and outstanding securities of any class of securities of such publicly held entity. You shall not engage in other non-Company related business activities (including board memberships) without Company’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

c. As is generally true for Company employees, you shall be employed on an at-will basis, which means that neither you nor the Company are guaranteeing this employment relationship for any specific period of time. Either of you or the Company may choose to end the employment relationship at any time, for any reason, with or without notice. The descriptions of benefits and other compensation arrangements set forth herein are meant to be summary in form and may be subject to change. Other than the terms of this Offer Letter, the Company reserves the right to alter, supplement or rescind its employment procedures, benefits or policies (other than the employment at-will policy) at any time in its sole and absolute discretion and without notice.



## 2. Compensation.

**a. Salary.** Your initial base pay shall be at a rate of \$355,000 on an annualized basis, minus customary deductions for federal and state taxes and the like, paid in accordance with the Company's normal payroll practices (the "Annual Salary").

**b. Annual Performance Bonus.** You shall be eligible to receive an annual bonus of up to thirty-five percent (35%) of your Annual Salary (the "Annual Bonus"), payable upon the achievement, as determined by the Company's Board of Directors (the "Board") in its sole discretion, of specific milestones to be mutually agreed in writing. The Annual Bonus shall be paid to you no later than March 15<sup>th</sup> of the calendar year immediately following the calendar year in which it was earned. You must be employed by the Company at the time that the Annual Bonus is paid in order to be eligible for the Annual Bonus.

**c. Equity; Stock Options.** I shall ask the Board to grant you an option or other equivalent instrument (the "Equity Grant") to purchase shares of common stock or equivalent equity incentive units of the Company equal to 1.4% ( 1,507,687 shares) of the fully diluted equity of the Company determined as of the Start Date, at a strike price equal to the fair market value of the Company's common stock or equivalent equity incentive units on the date of grant as determined by the Board. Any grant shall be subject to quarterly vesting, over a four-year period beginning on your first date of employment, subject to a one-year cliff (i.e., 25% of the grant shall vest on the first year anniversary of the Start Date). In all respects, these options shall be governed by the Company's equity incentive plan and applicable grant agreement then in effect.

**d. Benefits.** You shall be eligible to participate in the Company's benefit plans to the same extent as, and subject to the same terms, conditions and limitations applicable to, senior executives of the Company. Summaries of each of the Company's benefit plans are available to you. These benefits may be modified, changed or eliminated from time to time at the sole discretion of the Company, and the provision of such benefits does not change your status as an at-will employee. Where a particular benefit is subject to a formal plan (for example, medical insurance or life insurance), eligibility to participate in and receive any particular benefit is governed solely by the applicable plan document. Each calendar year you shall be eligible to accrue four (4) weeks' vacation and holidays as set forth by the Company and subject to the Company's vacation and holiday policies as in effect from time to time.

**e. Relocation.** The Company shall pay up to \$75,000 for relocation expenses so long as relocation is completed no later than September 1, 2021. Relocation costs are taxable and will be processed via payroll and taxed accordingly.



**f. Travel and Lodging Allowance.** The Company shall provide you with an allowance of \$5,000 per month for reasonable lodging expenses in the Cambridge, MA vicinity through September 1, 2021 or until relocation if earlier. The Company shall also cover reasonable travel expenses related to your commute between your home location and the Company's office location in Cambridge, MA, provided that air travel shall be by coach and train travel may be by business class. These allowances are taxable and will be included in the first semi-monthly pay each month.

**g. Expense Reimbursement.** The Company shall reimburse you for all ordinary and reasonable out-of-pocket business expenses incurred in furtherance of the Company's business in accordance with the Company's policies with respect thereto as in effect from time to time. You must submit any request for reimbursement no later than ninety (90) days following the date that such business expense is incurred. All reimbursements hereunder shall be made or provided in accordance with the requirements of Section 409A ("Section 409A") of the Internal Revenue Code and the rules and regulations thereunder (the "Code") including, where applicable, the requirement that: **(i)** any reimbursement is for expenses incurred during your lifetime (or during a shorter period of time specified in this Offer Letter); **(ii)** the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year; **(iii)** the reimbursement of an eligible expense shall be made no later than the last day of the calendar year following the year in which the expense is incurred; and **(iv)** the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

**h. Accrued Obligations.** For purposes of this Offer Letter, "Accrued Obligations" means: **(i)** the portion of your Annual Salary that has accrued prior to any termination of your employment with the Company and has not yet been paid; **(ii)** any accrued but unused vacation time pursuant to the Company's standard policy and practices, and **(iii)** the amount of any reimbursable expenses properly incurred by you on behalf of the Company prior to any such termination and not yet reimbursed. You shall be paid the Accrued Obligations upon or promptly following any termination of your employment with the Company.

### **3. Severance Benefit upon Termination without Cause.**

**a.** Notwithstanding the at-will nature of the parties' relationship, should the Company terminate your employment without Cause (as defined below), or should you terminate your employment with the Company for Good Reason (as defined below), you shall be paid the Accrued Obligations promptly upon such termination. In addition, conditioned upon: **(i)** your execution within 45 days after the date of your employment termination and non-revocation of and compliance with a separation agreement which shall contain, among other things, a full and general release of claims to the Company and its affiliates and their respective directors, officers, agents and employees, in a form reasonably satisfactory to the Company, and if your termination is by the Company without Cause, a non-competition covenant that restricts



certain competitive activities for a period of one (1) year from the date of termination (provided that if your termination does not qualify as Cause hereunder but qualifies as “Cause” as defined in your Non-Competition Agreement (as defined in Section 6 below), the non-competition covenant will not be contained in the separation agreement, but rather in your Non-Competition Agreement, with which you will be expected to comply) and **(ii)** your compliance with your obligations set forth in your Employee Non-Solicitation, Confidentiality and Assignment Agreement (the “Confidentiality Agreement” as described in Section 6 below), then the Company shall provide you with: **(iii)** payments equal to six (6) months of your then current base salary, payable in periodic installments over six (6) months, in accordance with the Company’s normal payroll practices; **(iv)** any unpaid Annual Bonus the Board determines was earned by you for the year prior to the year in which your employment termination occurs, payable in a lump sum at substantially the same time at which annual bonuses for such year are paid to other Company senior executives (but in no event later than December 31 of the year in which your employment termination occurs); and **(v)** (x) if the Company is subject to the Consolidated Omnibus Budget Reconciliation Act (“COBRA”) or similar state law, (y) the premium subsidy described below is not illegal or discriminatory under the Code, the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act, and (z) if you properly elect to receive benefits under COBRA, six (6) months of your COBRA premiums at the Company’s normal rate of contribution for employees for your coverage at the level in effect immediately prior to your termination.

**b.** For purposes of this Section 3, “Cause” means any one or more of the following actions: **(i)** your material breach of the terms of this Offer Letter, your Confidentiality Agreement, or your Non-Competition Agreement, to the extent capable of cure, following written notice of such material breach by the Company and a period of thirty (30) days to cure the same; **(ii)** your material dishonesty, willful misconduct, gross negligence, or reckless conduct; **(iii)** your commission of an act of fraud, theft, misappropriation or embezzlement; **(iv)** your conviction of, or pleading nolo contendere to, any crime involving dishonesty or moral turpitude or any felony; or **(v)** your material violation of a Company policy or willful refusal to perform your assigned duties to the Company, to the extent capable of cure, following written notice of such violation or refusal by the Company and a period of thirty (30) days to cure the same.

**c.** For purposes of this Section 3, “Good Reason” shall mean (i) relocation of your office location to a location more than fifty (50) miles from your office location on the Start Date, (ii) a material diminution in your duties, authority or responsibilities, other than in connection with a corporate transaction immediately after which you continue to hold substantially the same position with respect to the Company’s business, substantially as such business exists prior to such corporate transaction, as you held immediately before such corporate transaction but do not hold such position with respect to the successor or surviving entity, (iii) a material reduction in your Annual Salary, other than such a reduction that is implemented in connection with a contemporaneous and proportionate reduction in annual base salaries affecting all other senior executives of the Company, or (iv) material breach by the Company of its covenants and/or



obligations under this Offer Letter; provided that, in each of the foregoing clauses (i) through (iv), (A) you provide the Company with written notice that you intend to terminate your employment hereunder for one or more of the grounds set forth in this Section 3.c. within thirty (30) days of the occurrence of the event constituting a ground for Good Reason termination, (B) if such ground is capable of being cured, the Company has failed to cure such ground within a period of thirty (30) days from the date of such written notice, and (C) you terminate by written notice your employment within sixty (60) days from the date you provide the notice described in clause (A) of this Section 3.c.

**d.** Any severance payments paid under this Section 3 shall commence within 60 days after the date of termination; provided, however, that if the 60-day period begins in one calendar year and ends in a second calendar year, the severance payments will begin to be paid in the second calendar year by the last day of such 60-day period; provided, further, that the initial payment shall include a catch-up payment to cover amounts retroactive to the day immediately following the date of termination. Each payment pursuant to this Agreement is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

**e.** Should you voluntarily terminate your employment for any reason other than Good Reason, or should your employment be terminated for Cause, then you shall not be entitled to any severance payments described herein. Nothing in this Section 3 shall alter your status as an at-will employee.

**4. Certification.** By signing this Offer Letter, you are certifying to the Company that: **(a)** your employment with the Company does not and shall not require you to breach any agreement entered into by you prior to employment with the Company (i.e., you have not entered into any agreements with previous employers that are in conflict with your obligations to the Company); **(b)** to the extent you may be subject to restrictive agreements with any prior employer that may affect your employment with the Company, you have provided us with a copy of that agreement; **(c)** your employment with the Company does not violate any order, judgment or injunction applicable to you, and you have provided the Company with a copy of any such order, judgment, or injunction; and **(d)** all facts you have presented to the Company are accurate and true, including all statements made to the Company pertaining to your education, training, qualifications, licensing and prior work experience on any job application, resume or c.v., or in any interview. Please understand that the Company does not want you to disclose any confidential information belonging to a previous employer or to incorporate the proprietary information of any previous employer into the Company's proprietary information and expects that you shall abide by restrictive covenants to prior employers.

**5. Required I-9 Documentation.** Your employment with the Company is conditioned on your eligibility to work in the United States. For purposes of completing the INS I-9 form, you must provide us sufficient documentation to demonstrate your eligibility to work in the United States on or before your first day of employment.





**6. Confidentiality and Other Obligations.** As part of your employment with the Company, you shall be exposed to, and provided with, valuable confidential and trade secret information concerning the Company and its present and prospective clients. As a result, in order to protect the Company's legitimate business interests, you understand that your employment by the Company creates a relationship of confidence with respect to confidential and proprietary information belonging to the Company and third parties. In light of the foregoing and as a condition of your employment, you must sign and abide by: **(a)** the Company's standard Confidentiality Agreement, and **(b)** the Company's standard Noncompetition Agreement (the "Non-Competition Agreement"), and **(c)** the Company's standard Waiver of Review Period (the "Waiver"), copies of which are enclosed. As a Company employee, you shall be expected to abide by Company policies and procedures as may be in effect from time to time. You must sign and return the Confidentiality Agreement, Noncompetition Agreement, and Waiver (if applicable) before beginning your employment with the Company.

**7. Section 409A of the Code.**

**a.** Notwithstanding any other provision of this Offer Letter to the contrary, if any amount (including imputed income) to be paid to you pursuant to this Offer Letter as a result of your termination of employment is "deferred compensation" subject to Section 409A of the Code, and if you are a "Specified Employee" (as defined under Section 409A of the Code) as of the date of your termination of employment hereunder, then, to the extent necessary to avoid the imposition of excise taxes or other penalties under Section 409A of the Code, the payment of benefits, if any, scheduled to be paid by the Company to you hereunder during the first 6-month period following the date of a termination of employment hereunder shall not be paid until the date which is the first business day after six (6) months have elapsed since your termination of employment for any reason other than death. Any deferred compensation payments delayed in accordance with the terms of this Section 6.a. shall be paid in a lump sum after 6-months have elapsed since your termination of employment. Any other payments shall be made according to the schedule provided for herein.

**b.** If any of the benefits set forth in this Offer Letter are "deferred compensation" under Section 409A of the Code, any termination of employment triggering payment of such benefits must constitute a "separation from service" under Section 409A of the Code before distribution of such benefits can commence. To the extent that the termination of your employment does not constitute a "separation from service" under Section 409A of the Code (as the result of further services that are reasonably anticipated to be provided by you to the Company at the time your employment terminates), any benefits payable under this Offer Letter that constitute "deferred compensation" under Section 409A of the Code shall be delayed until after the date of a subsequent event constituting a "separation from service" under Section 409A of the Code. For purposes of clarification, this Section 6.b. shall not cause any forfeiture of benefits on your part, but shall only act as a delay until such time as a "separation from service" occurs.



c. It is intended that each installment of the payments and benefits provided under this Offer Letter shall be treated as a separate “payment” for purposes of Section 409A of the Code. Neither the Company nor you shall have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A of the Code.

d. This Offer Letter shall be interpreted and at all times administered in a manner that avoids the inclusion of compensation in income under Section 409A of the Code. Any provision inconsistent with Section 409A of the Code shall be read out of the Offer Letter, to the extent that such inconsistent provision can be read out without violation of Section 409A. For purposes of clarification, this Section 6.d. shall be a rule of construction and interpretation and nothing in this Section 6.d. shall cause a forfeiture of benefits on the part of you. You acknowledge and agree that the Company does not guarantee the tax treatment or tax consequences associated with any payment or benefit arising under this Offer Letter, including but not limited to consequences related to Section 409A of the Code.

**8. Indemnification.** Following the Start Date and during your employment, you will be entitled to indemnification for claims arising out of your employment hereunder to the same extent as other senior executives of the Company.

**9. General.** This Offer Letter, together with the Confidentiality Agreement and any other written agreements specifically referred to herein, embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The terms and provisions of this Offer Letter may be modified or amended only by written agreement executed by the parties hereto, and may be waived (or consent for the departure there from granted) only by a written document executed by the party entitled to the benefits of such terms or provisions. The Company may assign its rights and obligations hereunder to any person or entity that succeeds to all or substantially all of the Company’s business. You may not assign your rights and obligations hereunder without the prior written consent of the Company and any such attempted assignment by you without the prior written consent of the Company shall be void. This Offer Letter and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal law of Massachusetts, without giving effect to the conflict of law principles thereof. By accepting this offer of employment, you agree that any action, demand, claim or counterclaim in connection with any aspect of your employment with the Company, or any separation of employment (whether voluntary or involuntary) from the Company, shall be brought in the courts of Massachusetts or of the United States of America for the District of Massachusetts, and shall be resolved by a judge alone, and you waive and forever renounce your right to a trial before a civil jury.



Because our employment discussions and the terms of your employment are confidential, it is understood that you shall not disclose the fact or terms of such discussions or the terms of your employment with the Company to anyone other than your immediate family and your legal or financial advisor at any time, absent prior written consent from the Company, or as permitted by law.

This offer shall remain open, unless sooner revoked by the Company, through **April 6, 2020**. Please acknowledge acceptance of this employment offer by signing and dating below. Keep one copy for your files and return one executed copy to me.



Roger, we look forward to having you on the team.

Very truly yours,  
Omega Therapeutics, Inc.

/s/ Mahesh Karande  
03/31/2020

Mahesh Karande, President & CEO

Accepted and Agreed to:

/s/ Roger Sawhney  
\_\_\_\_\_  
Roger Sawhney

3/30/2020  
\_\_\_\_\_  
Date

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Execution Copy

## LICENSE AGREEMENT

This License Agreement (this “**Agreement**”), effective on March 12, 2019 (the “**Effective Date**”) is by and between **Flagship Pioneering Innovations V, Inc.**, a Delaware corporation (“**Flagship**”) and **Omega Therapeutics, Inc.**, a Delaware corporation (“**Company**”). Flagship and Company may be referred to individually as a “**Party**” and collectively as the “**Parties**”.

WHEREAS, Flagship Pioneering, Inc. (“**Flagship Management**”), pursuant to that certain managerial agreement with Company (the “**Managerial Agreement**”), has developed certain foundational intellectual property during the exploration and/or proto-company phase of Company;

WHEREAS, Company wishes to assign to Flagship Management and Flagship Management wishes to assign to Flagship, its interests in certain foundational intellectual property related to the business of Company and conceived prior to Launch of the Company (defined below), as well as Improvements (defined below) to such intellectual property;

WHEREAS, Company wishes to obtain from Flagship, and Flagship desires to grant to Company, certain rights to Foundational IP (defined below) in order to develop and commercialize Licensed Products (defined below);

WHEREAS, Company and, pursuant to the Managerial Agreement or other participation in Company’s affairs, Flagship Management has developed or may develop certain intellectual property following the Launch of the Company, and Flagship Management has assigned its interest in such intellectual property to Flagship;

WHEREAS, Company wishes to obtain from Flagship, and Flagship desires to assign to Company, certain rights to New IP (defined below); and

NOW THEREFORE, in consideration of the foregoing premises and the mutual rights and obligations contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, Flagship and Company hereby agree as follows:

### 1. DEFINITIONS

1.1 “**Bi-Annual Reports**” has the meaning assigned in Section 5.2.

1.2 “**Business Day**” means a day other than Saturday, Sunday, or any day on which commercial banks located in Boston, Massachusetts are authorized or obligated by Laws to close.

1.3 “**Calendar Year**” means January 1 through December 31 of a given year.

1.4 “**Commercial Sale**” means, with respect to a particular Licensed Product, the commercial sale in an arm’s length bona fide transaction with a Third Party for which consideration is received or expected for the sale, use, lease, transfer or other disposition, by or on

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behalf of Company, its Subsidiary or Sublicensee, to a Third Party that is not a Sublicensee (or to Company's Subsidiary or Sublicensee that is an end user or consumer of such Licensed Product), including any final sale to a distributor or wholesaler under any non-conditional sale arrangement, of such a Licensed Product. A Commercial Sale is deemed completed at the time that Company, its Subsidiary or Sublicensee invoices, ships, or receives payment for a Licensed Product, whichever occurs first.

1.5 **"Commercialization"** means any and all activities related to the Manufacturing for commercial purposes, promotion, distribution, marketing, offering for sale and selling, including advertising, educating, planning, obtaining, supporting and maintaining pricing and reimbursement approvals and Regulatory Authorizations, managing and responding to adverse events involving the product, pricing, price reporting, detailing, storing, handling, shipping, distributing, importing, exporting, and using a product anywhere in the world, in each case for commercial purposes. Commercialization excludes Development activities. When used as a verb, **"Commercialize"** means to engage in Commercialization.

1.6 **"Commercially Reasonable Efforts"** means, with respect to Company's obligations under this Agreement, efforts consistent with the efforts and resources as commonly used by a biotechnology company of comparable size and resources as Company for a product at a similar stage of research, development or commercialization having similar product characteristics at a similar stage in its development or product life, taking into account relevant factors including patent coverage, relative safety and efficacy, product profile, the competitiveness of the marketplace, the proprietary position of such product, the regulatory structure involved, the market potential of such product and other relevant factors, including comparative technical, legal, scientific, medical and/or economic factors, all as measured by the facts and circumstances in effect at the time when the relevant activities are conducted.

1.7 **"Confidential Information"** means all proprietary know-how, unpublished patent applications and other information and data of a financial, commercial, regulatory, scientific or technical nature which a Party or any of its Recipient Entities has disclosed, supplied or otherwise made available to the other Party or its Recipient Entities, whether orally, in writing or in electronic form, pursuant to this Agreement or otherwise relating to or disclosed during any transaction contemplated hereby, including information comprising or relating to concepts, discoveries, inventions, data, designs or formulae in relation to this Agreement. Confidential Information shall not include information that the receiving Party can demonstrate by written and/or electronic records: (a) is available to the public at the time of disclosure hereunder or, after disclosure, becomes a part of the public domain by publication or otherwise, through no breach by the receiving Party; (b) is already properly possessed by the receiving Party prior to receipt from the disclosing Party; (c) was received by the receiving Party without obligation of confidentiality or limitation on use from a Third Party who had the lawful right to disclose such information on such terms; or (d) was independently developed by or for the receiving Party by any person or persons without use of or reference to the disclosing Party's Confidential Information, where the written or electronic records demonstrating such exception were created contemporaneously with such independent development.

1.8 **"Control"** or **"Controlled"** means, with respect to any Patent, other intellectual property right or other intangible property, an Entity's ownership or the possession (whether by ownership, license or otherwise) of the ability to grant access to, or a license or sublicense to, such Patent, right or property, without violating the terms of any agreement with a Third Party.

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1.9 **“Develop”** means to engage in pre-clinical and clinical research and development activities reasonably relating to the discovery and development of product candidates and submission of information to a Regulatory Authority, including toxicology, pharmacology, and other discovery, optimization, and pre-clinical efforts, test method development and stability testing, manufacturing process development, formulation development, delivery system development, quality assurance and quality control development, statistical analysis, clinical studies (including pre and post Regulatory Approval studies), and activities relating to obtaining Regulatory Approval. **“Development”** has a correlative meaning.

1.10 **“EMA”** means the European Medicines Agency or any successor Entities thereto.

1.11 **“Entity”** means a corporation, an association, a joint venture, a partnership, a trust, a business, an institution, an individual, a government or political subdivision thereof, including an agency, or any other organization that can exercise independent legal standing.

1.12 **“Exploit”** means, collectively, to Develop, Manufacture and Commercialize, including to have Developed, to have Manufactured, to have Commercialized, and otherwise to commercially exploit. **“Exploitation”** has a correlative meaning.

1.13 **“Fair Market Value”** means (a) in the case of arm’s length sale of a Licensed Product, (i) the cash consideration that Company, its Subsidiary, or Sublicensee has realized from such sale, or (ii) if there have been no such sales or such sales have been insufficient, the cash consideration that Company, its Subsidiary, or Sublicensee would have realized from an unaffiliated, unrelated buyer in an arm’s length sale of Licensed Product in the same quantity, under the same terms, and at the same time and place as the sale for which Fair Market Value is being determined; or (b) in the case of non-cash consideration received in a sale of a Licensed Product, the cash value of such consideration.

1.14 **“FDA”** means the United States Food and Drug Administration or any successor Entities thereto.

1.15 **“First Commercial Sale”** means, on a jurisdiction-by-jurisdiction basis, the first time a Commercial Sale is made.

1.16 **“Flagship Entities”** means, collectively, Flagship, Flagship Management and any Entity that controls, is controlled by, or is under common control with, Flagship, directly or indirectly. For purposes of this definition, “control” and its various forms means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Entity, whether through ownership of voting securities, by contract or otherwise. Without limiting the generality of the foregoing, an Entity will be deemed to control another Entity if it owns or directly or indirectly controls more than fifty percent (50%) of the voting stock or other securities of the Entity. For purposes of this Agreement, Company and its Subsidiaries shall be deemed excluded from the meaning of “Flagship Entities.”

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1.17 **“Foundational IP”** means (a) the Patents conceived before Launch of the Company, set forth in **Exhibit A**, which Exhibit may be updated from time to time by the Parties, and (b) Improvements to such Patents described in clause (a).

1.18 **“Governmental Authority”** means any supranational, national, federal, state, provincial, local or foreign Entity of any nature exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any governmental authority, agency, department, board, commission, court, tribunal, judicial body or instrumentality of any union of nations, federation, nation, state, municipality, county, locality or other political subdivision thereof.

1.19 **“Gross Sales”** means the greater of the gross invoice or contract price charged to a Third Party by Company, its Subsidiaries, or Sublicensees, as applicable, for Commercial Sales, prior to any discounts or other list price reductions granted. [\*\*\*].

In the event Company, its Subsidiary, or Sublicensee transfers a Licensed Product to a Third Party in a bona fide arm’s length transaction, for any consideration other than cash, then the Gross Sales price for such Licensed Product shall be deemed to be the standard invoice price then being invoiced by Company, its Subsidiary, or Sublicensee, as applicable, in an arm’s length transaction with similar companies. In the absence of such standard invoice price, then the Gross Sales price shall be the Fair Market Value of the Licensed Product. Sales or other transfers of Licensed Products between Company and its Subsidiaries or Sublicensees shall be excluded from the computation of Gross Sales (and therefore no payments will be payable to Flagship on such sales or transfers) except where such Subsidiaries or Sublicensees are end users or consumers of Licensed Products in which event, notwithstanding anything herein to the contrary, Licensed Product transfers to such Subsidiaries and Sublicensees shall be included in Gross Sales. For avoidance of doubt, the sale of Licensed Product by Subsidiaries or Sublicensees to Third Parties shall be considered as part of Gross Sales.

For the avoidance of doubt, disposal of any Licensed Product without charge for use in any clinical trials, as free samples, or under compassionate use, patient assistance, named patient or test marketing programs or non-registrational studies or other similar programs or studies where Licensed Product is supplied or delivered without charge, shall not result in any Gross Sales. No Licensed Product donated by Company, its Subsidiary, or Sublicensee to non-profit institutions or government agencies for a non-commercial purpose shall result in any Gross Sales.

[\*\*\*]

1.20 **“Improvement”** means any Patent or pending Patent application with a claim which, if practiced in the absence of a license, would infringe at least one Valid Claim of the base Patent or pending Patent application.



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1.21 **“Infringement Action”** means any threatened, pending, or ongoing action, claim, litigation, or proceeding (other than oppositions, cancellations, interferences, reissue proceedings, reexaminations, and other ex parte or inter partes administrative proceeding before patent offices), respecting any Foundational IP in the Licensed Field in the Territory, whether initiated by or against a Flagship Entity or Company, its Subsidiary or Sublicensee.

1.22 **“Launch of the Company”** means the closing of the Series B financing of the Company or the first day of employment by Company of a Chief Executive Officer, whichever is earlier.

1.23 **“Laws”** means all active governmental constitutions, laws, statutes, ordinances, treaties, rules, common laws, rulings, regulations, orders, charges, directives, determinations, executive orders, writs, judgments, injunctions, decrees, restrictions or similar legally effective pronouncements of any Governmental Authority.

1.24 **“Licensed Field”** means therapeutics.

1.25 **“Licensed Product”** means any product or process or component of either of the foregoing, the Exploitation of which would, in the absence of the licenses granted to Company hereunder, infringe at least one Valid Claim.

1.26 **“Manufacturing”** means all activities directed to sourcing of necessary raw materials, producing, processing, packaging, labeling, quality assurance testing, release of a Licensed Product or Licensed Product candidate, whether for Development or Commercialization. When used as a verb, **“Manufacture”** means to engage in Manufacturing.

1.27 **“Net Sales”** means all Gross Sales of Licensed Product less the total of the following deductions [\*\*\*]:

- (a) [\*\*\*];
- (b) [\*\*\*];
- (c) [\*\*\*]; and

(d) [\*\*\*].

[\*\*\*]

Components of Net Sales shall be determined in the ordinary course of business using the accrual method of accounting in accordance with generally accepted accounting principles, consistently applied.

No deductions shall be made from Net Sales for commissions paid to individuals whether they are (i) with independent sales agents or agencies, (ii) regularly employed by Company, its Subsidiaries, or Sublicensees on its or their payroll, or (iii) for the cost of collections.

1.28 **“New IP”** means any and all Patents claiming any inventions conceived (a) solely by Flagship Management or jointly by Flagship Management and Company, (b) after the Launch of the Company, and (c) as a result of activities conducted pursuant to the Managerial Agreement or other participation of Flagship Management in Company’s affairs (e.g., through participation in Company’s board of directors), all of the foregoing solely to the extent such Patents do not constitute Foundational IP. Patents within the New IP are set forth on **Exhibit B**, which Exhibit may be updated from time to time by the Parties.

1.29 **“Patent Costs”** has the meaning assigned in Section 7.2.

1.30 **“Patents”** means (a) United States and foreign patents and/or patent applications; (b) any and all patents issuing from the foregoing; (c) any and all claims of continuation-in-part applications that claim priority to the United States patent applications, but only where such claims are directed to inventions disclosed in the manner provided in the first paragraph of 35 U.S.C. § 112 in such United States patent applications, and such claims in any patents issuing from such continuation-in-part applications; (d) any and all foreign patent applications, foreign patents, or related foreign patent documents that claim priority to the patents and/or patent applications; and (e) any and all divisionals, continuations, reissues, re-examinations, renewals, substitutions, and extensions of the foregoing.

1.31 **“Prosecution”** means the filing, preparation, prosecution (including any interferences, reissue proceedings, reexaminations, oppositions and other ex parte or inter partes administrative proceeding before patent offices), extension, term adjustment, and maintenance of Foundational IP. When used as a verb, **“Prosecute”** means to engage in Prosecution.

1.32 **“Quarter”** means each three-month period beginning on January 1, April 1, July 1 and October 1 of each Calendar Year; provided, however, that as it relates to the Commercial Sale of Licensed Products, the first Quarter shall be comprised of the time period beginning on the date of First Commercial Sale and ending at the end of the Quarter during which such First Commercial Sale occurs.

1.33 **“Recipient Entity”** has the meaning assigned in Section 6.1.

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1.34 **“Regulatory Approval”** means, with respect to a country or other jurisdiction, all approvals, licenses, clearances, marks, registrations, authorizations certificates, exemptions, consents, franchises, concessions, notices or other like item of or issued by any Regulatory Authority, from the relevant Governmental Authority necessary or useful to commercially distribute, sell or market a product in such country or other applicable jurisdiction (not including any applicable pricing and governmental reimbursement approvals unless legally required to market the product in a country or other applicable jurisdiction).

1.35 **“Regulatory Authority”** means any applicable Governmental Authority involved in granting Regulatory Approval for, and responsible for the regulation of, the product in any jurisdiction, including the FDA, EMA, and any corresponding Governmental Authority.

1.36 **“Royalty Term”** means, on a Licensed Product-by-Licensed Product and jurisdiction-by-jurisdiction basis, the period from the First Commercial Sale of such Licensed Product in the Licensed Field in such jurisdiction until the expiration of the last Valid Claim of any Foundational IP covering such Licensed Product in the Licensed Field in such jurisdiction.

1.37 **“Sublicensee”** means any Entity that enters into an agreement or arrangement with Company, or receives from Company a license grant or option for license grant under any Foundational IP, to exercise any of the rights granted to Company by Flagship hereunder (such agreement, arrangement, or license herein referred to as a **“Sublicense”**), including to Exploit a Licensed Product, subject to the then-current applicable article, item, service, technology, and technical data-specific requirements of the U.S. export Laws.

1.38 **“Subsidiary”** means any Entity that is controlled by a Party, directly or indirectly. For purposes of this definition, “control” and its various forms means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Entity, whether through ownership of voting securities, by contract or otherwise. Without limiting the generality of the foregoing, a Party will be deemed to control another Entity if the Party owns or directly or indirectly controls more than fifty percent (50%) of the voting stock or other securities of the Entity.

1.39 **“Term”** means the term of this Agreement which will commence on the Effective Date and expire upon the expiration of the last Royalty Term for the last Licensed Product, unless terminated earlier pursuant to Article 12.

1.40 **“Territory”** means worldwide.

1.41 **“Third Party”** means any Entity other than a Party, a Subsidiary of Company or a Flagship Entity.

1.42 **“Valid Claim”** means (a) an unexpired claim of an issued Patent within the Foundational IP that has not been ruled unpatentable, invalid or unenforceable by a final and unappealable decision of a court or other competent authority in the subject jurisdiction; or (b) a pending claim of a Patent application within the Foundational IP which (i) has not been abandoned or finally disallowed without possibility of appeal and (ii) has not been pending for more than [\*\*\*] from its filing date.

## **2. LICENSE GRANT AND ASSIGNMENTS**

**2.1 Assignment of Foundational IP to Flagship.** Company hereby irrevocably and unconditionally assigns to Flagship all of its right, title and interest in and to all Foundational IP as of the Effective Date and thereafter. Company shall take all further actions reasonably requested by Flagship to vest in Flagship all right, title and interest in and to such Foundational IP.

**2.2 License Grant to Company.** Subject to the terms and conditions set forth herein (including Article 6), Flagship hereby grants to Company an exclusive, royalty-bearing, sublicensable (subject to the provisions of Section 2.3), transferable (subject to the provisions of Section 14.5) license under the Foundational IP to Exploit Licensed Products in the Licensed Field, during the Term and throughout the Territory.

**2.3 Sublicensing.** Company shall have the right to sublicense, through multiple tiers, the rights licensed to Company hereunder, provided that:

(a) Any and all Sublicenses shall be in writing (and Company shall provide a copy of all such Sublicenses to Flagship upon execution) and consistent with the terms of this Agreement (including an assignment of Foundational IP to Company, with a right of further transfer to Flagship, consistent with Section 2.1 and reversion rights consistent with Section 2.7).

(b) Company shall notify Flagship in writing of any [\*\*\*]. Company hereby agrees to remain fully liable under this Agreement to Flagship for the performance or non-performance under this Agreement and the relevant Sublicense by any party to those agreements.

(c) Company shall enforce all such Sublicenses against its Sublicensees, ensuring its Sublicensees' performance in accordance with the terms of this Agreement and the relevant Sublicense. No such Sublicense or attempt to obtain a Sublicense shall relieve Company of its obligations hereunder to exercise its Commercially Reasonable Efforts pursuant to Section 3.1, directly or through a Sublicensee, to Develop and Commercialize Licensed Products, nor relieve Company of its obligations to pay Flagship any and all royalties and other payments due under this Agreement.

(d) Such Sublicensees shall have the right to grant further sublicenses to Third Parties of same or lesser scope as its sublicense from Company under the licenses contained in Section 2.2, provided that such further Sublicenses shall be in accordance with and subject to all of the terms and conditions of this Section 2.3 (i.e., such Sublicensee shall be subject to this Section 2.3 in the same manner and to the same extent as Company). For clarity, any Entity to whom a Sublicensee grants a sublicense as permitted by the terms of this Agreement shall be deemed to be a Sublicensee for purposes of this Agreement.

**2.4 Assignment of New IP to Company.** Flagship hereby irrevocably and unconditionally assigns to Company all of its right, title and interest in and to all New IP as of the Effective Date and thereafter. [\*\*\*] Flagship shall take all further actions reasonably requested by Company to vest in Company all such right, title and interest in and to such New IP.

2.5 **Notice of Foundational IP and New IP.** Upon the filing of any Foundational IP or New IP during the Term, the Party making or becoming aware of such filing shall promptly notify the other Party, and the Parties shall update the Foundational IP set forth on **Exhibit A** and the New IP set forth on **Exhibit B**, as applicable ..

2.6 **Retained Rights; License Back.** The licenses granted to Foundational IP hereunder are subject to and contingent upon Company's compliance with all of its obligations hereunder including, but not limited to, the payment by Company to Flagship of all payments required under this Agreement, and further subject to rights hereby retained by Flagship and/or granted by Company to Flagship. Company hereby grants to Flagship a non-exclusive, royalty-free, fully paid, sublicensable (to Flagship Entities and service providers thereof) license to practice, and permit Flagship Entities to practice, the Foundational IP within the Licensed Field in the Territory for non-commercial research and Development purposes or to perform under the Managerial Agreement.

## 2.7 Reversion Rights

(a) [\*\*\*] Company has not used, itself or through Sublicensees, Commercially Reasonable Efforts to Develop or Commercialize Licensed Products in a specified sub-field within the Licensed Field (each, a "Sub-Field"), Flagship has the right, at any time during the Term, to terminate the license granted to Company hereunder with respect to Exploitation of Licensed Products in such Sub-Field upon [\*\*\*] prior written notice to Company (each, a "Sub-Field Termination Notice").

(b) Within [\*\*\*] of Company's receipt of a Sub-Field Termination Notice, Company shall provide to Flagship either (i) written notice of its agreement to terminate Company's license in such Sub-Field, or (ii) written notice requesting to maintain Company's license in such Sub-Field, together with a written plan for Development and Commercialization of a Licensed Product in such Sub-Field (which may include activities to be conducted by a Sublicensee), including planned Development and Commercialization milestones (and a timeline and budget therefor) and a management and financial plan ("Sub-Field Plan"). Flagship shall consider such Sub-Field Plan in good faith and shall not unreasonably withhold its approval of such Sub-Field Plan. In the event Flagship approves of such Sub-Field Plan, (x) Flagship shall withdraw the Sub-Field Termination Notice upon written notice to Company, (y) the license granted to Company hereunder in such Sub-Field shall remain in effect unless and until subsequently terminated in accordance with this Agreement (including termination under this Section 2.7 following a subsequent Sub-Field Termination Notice by Flagship with respect to the same Sub-Field) and (z) Company shall carry out the Sub-Field Plan.

(c) Unless Flagship elects to withdraw the Sub-Field Termination Notice pursuant to Section 2.7(b), the license granted to Company hereunder in such Sub-Field shall automatically terminate and revert to Flagship on the earlier of: (i) the date upon which Company agrees in writing to terminate Company's license in such Sub-Field [\*\*\*]

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(a “Reversion Effective Date”). Upon the Reversion Effective Date, (x) any such Sub-Field shall be deemed a “Reversion Sub-Field”, (y) the meaning of the Licensed Field shall be deemed amended to exclude each Reversion Sub-Field for all purposes hereunder and (z) any rights under the Foundational IP granted to any Sublicensee in a Reversion Sub-Field shall terminate automatically. Commencing upon the Reversion Effective Date and continuing thereafter, neither Company nor any Sublicensee will have any right to, or will undertake to, Exploit any Licensed Product in a Reversion Sub-Field, and Company will ensure all Sublicensees comply with the foregoing.

2.8 **No Implied Licenses.** Except as expressly provided under this Article 2, no right or license is granted under this Agreement (expressly or by implication or estoppel) by either Party to the other Party, its Subsidiaries or Sublicensees under any tangible or intellectual property.

### **3. DUE DILIGENCE**

3.1 **Commercially Reasonable Efforts.** At all times throughout the Term and at Company’s sole cost and expense, Company shall use Commercially Reasonable Efforts to diligently Exploit the Licensed Products in the Licensed Field and Territory. [\*\*\*].

3.2 **Annual Spend.** In furtherance of Company’s obligations in Section 3.1, Company shall spend (a) at least [\*\*\*] Dollars (\$[\*\*\*]) on Development and/or Commercialization activities with respect to Licensed Products in the Licensed Field during each year of the Term (with such year to be calculated beginning on the Effective Date and terminating on each annual anniversary thereafter), and (b) no less than [\*\*\*] Dollars (\$[\*\*\*]) on Development and/or Commercialization activities with respect to Licensed Products in the Licensed Field during the period beginning on the Effective Date and ending on the [\*\*\*] anniversary of the Effective Date.

### **4. PAYMENTS**

4.1 **Royalties.** As additional consideration for the license and other rights granted under this Agreement, during the Royalty Term, Company shall pay to Flagship [\*\*\*]% of Net Sales on a Licensed Product-by-Licensed Product basis.

4.2 Notwithstanding anything to the contrary herein, Company will pay Flagship [\*\*\*] under this Agreement with respect to the same unit of Licensed Product sold, regardless of the number of Valid Claims covering such Licensed Product.

### **5. REPORTS AND PAYMENT TERMS**

5.1 **Reporting of First Commercial Sale.** Company shall provide a written report to Flagship setting forth the date of First Commercial Sale in each jurisdiction within [\*\*\*] of the occurrence thereof.

5.2 **Bi-Annual Royalty Report.**

(a) Within [\*\*\*] after the Quarter in which any First Commercial Sale occurs, and within [\*\*\*] after each alternating Quarter thereafter [\*\*\*] Company shall provide Flagship with a written report detailing the amount of Gross Sales during the preceding two Quarters, the amount of Net Sales made during such Quarters and the royalty payments due to Flagship for such Quarters pursuant to Article 4 (each such report, a “**Bi-Annual Report**”).

(b) Each Bi-Annual Report shall include at least the following: accounting for Net Sales, detailing the Gross Sales and specifying the deductions taken to arrive at Net Sales, listed by Licensed Product and by jurisdiction, and total royalty payments due to Flagship by Licensed Product and by jurisdiction. Each Bi-Annual Report shall be in substantially similar form as **Exhibit C** hereto, or to such other form as Flagship may provide from time to time. Each Bi-Annual Report shall be certified as true and correct by an officer of Company.

(c) With each Bi-Annual Report submitted, Company shall pay to Flagship the royalties due and payable under this Agreement, to the extent not already paid. If no royalties or fees are due and payable, Company shall so report.

5.3 **Payment and Currency.** All dollar amounts referred to in this Agreement are expressed in United States dollars (“**Dollars**”) and Company shall make all payments due to Flagship in Dollars, without deduction of exchange, collection, wiring fees, bank fees, or any other charges, within [\*\*\*] following the Quarter in which Net Sales occur. All payments to Flagship will be made in Dollars by wire transfer or check payable to Flagship in accordance with the payment instructions set forth on **Exhibit D** hereto or as otherwise provided by Flagship from time to time.

5.4 **Currency Exchange; Taxes.** For converting any Net Sales made in a currency other than Dollars, the Parties will use the conversion rate published in the Wall Street Journal or other industry standard conversion rate approved in writing by Flagship for the last day of the Quarter for which such royalty payment is due or, if the last day is not a Business Day, the closest preceding Business Day. All applicable taxes and other charges such as duties, customs, tariffs, imposts and government imposed surcharges on payments made under this Agreement (for the avoidance of doubt, not including income taxes imposed directly upon Flagship or its owners) shall be borne by Company and will not be deducted from payments due to Flagship.

5.5 **Late Payments.** In the event royalty payments or other fees are not received by Flagship when due hereunder, Company shall pay to Flagship interest charges that will accrue interest until paid at a rate equal to [\*\*\*] calculated on the number of days such payment is overdue.

5.6 **Records and Audit Rights.** Company shall keep, and cause its Subsidiaries and Sublicensees to keep, complete, true and accurate records and books containing all particulars that may be necessary for the purpose of showing the amounts payable to Flagship hereunder. Copies of all such records and books shall be kept at the applicable Entity’s principal place of business or the principal place of business of the appropriate division of such Entity to which this Agreement relates. The records and books for each Quarter will be maintained for at least [\*\*\*] after

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the Calendar Year in which the applicable report was submitted to Flagship. Such records and books and the supporting data shall be open to inspection by Flagship, its contractors or agents at all reasonable times for a term of [\*\*\*] following the end of the Calendar Year to which they pertain, for the purpose of verifying the Bi-Annual Report or compliance in other respects with this Agreement. Such access will be available to Flagship, its contractors or agents upon not less than [\*\*\*] written notice to Company, or its Subsidiary or Sublicensee, as applicable, not more than twice each Calendar Year during the Term and once per Calendar Year after the expiration or termination of this Agreement. Should such inspection lead to the discovery of at least a [\*\*\*] percent ([\*\*\*]%) or [\*\*\*] dollar (\$[\*\*\*]) discrepancy in reporting to Flagship's detriment (whichever is greater), Company agrees [\*\*\*]. Whenever Company, or its Subsidiary or Sublicensee has its books and records audited by an independent certified public accountant with respect to any Quarter in which amounts are payable to Flagship hereunder, Company, or its Subsidiary or Sublicensee, as applicable, will, within [\*\*\*] of the conclusion of such audit, provide Flagship with a written statement, certified by said auditor, setting forth the calculation of royalties, fees, and other payments due to Flagship over the time period audited as determined from the books and records of such Entity, together with the payment of any outstanding amounts due to Flagship.

**6. CONFIDENTIALITY; PUBLICITY; USE OF NAME**

6.1 **Confidentiality.** The receiving Party shall maintain in confidence and not disclose to any Third Party any of disclosing Party's Confidential Information, using the same degree of care it uses to protect its own confidential information of a similar nature but in no event using less than a reasonable degree of care. The receiving Party will use disclosing Party's Confidential Information solely as required to exercise its rights and undertake its obligations under this Agreement (the "**Purpose**") and only during the Term. The receiving Party will ensure that its employees, independent contractors, Subsidiaries, Sublicensees (in the case of Company) and Flagship Entities (in the case of Flagship) ("**Recipient Entities**") have access to disclosing Party's Confidential Information only on a need to know basis, are informed of all the obligations attaching to such Confidential Information in advance of being given access to it, and are required to comply with such receiving Party's obligations under this Agreement. Receiving Party shall be fully responsible to disclosing Party for such compliance by its Recipient Entities. If such a Recipient Entity is not an employee of a Party hereto, then receiving Party will enter into a legally binding, written confidentiality agreement with provisions at least as strict as the confidentiality obligations and use restrictions herein with such Recipient Entity prior to disclosing Party's Confidential Information to such Recipient Entity, and receiving Party will be fully responsible to disclosing Party for compliance with such obligations and restrictions by such Recipient Entity.

6.2 Notwithstanding Section 6.1, the receiving Party may disclose disclosing Party's Confidential Information to the limited extent required by Law, court order or other Governmental Authority with jurisdiction, provided that the receiving Party (a) promptly provides the disclosing Party, to the extent legally permissible, with written notice of such requirement, (b) uses no less than reasonable efforts to obtain confidential treatment of such Confidential Information by such court or Governmental Authority, and (c) cooperates, at the disclosing Party's written request and expense, with the disclosing Party's legal efforts to prevent or limit the scope of such required disclosure; the receiving Party shall in all other respects continue to hold such Confidential Information as confidential and subject to all obligations of this Article 6. The receiving Party's



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obligations of confidentiality and non-use restrictions as set forth in this Article 6 shall remain in effect for a period of [\*\*\*] from receipt of the Confidential Information from the disclosing Party.

6.3 Each Party agrees to treat the terms and conditions of this Agreement as the Confidential Information of the other Party, provided however that, in addition to the above exceptions, each Party shall be free to disclose any of the terms of this Agreement (i) to the extent that a Party is advised by its counsel that such disclosure is required by the regulations or rules of any relevant stock exchange, (ii) to actual or prospective investors, partners and Sublicensees, (iii) to its accountants, attorneys and other professional advisors, or (iv) in connection with a financing, merger, consolidation, acquisition or a permitted assignment of this Agreement; provided that (a) in the case of any disclosure under clause (ii), (iii), or (iv) above, the recipient(s) are obligated and do so undertake to keep such terms of this Agreement confidential to the same extent as said Party (said Party being fully responsible to the other Party for such recipients' compliance), and (b) in the case of disclosure under clause (i), such disclosure shall be in accordance with Section 6.2.

6.4 **Publicity.** Neither Party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement without the prior written consent of the other Party. The Parties will cooperate to determine the timing and content of such announcement, statement, press release or other publicity or marketing materials.

6.5 **Use of Flagship's Name.** Company and its Subsidiaries, Sublicensees, employees and agents may not use the name, logo, seal, trademark, service mark or domain names or other indicia of source, association or sponsorship of any Flagship Entity, or any officer, director or other representative of any Flagship Entity (or any adaptation of any of the foregoing) without the prior written consent of such Flagship Entity, which consent will be granted or denied in such Flagship Entity's sole discretion.

## **7. PATENT PROSECUTION AND COSTS**

7.1 **Patent Prosecution.** [\*\*\*] shall control the Prosecution of Foundational IP and the selection of patent counsel (provided that [\*\*\*] does not reasonably object to such patent counsel). [\*\*\*] will request that copies of all material documents prepared by patent counsel be provided to [\*\*\*] for review and comment prior to filing, to the extent reasonably practicable under the circumstances. [\*\*\*] will consider any timely comments and requests from [\*\*\*] in good faith; provided, however, that [\*\*\*] shall have final authority regarding all Prosecution decisions. In the event [\*\*\*] decides not to Prosecute or intends to abandon the registration or application of any rights in and to any Foundational IP in any jurisdiction in the Territory, [\*\*\*] shall provide [\*\*\*] with written notice of such circumstance as promptly as practicable, and, upon [\*\*\*] request, [\*\*\*] shall have the right to undertake Prosecution of such Foundational IP in such jurisdiction at its sole cost and expense. [\*\*\*] will maintain as confidential and privileged, and as [\*\*\*] Confidential Information in accordance with Article 6, all information received pursuant to this Section 7 .1.

7.2 **Patent Costs.** Within [\*\*\*] after the Effective Date, [\*\*\*] will reimburse [\*\*\*] for all attorneys' fees, expenses, official fees and all other reasonable out-of-pocket expenses incurred by [\*\*\*] in connection with the Prosecution of the Foundational IP

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(“**Patent Costs**”) prior to the Effective Date and not previously reimbursed by [\*\*\*]. In addition, within [\*\*\*] after receipt of an invoice from [\*\*\*] will reimburse [\*\*\*] for all Patent Costs incurred prior to or during the Term and not previously reimbursed by [\*\*\*].

**7.3 Non-Payment of Patent Costs.** If [\*\*\*] decides that it does not wish to pay the Patent Costs of any Foundational IP in a particular jurisdiction, [\*\*\*] shall provide [\*\*\*] with written notice of such election. Upon the date which is [\*\*\*] following notice of such election with respect to any Patent, (a) [\*\*\*] shall be released from its obligation to reimburse [\*\*\*] for Patent Costs incurred thereafter as to such Patent; provided, however, that Patent Costs authorized prior to the receipt by [\*\*\*] of such notice shall be deemed incurred prior to receipt of the notice and reimbursable by [\*\*\*], (b) any license granted by [\*\*\*] to [\*\*\*] hereunder with respect to such Patent will immediately terminate, and [\*\*\*] will have no rights whatsoever to Exploit such Patent, and (c) [\*\*\*] will be free, without further notice or obligation to [\*\*\*] to grant rights in and to such Patent to any Third Parties. Should [\*\*\*] decline or fail to pay, by the deadline set forth in Section 7.2, the Patent Costs for the Prosecution of any Foundational IP payable under this Agreement, [\*\*\*] may terminate this Agreement solely with respect to such Patent upon written notice to [\*\*\*], in which event any license granted by [\*\*\*] to [\*\*\*] hereunder with respect to such Patent will immediately terminate, [\*\*\*] will have no rights whatsoever to Exploit such Patent, and [\*\*\*] will be free, without further notice or obligation to [\*\*\*] to grant rights in and to such Patent to any Third Parties.

**7.4 Privileged Communications.** It is expected that, in furtherance of this Agreement, the Parties and/or their respective counsel will, from time to time, disclose to one another privileged communications between a Party and its counsel, including opinions, memoranda, letters, and other written, electronic, and verbal communications. Such disclosures are made with the understanding that they shall remain privileged and confidential and that they are made in connection with the shared community of identical legal interests existing between the Parties, including the community of legal interests in avoiding infringement of any valid, enforceable third party Patents and in obtaining patent protection for Foundational IP.

## **8. INFRINGEMENT**

**8.1 Notice.** In the event that either Party becomes aware of any suspected infringement of any Foundational IP or of any Infringement Action, such Party shall promptly notify the other Party in writing thereof. Company and Flagship will consult each other in a timely manner concerning any appropriate response to such suspected infringement or Infringement Action.

### **8.2 Procedure.**

(a) As between the Parties, [\*\*\*] will have the first right to prosecute any Infringement Action against an infringing Third Party at its own expense. If, within [\*\*\*] after becoming aware of any suspected infringement or Infringement Action, [\*\*\*] has not commenced to initiate, defend, or otherwise resolve such Infringement Action, then [\*\*\*] shall have the right, but not the obligation, to initiate, control, prosecute, and/or defend such Infringement Action at its own expense.

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(b) The Party controlling any Infringement Action shall use reasonable efforts to: (i) inform the other Party of the status of such Infringement Action on a regular basis; (ii) provide to the other Party copies of any documents relating to the Infringement Action promptly upon receipt from any Third Party and/or, if practicable, prior to filing such documents; (iii) consult with the other Party regarding the advisability of any contemplated course of action; and (iv) consider any comments from the other Party in good faith, including with respect to the infringement, claim construction, or defense of the validity or enforceability of any claim in the involved Foundational IP. The Party without primary control of an Infringement Action shall cooperate at its own expense with the Party controlling such Infringement Action to the extent reasonably practicable, including joining the Infringement Action if necessary or desirable.

(c) [\*\*\*] may not settle any Infringement Action without the prior written consent of [\*\*\*]. For clarity, if the settlement of any Infringement Action includes granting a Sublicense, Company shall pay to Flagship royalties on any Net Sales by such Sublicensee in accordance with Article 4 in addition to any other share of recoveries due to Flagship under Section 8.3.

**8.3 Recoveries.**

(a) Any recovery obtained by Company as a result of any Infringement Action, by settlement or otherwise, shall be applied in the following order of priority: (i) first, to [\*\*\*] and (ii) second, the remainder of the recovery shall be [\*\*\*].

(b) Any recovery obtained by Flagship as a result of any Infringement Action, by settlement or otherwise, shall be applied in the following order of priority: (i) first, to [\*\*\*] and (ii) second, the remainder of the recovery shall be [\*\*\*].

**9. REPRESENTATIONS; DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITIES**

9.1 **Certain Representations.** Each Party represents to the other Party that, as of the Effective Date:

(a) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; and

(b) this Agreement has been duly authorized and executed by it and is legally binding upon it, enforceable in accordance with its terms, and does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any applicable Law or applicable regulation of any Governmental Authority having jurisdiction over it.

9.2 **Company Representations, Warranties and Covenants.** Company represents, warrants, and covenants to Flagship that:

(a) it, and its Subsidiaries, agents, and employees who are or shall be involved in the performance of this Agreement, have not been, and during the Term of this Agreement shall not be, debarred, excluded or disqualified (or convicted of any crime or engaged in any conduct for which debarment, exclusion or disqualification is mandated) under any Law, including pursuant to 21 U.S.C. § 335a;

(b) to its reasonable knowledge, no Third Party that, on behalf of Company, has been or during the Term of this Agreement will be, involved in the Development, Manufacture or Commercialization of the Licensed Products (each a **“Company Partner”**), has been or will be debarred, excluded or disqualified (or convicted of any crime or engaged in any conduct for which debarment, exclusion or disqualification is mandated) under any Law, including pursuant to 21 U. S.C. § 335a;

(c) Company, and its Subsidiaries, agents, and employees involved in the performance of this Agreement, and Company Partners, shall perform this Agreement in full compliance with all applicable Laws; and

(d) Company shall notify Flagship in writing immediately in the event of a violation of any of the foregoing, and shall, with respect to any Entity involved in such violation, promptly remove such Entity from performing any role under this Agreement.

9.3 **DISCLAIMER OF WARRANTIES.** THE FOUNDATIONAL IP, NEW IP, AND ANY OTHER TECHNOLOGY OR INFORMATION PROVIDED, ASSIGNED OR LICENSED UNDER THIS AGREEMENT ARE PROVIDED ON AN “AS IS” BASIS. NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF ACCURACY, COMPLETENESS, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMMERCIAL UTILITY, SCOPE, OR TITLE WITH RESPECT THERETO.

9.4 **DISCLAIMER OF LIABILITIES.** EXCEPT FOR [\*\*\*], GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR BUSINESS INTERRUPTION). NO FLAGSHIP ENTITY WILL BE LIABLE TO COMPANY, ITS SUBSIDIARIES, SUCCESSORS OR ASSIGNS, OR TO ANY THIRD PARTY (INCLUDING SUBLICENSEES) WITH RESPECT TO ANY CLAIM ARISING FROM OR ATTRIBUTABLE TO USE BY COMPANY, ITS SUBSIDIARIES, OR SUBLICENSEES OF THE FOUNDATIONAL IP, NEW IP OR ANY OTHER TECHNOLOGY OR INFORMATION PROVIDED, ASSIGNED OR LICENSED UNDER THIS AGREEMENT, OR ARISING FROM THE EXPLOITATION OF LICENSED PRODUCTS.

9.5 **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, FLAGSHIP'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED [\*\*\*].

## **10. INDEMNIFICATION**

10.1 **Indemnification.** Company will indemnify, hold harmless and, at Flagship's option, shall defend the Flagship Entities, and their respective officers, directors, agents employees, successors and assigns (each, an **"Indemnified Party"**) from and against any and all claims, actions, liabilities, losses, damages, judgments, costs or expenses suffered or incurred by the Indemnified Parties, including attorneys' fees and related costs (collectively, **"Liabilities"**), arising out of or resulting from [\*\*\*].

10.2 **Indemnification Procedure.** An Indemnified Party will promptly provide Company with written notice of any Liability that is indemnifiable under this Article 10; provided, however, that the failure to so notify shall not relieve Company of its indemnification obligations hereunder except to the extent of any material prejudice to Company as a direct result of such failure. If Flagship so directs in writing, Company shall control such defense and all negotiations relative to the settlement of any indemnifiable claim or action, except that Company shall not settle or compromise any claim or action in any manner that may impose restrictions or obligations on any Indemnified Party, or that grants any rights to the Foundational IP or Licensed Products, or that concedes any fault or wrongdoing on the part of Flagship, without Flagship's prior written consent. If Company fails or declines to assume the defense against any claim or action within [\*\*\*] after notice thereof, then Flagship may assume and control the defense of such claim or action for the account and at the risk of Company, and any Liabilities related to such claim or action will be conclusively deemed a liability of Company. The indemnification rights of the Indemnified Parties under this Article 10 are in addition to all other rights that an Indemnified Party may have at law, in equity or otherwise.

## **11. INSURANCE**

11.1 **Coverages.** Company will procure and maintain insurance policies for commercially reasonable amounts with respect to personal injury, bodily injury, property damage and contractual liability arising out of Company's performance under this Agreement, and, [\*\*\*], clinical trials coverage in a minimum amount of [\*\*\*] Dollars (\$[\*\*\*] USD) combined single limit per occurrence and in the aggregate; and, prior to the sale of the first Licensed Product, product liability coverage, in a minimum amount of [\*\*\*] Dollars (\$[\*\*\*] USD) combined single limit per

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occurrence and in the aggregate. [\*\*\*] Upon request, Company shall provide certificates of insurance and applicable endorsements evidencing the required insurance coverages noted herein. The failure of Flagship to request said evidence of coverage shall not constitute or be construed as a waiver of Company's insurance obligations. [\*\*\*] Company's comprehensive general liability insurance shall be primary and non-contributory to any insurance maintained by Flagship. The required minimum amounts of insurance do not constitute a limitation on Company's liability or indemnification obligations to Flagship under this Agreement.

11.2 **Other Requirements.** Any policies of insurance required by Section 11.1 will be issued by an insurance carrier with an A.M. Best rating of [\*\*\*] or better.

## **12. TERM AND TERMINATION**

12.1 **Expiration of Royalty Term.** Upon expiration of the Royalty Term with respect to a Licensed Product in any jurisdiction and payment in full of all amounts owed hereunder with respect to such Licensed Product in such jurisdiction, the license granted to Company under Section 2.2 shall automatically convert into a non-exclusive, fully paid up license for such Licensed Product in such jurisdiction.

### **12.2 Termination by Flagship.**

(a) **For Cause.** Flagship may give written notice of default to Company, if Company materially breaches any obligation, covenant, condition, or undertaking of this Agreement to be performed by it hereunder (including, e.g., if Company should cease or fail to undertake Commercially Reasonable Efforts with respect to Licensed Products, fail to make any payment at the time such payment is due, or fail to maintain the insurance coverage required hereunder). If Company should fail to cure such default within thirty (30) days of such notice, this Agreement (including, for the avoidance of doubt, all licenses granted to Company hereunder) shall terminate immediately upon written notice to Company.

(b) **Cessation of Business; Bankruptcy.** If Company shall cease to carry on its business with respect to the rights granted in this Agreement, this Agreement shall terminate upon thirty (30) days' written notice by Flagship. Flagship may terminate this Agreement upon written notice to Company, if Company experiences an Event of Bankruptcy. For purposes of this provision, the term "**Event of Bankruptcy**" means: (i) filing by Company in any court or agency pursuant to any statute or regulation of any state or country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of Company or of its assets; (ii) Company being served with an involuntary petition against it, filed in any insolvency proceeding, where such petition has not been dismissed within [\*\*\*] after the filing thereof; (iii) Company proposing or being a party to any dissolution or liquidation of Company; or (iv) Company making a general assignment for the benefit of creditors.

**(c) Challenge of Patents.**

(i) In the event that Company, its Subsidiary or Sublicensee institutes or actively participates as an adverse party in, or otherwise provides material support to, any Licensed Patent Challenge, Flagship has the right, but not the obligation, in addition to any other remedy it may have available to it at law and/or in equity, to terminate this Agreement immediately upon providing written notice of the same to Company; provided that if such Licensed Patent Challenge is brought by a Sublicensee, Flagship may not terminate this Agreement under this Section 12.2(c)(i) if Company has terminated all Sublicenses granted to such Sublicensee hereunder within [\*\*\*] after Company has received written notice from Flagship of such Licensed Patent Challenge. Notwithstanding any provision of this Agreement, Flagship may seek redress for any Licensed Patent Challenge in any court of competent jurisdiction in its sole discretion. **“Licensed Patent Challenge”** means any direct dispute or challenge, or any knowing or willful assistance in the dispute or challenge, of the validity, patentability, or enforceability of any Foundational IP or any claim thereof, or opposition or assistance in the opposition of the grant of any letters patent within the Foundational IP, in any legal or administrative proceedings, including in a court of law, before the U.S. PTO or other agency or tribunal in any jurisdiction, or in arbitration, including without limitation by reexamination, inter partes review, opposition, interference, post-grant review, nullity proceeding, preissuance submission, third party submission, derivation proceeding or declaratory judgment action; provided, however, that the term **“Licensed Patent Challenge”** shall not include arguments, or any other statements or allegations, made by or on behalf of Company, its Subsidiary or its Sublicensee that distinguish the inventions claimed in Patents Controlled (except by virtue of this Agreement or a Sublicense) by Company, its Subsidiary or its Sublicensee from those claimed in the Foundational IP in the ordinary course of ex parte prosecution of such Patents Controlled by Company, its Subsidiary or its Sublicensee, including without limitation any reissue or reexamination patents or patent applications.

(ii) Company shall include provisions in all Sublicenses providing that, if the Sublicensee or its affiliate brings or participates in a Licensed Patent Challenge, the Sublicense will immediately terminate effective as of the first date of the Sublicensee’s or its affiliate’s first filing or participation in such Licensed Patent Challenge. The failure to include such automatic termination provision in a Sublicense shall constitute a material breach of this Agreement. If a Sublicensee or its affiliate undertakes a Licensed Patent Challenge, Company shall immediately terminate the applicable Sublicense. Any failure to immediately terminate the Sublicense as required by this Section 12.2(c)(ii) shall constitute a material breach of this Agreement.

**12.3 Termination by Company.** Following approval by the board of directors of Company, Company may terminate this Agreement, in its entirety, (a) without cause by giving sixty (60) days’ prior written notice thereof to Flagship, or (b) upon delivering written notice to Flagship, if Flagship materially breaches any obligation, covenant, condition, or undertaking of this Agreement to be performed by it hereunder and fails to cure such default within [\*\*\*] of receiving written notice thereof.

**13. EFFECT OF TERMINATION**

**13.1 Continuing Obligations.** Termination or expiration of this Agreement shall not relieve Company of any monetary or any other obligation or liability accrued hereunder prior to

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the effective date of such termination, or rescind or give rise to any right to rescind any payments made or other consideration given to Flagship hereunder prior to the effective date of such termination or expiration. Termination or expiration of this Agreement shall not affect in any manner any rights of Flagship arising under this Agreement prior to the date of such termination or expiration. [\*\*\*].

**13.2 Sublicenses.** Upon termination of this Agreement in its entirety for any reason other than by Company pursuant to Section 12.3, any then-current Sublicensee shall, from the effective date of such termination, automatically become a direct licensee of Flagship under, and subject to the terms and conditions of, this Agreement (subject only to modifications with respect to territory, field and exclusivity consistent with the scope of the applicable Sublicense and so as to accommodate all such Sublicensees), provided that (a) the applicable Sublicense does not provide that it terminates upon termination of this Agreement, (b) such Sublicensee is not the cause of a breach of this Agreement and is not in breach of the applicable Sublicense (or any provision of this Agreement applicable to such Sublicensee), (c) within [\*\*\*] of such termination, such Sublicensee provides written notice to Flagship of its election to become a direct licensee of Flagship pursuant hereto and of its agreement to assume all obligations of Company hereunder, and (d) such Sublicensee cures any breach by Company of this Agreement (including payment obligations); and provided further, however, that Flagship (x) shall not have under any such direct license (i) any obligations that are greater than or inconsistent with the obligations of Flagship under this Agreement or (ii) any fewer rights than it has under this Agreement, and (y) shall have no liability for any obligations arising prior to the effective date of such direct license or for any obligations of Company whenever arising and Flagship shall be released from any and all liability relating to such obligations.

**13.3 Survival of Terms.** In addition to any provision which by its terms contemplates performance after the Term, the following provisions shall survive the expiration or termination of this Agreement: Sections 1 (Definitions), 4 (Payments), 5.4 (Records and Audit Rights), 6 (Confidentiality; Publicity; Use of Name), 9 (Representations; Disclaimer of Warranties; Limitation of Liabilities), 10 (Indemnification), 11 (Insurance), 13 (Effect of Termination), and 14 (Additional Provisions).

#### **14. ADDITIONAL PROVISIONS**

**14.1 Independent Contractors.** The Parties are independent contractors. Nothing contained in this Agreement is intended to create an agency, partnership or joint venture between the Parties. At no time will either Party make commitments or incur any charges or expenses for or on behalf of the other Party.

**14.2 Compliance with Laws.** Company must comply with all prevailing Laws that apply to its activities or obligations under this Agreement. For example, Company will comply with applicable United States export Laws. The transfer of certain technical data and commodities may require a license from the applicable agency of the United States government and/or written assurances by Company that Company will not export data or commodities to certain foreign countries without prior approval of the agency. Flagship does not represent that no license is required, or that, if required, the license will issue.



14.3 **Marking.** Company shall, and agrees to require its Subsidiaries and Sublicensees to, comply with any marking requirements of the intellectual property Laws of the applicable countries in the Territory to the extent any failure to do so would materially and adversely affect the Foundational IP or any Licensed Product, or either Party's ability to avail itself of all potential remedies for any infringement of the Foundational IP, and particularly agrees to permanently and legibly mark all Licensed Products made, used, reproduced, or sold under the terms of this Agreement, or their respective containers, in accordance with the applicable provisions set forth in the Patent marking and notice provisions under Title 35 of the United States Code. Any Sublicense shall impose on the Sublicensee obligations substantially similar to those imposed in this paragraph.

14.4 **Modification, Waiver and Remedies.** This Agreement may only be modified by a written amendment that is executed by an authorized representative of each Party. Any waiver must be express and in writing. No waiver by either Party of a breach by the other Party will constitute a waiver of any different or succeeding breach. Unless otherwise specified, all remedies are cumulative.

14.5 **Assignment.**

(a) Company may not assign this Agreement or any part of it, either directly or by merger or operation of Law, without the prior written consent of Flagship (which consent shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, Company, or a secured creditor of Company after the occurrence and during the continuance of an event of default, under the applicable loan agreement, that remains uncured [\*\*\*] following notice of default to Company may, without Flagship's consent but with prior written notice to Flagship, assign this Agreement to any Entity in the event of the merger, acquisition, consolidation, reorganization, change of control or sale of securities of Company with or to such Entity, or the transfer or sale of all or substantially all of Company's assets to which this Agreement relates to such Entity, provided that (i) Company or such secured creditor provides prior written notice to Flagship of such proposed transaction, and (ii) such Entity agrees in writing to be legally bound by this Agreement.

(b) Flagship may not assign this Agreement or any part of it, either directly or by merger or operation of Law, without the prior written consent of Company (which consent shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, Flagship may, without Company's consent, (i) assign this Agreement (A) to a Flagship Entity (other than a portfolio company of a Flagship Entity or Subsidiary of such portfolio company), or (B) to any Entity in the event of the merger, acquisition, consolidation, reorganization, change of control or sale of securities of Flagship with or to such Entity, or the transfer or sale of all or substantially all of Flagship's assets to which this Agreement relates to such Entity, and (ii) freely assign to any Entity all of Flagship's rights to receive royalties under this Agreement, together with information, audit and other related rights, and to enforce such rights against Company.

(c) This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns. Any permitted assignment will not relieve the assigning party of responsibility for performance of any obligation of such party that has accrued at the time of the assignment. Any assignment granted, or purported to be granted, contrary to this Section 14.5 will be null and void.

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14.6 **Notices.** Except as otherwise expressly set forth herein, any notice or other required communication under this Agreement (each, a “**Notice**”) must be in writing, addressed to the Party’s respective Notice Address, and delivered personally or by globally recognized express delivery service, charges prepaid. A Notice will be deemed delivered and received: (a) in the case of personal delivery, on the date of such delivery; and (b) in the case of a globally recognized express delivery service, on the Business Day that receipt by the addressee is confirmed pursuant to the service’s systems. The “**Notice Address**” of each Party is as follows:

if to Flagship, to:                      Flagship Pioneering, Inc.  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
[\*\*\*]

if to Company, to:                      Omega Therapeutics, Inc.  
  
55 Cambridge Parkway, Suite 800E  
Cambridge, MA 02142  
[\*\*\*]  
  
[\*\*\*]

14.7 **Severability and Reformation.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions of this Agreement will remain in full force and effect. Such invalid or unenforceable provision will be automatically revised to be a valid or enforceable provision that comes as close as permitted by Law to the Parties’ original intent.

14.8 **Headings and Counterparts.** The headings of the articles and sections included in this Agreement are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement. This Agreement may be executed in several counterparts, and execution signatures may be exchanged electronically including by facsimile or as scanned e-mail attachments, and signatures so exchanged shall be considered as original for all purposes and taken together will constitute one and the same instrument.

14.9 **Governing Law; Venue.** This Agreement will be governed in accordance with the Laws of the State of Massachusetts, without giving effect to the conflict of law provisions of any jurisdiction. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts.

14.10 **Integration.** This Agreement, together with all attached Exhibits, contains the entire agreement between the Parties, and supersedes all other oral or written representations, statements, or agreements with respect to such subject matter, including but not limited to any term sheet exchanged prior to this Agreement.

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14.11 **Force Majeure.** Neither Party will be responsible for nonperformance caused by forces beyond the reasonable control of such Party, including fire, explosion, natural disaster, war (whether declared or not), act of terrorism, strike, or riot, provided that the nonperforming Party uses reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed, and notifies the other Party of such cause as promptly as is reasonably practical given the circumstances.

14.12 **Certain Conventions.** Any reference in this Agreement to an Article, Section, subsection, paragraph, clause or Exhibit shall be deemed to be a reference to an Article, Section, subsection, paragraph, clause or Exhibit, of or to, as the case may be, this Agreement, unless otherwise indicated. Unless the context of this Agreement otherwise requires, (a) all definitions set forth herein shall be deemed applicable whether the words defined are used herein with initial capital letters in the singular or the plural, (b) the word “will” shall be construed to have the same meaning and effect as the word “shall,” (c) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (d) any reference herein to any Party shall be construed to include the Party’s successors and assigns, (e) the word “notice” shall mean notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement, (f) provisions that require that a Party or the Parties “agree,” “consent” or “approve” or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise (but excluding e-mail and instant messaging), (g) references to any specific Law, rule or regulation, or article, section or other division thereof, shall be deemed to include the then-current amendments thereto or any replacement or successor Law, rule or regulation thereof, (h) words of any gender include each other gender, (i) words such as “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to the particular provision in which such words appear, (j) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “but not limited to,” “without limitation,” “inter alia” or words of similar import, and (k) unless “Business Days” is specified, “days” shall mean “calendar days.” In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

14.13 **Business Day Requirements.** In the event that any notice or other action or omission is required to be taken by a Party under this Agreement on a day that is not a Business Day, then such notice or other action or omission shall be deemed to be required to be taken on the next occurring Business Day.

*[Signature Page Follows]*

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**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**COMPANY:**

Omega Therapeutics, Inc.

BY: /s/ David Berry

NAME: David Berry

TITLE: President

**FLAGSHIP:**

Flagship Pioneering Innovations V, Inc.

BY: /s/ Noubar Afeyan

NAME: Noubar Afeyan

TITLE: President

**Exhibit A**

**Foundational IP**

[\*\*\*]

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**Exhibit B**

**New IP**

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**Exhibit C**

**Form of Bi-Annual Report**

[\*\*\*]

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**Exhibit D**

**Payment Instructions**

[\*\*\*]



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**WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH**

**PATENT LICENSE AGREEMENT**

This Agreement, effective as of May 22, 2019 (the “EFFECTIVE DATE”), is between the **Whitehead Institute for Biomedical Research** (“WHITEHEAD”), a Delaware corporation, having a principal office at 455 Main Street, Cambridge, MA 02142 and Omega Therapeutics, Inc. (“COMPANY”), a Delaware corporation, having a principal place of business at 55 Cambridge Parkway, Cambridge MA 02142 (the “Agreement”).

**RECITALS**

WHEREAS, WHITEHEAD is the owner of certain PATENT RIGHTS (as later defined herein) relating to [\*\*\*]; [\*\*\*]; and [\*\*\*];

WHEREAS, WHITEHEAD has the right to grant licenses under said PATENT RIGHTS subject to a royalty-free, nonexclusive, non-transferable license to practice the PATENT RIGHTS granted to the United States Government for government purposes;

WHEREAS, WHITEHEAD and [\*\*\*] are parties to a Sponsored Research Agreement dated [\*\*\*], wherein WHITEHEAD has granted [\*\*\*] certain rights under the PATENT RIGHTS.

WHEREAS, WHITEHEAD desires to have the PATENT RIGHTS developed and commercialized to benefit the public by granting a license;

COMPANY has represented to WHITEHEAD that it has the financial capacity and the strategic commitment to facilitate the transfer of the technology for the public interest using commercially reasonable efforts; and

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COMPANY desires to obtain a license to WHITEHEAD's rights under the PATENT RIGHTS, and WHITEHEAD is willing to grant a license upon the terms and conditions of this Agreement.

**NOW, THEREFORE**, WHITEHEAD, and COMPANY hereby agree as follows:

**1. DEFINITIONS**

1.1 "AFFILIATE" will mean any legal entity (such as a corporation, partnership, or limited liability company) that directly or indirectly controls, or is controlled by, or is under common control with, COMPANY. For the purposes of this definition, the term "control" means (i) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (ii) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities, or (iii) the power to direct the management and policies of such entities.

1.2 "COMBINATION PRODUCT" will mean any LICENSED PRODUCT or LICENSED PROCESS sold or used in combination with one or more other products or processes which are not LICENSED PRODUCTS or LICENSED PROCESSES but which perform a useful function independent of the LICENSED PRODUCTS or LICENSED PROCESSES. For example, a COMBINATION PRODUCT is a pharmaceutical product that includes two active pharmaceutical ingredients.

1.3 "FIELD" will mean all human and animal therapeutic and diagnostic fields. For the avoidance of doubt, FIELD excludes sale and/or distribution of reagents for research use.

1.4 "IND" will mean, with respect to a particular LICENSED PRODUCT, an Investigational New Drug application submitted to the United States Food and Drug Administration ("FDA"), or a corresponding application filed with any other regulatory agency, seeking approval to begin tests of a new drug in human subjects.

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1.5 "LICENSED PROCESS" will mean any process that, absent the license granted hereunder, would infringe one or more VALID CLAIMS.

1.6 "LICENSED PRODUCT" will mean any product that, in whole or in part, absent the license granted hereunder, (i) would infringe one or more VALID CLAIMS; or (ii) is manufactured by using a LICENSED PROCESS or that, when used, infringes a VALID CLAIM.

1.7 "LICENSED SERVICES" will mean the provision of services using LICENSED PROCESSES under written agreement to a third party that is not a SUBLICENSEE, specifically for screening, patient identification, and/or target identification activities in the FIELD where COMPANY and such third party are not otherwise collaborating regarding a product based on such activities.

1.8 "LICENSED SERVICES INCOME" will mean the gross amount collected by COMPANY and its AFFILIATES for LICENSED SERVICES, less [\*\*\*].

1.9 "NDA" will mean a New Drug Application submitted to the FDA seeking approval to market and sell a LICENSED PRODUCT in the United States of America, or a corresponding application filed with any other regulatory agency seeking approval to market and sell a LICENSED PRODUCT in a country in the TERRITORY.

1.10 "NET SALES" will mean the gross amount collected by COMPANY, its AFFILIATES, and SUBLICENSEES for LICENSED PRODUCTS to a final customer who is an end user of the LICENSED PRODUCT, less the following:

- (i) [\*\*\*];
- (ii) [\*\*\*];
- (iii) [\*\*\*];
- (iv) [\*\*\*];
- (v) [\*\*\*]; and
- (vi) [\*\*\*].

No deductions will be made for commissions paid to individuals whether they are with independent sales agencies (unless required for distribution purposes in a local jurisdiction) or regularly employed by COMPANY and on its payroll or for costs of collections. [\*\*\*].

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Non-monetary consideration may be accepted by COMPANY or any AFFILIATE for any LICENSED PRODUCT [\*\*\*]. NET SALES includes the fair-market value of any non-cash consideration from sale of LICENSED PRODUCTS received by COMPANY or AFFILIATES.

In the event that a LICENSED PRODUCT or LICENSED PROCESS is sold as a COMBINATION PRODUCT, NET SALES, for the purposes of determining royalty payments on the COMBINATION PRODUCT, will mean the gross amount collected for the COMBINATION PRODUCT less the deductions set forth above, multiplied by a proration factor that is determined as follows:

- (1) If all components of the COMBINATION PRODUCT were sold separately during the same or immediately preceding year, the proration factor shall be determined by the formula  $[A / (A+B)]$ , where A is the average gross sales price of all LICENSED PRODUCT or LICENSED PROCESS components (as applicable) during such period when sold separately from the other component(s), and B is the average gross sales price of the other component(s) during such period when sold separately from the LICENSED PRODUCT or LICENSED PROCESS components (as applicable); or
- (2) If all components of the COMBINATION PRODUCT were not sold or provided separately during the same or immediately preceding year, the proration factor shall be determined by the Parties in good faith negotiations based on the relative value contributed by each component.

1.11 "PATENT CHALLENGE" will mean a challenge to the validity or enforceability of any of the PATENT RIGHTS filed in a patent office or in an appropriate court, and includes acts that institute, or cause counsel to institute, any interference, opposition, re-examination, or similar proceeding with respect to any of the PATENT RIGHTS with the U.S. Patent and Trademark Office or any foreign patent office.

1.12 "PATENT RIGHTS" will mean:

- (i) the United States and international patents listed on Appendix A;
- (ii) the United States and international patent applications and/or provisional applications listed on Appendix A and the resulting patents that issue directly therefrom;

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- (iii) claims of any patent applications claiming priority to any of the provisional applications listed on Appendix A that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A and any divisionals, continuations, claims of continuation-in-part applications, and continued prosecution applications (and their relevant international equivalents) of the patent applications listed on Appendix A and of such patent applications that claim priority to any of the provisional applications listed on Appendix A, to the extent the claims are directed to and wholly supported by subject matter specifically described in the patent applications listed on Appendix A, and those claims in the resulting patents that issue directly therefrom;
- (iv) claims of any patents resulting from reissues, reexaminations, or extensions (and their relevant international equivalents) of the patents described in (i), (ii), and (iii) above that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A; and
- (v) U.S. provisional patent applications which are directed to subject matter specifically described in the United States patents and/or patent applications listed on Appendix A, claims of any patent applications claiming priority to any of such provisional applications that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A, and any divisionals, continuations, claims of continuation-in-part applications, and continued prosecution applications (and their relevant international equivalents) of any of the foregoing patent application, to the extent the claims are directed to and wholly supported by subject matter specifically described in the patent applications listed on Appendix A, those claims in the resulting patents, and the claims of any patents resulting from reissues, reexamination, or extensions (and their relevant international equivalents) of any of such patents that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A.

COMPANY may remove, at its sole discretion, any patent or patent application or claim thereof from Appendix A in accordance with Section 6.1(c).

1.13 “PHASE I TRIAL” will mean a human clinical trial of a LICENSED PRODUCT in a human subject the purpose of which is preliminary determination of safety and tolerability of a dosing regimen, as required in 21 C.F.R. § 312.21(a), or any equivalent clinical study in a country other than the United States.

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1.14 “PHASE II TRIAL” will mean a human clinical trial of a LICENSED PRODUCT, for which the primary endpoints include a determination of dose ranges and/or a preliminary determination of efficacy in patients being studied as required by 21 C.F. R. § 312.21 (b), or any equivalent clinical study in a country other than the United States.

1.15 “PHASE III TRIAL” will mean a human clinical trial of a LICENSED PRODUCT on a sufficient number of subjects that is designed to establish that a pharmaceutical product is safe and efficacious for its intended use, and to determine warnings, precautions, and adverse reactions that are associated with such pharmaceutical product in the dosage range to be prescribed, which trial is intended to support Approval of a LICENSED PRODUCT, as described in 21 C.F.R. 312.21(c) for the United States or any equivalent clinical study in a country other than the United States.

1.16 “REPORTING PERIOD” will begin on the first day of each calendar quarter and end on the last day of such calendar quarter.

1.17 “SUBLICENSE INCOME” will mean any payments that COMPANY receives from a SUBLICENSEE specifically in consideration of the sublicense of rights granted COMPANY under Section 2.1, including without limitation upfront fees, license fees, milestone payments, annual license maintenance fees, distribution or joint marketing fees, and premiums above the fair-market value on bona fide equity investments, or other types of investments in the COMPANY. SUBLICENSE INCOME will not include: (i) royalties on NET SALES, (ii) payments received from a SUBLICENSEE or any of its affiliates for bona fide security investments, debt or other types of investments in the COMPANY, including the right to acquire COMPANY securities in the future, such as warrants, convertible debt and the like (other than premiums above the fair-market value of such investments, debt or other types of investments as of the date of receipt of such payments), (iii) amounts received by COMPANY from a SUBLICENSEE for royalties on NET SALES; (iv) reimbursements for out-of-pocket patent prosecution, maintenance, defense, and enforcement costs for the PATENT RIGHTS; or (v) reimbursement of bona fide research, development, and commercialization costs actually incurred (including, without limitation, payments for FTEs). COMPANY will be entitled to reduce any fees payable to WHITEHEAD for SUBLICENSE INCOME by the amount of any payment paid or due to WHITEHEAD for the same milestone(s) achieved by COMPANY and/or SUBLICENSEES for sublicensed LICENSED PRODUCTS.

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1.18 “SUBLICENSEE” will mean any non-AFFILIATE sublicensee of the rights granted COMPANY under Section 2.1.

1.19 “SUBLICENSE AGREEMENT” will mean a written agreement between COMPANY and a SUBLICENSEE granting a sublicense of the rights granted COMPANY under Section 2.1.

1.20 “TERM” will mean the term of this Agreement, which will commence on the EFFECTIVE DATE and will remain in effect until the expiration or abandonment of the PATENT RIGHTS, unless earlier terminated in accordance with the provisions of this Agreement.

1.21 “TERRITORY” will mean worldwide

1.22 “VALID CLAIM” will mean (i) any claim of an issued and unexpired PATENT RIGHT that (a) has not been held permanently revoked, unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, and (b) has not been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise, or (ii) a claim of a pending PATENT RIGHT application that has not been pending for more than [\*\*\*] from the date of [\*\*\*], which claim is filed and prosecuted in good faith and has not been abandoned or finally disallowed without the possibility of appeal or re-filing of the application. The invalidity of a particular claim in one or more countries will not invalidate such claim in the remaining countries of the TERRITORY.

## **2. GRANT OF RIGHTS**

2.1 License Grants. Subject to the terms of this Agreement, WHITEHEAD hereby grants to COMPANY for the TERM a royalty-bearing license under the PATENT RIGHTS to research, make, have made, use, sell, offer to sell, lease and import LICENSED PRODUCTS in the FIELD in the TERRITORY and to perform and have performed LICENSED PROCESSES in the FIELD in the TERRITORY. COMPANY may extend the license granted to COMPANY to one or more of its AFFILIATES, at COMPANY's discretion, and will provide written notification to WHITEHEAD of any AFFILIATES covered by the license granted in this Agreement. Any terms in this Agreement that apply to AFFILIATES of COMPANY will only apply in the event COMPANY has extended the license as provided above.

2.2 Exclusivity. Subject to the terms of this Agreement, WHITEHEAD shall not grant any other license under the PATENT RIGHTS in the FIELD in the TERRITORY to make, have made, use, sell, lease, offer for sale or import LICENSED PRODUCTS or to perform or have performed LICENSED PROCESSES.

2.3 Sublicenses. COMPANY will have the right to grant sublicenses of the license and other rights under Section 2.1 and this Agreement and through multiple tiers, for any PATENT RIGHTS that are exclusively licensed by COMPANY at the time of such SUBLICENSE AGREEMENT. A sublicense by COMPANY under any PATENT RIGHTS must be for purposes of research, developing, or marketing a LICENSED PRODUCT. COMPANY shall incorporate terms and conditions into its SUBLICENSE AGREEMENTS sufficient to enable COMPANY to comply with this Agreement.

Upon termination of this Agreement for any reason, any SUBLICENSEE not then in default will have the right to take a direct license from WHITEHEAD under PATENT RIGHTS with rights and terms substantially equivalent to the rights and terms of this Agreement, including without limitation financial terms. WHITEHEAD agrees to execute such direct license and any non-identical terms will be negotiated between SUBLICENSEE and WHITEHEAD in good faith under reasonable terms and conditions.

2.3.1 Form and Content of SUBLICENSE AGREEMENT. Sublicense(s) granted by COMPANY under this Agreement will be in writing, and COMPANY shall include the equivalent of at least the following provisions with COMPANY in all sublicenses. SUBLICENSEES shall report annually to COMPANY on its operations under the sublicense.



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- (a) SUBLICENSEES shall make payments due to COMPANY in a timely manner, so that COMPANY may comply with its obligations to make payments to WHITEHEAD as set forth in Article 4.
- (b) The terms and conditions of Sections 2.4 (U.S. Manufacturing), 2.5 (Retained Rights), 5.3 (Record keeping), 11.2 (Export Control), 11.3 (Non-Use of Name), and 11.4 (Marking of LICENSED PRODUCTS) are binding on the SUBLICENSEE through the applicable SUBLICENSE AGREEMENT.
- (c) A section substantially the same as Article 8 (Indemnification and Insurance) will be included which also will state that the Indemnitees (as defined in Article 8) are intended third-party beneficiaries of such SUBLICENSE AGREEMENT solely for the purpose of enforcing such indemnification and insurance provisions.

2.3.2 Copies of SUBLICENSE AGREEMENTS. COMPANY shall forward to WHITEHEAD copies of any and all fully executed SUBLICENSE AGREEMENTS within [\*\*\*] ([\*\*\*)] days after their execution, which copies may be reasonably redacted except for matters relevant to COMPANY's obligations and/or WHITEHEAD's rights under this Agreement, provided that sufficient information remains unredacted to allow WHITEHEAD to assess whether COMPANY is in compliance with its obligations under this Agreement and to verify amounts payable hereunder in connection with such SUBLICENSE AGREEMENT. WHITEHEAD shall keep copies of SUBLICENSE AGREEMENTS in its confidential files, shall treat as confidential information in accord with Article 14, and shall use them solely for the purpose of monitoring COMPANY's and SUBLICENSEES' compliance with their obligations hereunder and enforcing WHITEHEAD's rights under this Agreement.

2.4 U.S. Manufacturing. COMPANY agrees that any LICENSED PRODUCTS used or sold in the United States will be manufactured substantially in the United States as required by 35 U.S.C. 204 and 37 C.F.R. 401 et. seq., as amended. WHITEHEAD agrees to provide reasonable assistance to COMPANY to seek a waiver from any such requirement at COMPANY's election.

2.5 Retained Rights.

(a) WHITEHEAD. WHITEHEAD retains the right to practice the PATENT RIGHTS for research, teaching, and other educational purposes including use in third-party sponsored research.

(b) Academic and Not-For-Profit Research Institutes. WHITEHEAD retains the right to grant non-exclusive licenses to other nonprofit or academic institutions to practice the PATENT RIGHTS for research, teaching, and other educational purposes; provided, however, that in no event shall any license permit the practice or use of any PATENT RIGHTS in the FIELD in the TERRITORY for commercial activities (meaning commercial development, production, manufacture, distribution or sale of products or provision of services for a fee).

(c) Federal Government. COMPANY acknowledges that the U.S. federal government retains a royalty-free, non-exclusive, non-transferable license to practice any government-funded invention claimed in any PATENT RIGHTS as set forth in 35 U.S.C. §§ 201-211, and the regulations promulgated thereunder, as amended, or any successor statutes or regulations.

(d) [\*\*\*]. WHITEHEAD represents that it is a party to a Sponsored Research Agreement by and between WHITEHEAD and [\*\*\*] dated [\*\*\*] (“SRA”) and that the SRA remains in full force and effect as of the EFFECTIVE DATE. WHITEHEAD agrees that no modification to the SRA relevant to terms of this Section 2.5(d) will be made without COMPANY’s prior written approval.

(1) WHITEHEAD represents that the SRA includes an obligation for WHITEHEAD to grant rights in certain inventions arising under the SRA to [\*\*\*]. Such inventions are “WIBR Inventions”, “Subcontractor Inventions” and “WIBR/Subcontractor Inventions” (as each such term is defined in the SRA) arising during the initial term of the SRA (and any extension up to [\*\*\*] agreed in writing) for which (i) patent applications are filed and (ii) that would be dominated by one or more VALID CLAIMS of the PATENT RIGHTS (“SRA Invention”).

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(2) COMPANY acknowledges that WHITEHEAD has or will covenant not to sue [\*\*\*] for infringement of the PATENT RIGHTS arising from the practice of SRA Inventions that become licensed to [\*\*\*] by WHITEHEAD (and sublicensees of same). Accordingly, COMPANY's rights under Section 7.2 of this Agreement (Right to Prosecute Infringements) will exclude infringement of the PATENT RIGHTS by [\*\*\*] arising from the practice of SRA Inventions licensed to [\*\*\*] by WHITEHEAD (and such infringement by sublicensees of same).

(3) If [\*\*\*] does not become licensed under an applicable SRA Invention or such license terminates for any reason, COMPANY will have no restrictions from pursuing infringement of the PATENT RIGHTS as otherwise provided in this Agreement.

2.6 No Additional Rights. Nothing in this Agreement will be construed to confer any rights upon COMPANY by implication, estoppel, or otherwise as to any technology or patent rights of WHITEHEAD or any other entity other than the PATENT RIGHTS, regardless of whether such technology or patent rights shall be dominant or subordinate to any PATENT RIGHTS.

**3. COMPANY DILIGENCE OBLIGATIONS**

3.1 COMPANY shall use commercially reasonable efforts, or shall cause one or more of its AFFILIATES and SUBLICENSEES to use commercially reasonable efforts, to develop one or more LICENSED PRODUCTS or LICENSED PROCESSES and to introduce LICENSED PRODUCTS or LICENSED PROCESSES into the commercial market; thereafter, COMPANY or its AFFILIATES or SUBLICENSEES shall make one or more LICENSED PRODUCTS or LICENSED PROCESSES reasonably available to the public. Specifically, COMPANY or any of its AFFILIATES or SUBLICENSEES shall fulfill the following obligations:

- (i) Within [\*\*\*] ([\*\*\*) months after the EFFECTIVE DATE, COMPANY shall furnish WHITEHEAD with a written research and development plan describing the major tasks to be achieved in order to bring to market a LICENSED PRODUCT and/or LICENSED PROCESS, specifying the number of staff and other resources to be devoted to such commercialization effort.

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- (ii) Within [\*\*\*] ([\*\*\*)] days after the end of each calendar year, COMPANY shall furnish WHITEHEAD with a written report (consistent with Section 5.1(a)) on the progress of its efforts during the immediately preceding calendar year to develop and commercialize LICENSED PRODUCTS and/or LICENSED PROCESSES. The report will also contain a discussion of intended efforts and sales projections for the year in which the report is submitted.

**3.2 Diligence Requirements.**

(a) COMPANY will use commercially reasonable efforts to develop and commercialize a LICENSED PRODUCT consistent with the efforts of a similarly situated company for a product in a similar therapeutic area with similar market potential. If, [\*\*\*], COMPANY or any one or more AFFILIATES or SUBLICENSEES, alone or together, has performed any one of the following, then COMPANY will be deemed to have complied with COMPANY's obligations under this Section 3.2(a):

- (i) [\*\*\*];
- (ii) [\*\*\*];
- (iii) [\*\*\*]; or
- (iv) [\*\*\*].

(b) If in WHITEHEAD'S reasonable judgment none of these criteria in Section 3.2(a) are met and COMPANY has not otherwise demonstrated commercially reasonable efforts for developing LICENSED PRODUCTS, WHITEHEAD shall notify COMPANY in writing. COMPANY shall respond in writing within [\*\*\*] ([\*\*\*)] days of notice from WHITEHEAD stating that: (1) COMPANY shall meet one of the criteria within [\*\*\*] ([\*\*\*)] days of its response; (2) COMPANY has met at least one of the criteria with information describing how; or (3) explain, to WHITEHEAD'S reasonable satisfaction, the basis for not meeting the listed criteria due to circumstances beyond COMPANY's reasonable control.

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(c) Beginning [\*\*\*] from the EFFECTIVE DATE, if WHITEHEAD or COMPANY receives a bona fide request from a third party for a sublicense to the PATENT RIGHTS to make, have made, use, sell, offer to sell, and import a LICENSED PRODUCT or LICENSED PROCESS, which proposed product or process (“Proposed Product”) is not directly competitive with any LICENSED PRODUCT or LICENSED PROCESS then offered for sale or in bona fide research or development by or on behalf of COMPANY or any of its AFFILIATES or SUBLICENSEES or with the then-current business interests of COMPANY or an AFFILIATE or SUBLICENSEE, then COMPANY shall enter into good-faith negotiations toward granting at least a non-exclusive sublicense, limited to the proposed field only, to such third party for such third party’s Proposed Product.

As an alternative to negotiating a sublicense to a third party, COMPANY (or one of its AFFILIATES or SUBLICENSEES) may submit to WHITEHEAD, within [\*\*\*] ([\*\*\*) months after such third party’s request for a sublicense, a plan for prompt and diligent development of the Proposed Product, including a commitment to commercially reasonable development milestones. If WHITEHEAD approves this plan, such approval not to be unreasonably withheld, no third-party sublicense shall be required for each such Proposed Product pursuant to this Section 3.2(c). If WHITEHEAD does not approve this plan, the parties shall meet within [\*\*\*] ([\*\*\*) days of COMPANY’s submission to resolve in good-faith any differences in the plan.

For purposes of this Section 3.2(c), “directly competitive” includes, for example and without limitation, that (i) the Proposed Product is or could be for the same or similar indication or otherwise is in the same therapeutic space as any such LICENSED PRODUCT or LICENSED PROCESS or would rely upon any regulatory filing for a LICENSED PRODUCT or LICENSED PROCESS submitted by COMPANY, its AFFILIATE or SUBLICENSEE; (ii) the Proposed Product is a derivative, homolog, analog, or other chemically-related species/compound to such LICENSED PRODUCT or LICENSED PROCESS; or (iii) the development or commercialization of the Proposed Product could harm the development or commercialization of any such LICENSED PRODUCT or LICENSED PROCESS (where, for example, an adverse regulatory event for the Proposed Product could include any such LICENSED PRODUCT or LICENSED PROCESS) as determined in the reasonable judgment of COMPANY, its AFFILIATE or SUBLICENSEE.

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(d) In the event that COMPANY or its AFFILIATES or SUBLICENSEES, alone or together, has not performed at least one of Sections 3.2(a)(i) through (iv) during [\*\*\*] with respect to at least one LICENSED PRODUCT, then WHITEHEAD may treat such failure as a material breach in accordance with Section 12.3(b), subject to Section 3.2(b).

**4. ROYALTIES AND PAYMENT TERMS**

4.1 Consideration for Grant of Rights.

(a) License Issue Fee and Patent Cost Reimbursement. COMPANY shall pay to WHITEHEAD a license issue fee of [\*\*\*] Dollars (\$[\*\*\*]) within [\*\*\*] ([\*\*\*) days of the EFFECTIVE DATE. The license issue fee [\*\*\*].

(b) License Maintenance Fees. COMPANY shall pay to WHITEHEAD the following license maintenance fees on January 1 of each year set forth below:

<u>Year(s)</u>	<u>License Maintenance Fee</u>
2020	\$ [***]
2021 and every year thereafter	\$ [***]

[\*\*\*], the license maintenance fee may be credited to royalties due under this Agreement during the same calendar year, if any. License maintenance fees paid in excess of such payments due in such calendar year will not be creditable to amounts due for future years.

(c) Milestone Payments. COMPANY shall pay to WHITEHEAD the following Milestone Payments within [\*\*\*] ([\*\*\*) days of the event, whether such event is achieved by COMPANY, its AFFILIATE or SUBLICENSEE. Each Milestone Payment is payable one time only for the first achievement of such event for each of [\*\*\*].

- (1) [\*\*\*];
- (2) [\*\*\*];
- (3) [\*\*\*];
- (4) [\*\*\*].

The milestone payments [\*\*\*].

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(d) Running Royalties on LICENSED PRODUCTS. COMPANY shall pay to WHITEHEAD a running royalty of [\*\*\*] Percent ([\*\*\*]%) of NET SALES of LICENSED PRODUCTS by COMPANY, AFFILIATES, and SUBLICENSEES. Running royalties will be payable for each REPORTING PERIOD and will be due to WHITEHEAD within [\*\*\*] ([\*\*\*)] days of the end of each REPORTING PERIOD.

(e) Royalty Offset. If COMPANY, or an AFFILIATE is obligated to pay royalties to one or more third parties in order to obtain a license or similar right necessary to make, have made, use, sell, have sold, offer to sell, lease, or import a LICENSED PRODUCT, and COMPANY or its AFFILIATE actually pays said third-party royalties, COMPANY will be entitled to credit up to [\*\*\*] Percent ([\*\*\*]%) of the amounts actually paid to such third parties against the royalties due to WHITEHEAD under this Agreement in the same REPORTING PERIOD, provided, however, that in no event will the royalty payments under Section 4.1(d) be reduced to less than [\*\*\*] Percent ([\*\*\*]%) of NET SALES of such LICENSED PRODUCT in such REPORTING PERIOD; provided, further, that [\*\*\*].

(f) Sharing of SUBLICENSE INCOME. COMPANY shall pay WHITEHEAD the following percentage of all SUBLICENSE INCOME received by COMPANY or AFFILIATES. Such amount will be payable for each REPORTING PERIOD and will be due to WHITEHEAD within [\*\*\*] ([\*\*\*)] days of the end of each REPORTING PERIOD.

- [\*\*\*].
- [\*\*\*].
- [\*\*\*].

To the extent that other patent rights, other intellectual property rights or other rights or obligations are granted to a SUBLICENSEE, other than PATENT RIGHTS which are sublicensed hereunder, by COMPANY or AFFILIATES, the consideration received by COMPANY will, subject to this Section 4.1(f), be equitably apportioned between the PATENT RIGHTS and those other rights and obligations, and such apportionment will be reasonable and in accordance with customary standards in the industry, such that only the portion of consideration received from the third party that is reasonably attributable to the SUBLICENSE of rights under the PATENT RIGHTS will be considered SUBLICENSE INCOME. Deductions taken under SUBLICENSE INCOME (e.g., future bona fide research, development and commercialization costs) also will be apportioned, as applicable.

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COMPANY shall deliver to WHITEHEAD promptly a written report setting forth such apportionment. In the event WHITEHEAD disagrees with the determination made by COMPANY, WHITEHEAD will so notify COMPANY within [\*\*\*] days of receipt of COMPANY's report and the parties shall meet to discuss and resolve such disagreement in good faith. If the parties are unable to agree in good faith as to such fair-market values within [\*\*\*] days, then the matter will be submitted in accordance with the dispute resolution process set forth in Article 13. If COMPANY owes additional monies to WHITEHEAD after the conclusion of such process, COMPANY will have [\*\*\*] days after the completion of such process to make such payment to WHITEHEAD.

(g) Sharing of LICENSED SERVICES INCOME. COMPANY shall pay to WHITEHEAD [\*\*\*] ([\*\*\*]%) of LICENSED SERVICES INCOME received by COMPANY or AFFILIATES. Such amount will be payable for each REPORTING PERIOD and will be due to WHITEHEAD within [\*\*\*] ([\*\*\*]) days of the end of each REPORTING PERIOD.

(h) No Multiple Royalties. If the manufacture, use, lease, offer for sale, import, or sale of any LICENSED PRODUCT or the performance of any LICENSED PROCESS is covered by more than one of the PATENT RIGHTS, multiple royalties will not be due.

#### 4.2 Payments.

(a) Method of Payment. All payments under this Agreement should be made payable to "Whitehead Institute for Biomedical Research" and sent to WHITEHEAD's address identified in Section 14.1. Each payment should reference this Agreement ([\*\*\*]) and identify the obligation under this Agreement that the payment satisfies.



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(b) Payments in U.S. Dollars. All payments due under this Agreement will be drawn on a United States bank and will be payable in United States dollars. Conversion of foreign currency to U.S. dollars will be made at the conversion rate existing in the United States (as reported in the *Wall Street Journal*) on the last working day of the calendar quarter of the applicable REPORTING PERIOD. [\*\*\*]. If COMPANY is required to deduct or collect withholding or similar taxes or other government imposed fees or taxes, then COMPANY shall provide reasonable assistance to WHITEHEAD in filing paperwork related to its non-profit status.

(c) Late Payments. Any payments by COMPANY that are not paid on or before the date such payments are due under this Agreement will bear interest, to the extent permitted by law, at [\*\*\*] as reported in the *Wall Street Journal* on the date payment is due.

**5. REPORTS AND RECORD KEEPING**

5.1 Frequency of Reports.

(a) Before First Commercial Sale. Prior to the first commercial sale of any LICENSED PRODUCT or commercial performance of a LICENSED PROCESS, COMPANY shall deliver reports to WHITEHEAD annually, within [\*\*\*] ([\*\*\*)] days of the end of each calendar year, containing information concerning the immediately preceding calendar year, as further described in Section 5.2.

(b) Upon First Commercial Sale of a LICENSED PRODUCT or Commercial Performance of a LICENSED PROCESS. COMPANY shall report to WHITEHEAD the date of first commercial sale of a LICENSED PRODUCT or first commercial sale of a LICENSED PROCESS within [\*\*\*] ([\*\*\*)] days of occurrence in each country.

(c) After First Commercial Sale. After the first commercial sale of a LICENSED PRODUCT or LICENSED PROCESS, COMPANY shall deliver reports to WHITEHEAD within [\*\*\*] ([\*\*\*)] days of the end of each REPORTING PERIOD, containing information concerning the immediately preceding REPORTING PERIOD, as further described in Section 5.2.

5.2 Content of Reports and Payments. Each report delivered by COMPANY to WHITEHEAD will contain at least the following information for the immediately preceding REPORTING PERIOD:

- (i) [\*\*\*];
- (ii) [\*\*\*];
- (iii) [\*\*\*];
- (vi) [\*\*\*];
- (vii) [\*\*\*]; and
- (viii) [\*\*\*];
- (viii) [\*\*\*]; and
- (ix) [\*\*\*].

If no amounts are due for any REPORTING PERIOD, the report will so state.

5.3 Record keeping. COMPANY shall maintain, and shall cause its AFFILIATES and SUBLICENSEES to maintain, complete and accurate financial records relating to the rights and obligations under this Agreement and any amounts payable to WHITEHEAD in relation to this Agreement, which financial records will contain sufficient information to permit WHITEHEAD to confirm the accuracy of any financial reports delivered to WHITEHEAD. The relevant party shall retain such records for at least [\*\*\*] ([\*\*\*) years following the end of the calendar year to which they pertain, during which time WHITEHEAD or WHITEHEAD's appointed agents, shall have the right, at WHITEHEAD's expense, to inspect such records during normal business hours to verify any payments due under this Agreement. Any such inspection will be by a certified public accountant who must enter into a standard form of confidentiality agreement then in use by the appropriate entity. In the event that any audit performed under this Section 5.3 reveals an underpayment in excess of [\*\*\*] percent ([\*\*\*]%), COMPANY will [\*\*\*] within [\*\*\*] ([\*\*\*) days of receiving notice thereof from WHITEHEAD. Any over-payments [\*\*\*].

**6. PATENT PROSECUTION**

6.1 Responsibility for PATENT RIGHTS.

(a) WHITEHEAD in its sole discretion, shall prepare, file, prosecute, and maintain all of the PATENT RIGHTS. For purposes of this Agreement, patent prosecution includes ex parte prosecution, interference proceedings, reissues, reexaminations, and oppositions. As long as the license remains in whole or in part exclusive, WHITEHEAD shall provide, or cause its agent to provide, copies of material correspondence between WHITEHEAD and the United States Patent Office or, as applicable, the various foreign patent offices and give COMPANY reasonable opportunity to advise WHITEHEAD or WHITEHEAD's counsel on such matters. COMPANY shall designate an individual or department for receiving the patent-related correspondence.

(b) COMPANY shall have reasonable opportunities to consult with and advise WHITEHEAD for all patent-related activity for PATENT RIGHTS. COMPANY shall cooperate with WHITEHEAD in preparing, filing, prosecuting, and maintaining the patent applications and patents within PATENT RIGHTS. COMPANY shall use reasonable efforts to provide prompt notice to WHITEHEAD of any non-privileged, public information that comes to its attention that may affect the patentability, validity, or enforceability of any patent application or patent within PATENT RIGHTS. WHITEHEAD shall consider the legitimate interests of COMPANY in performing its responsibility under this Section 6.1 and all reasonable comments from COMPANY regarding any patent filing within PATENT RIGHTS.

(c) COMPANY may surrender its licenses under any of the patents or patent applications, or any claim(s) thereof within PATENT RIGHTS in any country of the licensed TERRITORY by giving [\*\*\*] ([\*\*\*)]-days advance written notice to WHITEHEAD. If COMPANY so surrenders its rights, it will [\*\*\*]. Thereafter, COMPANY will [\*\*\*]. Notwithstanding the foregoing, if such surrender results in termination of all rights under this Agreement, then the termination notice provision in Section 12, below, shall apply

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6.2 International (non-United States) Filings. Appendix B is a list of countries in which patent applications corresponding to the United States patent applications listed in Appendix A will be filed, prosecuted, and maintained. Appendix B may be amended by mutual agreement of WHITEHEAD and COMPANY.

6.3 Payment of Expenses. Payment of all reasonable, documented out-of-pocket fees and costs, including reasonable attorneys' fees, relating to the filing, prosecution, and maintenance of the PATENT RIGHTS will be the responsibility of COMPANY, whether such amounts were incurred before or after the EFFECTIVE DATE and during the TERM.

COMPANY shall pay all amounts due pursuant to this Section 6.3 within thirty (30) days of invoice. Late payments shall accrue interest pursuant to Section 4.2(c). In all instances, WHITEHEAD shall pay the fees prescribed for large entities to the United States Patent and Trademark Office.

## **7. INFRINGEMENT**

7.1 Notification of Infringement. Each party agrees to provide written notice to the other promptly after becoming aware of any infringement of the PATENT RIGHTS in the FIELD in the TERRITORY for which COMPANY has an exclusive license.

7.2 Right to Prosecute Infringements. So long as COMPANY remains the exclusive licensee of the PATENT RIGHTS in the FIELD in the TERRITORY, COMPANY, to the extent permitted by law, will have the right, under its own control and [\*\*\*], to prosecute any third-party infringement of the PATENT RIGHTS in the FIELD in the TERRITORY, subject to Sections 2.5(d), 7.4 and 7.5. If required by law, WHITEHEAD shall permit any action under this Section 7.2 to be brought in its name, including being joined as a party-plaintiff, provided that [\*\*\*].

Prior to commencing any such action, COMPANY shall consult with WHITEHEAD and shall consider the views of WHITEHEAD regarding the advisability of the proposed action and its effect on the public interest. COMPANY shall not enter into any settlement, consent judgment, or other voluntary final disposition of any infringement action under this Section 7.2 without the prior written consent of WHITEHEAD, such consent not to be unreasonably withheld, delayed or conditioned.

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(c) WHITEHEAD Right to Prosecute. In the event that COMPANY is unsuccessful in persuading the alleged infringer to desist or fails to have initiated an infringement action within a reasonable time after COMPANY first becomes aware of the basis for such action, WHITEHEAD shall have the right, at its sole discretion but only after good-faith consultation with COMPANY, to prosecute such infringement under its sole control and [\*\*\*]. In the event that COMPANY has chosen not to initiate an infringement action for business reasons, WHITEHEAD shall consider in good faith COMPANY's reasons for such decision in deciding whether to prosecute such infringement.

7.3 Declaratory Judgment Actions. In the event that a PATENT CHALLENGE or any suit or action alleging that the PATENT RIGHTS are not infringed or unpatentable is brought against WHITEHEAD or COMPANY or any AFFILIATES or SUBLICENSEES by a third party, the subject party shall promptly notify the other parties in writing, and COMPANY, at its option and upon written notice to WHITEHEAD, will have the right, but shall not be obligated, within [\*\*\*] ([\*\*\*)] days after commencement of such action to take over the sole defense of the action at its own expense. If COMPANY does not exercise this right, WHITEHEAD may take over the sole defense of the action at WHITEHEAD's sole expense, but shall not be obligated to do so, subject to Sections 7.4 and 7.5.

7.4 Offsets. COMPANY may offset a total of [\*\*\*] percent ([\*\*\*)%] of any expenses incurred under Sections 7.2 and 7.3 against any payments due to WHITEHEAD under Section 4, provided that in no event shall such payments under Section 4, when aggregated with any other offsets and credits allowed under this Agreement, be reduced by more than [\*\*\*] percent ([\*\*\*)%] in any REPORTING PERIOD.

7.5 Recovery. Any recovery obtained in an action brought by COMPANY under Sections 7.2 or 7.3 will be distributed as follows:

- (i) each party will be first reimbursed pro rata for any expenses incurred in the action (including the amount of any royalty or other payments withheld from WHITEHEAD as described in Section 7.4);
- (ii) [\*\*\*];
- (iii) [\*\*\*]; and
- (iv) [\*\*\*].

7.6 Cooperation. Each party agrees to cooperate in any action under this Section 7 which is controlled by any other party, provided that the controlling party reimburses the cooperating parties promptly for any reasonable costs and expenses incurred by the cooperating parties in connection with providing such assistance.

7.7 Right to Sublicense. So long as COMPANY remains the exclusive licensee of the PATENT RIGHTS, COMPANY will have the sole right to sublicense any alleged infringer in the FIELD in the TERRITORY for future use of the PATENT RIGHTS in accordance with the terms and conditions of this Agreement relating to sublicenses as set forth in Section 2.3 and payments due under Section 4.

## **8. INDEMNIFICATION AND INSURANCE**

### **8.1 Indemnification**

(a) Indemnity. COMPANY shall indemnify, defend, and hold harmless WHITEHEAD and its trustees, officers, faculty, students, medical and professional staff, employees, and agents and its respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses) incurred by or imposed upon the Indemnitees or any one of them, in connection with any third party claims, suits, investigations, actions, demands or judgments (i) arising out of the design, production, manufacture, sale, use in commerce, lease, or promotion by COMPANY or by a SUBLICENSEE, AFFILIATE or agent of COMPANY, or any product, process or service relating to, or developed pursuant to, this Agreement or (ii) arising out of any other activities to be carried out pursuant to this Agreement or (iii) related to the exercise of any rights granted to COMPANY under this Agreement or (iv) any breach of this Agreement by COMPANY.

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COMPANY's indemnification under Sections 8.1(a)(ii) through 8.1(a)(iv) does not apply to any liability, damage, loss or expense to the extent that it is attributable to the grossly negligent activities of the Indemnitees, or the intentional wrongdoing or intentional misconduct of the Indemnitees.

(b) Procedures. The Indemnitees agree to provide COMPANY with prompt written notice of any commenced or threatened claim, suit, action, demand, or judgment for which indemnification is sought under this Agreement. COMPANY agrees, [\*\*\*], to provide attorneys reasonably acceptable to WHITEHEAD to defend against any actions brought or filed against any party indemnified hereunder with respect to the subject of the indemnity contained herein, whether or not such actions are rightfully brought. The Indemnitees shall cooperate with COMPANY in such defense and will permit COMPANY to conduct and control such defense and the disposition of such claim, suit, or action (including all decisions relative to litigation, appeal, and settlement); provided, however, that any Indemnitee shall have the right to retain its own counsel, [\*\*\*], if representation of such Indemnitee by the counsel retained by COMPANY would be inappropriate because of actual or potential differences in the interests of such Indemnitee and any other party represented by such counsel. COMPANY agrees to keep WHITEHEAD informed of the progress in the defense and disposition of such claim and to consult with WHITEHEAD with regard to any proposed settlement.

The right of COMPANY to assume the defense of any action is limited to that part of the action commenced against WHITEHEAD and/or Indemnitees that relates to COMPANY's obligation of indemnification and holding harmless.

COMPANY shall require any AFFILIATE(S) or SUBLICENSEE(S) to indemnify, hold harmless, and defend WHITEHEAD under the same terms set forth in this Section 8.1.

8.2 Insurance. At such time as any product, process, or service relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by COMPANY or by a SUBLICENSEE(S), AFFILIATE(S) or agent of COMPANY, COMPANY shall obtain and carry in full force and effect commercial general liability insurance, including

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product liability insurance which shall protect COMPANY and Indemnitees with respect to events covered by Section 8.1. Such insurance will (i) be issued by a properly licensed insurer, (ii) list WHITEHEAD as additional insureds thereunder, and (iii) be endorsed to include product liability coverage. [\*\*\*].

In the alternative, if COMPANY elects to self insure [\*\*\*]. COMPANY shall provide WHITEHEAD with Certificates of Insurance evidencing compliance with this Section 8.2 upon request of WHITEHEAD.

COMPANY shall provide WHITEHEAD with written notice at least [\*\*\*] ([\*\*\*)] days prior to the cancellation, non renewal or material change in such insurance except that notice of cancellation due to non-payment of premium will be made with notice not less than [\*\*\*] ([\*\*\*)] days prior to cancellation; if COMPANY does not obtain replacement insurance providing comparable coverage within such [\*\*\*] ([\*\*\*)]-day period, WHITEHEAD has the right to terminate this Agreement effective at the end of such [\*\*\*] ([\*\*\*)]-day period without any notice or additional waiting periods.

The minimum amounts of insurance coverage required under these provisions may not be construed to create a limit of COMPANY's liability with respect to its indemnification obligation under Section 8.1.

COMPANY shall maintain such comprehensive general liability insurance beyond the expiration or termination of this Agreement during (a) the period that any product, process, or service, relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by COMPANY or by a SUBLICENSEE, AFFILIATE, or agent of COMPANY and (b) a reasonable period after such time as any product, process or service relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals), which in no event shall be less than [\*\*\*] ([\*\*\*)] years.

[\*\*\*].



**9. REPRESENTATIONS OR WARRANTIES**

9.1. Representations and Warranties. To its knowledge, as of the EFFECTIVE DATE, WHITEHEAD represents and warrants that: (a) it solely and exclusively owns the patents and applications included within the PATENT RIGHTS; (b) it has the power and authority to grant the licenses provided for herein to COMPANY, and that it has not earlier granted, or assumed any obligation to grant, any rights in the PATENT RIGHTS to any third party that would conflict with the rights granted to COMPANY herein; [\*\*\*].

9.2 Limitation on Representations and Warranties. EXCEPT AS MAY OTHERWISE BE EXPRESSLY SET FORTH IN THIS AGREEMENT, WHITEHEAD MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE PATENT RIGHTS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF PATENT RIGHTS CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. Specifically, and not to limit the foregoing, WHITEHEAD makes no warranty or representation [\*\*\*].

EXCEPT FOR COMPANY'S INDEMNITY OBLIGATIONS UNDER SECTION 8.1, IN NO EVENT SHALL ANY PARTY, THEIR TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES FACULTY, STUDENTS, MEDICAL AND PROFESSIONAL STAFF, AGENTS, AND AFFILIATES BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR INJURY TO PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER WHITEHEAD OR COMPANY SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING.

## **10. ASSIGNMENT**

This Agreement is personal to COMPANY and no rights or obligations may be assigned by COMPANY without the prior written consent of WHITEHEAD. Any such assignment will be void. The foregoing notwithstanding, COMPANY may assign its rights and obligations under this Agreement to a successor in connection with the merger, consolidation, or sale of all or substantially all of its assets or that portion of its business to which this Agreement relates (however such transaction is structured); provided, however, that if this Agreement is assigned upon such merger, consolidation, or sale, (i) COMPANY shall [\*\*\*], and (ii) this Agreement will immediately terminate if the proposed assignee has not agreed in writing to be bound by the terms and conditions of this Agreement within [\*\*\*] ([\*\*\*)] days after the effective date of the assignment.

## **11. GENERAL COMPLIANCE WITH LAWS**

11.1 Compliance with Laws. COMPANY shall comply with all local, state, federal, and international laws and regulations relating to the development, manufacture, use, and sale of LICENSED PRODUCTS and LICENSED PROCESSES.

11.2 Export Control. COMPANY and its AFFILIATES and SUBLICENSEES shall comply with all applicable United States laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. COMPANY will indemnify, defend, and hold WHITEHEAD harmless (in accordance with Section 8.1) for the consequences of any such violation.

11.3 Non-Use of Name. COMPANY and its AFFILIATES and SUBLICENSEES shall not use the name of “Whitehead Institute” or any variation, adaptation, or abbreviation thereof, or of any of their trustees, officers, faculty, students, employees, or agents, or any trademark owned by WHITEHEAD, or any terms of this Agreement in any promotional material or other public announcement or disclosure, unless legally required, without the prior written consent of the relevant party, which consent such party may withhold in its sole discretion. WHITEHEAD shall not use the name of “Omega Therapeutics, Inc.,” or any variation, adaptation, or abbreviation thereof, or of any of their directors, officers, employees, or agents, or any trademark owned by COMPANY, or any terms of this Agreement in any promotional material or other public announcement or disclosure, unless legally required, without the prior written consent of the COMPANY, which consent COMPANY may withhold in its sole

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discretion. The foregoing notwithstanding, without the consent of WHITEHEAD, COMPANY may make factual statements during the term of this Agreement that COMPANY has a license from WHITEHEAD under one or more of the patents and/or patent applications comprising the PATENT RIGHTS.

11.4 Marking of LICENSED PRODUCTS. To the extent commercially feasible and consistent with prevailing business practices, COMPANY shall mark, and shall cause its AFFILIATES and shall use commercially reasonable efforts to cause its SUBLICENSEES to mark, all LICENSED PRODUCTS that are manufactured or sold under this Agreement with the number of each issued patent under the PATENT RIGHTS that applies to such LICENSED PRODUCT.

## **12. TERMINATION**

12.1 Voluntary Termination by COMPANY. COMPANY will have the right to terminate this Agreement, for any reason, (i) upon at least [\*\*\*] ([\*\*\*)] months prior written notice to WHITEHEAD, such notice to state the date at least [\*\*\*] ([\*\*\*)] months in the future upon which termination is to be effective, and (ii) upon payment of all undisputed amounts due to WHITEHEAD through such termination effective date.

12.2 Cessation of Business. If COMPANY ceases to carry on its business, as evidenced by liquidation of its assets, WHITEHEAD will have the right to terminate this Agreement immediately upon written notice to COMPANY.

### **12.3 Termination for Default**

(a) Nonpayment. In the event COMPANY fails to pay any undisputed amounts due and payable to WHITEHEAD hereunder, and fails to make such payments within [\*\*\*] ([\*\*\*)] days after receiving written notice of such failure, WHITEHEAD may terminate this Agreement immediately upon written notice to COMPANY.

(b) Material Breach. In the event COMPANY commits a material breach of its obligations under this Agreement, except for breach as described in Section 12.3(a), and fails to cure that breach within [\*\*\*] ([\*\*\*)] days after receiving written notice thereof, or to take reasonable steps to cure such breaches that cannot be cured within [\*\*\*] ([\*\*\*)] days. WHITEHEAD may terminate this Agreement immediately upon written notice to COMPANY subject to completion of the dispute resolution process set forth in Section 13 and subsequent opportunity to cure.

12.4 Effect of Termination.

(a) Survival. The following provisions shall survive the expiration or termination of this Agreement in accordance with their terms: Sections 1, 5.2 (only for obligation to provide final report and payment), 6.3 ([\*\*\*]), 8, 9, 12.4, 13, 14, and 15.

(b) Inventory. Upon the early termination of this Agreement, COMPANY and its AFFILIATES and SUBLICENSEES may complete and sell any work-in-progress and inventory of LICENSED PRODUCTS that exist as of the effective date of termination, provided that:

- (i) COMPANY pays WHITEHEAD the applicable running royalty or other amounts due on such sales of LICENSED PRODUCTS in accordance with the terms and conditions of this Agreement; and
- (ii) COMPANY and its AFFILIATES and SUBLICENSEES shall complete and sell all work-in-progress and inventory of LICENSED PRODUCTS within [\*\*\*] after the effective date of termination.

(c) Pre-termination Obligations. In no event shall termination of this Agreement release COMPANY, AFFILIATES, or SUBLICENSEES from the obligation to pay any amounts that became due on or before the effective date of termination.

**13. DISPUTE RESOLUTION**

13.1 Mandatory Procedures. The parties agree that any dispute arising out of or relating to this Agreement shall be resolved solely by means of the procedures set forth in this Section 13, and that such procedures constitute legally binding obligations that are an essential provision of this Agreement. If any party fails to observe the procedures of this Section 13, as may be modified by their written agreement, the other parties may bring an action for specific performance of these procedures in any court of competent jurisdiction.

13.2 Equitable Remedies. Although the procedures specified in this Section 13 are the sole and exclusive procedures for the resolution of disputes arising out of or relating to this Agreement, any party may seek a preliminary injunction or other provisional equitable relief if, in its reasonable judgment, such action is necessary to avoid irreparable harm to itself or to preserve its rights under this Agreement.

13.3 Dispute Resolution Procedures.

(a) Mediation. In the event of a dispute between the parties arising out of or relating to this Agreement, the dispute will be referred to the chief executive officer or equivalent of each party or their respective designees for resolution. If the dispute remains unresolved within [\*\*\*] from the date the referral as described above, any party may initiate mediation upon written notice to the other party ("Notice Date"), whereupon all parties shall be obligated to engage in a mediation proceeding under the then current Center for Public Resources ("CPR") Model Procedure for Mediation of Business Disputes (<http://www.cpradr.org>), except that specific provisions of this Section 13 shall override inconsistent provisions of the CPR Model Procedure. The mediator will be selected from the CPR Panels of Neutrals. If the parties cannot agree upon the selection of a mediator within fifteen (15) business days after the Notice Date, then upon the request of any party, the CPR shall appoint the mediator. The parties shall attempt to resolve the dispute through mediation until the first of the following occurs:

- (i) the parties reach a written settlement;
- (ii) the mediator notifies the parties in writing that they have reached an impasse;
- (iii) the parties agree in writing that they have reached an impasse; or
- (iv) the parties have not reached a settlement within sixty (60) days after the Notice Date.

(b) Trial Without Jury. If the parties fail to resolve the dispute through mediation, or if no party elects to initiate mediation, each party shall have the right to pursue any other remedies legally available to resolve the dispute, provided, however, that the parties expressly waive any right to a jury trial in any legal proceeding under this Section 13.

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13.4 Performance to Continue. Each party shall continue to perform its undisputed obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement; provided, however, that a party may suspend performance of its undisputed obligations during any period in which the other party fails or refuses to perform its undisputed obligations. Nothing in this Section 13 is intended to relieve COMPANY from its obligation to make undisputed payments pursuant to Sections 4 and 6.

13.5 Statute of Limitations. The parties agree that all applicable statutes of limitation and time-based defenses (such as estoppel and laches) shall be tolled while the procedures set forth in Section 13.3(a) are pending. The parties shall cooperate in taking any actions necessary to achieve this result.

**14. CONFIDENTIALITY**

14.1 Non-disclosure and Non-use.

(a) All non-public information disclosed by one party to the other party hereunder shall be maintained in confidence by the receiving party and shall not be disclosed to any third party or used for any purpose except as set forth herein without the prior written consent of the disclosing party, for a period of [\*\*\*] ([\*\*\*) years from disclosure of such information, except to the extent that such information:

- (i) is known by receiving party at the time of its receipt, and not through a prior disclosure by the disclosing party, as documented by the receiving party's business records;
- (ii) is or becomes part of the public domain through no fault of the receiving party;
- (iii) is subsequently disclosed to the receiving party by a third party who may lawfully do so and is not under an obligation of confidentiality covering such information;
- (iv) is developed by the receiving party independently of information received from the disclosing party, as documented by the receiving party's business records;

(b) Notwithstanding the foregoing, a party may disclose Information:

- (i) in the case of COMPANY, its AFFILIATES or SUBLICENSEES to governmental or other regulatory agencies in order to obtain patents or to gain or maintain approval to conduct clinical trials or to market LICENSED PRODUCTS or LICENSED PROCESSES, provided however that such disclosure may be only to the extent reasonably necessary to obtain patents or authorizations.
- (ii) in the case of COMPANY, its AFFILIATES or SUBLICENSEES, as deemed necessary by COMPANY to be disclosed to sublicensees, agents, consultants, and/or other third parties for the development and/or commercialization of a LICENSED PRODUCT, and/or in connection with a licensing/sublicensing transaction and/or a permitted assignment under this Agreement, and/or loan, financing or investment and/or acquisition, merger, consolidation or similar transaction (or for such entities to determine their interest in performing such activities) in each case on the condition that any third party to whom such disclosures are made agree to be bound by a confidentiality agreement.

Information that is disclosed under 14.1(b)(i) or 14.1(b)(ii) will remain otherwise subject to the confidentiality and non-use provisions hereof.

14.2 Judicial or Administrative Process. If a party is required by judicial or administrative process to disclose non-public information received from the other party that is subject to the non-disclosure provisions of this Section 14, such party shall promptly inform the other party of the disclosure that is being sought in order to provide the other party an opportunity to challenge or limit the disclosure obligations. Any disclosure of the disclosing party's non-public information will be limited to the specific requirements of the judicial or administrative process.

Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions hereof, and the disclosing party, pursuant to law or court order, shall take all steps reasonably necessary, including without limitation obtaining an order of confidentiality, to ensure the continued confidential treatment of such information.

14.3 SEC Filings. Either party may publicly disclose the terms of this Agreement to the extent required, in the reasonable opinion of such party's legal counsel, to comply with applicable laws, including without limitation the rules and regulations promulgated by the United States Securities and Exchange Commission (the "SEC"). Notwithstanding the foregoing, before disclosing this Agreement or any of the terms

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hereof pursuant to this Section 14.3, the parties will consult with one another on the terms of this Agreement to be redacted in making any such disclosure. If a party discloses this Agreement or any of the terms hereof in accordance with this Section 14.3, such party agrees, [\*\*\*], to seek confidential treatment of portions of this Agreement or such terms, as may be reasonably requested by the other party.

**15. MISCELLANEOUS**

15.1 Notice. Any notices required or permitted under this Agreement will be in writing, will specifically refer to this Agreement, and will be sent by hand, recognized national overnight courier, confirmed electronic mail, or registered or certified mail, postage prepaid, return receipt requested, to the following addresses of the parties:

If to WHITEHEAD:            Whitehead Institute for Biomedical Research  
   455 Main Street  
   Cambridge, MA 02142  
   Attention: Intellectual Property Office  
   Tel: 617-258-5000

If to COMPANY:            Omega Therapeutics, Inc.  
   55 Cambridge Parkway  
   Cambridge MA 02142  
   ATTN: Legal Notices  
   Cc: [\*\*\*]

All notices under this Agreement will be deemed effective upon receipt. A party may change its contact information immediately upon written notice to the other parties in the manner provided in this Section 15.1.

15.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement, or the performance, enforcement, breach or termination hereof, and any remedies relating thereto, will be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., without regard to conflict of laws principles, except that questions affecting the construction and effect of any patent will be determined by the law of the country in which the patent will have been granted. The state and federal courts having jurisdiction over Cambridge, MA, U.S.A., provide the exclusive forum for any court action between the parties relating to this Agreement. COMPANY and WHITEHEAD submit to the jurisdiction of such courts and waives any claim that such court lacks jurisdiction over WHITEHEAD, COMPANY or its AFFILIATES or constitutes an inconvenient or improper forum.



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15.3 Force Majeure. No party will be responsible for delays resulting from causes beyond the reasonable control of such party, including without limitation fire, explosion, flood, war, strike, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

15.4 Amendment and Waiver. This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by the parties. Any waiver of any rights or failure to act in a specific instance will relate only to such instance and will not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

15.5 Severability. In the event that any provision of this Agreement will be held invalid or unenforceable for any reason, such invalidity or unenforceability will not affect any other provision of this Agreement, and the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent. If the parties fail to reach a modified agreement within [\*\*\*] ([\*\*\*)] days after the relevant provision is held invalid or unenforceable, then the dispute will be resolved in accordance with the procedures set forth in Section 13. While the dispute is pending resolution, this Agreement will be construed as if such provision were deleted by agreement of the parties.

15.6 Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

15.7 Headings. All headings are for convenience only and will not affect the meaning of any provision of this Agreement.

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15.8 Entire Agreement. This Agreement and [\*\*\*], constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter, except any confidentiality agreement between the parties entered into for purposes of review of PATENT RIGHTS or related information for purposes of the license in this Agreement.

Signatures follow on the next page.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

**For WHITEHEAD**

By: /s/ Carla DeMaria  
Name: Carla DeMaria  
Title: Director of Intellectual Property & Sponsored Programs  
Date: 5/31/19

**For COMPANY:**

By: /s/ Mahesh Karande  
Name: Mahesh Karande  
Title: President & CEO  
Date: 5/23/19

APPENDIX A

List of Patent Applications and Patents

[\*\*\*]

APPENDIX B

[\*\*\*]

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**WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH  
PATENT LICENSE AGREEMENT (CO-EXCLUSIVE)**

This Agreement, effective as of May 22, 2019 (the “EFFECTIVE DATE”), is between the **Whitehead Institute for Biomedical Research (“WHITEHEAD”)**, a Delaware corporation, having a principal office at 455 Main Street, Cambridge, MA 02142 and **Omega Therapeutics, Inc. (“COMPANY”)**, a Delaware corporation, having a principal place of business at 55 Cambridge Parkway, Cambridge MA 02142 (the “Agreement”).

**RECITALS**

WHEREAS, WHITEHEAD is the owner of certain PATENT RIGHTS (as later defined herein) relating to [\*\*\*]; [\*\*\*]; [\*\*\*];

WHEREAS, WHITEHEAD has the right to grant licenses under said PATENT RIGHTS subject to a royalty-free, nonexclusive, non-transferable license to practice the PATENT RIGHTS granted to the United States Government for government purposes;

WHEREAS, WHITEHEAD intends to grant certain rights in PATENT RIGHTS co-exclusively to COMPANY and [\*\*\*] (“CO-EXCLUSIVE LICENSEE”);

WHEREAS, WHITEHEAD and [\*\*\*] are parties to a Sponsored Research Agreement dated [\*\*\*], wherein WHITEHEAD has granted [\*\*\*] certain rights under the PATENT RIGHTS.

WHEREAS, WHITEHEAD desires to have the PATENT RIGHTS developed and commercialized to benefit the public by granting a license;

COMPANY has represented to WHITEHEAD that it has the financial capacity and the strategic commitment to facilitate the transfer of the technology for the public interest using commercially reasonable efforts; and

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COMPANY desires to obtain a license to WHITEHEAD's rights under the PATENT RIGHTS, and WHITEHEAD is willing to grant a license upon the terms and conditions of this Agreement.

**NOW, THEREFORE**, WHITEHEAD, and COMPANY hereby agree as follows:

**1. DEFINITIONS**

1.1 "AFFILIATE" will mean any legal entity (such as a corporation, partnership, or limited liability company) that directly or indirectly controls, or is controlled by, or is under common control with, COMPANY. For the purposes of this definition, the term "control" means (i) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (ii) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities, or (iii) the power to direct the management and policies of such entities.

1.2 "COMBINATION PRODUCT" will mean any LICENSED PRODUCT or LICENSED PROCESS sold or used in combination with one or more other products or processes which are not LICENSED PRODUCTS or LICENSED PROCESSES but which perform a useful function independent of the LICENSED PRODUCTS or LICENSED PROCESSES. For example, a COMBINATION PRODUCT is a pharmaceutical product that includes two active pharmaceutical ingredients.

1.3 "FDA" will mean the United States Food and Drug Administration.

1.4 "FIELD" will mean all human and animal therapeutic and diagnostic fields. For the avoidance of doubt, FIELD excludes sale and/or distribution of reagents for research use.

1.5 "LICENSED PROCESS" will mean any process that, absent the license granted hereunder, would infringe one or more VALID CLAIMS.

1.6 "LICENSED PRODUCT" will mean any product that, in whole or in part, absent the license granted hereunder, (i) would infringe one or more VALID CLAIMS; or (ii) is manufactured by using a LICENSED PROCESS or that, when used, infringes a VALID CLAIM.

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1.7 "LICENSED SERVICES" will mean the provision of services using LICENSED PROCESSES under written agreement to a third party that is not a SUBLICENSEE, specifically for screening, patient identification, and/or target identification activities in the FIELD where COMPANY and such third party are not otherwise collaborating regarding a product based on such activities.

1.8 "LICENSED SERVICES INCOME" will mean the gross amount collected by COMPANY and its AFFILIATES for LICENSED SERVICES, less [\*\*\*].

1.9 "NET SALES" will mean the gross amount collected by COMPANY, its AFFILIATES, and SUBLICENSEES for LICENSED PRODUCTS to a final customer who is an end user of the LICENSED PRODUCT, less the following:

- (i) [\*\*\*];
- (ii) [\*\*\*];
- (iii) [\*\*\*];
- (iv) [\*\*\*];
- (v) [\*\*\*]; and
- (vi) [\*\*\*].

No deductions will be made for commissions paid to individuals whether they are with independent sales agencies (unless required for distribution purposes in a local jurisdiction) or regularly employed by COMPANY and on its payroll or for costs of collections. [\*\*\*].

Non-monetary consideration may be accepted by COMPANY or any AFFILIATE for any LICENSED PRODUCT [\*\*\*]. NET SALES includes the fair-market value of any non-cash consideration from sale of LICENSED PRODUCTS received by COMPANY or AFFILIATES.

In the event that a LICENSED PRODUCT or LICENSED PROCESS is sold as a COMBINATION PRODUCT, NET SALES, for the purposes of determining royalty payments on the COMBINATION PRODUCT, will mean the gross amount collected for the COMBINATION PRODUCT less the deductions set forth above, multiplied by a proration factor that is determined as follows:



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- (1) If all components of the COMBINATION PRODUCT were sold separately during the same or immediately preceding year, the proration factor shall be determined by the formula  $[A / (A+B)]$ , where A is the average gross sales price of all LICENSED PRODUCT or LICENSED PROCESS components (as applicable) during such period when sold separately from the other component(s), and B is the average gross sales price of the other component(s) during such period when sold separately from the LICENSED PRODUCT or LICENSED PROCESS components (as applicable); or
- (2) If all components of the COMBINATION PRODUCT were not sold or provided separately during the same or immediately preceding year, the proration factor shall be determined by the Parties in good faith negotiations based on the relative value contributed by each component.

1.10 “PATENT CHALLENGE” will mean a challenge to the validity or enforceability of any of the PATENT RIGHTS filed in a patent office or in an appropriate court, and includes acts that institute, or cause counsel to institute, any interference, opposition, re-examination, or similar proceeding with respect to any of the PATENT RIGHTS with the U.S. Patent and Trademark Office or any foreign patent office.

1.11 “PATENT RIGHTS” will mean:

- (i) the United States and international patents listed on Appendix A;
- (ii) the United States and international patent applications and/or provisional applications listed on Appendix A and the resulting patents that issue directly therefrom;
- (iii) claims of any patent applications claiming priority to any of the provisional applications listed on Appendix A that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A and any divisionals, continuations, claims of continuation-in-part applications, and continued prosecution applications (and their relevant international equivalents) of the patent applications listed on Appendix A and of such patent applications that claim priority to any of the provisional applications listed on Appendix A, to the extent the claims are directed to and wholly supported by subject matter specifically described in the patent applications listed on Appendix A, and those claims in the resulting patents that issue directly therefrom;

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- (iv) claims of any patents resulting from reissues, reexaminations, or extensions (and their relevant international equivalents) of the patents described in (i), (ii), and (iii) above that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A; and
- (v) U.S. provisional patent applications which are directed to subject matter specifically described in the United States patents and/or patent applications listed on Appendix A, claims of any patent applications claiming priority to any of such provisional applications that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A, and any divisionals, continuations, claims of continuation-in-part applications, and continued prosecution applications (and their relevant international equivalents) of any of the foregoing patent application, to the extent the claims are directed to and wholly supported by subject matter specifically described in the patent applications listed on Appendix A, those claims in the resulting patents, and the claims of any patents resulting from reissues, reexamination, or extensions (and their relevant international equivalents) of any of such patents that are directed to subject matter specifically described in the patents and patent applications listed on Appendix A.

COMPANY may remove, at its sole discretion, any patent or patent application or claim thereof from Appendix A in accordance with Section 6.1(c).

1.12 “PHASE I TRIAL” will mean a human clinical trial of a LICENSED PRODUCT in a human subject the purpose of which is preliminary determination of safety and tolerability of a dosing regimen, as required in 21 C.F.R. § 312.21(a), or any equivalent clinical study in a country other than the United States.

1.13 “PHASE II TRIAL” will mean a human clinical trial of a LICENSED PRODUCT, for which the primary endpoints include a determination of dose ranges and/or a preliminary determination of efficacy in patients being studied as required by 21 C.F. R. § 312.21 (b), or any equivalent clinical study in a country other than the United States.

1.14 “PHASE III TRIAL” will mean a human clinical trial of a LICENSED PRODUCT on a sufficient number of subjects that is designed to establish that a pharmaceutical product is safe and efficacious for its intended use, and to determine warnings, precautions, and adverse reactions that are associated with such pharmaceutical product in the dosage range to be prescribed, which trial is intended to support Approval of a LICENSED PRODUCT, as described in 21 C.F.R. 312.21(c) for the United States or any equivalent clinical study in a country other than the United States.

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1.15 “REPORTING PERIOD” will begin on the first day of each calendar quarter and end on the last day of such calendar quarter.

1.16 “SUBLICENSEE” will mean any non-AFFILIATE sublicensee of the rights granted COMPANY under Section 2.1.

1.17 “SUBLICENSE AGREEMENT” will mean a written agreement between COMPANY and a SUBLICENSEE granting a sublicense of the rights granted COMPANY under Section 2.1.

1.18 “TERM” will mean the term of this Agreement, which will commence on the EFFECTIVE DATE and will remain in effect until the expiration or abandonment of the PATENT RIGHTS, unless earlier terminated in accordance with the provisions of this Agreement.

1.19 “TERRITORY” will mean worldwide.

1.20 “VALID CLAIM” will mean (i) any claim of an issued and unexpired PATENT RIGHT that (a) has not been held permanently revoked, unenforceable or invalid by a decision of a court or governmental agency of competent jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal, and (b) has not been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise, or (ii) a claim of a pending PATENT RIGHT application that has not been pending for more than [\*\*\*] years from the date of [\*\*\*], which claim is filed and prosecuted in good faith and has not been abandoned or finally disallowed without the possibility of appeal or re-filing of the application. The invalidity of a particular claim in one or more countries will not invalidate such claim in the remaining countries of the TERRITORY.

## **2. GRANT OF RIGHTS**

2.1 License Grants. Subject to the terms of this Agreement, WHITEHEAD hereby grants to COMPANY for the TERM a royalty-bearing license under the PATENT RIGHTS to research, make, have made, use, sell, offer to sell, lease and import LICENSED PRODUCTS in the FIELD in the TERRITORY and to perform and have performed LICENSED PROCESSES in the FIELD in the TERRITORY. COMPANY may extend the license granted to COMPANY to one or more of its AFFILIATES, at COMPANY's discretion, and will provide written notification to WHITEHEAD of any AFFILIATES covered by the license granted in this Agreement. Any terms in this Agreement that apply to AFFILIATES of COMPANY will only apply in the event COMPANY has extended the license as provided above.

2.2 Co-Exclusivity. Subject to the terms of this Agreement, the license granted by WHITEHEAD to COMPANY under Section 2.1 above shall be co-exclusive (with CO-EXCLUSIVE LICENSEE) under the PATENT RIGHTS in the FIELD in the TERRITORY to research, make, have made, use, sell, lease, offer for sale or import LICENSED PRODUCTS or to perform or have performed LICENSED PROCESSES. In the event that no agreement with the CO-EXCLUSIVE LICENSEE granting co-exclusive rights under the PATENT RIGHTS is completed within twelve (12) months of the EFFECTIVE DATE or such agreement is terminated at any time for any reason, the license granted by WHITEHEAD to COMPANY under Section 2.1 above will be exclusive.

2.3 Sublicenses. COMPANY will have the right to grant sublicenses of the license and other rights under Section 2.1 and this Agreement and through multiple tiers, for any PATENT RIGHTS that are then licensed by COMPANY at the time of such SUBLICENSE AGREEMENT. A sublicense by COMPANY under any PATENT RIGHTS must be for purposes of research, developing, or marketing a LICENSED PRODUCT. COMPANY shall incorporate terms and conditions into its SUBLICENSE AGREEMENTS sufficient to enable COMPANY to comply with this Agreement.

Upon termination of this Agreement for any reason, any SUBLICENSEE not then in default will have the right to take a direct license from WHITEHEAD under PATENT RIGHTS with rights and terms substantially equivalent to the rights and terms of this Agreement, including without limitation financial terms. WHITEHEAD agrees to execute such direct license and any non-identical terms will be negotiated between SUBLICENSEE and WHITEHEAD in good faith under reasonable terms and conditions.

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2.3.1 Form and Content of SUBLICENSE AGREEMENT. Sublicense(s) granted by COMPANY under this Agreement will be in writing, and COMPANY shall include the equivalent of at least the following provisions with COMPANY in all sublicenses. SUBLICENSEES shall report annually to COMPANY on its operations under the sublicense.

- (a) SUBLICENSEES shall make payments due to COMPANY in a timely manner, so that COMPANY may comply with its obligations to make payments to WHITEHEAD as set forth in Article 4.
- (b) The terms and conditions of Sections 2.4 (U.S. Manufacturing), 2.5 (Retained Rights), 5.3 (Record keeping), 11.2 (Export Control), 11.3 (Non-Use of Name), and 11.4 (Marking of LICENSED PRODUCTS) are binding on the SUBLICENSEE through the applicable SUBLICENSE AGREEMENT.
- (c) A section substantially the same as Article 8 (Indemnification and Insurance) will be included which also will state that the Indemnitees (as defined in Article 8) are intended third-party beneficiaries of such SUBLICENSE AGREEMENT solely for the purpose of enforcing such indemnification and insurance provisions.

2.3.2 Copies of SUBLICENSE AGREEMENTS. COMPANY shall forward to WHITEHEAD copies of any and all fully executed SUBLICENSE AGREEMENTS within [\*\*\*] ([\*\*\*) days after their execution, which copies may be reasonably redacted except for matters relevant to COMPANY's obligations and/or WHITEHEAD's rights under this Agreement, provided that sufficient information remains unredacted to allow WHITEHEAD to assess whether COMPANY is in compliance with its obligations under this Agreement and to verify amounts payable hereunder in connection with such SUBLICENSE AGREEMENT. WHITEHEAD shall keep copies of SUBLICENSE AGREEMENTS in its confidential files, shall treat as confidential information in accord with Article 14, and shall use them solely for the purpose of monitoring COMPANY's and SUBLICENSEES' compliance with their obligations hereunder and enforcing WHITEHEAD's rights under this Agreement.

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2.4 U.S. Manufacturing. COMPANY agrees that any LICENSED PRODUCTS used or sold in the United States will be manufactured substantially in the United States as required by 35 U.S.C. 204 and 37 C.F.R. 401 et. seq., as amended. WHITEHEAD agrees to provide reasonable assistance to COMPANY to seek a waiver from any such requirement at COMPANY's election.

2.5 Retained Rights.

(a) WHITEHEAD. WHITEHEAD retains the right to practice the PATENT RIGHTS for research, teaching, and other educational purposes including use in third-party sponsored research.

(b) Academic and Not-For-Profit Research Institutes. WHITEHEAD retains the right to grant non-exclusive licenses to other nonprofit or academic institutions to practice the PATENT RIGHTS for research, teaching, and other educational purposes; provided, however, that in no event shall any license permit the practice or use of any PATENT RIGHTS in the FIELD in the TERRITORY for commercial activities (meaning commercial development, production, manufacture, distribution or sale of products or provision of services for a fee).

(c) Federal Government. COMPANY acknowledges that the U.S. federal government retains a royalty-free, non-exclusive, non-transferable license to practice any government-funded invention claimed in any PATENT RIGHTS as set forth in 35 U.S.C. §§ 201-211, and the regulations promulgated thereunder, as amended, or any successor statutes or regulations.

(d) [\*\*\*]. WHITEHEAD represents that it is a party to a Sponsored Research Agreement by and between WHITEHEAD and [\*\*\*] dated [\*\*\*] ("SRA") and that the SRA remains in full force and effect as of the EFFECTIVE DATE. WHITEHEAD agrees that no modification to the SRA relevant to terms of this Section 2.5(d) will be made without COMPANY's prior written approval.

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(1) WHITEHEAD represents that the SRA includes an obligation for WHITEHEAD to grant rights in certain inventions arising under the SRA to [\*\*\*]. Such inventions are “WIBR Inventions”, “Subcontractor Inventions” and “WIBR/Subcontractor Inventions” (as each such term is defined in the SRA) arising during the initial term of the SRA (and any extension up to [\*\*\*] agreed in writing) for which (i) patent applications are filed and (ii) that would be dominated by one or more VALID CLAIMS of the PATENT RIGHTS (“SRA Invention”).

(2) COMPANY acknowledges that WHITEHEAD has or will covenant not to sue [\*\*\*] for infringement of the PATENT RIGHTS arising from the practice of SRA Inventions that become licensed to [\*\*\*] by WHITEHEAD (and sublicensees of same). Accordingly, COMPANY’s rights under Section 7.2 of this Agreement (Right to Prosecute Infringements) will exclude infringement of the PATENT RIGHTS by [\*\*\*] arising from the practice of SRA Inventions licensed to [\*\*\*] by WHITEHEAD (and such infringement by sublicensees of same).

(3) If [\*\*\*] does not become licensed under an applicable SRA Invention or such license terminates for any reason, COMPANY will have no restrictions from pursuing infringement of the PATENT RIGHTS as otherwise provided in this Agreement.

2.6 No Additional Rights. Nothing in this Agreement will be construed to confer any rights upon COMPANY by implication, estoppel, or otherwise as to any technology or patent rights of WHITEHEAD or any other entity other than the PATENT RIGHTS, regardless of whether such technology or patent rights shall be dominant or subordinate to any PATENT RIGHTS.

### **3. COMPANY DILIGENCE OBLIGATIONS**

3.1 COMPANY shall use commercially reasonable efforts, or shall cause one or more of its AFFILIATES and SUBLICENSEES to use commercially reasonable efforts, to develop one or more LICENSED PRODUCTS or LICENSED PROCESSES and to introduce LICENSED PRODUCTS or LICENSED PROCESSES into the commercial market; thereafter, COMPANY or its AFFILIATES or SUBLICENSEES shall make one or more LICENSED PRODUCTS or LICENSED PROCESSES reasonably available to the public. Specifically, COMPANY or any of its AFFILIATES or SUBLICENSEES shall fulfill the following obligations:

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- (i) Within [\*\*\*] ([\*\*\*)] months after the EFFECTIVE DATE, COMPANY shall furnish WHITEHEAD with a written research and development plan describing the major tasks to be achieved in order to bring to market a LICENSED PRODUCT and/or LICENSED PROCESS, specifying the number of staff and other resources to be devoted to such commercialization effort.
- (ii) Within [\*\*\*] ([\*\*\*)] days after the end of each calendar year, COMPANY shall furnish WHITEHEAD with a written report (consistent with Section 5.1(a)) on the progress of its efforts during the immediately preceding calendar year to develop and commercialize LICENSED PRODUCTS and/or LICENSED PROCESSES. The report will also contain a discussion of intended efforts and sales projections for the year in which the report is submitted.

**3.2 Diligence Requirements.**

(a) COMPANY will use commercially reasonable efforts to develop and commercialize a LICENSED PRODUCT consistent with the efforts of a similarly situated company for a product in a similar therapeutic area with similar market potential. If, during the TERM, COMPANY or any one or more AFFILIATES or SUBLICENSEES, alone or together, has performed any one of the following, then COMPANY will be deemed to have complied with COMPANY'S obligations under this Section 3.2(a):

- (i) [\*\*\*];
- (ii) [\*\*\*];
- (iii) [\*\*\*]; or
- (iv) [\*\*\*].

(b) If in WHITEHEAD'S reasonable judgment none of these criteria in Section 3.2(a) are met and COMPANY has not otherwise demonstrated commercially reasonable efforts for developing LICENSED PRODUCTS, WHITEHEAD shall notify COMPANY in writing. COMPANY shall respond in writing within [\*\*\*] ([\*\*\*)] days of notice from WHITEHEAD stating that: (1) COMPANY shall meet one of the criteria within [\*\*\*] ([\*\*\*)] days of its response; (2) COMPANY has met at least one of the criteria with information describing how; or (3) explain, to WHITEHEAD'S reasonable satisfaction, the basis for not meeting the listed criteria due to circumstances beyond COMPANY'S reasonable control.



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(c) Beginning [\*\*\*] from the EFFECTIVE DATE, if WHITEHEAD or COMPANY receives a bona fide request from a third party for a sublicense to the PATENT RIGHTS to make, have made, use, sell, offer to sell, and import a LICENSED PRODUCT or LICENSED PROCESS, which proposed product or process ("Proposed Product") is not directly competitive with any LICENSED PRODUCT or LICENSED PROCESS then offered for sale or in bona fide research or development by or on behalf of COMPANY or any of its AFFILIATES or SUBLICENSEES or with the then-current business interests of COMPANY or an AFFILIATE or SUBLICENSEE, then COMPANY shall enter into good-faith negotiations toward granting at least a non-exclusive sublicense, limited to the proposed field only, to such third party for such third party's Proposed Product.

As an alternative to negotiating a sublicense to a third party, at COMPANY'S election and at its sole discretion, COMPANY (or one of its AFFILIATES or SUBLICENSEES) may submit to WHITEHEAD, within [\*\*\*] ([\*\*\*)] months after such third party's request for a sublicense, a plan for prompt and diligent development of the Proposed Product that is not directly competitive with any LICENSED PRODUCT or LICENSED PROCESS, including a commitment to commercially reasonable development milestones. If WHITEHEAD approves this plan, such approval not to be unreasonably withheld, no third-party sublicense shall be required for each such Proposed Product pursuant to this Section 3.2(c). If WHITEHEAD does not approve this plan, the parties shall meet within [\*\*\*] ([\*\*\*)] days of COMPANY's submission to resolve in good-faith any differences in the plan.

For purposes of this Section 3.2(c), "directly competitive" includes, for example and without limitation, that (i) the Proposed Product is or could be for the same or similar indication or otherwise is in the same therapeutic space as any such LICENSED PRODUCT or LICENSED PROCESS or would rely upon any regulatory filing for a LICENSED PRODUCT or LICENSED PROCESS submitted by COMPANY, its AFFILIATE or SUBLICENSEE; (ii) the Proposed Product is a derivative, homolog, analog, or other chemically-related species/compound to such LICENSED PRODUCT or LICENSED

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PROCESS; or (iii) the development or commercialization of the Proposed Product could harm the development or commercialization of any such LICENSED PRODUCT or LICENSED PROCESS (where, for example, an adverse regulatory event for the Proposed Product could include any such LICENSED PRODUCT or LICENSED PROCESS) as determined in the reasonable judgment of COMPANY, its AFFILIATE or SUBLICENSEE.

(d) In the event that COMPANY or its AFFILIATES or SUBLICENSEES, alone or together, has not performed at least one of Sections 3.2(a)(i) through (iv) during [\*\*\*] with respect to at least one LICENSED PRODUCT, then WHITEHEAD may treat such failure as a material breach in accordance with Section 12.3(b), subject to Section 3.2(b).

**4. ROYALTIES AND PAYMENT TERMS**

4.1 Consideration for Grant of Rights.

(a) License Issue Fee and Patent Cost Reimbursement. COMPANY shall pay to WHITEHEAD a license issue fee of [\*\*\*] Dollars (\$[\*\*\*]) within [\*\*\*] ([\*\*\*) days of the EFFECTIVE DATE. The license issue fee [\*\*\*].

(b) License Maintenance Fees. COMPANY shall pay to WHITEHEAD the following license maintenance fees on January 1 of each year set forth below:

<u>Year(s)</u>	<u>License Maintenance Fee</u>
2020	\$ [***]
2021	\$ [***]
2022	\$ [***]
2023	\$ [***]
2024 and every year thereafter	\$ [***]

[\*\*\*], the license maintenance fee may be credited to royalties due under this Agreement during the same calendar year, if any. License maintenance fees paid in excess of such payments due in such calendar year will not be creditable to amounts due for future years.

(c) Milestone Payments. COMPANY shall pay to WHITEHEAD the following Milestone Payments within [\*\*\*] ([\*\*\*) days of the event, whether such event is achieved by COMPANY, its AFFILIATE or SUBLICENSEE. Each Milestone Payment is payable one time only for the first achievement of such event for [\*\*\*].

(1) [\*\*\*];

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- (2) [\*\*\*];
- (3) [\*\*\*];
- (4) [\*\*\*].
- (5) [\*\*\*].

The milestone payments [\*\*\*].

(d) Royalties on LICENSED PRODUCTS and Sharing of LICENSED SERVICES INCOME: COMPANY shall pay to WHITEHEAD:

- (i) a running royalty of [\*\*\*] Percent ([\*\*\*]%) of NET SALES of LICENSED PRODUCTS by COMPANY, its AFFILIATES, and its SUBLICENSEES;
- (ii) [\*\*\*] percent ([\*\*\*]%) of LICENSED SERVICES INCOME received by COMPANY or AFFILIATES.

Running royalties and share of LICENSED SERVICES INCOME will be payable for each REPORTING PERIOD and will be due to WHITEHEAD within [\*\*\*] ([\*\*\*]) days of the end of each REPORTING PERIOD.

(e) Royalty Offset. If COMPANY, or an AFFILIATE is obligated to pay royalties to one or more third parties in order to obtain a license or similar right necessary to make, have made, use, sell, have sold, offer to sell, lease, or import a LICENSED PRODUCT, and COMPANY or its AFFILIATE actually pays said third-party royalties, COMPANY will be entitled to credit up to [\*\*\*] ([\*\*\*]%) of the amounts actually paid to such third parties against the royalties due to WHITEHEAD under this Agreement in the same REPORTING PERIOD, provided, however, that in no event will the royalty payments under Section 4.1(d)(i) be reduced to less than [\*\*\*] Percent ([\*\*\*]%) of NET SALES of such LICENSED PRODUCT in such REPORTING PERIOD; provided, further, that [\*\*\*].

(f) Except if early terminated by a party under Section 12, upon satisfaction of COMPANY's royalty obligations with respect to a LICENSED PRODUCT, the license grants contained herein will become fully paid-up, royalty-free, perpetual, and irrevocable for such LICENSED PRODUCT.

(g) SUBLICENSE AGREEMENTS. COMPANY shall [\*\*\*].

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(h) No Multiple Royalties. If the manufacture, use, lease, offer for sale, import, or sale of any LICENSED PRODUCT or the performance of any LICENSED PROCESS is covered by more than one of the PATENT RIGHTS, multiple royalties will not be due.

4.2 Payments.

(a) Method of Payment. All payments under this Agreement should be made payable to “Whitehead Institute for Biomedical Research” and sent to WHITEHEAD’s address identified in Section 14.1. Each payment should reference this Agreement ([\*\*\*) and identify the obligation under this Agreement that the payment satisfies.

(b) Payments in U.S. Dollars. All payments due under this Agreement will be drawn on a United States bank and will be payable in United States dollars. Conversion of foreign currency to U.S. dollars will be made at the conversion rate existing in the United States (as reported in the *Wall Street Journal*) on the last working day of the calendar quarter of the applicable REPORTING PERIOD. [\*\*\*]. If COMPANY is required to deduct or collect withholding or similar taxes or other government imposed fees or taxes, then COMPANY shall provide reasonable assistance to WHITEHEAD in filing paperwork related to its non-profit status.

(c) Late Payments. Any payments by COMPANY that are not paid on or before the date such payments are due under this Agreement will bear interest, to the extent permitted by law, at [\*\*\*] as reported in the *Wall Street Journal* on the date payment is due.

**5. REPORTS AND RECORD KEEPING**

5.1 Frequency of Reports.

(a) Before First Commercial Sale. Prior to the first commercial sale of any LICENSED PRODUCT or commercial performance of a LICENSED PROCESS, COMPANY shall deliver reports to WHITEHEAD annually, within [\*\*\*] ([\*\*\*) days of the end of each calendar year, containing information concerning the immediately preceding calendar year, as further described in Section 5.2.

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(b) COMPANY shall report to WHITEHEAD the date of first commercial sale of a LICENSED PRODUCT or first commercial sale of a LICENSED PROCESS within [\*\*\*] ([\*\*\*)] days of occurrence in each country.

(c) After First Commercial Sale. After the first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE, COMPANY shall deliver reports to WHITEHEAD within [\*\*\*] ([\*\*\*)] days of the end of each REPORTING PERIOD, containing information concerning the immediately preceding REPORTING PERIOD, as further described in Section 5.2.

5.2 Content of Reports and Payments. Each report delivered by COMPANY to WHITEHEAD will contain at least the following information for the immediately preceding REPORTING PERIOD:

- (i) the number of LICENSED PRODUCTS sold, leased, or distributed by COMPANY, its AFFILIATES, and SUBLICENSEES to independent third parties;
- (ii) the gross price charged by COMPANY, its AFFILIATES, and SUBLICENSEES for each LICENSED PRODUCT;
- (iii) calculation of NET SALES for the applicable REPORTING PERIOD, including a listing of applicable deductions;
- (iv) total royalty payable on NET SALES in U.S. dollars, together with the exchange rates used for conversion;
- (v) the number of SUBLICENSE AGREEMENTS entered (including through multiple tiers);
- (vi) the amount of LICENSED SERVICE INCOME and calculation of such including a listing of applicable deductions;
- (vii) the achievement of COMPANY Diligence Obligations under Article 3 and Milestones under Section 4.1(c).

If no amounts are due for any REPORTING PERIOD, the report will so state.

5.3 Record keeping. COMPANY shall maintain, and shall cause its AFFILIATES and SUBLICENSEES to maintain, complete and accurate financial records relating to the rights and obligations under this Agreement and any amounts payable to WHITEHEAD in relation to this Agreement, which financial records will contain sufficient information to permit WHITEHEAD to confirm the accuracy of any financial reports delivered to WHITEHEAD. The relevant party shall retain such records for at least [\*\*\*] ([\*\*\*)] years

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following the end of the calendar year to which they pertain, during which time WHITEHEAD or WHITEHEAD's appointed agents, shall have the right, at WHITEHEAD's expense, to inspect such records during normal business hours to verify any payments due under this Agreement. Any such inspection will be by a certified public accountant who must enter into a standard form of confidentiality agreement then in use by the appropriate entity. In the event that any audit performed under this Section 5.3 reveals an underpayment in excess of [\*\*\*] percent ([\*\*\*]%), COMPANY will [\*\*\*] within [\*\*\*] ([\*\*\*)] days of receiving notice thereof from WHITEHEAD. Any over-payments [\*\*\*].

**6. PATENT PROSECUTION**

**6.1 Responsibility for PATENT RIGHTS.**

(a) WHITEHEAD in its sole discretion, shall prepare, file, prosecute, and maintain all of the PATENT RIGHTS. For purposes of this Agreement, patent prosecution includes ex parte prosecution, interference proceedings, reissues, reexaminations, and oppositions. As long as the license remains in whole or in part exclusive or co-exclusive, WHITEHEAD shall provide, or cause its agent to provide, copies of material correspondence between WHITEHEAD and the United States Patent Office or, as applicable, the various foreign patent offices, and with patent counsel, and give COMPANY reasonable opportunity to advise WHITEHEAD or WHITEHEAD's counsel on such matters. COMPANY shall designate an individual or department for receiving the patent-related correspondence.

(b) COMPANY shall have reasonable opportunities to consult with and advise WHITEHEAD for all patent-related activity for PATENT RIGHTS in conjunction with the CO-EXCLUSIVE LICENSEE. COMPANY shall cooperate with WHITEHEAD in preparing, filing, prosecuting, and maintaining the patent applications and patents within PATENT RIGHTS. COMPANY shall use reasonable efforts to provide prompt notice to WHITEHEAD of any non-privileged, public information that comes to its attention that may affect the patentability, validity, or enforceability of any patent application or patent within PATENT RIGHTS. WHITEHEAD shall consider the legitimate interests of COMPANY in performing its responsibility under this Section 6.1 and all reasonable comments from

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COMPANY regarding any patent filing within PATENT RIGHTS. In the event of contradicting or inconsistent comments received from COMPANY and CO-EXCLUSIVE LICENSEE with respect to patent activity for PATENT RIGHTS, WHITEHEAD will promptly notify COMPANY in writing. WHITEHEAD will use reasonable efforts to facilitate a joint meeting or discussion including patent counsel, COMPANY and CO-EXCLUSIVE LICENSEE in a timely manner to reach mutual agreement to resolve such comments.

(c) COMPANY may surrender its licenses under any of the patents or patent applications, or any claim(s) thereof within PATENT RIGHTS in any country of the licensed TERRITORY by giving [\*\*\*] ([\*\*\*])-days advance written notice to WHITEHEAD. If COMPANY so surrenders its rights, it will [\*\*\*]. Thereafter, COMPANY will [\*\*\*]. Notwithstanding the foregoing, if such surrender results in termination of all rights under this Agreement, then the termination notice provision in Section 12, below, shall apply.

6.2 International (non-United States) Filings. Appendix B is a list of countries in which patent applications corresponding to the United States patent applications listed in Appendix A will be filed, prosecuted, and maintained. Appendix B may be amended by mutual agreement of WHITEHEAD and COMPANY.

6.3 Payment of Expenses. Payment of all reasonable, documented out-of-pocket fees and costs, including reasonable attorneys' fees, relating to the filing, prosecution, and maintenance of the PATENT RIGHTS, whether such amounts were incurred before or after the EFFECTIVE DATE and during the TERM will be shared equally between COMPANY and the CO-EXCLUSIVE LICENSEE for patent application(s) and issued patents within the PATENT RIGHTS for so long as such patent applications and patents remained licensed to both COMPANY and CO-EXCLUSIVE LICENSEE, include the time period following any surrender of patents until expiration of payment obligation under Section 6.1(c) above. If a patent application or issued patent within the PATENT RIGHTS becomes exclusively licensed to COMPANY, then payment of all reasonable, documented out-of-pocket fees and costs incurred subsequent to becoming exclusively licensed, including reasonable attorneys' fees, relating to the filing, prosecution, and maintenance of such patent application or issued patent will be the responsibility of the COMPANY.

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COMPANY shall pay all amounts due pursuant to this Section 6.3 within thirty (30) days of invoice. Late payments shall accrue interest pursuant to Section 4.2(c). In all instances, WHITEHEAD shall pay the fees prescribed for large entities to the United States Patent and Trademark Office.

**7. INFRINGEMENT**

7.1 Notification of Infringement. Each party agrees to provide written notice to the other promptly after becoming aware of any infringement of the PATENT RIGHTS in the FIELD in the TERRITORY.

7.2 Right to Prosecute Infringements.

Definitions. The following definitions will apply to this Section 7.2:

- (1) [\*\*\*].
- (2) [\*\*\*].
- (3) [\*\*\*].
- (4) "Omega Enforcement Field" means [\*\*\*].

(a) Right to Prosecute. So long as COMPANY remains the co-exclusive or exclusive licensee of the PATENT RIGHTS in the FIELD in the TERRITORY, COMPANY, to the extent permitted by law, will have the right, under its own control and [\*\*\*], to prosecute any third-party infringement of the PATENT RIGHTS in the TERRITORY in the Omega Enforcement Field, subject to Sections 2.5(d), 7.4 and 7.5. If required by law, WHITEHEAD shall permit any action under this Section 7.2 to be brought in its name, including being joined as a party-plaintiff, provided that [\*\*\*].

Prior to commencing any such action, COMPANY shall consult with WHITEHEAD and the CO-EXCLUSIVE LICENSEE and shall consider the views of WHITEHEAD regarding the advisability of the proposed action and its effect on the public interest. COMPANY shall not enter into any settlement, consent judgment, or other voluntary final disposition of any infringement action under this Section 7.2 without the prior written consent of WHITEHEAD, such consent not to be unreasonably withheld, delayed or conditioned.



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For the avoidance of doubt, COMPANY will have no right to prosecute any third-party infringement of the PATENT RIGHTS outside of the Omega Enforcement Field. If the CO-EXCLUSIVE LICENSEE is prosecuting a third-party infringement of the PATENT RIGHTS outside of the Omega Enforcement Field, then COMPANY shall have no right to sublicense the PATENT RIGHTS that are subject to such third-party infringement to the party being so prosecuted.

(b) WHITEHEAD Right to Prosecute. In the event that COMPANY is unsuccessful in persuading the alleged infringer to desist or fails to have initiated an infringement action within a reasonable time after COMPANY first becomes aware of the basis for such action, WHITEHEAD shall have the right, at its sole discretion but only after good-faith consultation with COMPANY, to prosecute such infringement under its sole control and [\*\*\*]. In the event that COMPANY has chosen not to initiate an infringement action for business reasons, WHITEHEAD shall consider in good faith COMPANY's reasons for such decision in deciding whether to prosecute such infringement.

7.3 Declaratory Judgment Actions. In the event that a PATENT CHALLENGE or any suit or action alleging that the PATENT RIGHTS are not infringed or unpatentable is brought against WHITEHEAD or COMPANY or any AFFILIATES or SUBLICENSEES by a third party, the subject party shall promptly notify the other parties in writing, and in the case of the Omega Enforcement Field, at its option and upon written notice to WHITEHEAD, COMPANY, at its option and upon written notice to WHITEHEAD, will have the right, but shall not be obligated, within [\*\*\*] ([\*\*\*)] days after commencement of such action to take over the sole defense of the action at its own expense. If COMPANY does not exercise this right, WHITEHEAD may take over the sole defense of the action at WHITEHEAD's sole expense, but shall not be obligated to do so, subject to Sections 7.4 and 7.5.

7.4 Offsets. COMPANY may offset a total of [\*\*\*] percent ([\*\*\*)% of any expenses incurred under Sections 7.2 and 7.3 against any payments due to WHITEHEAD under Section 4, provided that in no event shall such payments under Section 4, when aggregated with any other offsets and credits allowed under this Agreement, be reduced by more than [\*\*\*] percent ([\*\*\*)% in any REPORTING PERIOD.

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7.5 Recovery. Any recovery obtained in an action brought by COMPANY under Sections 7.2 or 7.3 will be distributed as follows:

- (i) each party will be first reimbursed pro rata for any expenses incurred in the action (including the amount of any royalty or other payments withheld from WHITEHEAD as described in Section 7.4);
- (ii) [\*\*\*];
- (iii) [\*\*\*]; and
- (iv) [\*\*\*];

7.6 Cooperation. Each party agrees to cooperate in any action under this Section 7 which is controlled by any other party, provided that the controlling party reimburses the cooperating parties promptly for any reasonable costs and expenses incurred by the cooperating parties in connection with providing such assistance.

7.7 Right to Sublicense. So long as COMPANY remains the exclusive or co-exclusive licensee of the PATENT RIGHTS in the FIELD in the TERRITORY, COMPANY will have the sole right to sublicense any alleged infringer in the Omega Enforcement Field in the TERRITORY for future use of the PATENT RIGHTS in accordance with the terms and conditions of this Agreement relating to sublicenses as set forth in Section 2.3 and payments due under Section 4.

**8. INDEMNIFICATION AND INSURANCE**

8.1 Indemnification.

(a) Indemnity. COMPANY shall indemnify, defend, and hold harmless WHITEHEAD and its trustees, officers, faculty, students, medical and professional staff, employees, and agents and its respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses) incurred by or imposed upon the Indemnitees or any one of them, in connection with any third party claims, suits, investigations, actions, demands or judgments (i) arising out of the design, production, manufacture, sale, use in commerce, lease, or promotion by COMPANY or by a SUBLICENSEE, AFFILIATE or agent of COMPANY, or any product, process or service relating to, or developed pursuant to, this Agreement or (ii) arising out of any other activities to be carried out pursuant to this Agreement or (iii) related to the exercise of any rights granted to COMPANY under this Agreement or (iv) any breach of this Agreement by COMPANY.

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COMPANY's indemnification under Sections 8.1(a)(ii) through 8.1(a)(iv) does not apply to any liability, damage, loss or expense to the extent that it is attributable to the grossly negligent activities of the Indemnitees, or the intentional wrongdoing or intentional misconduct of the Indemnitees.

(b) Procedures. The Indemnitees agree to provide COMPANY with prompt written notice of any commenced or threatened claim, suit, action, demand, or judgment for which indemnification is sought under this Agreement. COMPANY agrees, [\*\*\*], to provide attorneys reasonably acceptable to WHITEHEAD to defend against any actions brought or filed against any party indemnified hereunder with respect to the subject of the indemnity contained herein, whether or not such actions are rightfully brought. The Indemnitees shall cooperate with COMPANY in such defense and will permit COMPANY to conduct and control such defense and the disposition of such claim, suit, or action (including all decisions relative to litigation, appeal, and settlement); provided, however, that any Indemnitee shall have the right to retain its own counsel, [\*\*\*], if representation of such Indemnitee by the counsel retained by COMPANY would be inappropriate because of actual or potential differences in the interests of such Indemnitee and any other party represented by such counsel. COMPANY agrees to keep WHITEHEAD informed of the progress in the defense and disposition of such claim and to consult with WHITEHEAD with regard to any proposed settlement.

The right of COMPANY to assume the defense of any action is limited to that part of the action commenced against WHITEHEAD and/or Indemnitees that relates to COMPANY's obligation of indemnification and holding harmless.

COMPANY shall require any AFFILIATE(S) or SUBLICENSEE(S) to indemnify, hold harmless, and defend WHITEHEAD under the same terms set forth in this Section 8.1.

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8.2 Insurance. At such time as any product, process, or service relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by COMPANY or by a SUBLICENSEE(S), AFFILIATE(S) or agent of COMPANY, COMPANY shall obtain and carry in full force and effect commercial general liability insurance, including product liability insurance which shall protect COMPANY and Indemnitees with respect to events covered by Section 8.1. Such insurance will (i) be issued by a properly licensed insurer, (ii) list WHITEHEAD as additional insureds thereunder, and (iii) be endorsed to include product liability coverage. [\*\*\*].

In the alternative, if COMPANY elects to self insure [\*\*\*]. COMPANY shall provide WHITEHEAD with Certificates of Insurance evidencing compliance with this Section 8.2 upon request of WHITEHEAD.

COMPANY shall provide WHITEHEAD with written notice at least [\*\*\*] ([\*\*\*)] days prior to the cancellation, non renewal or material change in such insurance except that notice of cancellation due to non-payment of premium will be made with notice not less than [\*\*\*] ([\*\*\*)] days prior to cancellation; if COMPANY does not obtain replacement insurance providing comparable coverage within such [\*\*\*] ([\*\*\*)]-day period, WHITEHEAD has the right to terminate this Agreement effective at the end of such [\*\*\*] ([\*\*\*)]-day period without any notice or additional waiting periods.

The minimum amounts of insurance coverage required under these provisions may not be construed to create a limit of COMPANY's liability with respect to its indemnification obligation under Section 8.1.

COMPANY shall maintain such comprehensive general liability insurance beyond the expiration or termination of this Agreement during (a) the period that any product, process, or service, relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals) by COMPANY or by a SUBLICENSEE, AFFILIATE, or agent of COMPANY and (b) a reasonable period after such time as any product, process or service relating to, or developed pursuant to, this Agreement is being commercially distributed or sold (other than for the purpose of obtaining regulatory approvals), which in no event shall be less than [\*\*\*] ([\*\*\*)] years.

[\*\*\*].

**9. REPRESENTATIONS OR WARRANTIES**

9.1. Representations and Warranties. To its knowledge, as of the EFFECTIVE DATE, WHITEHEAD represents and warrants that: (a) it solely and exclusively owns the patents and applications included within the PATENT RIGHTS; (b) it has the power and authority to grant the licenses provided for herein to COMPANY, and that it has not earlier granted, or assumed any obligation to grant, any rights in the PATENT RIGHTS to any third party that would conflict with the rights granted to COMPANY herein; (c) this Agreement constitutes the legal, valid, and binding obligation of WHITEHEAD, enforceable against such WHITEHEAD in accordance with its terms; [\*\*\*].

9.2 Limitation on Representations and Warranties. EXCEPT AS MAY OTHERWISE BE EXPRESSLY SET FORTH IN THIS AGREEMENT, WHITEHEAD MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE PATENT RIGHTS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF PATENT RIGHTS CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. Specifically, and not to limit the foregoing, WHITEHEAD makes no warranty or representation [\*\*\*].

EXCEPT FOR COMPANY'S INDEMNITY OBLIGATIONS UNDER SECTION 8.1, IN NO EVENT SHALL ANY PARTY, THEIR TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES FACULTY, STUDENTS, MEDICAL AND PROFESSIONAL STAFF, AGENTS, AND AFFILIATES BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR INJURY TO PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER WHITEHEAD OR COMPANY SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING.

## **10. ASSIGNMENT**

This Agreement is personal to COMPANY and no rights or obligations may be assigned by COMPANY without the prior written consent of WHITEHEAD. Any such assignment will be void. The foregoing notwithstanding, COMPANY may assign its rights and obligations under this Agreement to a successor in connection with the merger, consolidation, or sale of all or substantially all of its assets or that portion of its business to which this Agreement relates (however such transaction is structured); provided, however, that if this Agreement is assigned upon such merger, consolidation, or sale, (i) COMPANY shall [\*\*\*], and (ii) this Agreement will immediately terminate if the proposed assignee has not agreed in writing to be bound by the terms and conditions of this Agreement within [\*\*\*] ([\*\*\*)] days after the effective date of the assignment.

## **11. GENERAL COMPLIANCE WITH LAWS**

11.1 Compliance with Laws. COMPANY shall comply with all local, state, federal, and international laws and regulations relating to the development, manufacture, use, and sale of LICENSED PRODUCTS and LICENSED PROCESSES.

11.2 Export Control. COMPANY and its AFFILIATES and SUBLICENSEES shall comply with all applicable United States laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. COMPANY will indemnify, defend, and hold WHITEHEAD harmless (in accordance with Section 8.1) for the consequences of any such violation.

11.3 Non-Use of Name. COMPANY and its AFFILIATES and SUBLICENSEES shall not use the name of “Whitehead Institute” or any variation, adaptation, or abbreviation thereof, or of any of their trustees, officers, faculty, students, employees, or agents, or any trademark owned by WHITEHEAD, or any terms of this Agreement in any promotional material or other public announcement or disclosure, unless legally required, without the prior written consent of the relevant party, which consent such party may withhold in its sole discretion. WHITEHEAD shall not use the name of “Omega Therapeutics, Inc.,” or any variation, adaptation, or abbreviation thereof, or of any of their directors, officers, employees, or agents, or any trademark owned by COMPANY, or any terms of this Agreement in any promotional material or other public announcement or disclosure, unless legally required, without the prior written consent of the COMPANY, which consent COMPANY may withhold in its sole discretion. The foregoing notwithstanding, without the consent of WHITEHEAD, COMPANY may make factual statements during the term of this Agreement that COMPANY has a license from WHITEHEAD under one or more of the patents and/or patent applications comprising the PATENT RIGHTS.

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11.4 Marking of LICENSED PRODUCTS. To the extent commercially feasible and consistent with prevailing business practices, COMPANY shall mark, and shall cause its AFFILIATES and shall use commercially reasonable efforts to cause its SUBLICENSEES to mark, all LICENSED PRODUCTS that are manufactured or sold under this Agreement with the number of each issued patent under the PATENT RIGHTS that applies to such LICENSED PRODUCT.

**12. TERMINATION**

12.1 Voluntary Termination by COMPANY. COMPANY will have the right to terminate this Agreement, for any reason, (i) upon at least [\*\*\*] ([\*\*\*)] months prior written notice to WHITEHEAD, such notice to state the date at least [\*\*\*] ([\*\*\*)] months in the future upon which termination is to be effective, and (ii) upon payment of all undisputed amounts due to WHITEHEAD through such termination effective date.

12.2 Cessation of Business. If COMPANY ceases to carry on its business, as evidenced by liquidation of its assets, WHITEHEAD will have the right to terminate this Agreement immediately upon written notice to COMPANY.

12.3 Termination for Default.

(a) Nonpayment. In the event COMPANY fails to pay any undisputed amounts due and payable to WHITEHEAD hereunder, and fails to make such payments within [\*\*\*] ([\*\*\*)] days after receiving written notice of such failure, WHITEHEAD may terminate this Agreement immediately upon written notice to COMPANY.

(b) Material Breach. In the event COMPANY commits a material breach of its obligations under this Agreement, except for breach as described in Section 12.3(a), and fails to cure that breach within [\*\*\*] ([\*\*\*)] days after receiving written notice thereof, or to take reasonable steps to cure such breaches that cannot be cured within [\*\*\*] ([\*\*\*)] days. WHITEHEAD may terminate this Agreement immediately upon written notice to COMPANY subject to completion of the dispute resolution process set forth in Section 13 and subsequent opportunity to cure.

12.4 Effect of Termination.

(a) Survival. The following provisions shall survive the expiration or termination of this Agreement in accordance with their terms: Sections 1, 5.2 (only for obligation to provide final report and payment), 6.3 ([\*\*\*]), 8, 9, 12.4, 13, 14, and 15.

(b) Inventory. Upon the early termination of this Agreement, COMPANY and its AFFILIATES and SUBLICENSEES may complete and sell any work-in-progress and inventory of LICENSED PRODUCTS that exist as of the effective date of termination, provided that:

- (i) COMPANY pays WHITEHEAD the applicable running royalty or other amounts due on such sales of LICENSED PRODUCTS in accordance with the terms and conditions of this Agreement; and
- (ii) COMPANY and its AFFILIATES and SUBLICENSEES shall complete and sell all work-in-progress and inventory of LICENSED PRODUCTS within [\*\*\*] after the effective date of termination.

(c) Pre-termination Obligations. In no event shall termination of this Agreement release COMPANY, AFFILIATES, or SUBLICENSEES from the obligation to pay any amounts that became due on or before the effective date of termination.

**13. DISPUTE RESOLUTION**

13.1 Mandatory Procedures. The parties agree that any dispute arising out of or relating to this Agreement shall be resolved solely by means of the procedures set forth in this Section 13, and that such procedures constitute legally binding obligations that are an essential provision of this Agreement. If any party fails to observe the procedures of this Section 13, as may be modified by their written agreement, the other parties may bring an action for specific performance of these procedures in any court of competent jurisdiction.

13.2 Equitable Remedies. Although the procedures specified in this Section 13 are the sole and exclusive procedures for the resolution of disputes arising out of or relating to this Agreement, any party may seek a preliminary injunction or other provisional equitable relief if, in its reasonable judgment, such action is necessary to avoid irreparable harm to itself or to preserve its rights under this Agreement.



13.3 Dispute Resolution Procedures.

(a) Mediation. In the event of a dispute between the parties arising out of or relating to this Agreement, the dispute will be referred to the chief executive officer or equivalent of each party or their respective designees for resolution. If the dispute remains unresolved within [\*\*\*] ([\*\*\*)] days from the date the referral as described above, any party may initiate mediation upon written notice to the other party (“Notice Date”), whereupon all parties shall be obligated to engage in a mediation proceeding under the then current Center for Public Resources (“CPR”) Model Procedure for Mediation of Business Disputes (<http://www.cpradr.org>), except that specific provisions of this Section 13 shall override inconsistent provisions of the CPR Model Procedure. The mediator will be selected from the CPR Panels of Neutrals. If the parties cannot agree upon the selection of a mediator within fifteen (15) business days after the Notice Date, then upon the request of any party, the CPR shall appoint the mediator. The parties shall attempt to resolve the dispute through mediation until the first of the following occurs:

- (i) the parties reach a written settlement;
- (ii) the mediator notifies the parties in writing that they have reached an impasse;
- (iii) the parties agree in writing that they have reached an impasse; or
- (iv) the parties have not reached a settlement within sixty (60) days after the Notice Date.

(b) Trial Without Jury. If the parties fail to resolve the dispute through mediation, or if no party elects to initiate mediation, each party shall have the right to pursue any other remedies legally available to resolve the dispute, provided, however, that the parties expressly waive any right to a jury trial in any legal proceeding under this Section 13.

13.4 Performance to Continue. Each party shall continue to perform its undisputed obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement; provided, however, that a party may suspend performance of its undisputed obligations during any period in which the other party fails or refuses to perform its undisputed obligations. Nothing in this Section 13 is intended to relieve COMPANY from its obligation to make undisputed payments pursuant to Sections 4 and 6.

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13.5 Statute of Limitations. The parties agree that all applicable statutes of limitation and time-based defenses (such as estoppel and laches) shall be tolled while the procedures set forth in Section 13.3(a) are pending. The parties shall cooperate in taking any actions necessary to achieve this result.

**14. CONFIDENTIALITY**

**14.1 Non-disclosure and Non-use**.

(a) All non-public information disclosed by one party to the other party hereunder shall be maintained in confidence by the receiving party and shall not be disclosed to any third party or used for any purpose except as set forth herein without the prior written consent of the disclosing party, for a period of [\*\*\*] ([\*\*\*) years from disclosure of such information, except to the extent that such information:

- (i) is known by receiving party at the time of its receipt, and not through a prior disclosure by the disclosing party, as documented by the receiving party's business records;
- (ii) is or becomes part of the public domain through no fault of the receiving party;
- (iii) is subsequently disclosed to the receiving party by a third party who may lawfully do so and is not under an obligation of confidentiality covering such information;
- (iv) is developed by the receiving party independently of information received from the disclosing party, as documented by the receiving party's business records;

(b) Notwithstanding the foregoing, a party may disclose Information:

- (i) in the case of COMPANY, its AFFILIATES or SUBLICENSEES to governmental or other regulatory agencies in order to obtain patents or to gain or maintain approval to conduct clinical trials or to market LICENSED PRODUCTS or LICENSED PROCESSES, provided however that such disclosure may be only to the extent reasonably necessary to obtain patents or authorizations.

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- (ii) in the case of COMPANY, its AFFILIATES or SUBLICENSEES, as deemed necessary by COMPANY to be disclosed to sublicensees, agents, consultants, and/or other third parties for the development and/or commercialization of a LICENSED PRODUCT, and/or in connection with a licensing/sublicensing transaction and/or a permitted assignment under this Agreement, and/or loan, financing or investment and/or acquisition, merger, consolidation or similar transaction (or for such entities to determine their interest in performing such activities) in each case on the condition that any third party to whom such disclosures are made agree to be bound by a confidentiality agreement.

Information that is disclosed under 14.1(b)(i) or 14.1(b)(ii) will remain otherwise subject to the confidentiality and non-use provisions hereof.

**14.2 Judicial or Administrative Process.** If a party is required by judicial or administrative process to disclose non-public information received from the other party that is subject to the non-disclosure provisions of this Section 14, such party shall promptly inform the other party of the disclosure that is being sought in order to provide the other party an opportunity to challenge or limit the disclosure obligations. Any disclosure of the disclosing party's non-public information will be limited to the specific requirements of the judicial or administrative process.

Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions hereof, and the disclosing party, pursuant to law or court order, shall take all steps reasonably necessary, including without limitation obtaining an order of confidentiality, to ensure the continued confidential treatment of such information.

**14.3 SEC Filings.** Either party may publicly disclose the terms of this Agreement to the extent required, in the reasonable opinion of such party's legal counsel, to comply with applicable laws, including without limitation the rules and regulations promulgated by the United States Securities and Exchange Commission (the "SEC"). Notwithstanding the foregoing, before disclosing this Agreement or any of the terms hereof pursuant to this Section 14.3, the parties will consult with one another on the terms of this Agreement to be redacted in making any such disclosure. If a party discloses this Agreement or any of the terms hereof in accordance with this Section 14.3, such party agrees, [\*\*\*], to seek confidential treatment of portions of this Agreement or such terms, as may be reasonably requested by the other party.

**15. MISCELLANEOUS**

15.1 Notice. Any notices required or permitted under this Agreement will be in writing, will specifically refer to this Agreement, and will be sent by hand, recognized national overnight courier, confirmed electronic mail, or registered or certified mail, postage prepaid, return receipt requested, to the following addresses of the parties:

If to WHITEHEAD:      Whitehead Institute for Biomedical Research  
455 Main Street  
Cambridge, MA 02142  
Attention: Intellectual Property Office  
Tel: 617-258-5000

If to COMPANY:        Omega Therapeutics, Inc.  
55 Cambridge Parkway  
Cambridge MA 02142  
ATTN: Legal Notices  
Cc: [\*\*\*]

All notices under this Agreement will be deemed effective upon receipt. A party may change its contact information immediately upon written notice to the other parties in the manner provided in this Section 15.1.

15.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement, or the performance, enforcement, breach or termination hereof, and any remedies relating thereto, will be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., without regard to conflict of laws principles, except that questions affecting the construction and effect of any patent will be determined by the law of the country in which the patent will have been granted. The state and federal courts having jurisdiction over Cambridge, MA, U.S.A., provide the exclusive forum for any court action between the parties relating to this Agreement. COMPANY and WHITEHEAD submit to the jurisdiction of such courts and waives any claim that such court lacks jurisdiction over WHITEHEAD, COMPANY or its AFFILIATES or constitutes an inconvenient or improper forum.

15.3 Force Majeure. No party will be responsible for delays resulting from causes beyond the reasonable control of such party, including without limitation fire, explosion, flood, war, strike, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

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15.4 Amendment and Waiver. This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by the parties. Any waiver of any rights or failure to act in a specific instance will relate only to such instance and will not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

15.5 Severability. In the event that any provision of this Agreement will be held invalid or unenforceable for any reason, such invalidity or unenforceability will not affect any other provision of this Agreement, and the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent. If the parties fail to reach a modified agreement within [\*\*\*] ([\*\*\*)] days after the relevant provision is held invalid or unenforceable, then the dispute will be resolved in accordance with the procedures set forth in Section 13. While the dispute is pending resolution, this Agreement will be construed as if such provision were deleted by agreement of the parties.

15.6 Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

15.7 Headings. All headings are for convenience only and will not affect the meaning of any provision of this Agreement.

15.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter, except any confidentiality agreement between the parties entered into for purposes of review of PATENT RIGHTS or related information for purposes of the license in this Agreement.

Signatures follow on the next page.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

**For WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH**

**For OMEGA THERAPEUTICS, INC:**

By: /s/ Carla DeMaria  
Name: Carla DeMaria  
Title: Director of Intellectual Property & Sponsored Programs  
Date: 5/31/19

By: /s/ Mahesh Karande  
Name: Mahesh Karande  
Title: President & CEO  
Date: 5/23/19

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**APPENDIX A**

List of Patent Applications and Patents

[\*\*\*]

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APPENDIX B

[\*\*\*]



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DEVELOPMENT AND OPTION AGREEMENT BETWEEN ACUITAS THERAPEUTICS, INC. AND  
OMEGA THERAPEUTICS, INC.  
EXECUTION COPY

**Development and Option Agreement**

**by and between**

**ACUITAS THERAPEUTICS, INC.**

**and**

**OMEGA THERAPEUTICS, INC.**

**dated**

**October 5, 2020**

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**List of Exhibits**

- Exhibit 1.1 Patents in the Acuitas Background Technology
- Exhibit 3.1(a) Workplan
- Exhibit 3.1(f) [\*\*\*]
- Exhibit 4.2 Form of Target Notice
- Exhibit 5.2(b) Form of Non-Exclusive License Agreement

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### **DEVELOPMENT AND OPTION AGREEMENT**

**THIS DEVELOPMENT AND OPTION AGREEMENT** (this “Agreement”), dated as of October 5, 2020 (the “Effective Date”), is made by and between Omega Therapeutics, Inc. a Delaware corporation (“Omega”) and Acuitas Therapeutics Inc., a British Columbia corporation (“Acuitas”). Each of Omega and Acuitas may be referred to herein as a “Party” or together as the “Parties.”

**WHEREAS**, Acuitas has expertise and intellectual property relating to the development of LNP Technologies (as defined below);

**WHEREAS**, Omega has expertise and intellectual property relating to gene modulating therapeutics, including Genome Modulating Constructs that encode Omega Controllers (as defined below); and

**WHEREAS**, the Parties believe that certain proprietary Acuitas LNP Technology (as defined below) could be useful for the formulation and delivery of Omega’s proprietary Genome Modulating Constructs; and

**WHEREAS**, the Parties are interested in evaluating the development of products incorporating Acuitas LNP Technology and Omega Technology (as defined below), and accordingly conducted certain studies under the Evaluation Agreement (as defined below) prior to the Effective Date; and

**WHEREAS**, Acuitas wishes to grant to Omega, and Omega wishes to obtain, an option to obtain a license under the Acuitas LNP Technology to develop and commercialize one or more specific products of Omega, all in accordance with the terms and conditions set forth below.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the amount and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### **ARTICLE 1** **Definitions**

The following terms and their correlatives will have the following meanings:

1.1 “Acuitas Background Technology” means any and all proprietary LNP Technology that is owned or Controlled by Acuitas or its Affiliates (a) as of the Effective Date of this Agreement, or (b) generated, developed or obtained by Acuitas outside of the scope of this Agreement and the Evaluation Agreement, and in each case necessary or useful for the conduct of the Workplan or the research, development, manufacturing and commercialization of Licensed Products. The Patents in the Acuitas Background Technology as of the Effective Date are listed in Exhibit 1.1 attached hereto.

1.2 “Acuitas Indemnitees” has the meaning set forth in Section 8.6(b).

1.3 “Acuitas LNP Technology” means the Acuitas Background Technology and the Acuitas Sole Technology. For the avoidance of doubt, any LNP or component thereof that is proprietary to Acuitas and provided by or on behalf of Acuitas to Omega pursuant to this Agreement or the Evaluation Agreement shall be Acuitas Background Technology and, therefore, Acuitas LNP Technology under this Agreement.

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1.4 “Acuitas Sole Technology” means, without regard to inventorship, all Technology (other than Workplan Data) that arises from the Workplan or the work conducted under the Evaluation Agreement that is solely an Improvement of Acuitas Background Technology and does not incorporate or consist of an Improvement to the Omega Background Technology. For clarity, any Technology arising out of the Workplan or the work conducted under the Evaluation Agreement that (a) is an Improvement of Acuitas Background Technology and (b) specifically relates to any Genome Modulating Construct provided or used by Omega under the Workplan or the work conducted under the Evaluation Agreement or any Omega Controller encoded by such Genome Modulating Construct is Joint IP and not Acuitas Sole Technology.

1.5 “Acuitas Workplan Leader” has the meaning set forth in Section 2.1.

1.6 “Affiliate” of a person or entity means any other person or entity which (directly or indirectly) is controlled by, controls or is under common control with such person or entity. For the purposes of this definition, the term “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) as used with respect to an entity will mean (a) in the case of a corporate entity, direct or indirect ownership of voting securities entitled to cast more than fifty percent (50%) of the votes in the election of directors or (b) in the case of a non-corporate entity, direct or indirect ownership of more than fifty percent (50%) of the equity interests with the power to direct the management and policies of such entity, *provided that* if local Law restricts foreign ownership, control will be established by direct or indirect ownership of the maximum ownership percentage that may, under such local Law, be owned by foreign interests.

1.7 “Agreement” has the meaning set forth in the Preamble.

1.8 “Backup Licensed Product” means, with respect to a Licensed Product directed to a [\*\*\*] that is the then-current subject of a Non-Exclusive License (“Original Licensed Product”), any other Licensed Product that (a) is directed to [\*\*\*], and (b) includes Omega Controller(s) (i) [\*\*\*] and (ii) that results from [\*\*\*] in such Original Licensed Product.

1.9 “Business Day” means mean a day on which banking institutions in both Boston, Massachusetts, USA and Vancouver, British Columbia, Canada are open for business.

1.10 “Calendar Quarter” means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31, provided, that the first Calendar Quarter of the Term will begin on the Effective Date and end on the first to occur of March 31, June 30, September 30 or December 31 thereafter and the last Calendar Quarter of the Term will end on the last day of the Term.

1.11 “CMO” has the meaning set forth in Section 3.1(f).

1.12 “Collaboration Partner” means with respect to any Third Party (other than a CMO, Contract Research Organization or other permitted subcontractors pursuant to Section 3.1(i)) to whom Omega wishes to disclose Acuitas Confidential Information or transfer Acuitas LNP Technology or Materials provided by Acuitas to Omega, any Third Party that is also a licensee or sublicensee or assignee of Omega Technology and deemed to be a Collaboration Partner pursuant to Section 3.1(h).

1.13 “Concurrent Reserved List Limits” has the meaning set forth in Section 4.2(e).

1.14 “Confidential Disclosure Agreement” means the Confidential Disclosure Agreement between the Parties dated December 17, 2019.

1.15 “Confidential Information” has the meaning set forth in Section 7.1.

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1.16 “Contract Research Organization” means an entity in the business of providing specialized research, development and manufacturing services (including CMOs) on a fee for service basis pursuant to agreements that include terms that provide that all data, materials and intellectual property generated in performing such services be owned by the contracting party in accordance with Section 3.1(i), excluding Improvements to such entity’s Technology that is used to perform such services.

1.17 “Contract Year” will refer to the twelve (12)-month period beginning on the Effective Date and on each anniversary thereafter during the Term.

1.18 “Control” or “Controlled” means, with respect to a particular Technology and Party, that such Party owns or has a license to use and practice such Technology and has the right to grant a license or sublicense to such Technology without violating the terms of any agreement with any Third Party and without owing any milestone, royalty or other monetary obligations to a Third Party under the terms of any agreement with such Third Party.

1.19 “Debar”, “Debarred” or “Debarment” means (a) being debarred, or being subject to a pending debarment, pursuant to Section 306 of the FDCA, 21 U.S.C. § 335a, (b) being listed by any federal or state agencies, excluded, debarred, suspended or otherwise made ineligible to participate in federal or state healthcare programs or federal procurement or non-procurement programs (as that term is defined in 42 U.S.C. § 1320a-7b(f)), or being subject to any pending process by which any such listing, exclusion, debarment, suspension or other ineligibility could occur, (c) being disqualified by any government or regulatory agency from performing specific services, or being subject to a pending disqualification proceeding, or (d) being convicted of a criminal offense related to the provision of healthcare items or services or being subject to any pending criminal action related to the provision of healthcare items or services.

1.20 [\*\*\*].

1.21 “Diligent Efforts” means, with respect to the efforts to be expended by each Party with respect to any activity set forth in the Workplan, active and sustained efforts to conduct the applicable activity, or to attempt to achieve the applicable requirement or goal, in a prompt and expeditious manner, as is reasonably practicable under the circumstances consistent with the Workplan ([\*\*\*]) and the terms of this Agreement.

1.22 “Disclosing Party” has the meaning set forth in Section 7.1.

1.23 “Dollars” means United States dollars.

1.24 “Effective Date” has the meaning set forth in the Preamble.

1.25 “Escrow Agent” means the Third Party escrow agent designated by Acuitas and reasonably acceptable to Omega, which escrow agent will initially be [\*\*\*].

1.26 “Evaluation Agreement” means the Technology Evaluation Agreement between the Parties effective as of March 11, 2020.

1.27 “Executive Officers” has the meaning set forth in Section 2.2(d).

1.28 “Field of Use” means all human therapeutic or prophylactic uses.

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1.29 “Formulated Product” means product produced by Acuitas in accordance with the Workplan or under the Evaluation Agreement that incorporates Omega proprietary Genome Modulating Constructs formulated with Acuitas LNP Technology.

1.30 “Formulated Product Fee” means the fees to be charged by Acuitas for supply of Formulated Product to Omega under this Agreement, which fees are set forth in the Workplan and will include FTE Costs and reasonable Third Party costs for materials used in the Formulated Product or its manufacture.

1.31 “FTE” means the work of a full-time person for one year, or more than one person working the equivalent of a full-time person for one year, where “full-time” is determined by the standard practices in the biopharmaceutical industry in the geographic area in which such personnel are working, but means 1840 hours per year, in the performance of the Works and Services, including scientific management oversight as reasonably required.

1.32 “FTE Costs” mean the Dollar amount obtained by multiplying the number of actual FTEs employed by Acuitas in the conduct of the Works and Services by an annual rate per FTE equal to [\*\*\*] Dollars (US\$[\*\*\*]). [\*\*\*].

1.33 “Genome Modulate” means to downregulate or upregulate the expression of a Human Genome Target for human therapeutic or prophylactic applications.

1.34 “Genome Modulating Construct” means a construct consisting of one or more mRNA Constructs that encode [\*\*\*] Protein Targets that are Omega Controllers designed to Genome Modulate [\*\*\*] Human Genome Targets.

1.35 “GMP” means current Good Manufacturing Practices as specified in Parts 210 and 211 of Title 21 of the U.S. C.F.R., ICH Guideline Q7A, or equivalent Laws of an applicable regulatory authority at the time of manufacture.

1.36 “Human Genome Target” means

(a) a naturally occurring human gene, including all coding, non-coding and regulatory regions thereof, as identified by the applicable transcript identifier (*i.e.*, NCBI Refseq transcript ID), gene identifier (*i.e.*, NCBI Refseq Gene ID), gene name and synonyms and nucleotide sequence coordinates, gene transcript and nucleotide sequence; or

(b) any naturally occurring non-coding region of the human genome including transcriptional regulatory elements, non-protein coding RNA and intergenic regions; or

(c) a gene encoded by any nucleotide sequence of a human pathogen residing in a human cell *in vivo*; or

(d) any gene that is not covered by subclause (a) or (b) above, together with any variants of such gene, including the wild type and naturally occurring mutant and allelic variants, *provided however that* any such variant (i) encodes a protein with substantially similar mechanism of action and biological activity to the protein product of the original (reference) gene and (ii) has a coding region with [\*\*\*] percent ([\*\*\*]%) sequence identity to the coding region of the original (reference) gene.

For clarity, a nucleotide sequence may be considered to encode a protein regardless of whether such sequence contains a start codon.



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1.37 “Improvement” means, with respect to Technology including the Acuitas Background Technology or the Omega Background Technology, as applicable, any improvement, enhancement, change, modification, variation or derivative of such Technology.

1.38 “Indemnification Claim Notice” has the meaning set forth in Section 8.6(c).

1.39 “Indemnified Party” has the meaning set forth in Section 8.6(c).

1.40 “Insolvency Legislation” has the meaning set forth in Section 10.1(a).

1.41 “Insulated Genomic Domain” means [\*\*\*].

1.42 “JDC” has the meaning set forth in Section 2.2(a).

1.43 “JDC Deadlock” has the meaning set forth in Section 2.2(d).

1.44 “Joint IP” means, without regard to inventorship, each of the following: (a) Technology that arises out of the Workplan or the work conducted under the Evaluation Agreement that relates to, constitutes an Improvement to or incorporates both the Acuitas Background Technology and the Omega Background Technology, (b) any other Technology that arises out of the Workplan or the work conducted under the Evaluation Agreement that in each case does not constitute either Acuitas Sole Technology or Omega Sole Technology and (c) the Workplan Data.

1.45 “Joint Prosecution and Maintenance Agreement” has the meaning set forth in Section 6.4(a).

1.46 “Know-How” means all Materials and all confidential and proprietary information including commercial, technical, scientific and other know-how and information, trade secrets, knowledge, technology, methods, processes, practices, formulae, instructions, skills, techniques, procedures, experiences, ideas, technical assistance, designs, drawings, assembly procedures, computer programs, specifications, data and results (including biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, preclinical, clinical, safety, manufacturing and quality control data and know-how, and including study designs and protocols), in all cases, provided that such information is confidential and proprietary, and regardless of whether patentable, in written, electronic or any other form now known or hereafter developed.

1.47 “Law” or “Laws” means all laws, statutes, rules, regulations, orders, judgments or ordinances having the effect of law of any federal, national, multinational, state, provincial, county, city or other political subdivision.

1.48 “Licensed Product” means either (a) any product that consists of [\*\*\*] Genome Modulating Constructs that collectively encode [\*\*\*] Protein Targets that are Omega Controllers designed to Genome Modulate [\*\*\*] Human Genome Targets within a single Insulated Genomic Domain or (b) any product that consists of Genome Modulating Constructs that collectively encode [\*\*\*] Protein Targets that are Omega Controllers designed to Genome Modulate a single Human Genome Target, in each case (a) and (b) where such product is derived from, incorporates, or utilizes, any LNP Technology that is Controlled by Acuitas or its Affiliates as of the Effective Date or at any time during the Term. For clarity, each Licensed Product will consist of a specific combination of Omega Controllers and Human Genome Targets.

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1.49 “Licensed Technology” means LNP Technology that is (a) Controlled by Acuitas or its Affiliates, (i) as of the Effective Date, or (ii) generated or obtained during the Term (including the Acuitas Background Technology and the Acuitas Sole Technology), and (b) necessary or useful for the research, development, manufacture, use, sale or other exploitation of a Licensed Product. Licensed Technology does not include Acuitas’ interest in any Joint IP.

1.50 “LNP” means lipid nanoparticles.

1.51 “LNP Technology” means any Technology that claims, embodies or incorporates delivery systems (and components thereof) based on or incorporating LNPs.

1.52 “Losses” has the meaning set forth in Section 8.6(a).

1.53 “Materials” means any tangible chemical or biological material, including any compounds, LNP, DNA, RNA (including mRNA), clones, cells, and any expression product, progeny, derivative or other improvement thereto, along with any tangible chemical or biological material embodying any Know-How including Formulated Product and Genome Modulating Constructs.

1.54 “mRNA Construct” means any mRNA that encodes [\*\*\*] Protein Targets and any associated non-coding sequences, including any cap sequence, 5’ UTR, 3’UTR, and any polyadenylation sequences. The term “mRNA Construct” also includes the chemistry of natural and non-natural nucleic acids, and other chemical modifications associated with such mRNA and associated non-coding sequences.

1.55 “Non-Exclusive License” means a non-exclusive license in the form attached hereto as Exhibit 5.2(b).

1.56 “Omega Background Technology” means any and all patented and unpatented proprietary Technology owned or controlled by Omega that relates to Omega Controllers, including Genome Modulating Constructs and their component mRNA Construct(s), Genome Modulation by an Omega Controller and the related mechanism of action or biological activity used in the conduct of the Workplan or the work conducted under the Evaluation Agreement. Notwithstanding the foregoing, Omega Background Technology shall not include any Patent that claims Genome Modulating Constructs or Omega Controllers and that includes data from, or is enabled by, or conceived as a result of, the work conducted under the Evaluation Agreement.

1.57 “Omega Controller(s)” means a Protein Target that has a DNA targeting domain and an effector domain and that is designed to Genome Modulate either (a) a single Human Genome Target or (b) multiple Human Genome Targets within a single Insulated Genomic Domain.

1.58 “Omega Indemnities” has the meaning set forth in Section 8.6(a).

1.59 “Omega Sole Technology” means without regard to inventorship, all Technology (other than Workplan Data) that arises out of the Workplan or the work conducted under the Evaluation Agreement and is solely an Improvement to the Omega Background Technology and that does not incorporate or consist of an Improvement to the Acuitas Background Technology. For clarity, any Technology arising out of the Workplan or the work conducted under the Evaluation Agreement that (a) is an Improvement to Omega Background Technology and (b) relates to any LNP Technology provided or used by Acuitas under the Workplan (whether specifically or generically) or the work conducted under the Evaluation Agreement is Joint IP and not Omega Sole Technology.

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1.60 “Omega Technology” means Omega Background Technology and Omega Sole Technology. For the avoidance of doubt, any Genome Modulating Construct or component thereof that is proprietary to Omega and provided by or on behalf of Omega to Acuitas and any Omega Controller encoded by such Genome Modulating Construct, will be Omega Background Technology (which for avoidance of doubt will not include any Patent that includes data from, or is enabled, or conceived as a result of, the work conducted under the Evaluation Agreement), and, therefore, Omega Technology under this Agreement.

1.61 “Omega Workplan Leader” has the meaning set forth in Section 2.1.

1.62 “Option” has the meaning set forth in Section 5.1.

1.63 “Option Exercise Fees” means (a) for the first Non-Exclusive License taken by Omega hereunder, One Million Five Hundred Thousand Dollars (US\$1,500,000) payable on the effective date of such Non-Exclusive License and (b) for the second Non-Exclusive License taken by Omega hereunder, One Million Seven Hundred Fifty Thousand Dollars (US\$1,750,000) payable on the Non-Exclusive License effective date of such Non-Exclusive License.

1.64 “Option Limit” has the meaning set forth in Section 5.1(c).

1.65 “Option Notice” has the meaning set forth in Section 5.2(a).

1.66 “Party” and “Parties” have the meaning set forth in the Preamble.

1.67 “Patent(s)” means an (a) issued patent, a patent application and a future patent issued from any such patent application, (b) a future patent issued from a patent application filed in any country worldwide that claims priority from a patent or patent application included in (a), (c) any additions, divisions, continuations, continuations-in-part, invention certificates, substitutions, reissues, reexaminations, extensions, registrations, utility models, supplementary protection certificates and renewals based on any patent or patent application under (a) or (b), but not including any rights that give rise to regulatory exclusivity periods (other than supplementary protection certificates, which will be treated as “Patents” hereunder), and (d) any counterpart of any patent or patent application under (a), (b) or (c) filed in any country worldwide.

1.68 “Pre-Existing Restrictions” means, with respect to a particular Target as of the date of the applicable Target Notice, that (a) Acuitas or its Affiliates are precluded from granting Omega a Non-Exclusive License under the Acuitas LNP Technology (as set forth in this Agreement) due to a conflicting grant of rights (or an outstanding option to obtain such a grant of rights) or covenant to a Third Party with respect to such Target pursuant to a *bona fide* written agreement that is executed in good faith in the ordinary course of business prior to the date of the Target Notice for such Target that is still in effect on such date or (b) such Target is currently internally reserved by Acuitas.

1.69 “Program” means the program of activities using Acuitas LNP Technology and Omega Technology for the development of Licensed Products incorporating Omega’s Genome Modulating Constructs that the Parties engage in under this Agreement pursuant to the Workplan.

1.70 “Protein Target” means either

(a) any naturally occurring protein encoded by a specific gene locus, as identified by the applicable transcript identifier (*i.e.*, NCBI Refseq transcript ID), gene identifier (*i.e.*, NCBI Refseq Gene ID), gene name and synonyms and DNA sequence coordinates and the applicable amino acid sequence, together with all variants of such protein, including the wild type, naturally occurring variants, engineered variants wherein modifications to the native amino acid sequence have been introduced (for example, mutated versions, derivatives or fragments), and species homologs and orthologs thereof, *provided however that* any such naturally occurring variant, engineered variant, or species homolog or ortholog possesses substantially similar mechanism of action and biological activity to the naturally occurring human protein (for example immunogenicity in case of antigens); or

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(b) any protein that is not covered by subclause (a) above (together with any variants, mutated versions, derivatives or fragments of such protein, *provided that* any such variant, mutated version, derivative or fragment possesses substantially similar mechanism of action and biological activity as such protein) and has greater than [\*\*\*] percent ([\*\*\*]%) sequence identity to the reference amino acid sequence provided by Omega to the Escrow Agent for such Protein Target.

1.71 “Receiving Party” has the meaning set forth in Section 7.1.

1.72 “Records” has the meaning set forth in Section 3.3(a).

1.73 “Reserved Target” means a Target with respect to which Omega shall have delivered to the Escrow Agent a Target Notice and that is deemed to be added to the Reserved Target List in accordance with Section 4.2(d)(ii). A Target that is removed from or replaced on the Reserved Target List pursuant to Section 4.2 will no longer be deemed a Reserved Target. For avoidance of doubt, the term Reserved Target includes all variants of such Target set forth within the definition of Target.

1.74 “Reserved Target List” means collectively, the list of all Reserved Targets.

1.75 “Restricted Target List” has the meaning set forth in Section 4.2(b).

1.76 “Target” means, collectively, one or more Omega Controllers and up to [\*\*\*] Human Genome Targets, as the case may be, each, as identified in the appropriate nomination form pursuant to Section 4.2(c).

1.77 “Target Notice” has the meaning set forth in Section 4.2(c).

1.78 “Target Reservation and Maintenance Fees” means the annual fees set forth in Section 4.4(a).

1.79 “Target Acceptance Notice” has the meaning set forth in Section 4.2(d)(ii).

1.80 “Target Rejection Notice” has the meaning set forth in Section 4.2(d)(i).

1.81 “Target Response Notice” has the meaning set forth in Section 4.2(d).

1.82 “Technology” means collectively Patents and Know-How.

1.83 “Technology Access Fee” has the meaning set forth in Section 3.4(d).

1.84 “Term” has the meaning set forth in Section 9.1.

1.85 “Territory” means worldwide.

1.86 “Third Party” means any person or entity other than Omega, Acuitas and their respective Affiliates.

1.87 “Third Party Claims” has the meaning set forth in Section 8.6(a).

1.88 “Workplan” has the meaning set forth in Section 3.1(a).

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1.89 “Workplan Data” means the results of studies using Formulated Product conducted in accordance with the Workplan or the work conducted pursuant to the Evaluation Agreement. For avoidance of doubt, the results of LNP formulation studies conducted by Acuitas and Genome Modulating Construct studies conducted by Omega which, in each case, support the Formulated Product studies but do not use Formulated Product, will not be Workplan Data.

1.90 “Workplan Leaders” has the meaning set forth in Section 2.1.

1.91 “Works and Services” means the activities to be performed by Acuitas or Omega, as applicable, pursuant to the Workplan.

**ARTICLE 2**

**Governance**

2.1 Management. Management of the Program activities will be under the responsibility of [\*\*\*], for Acuitas (the “Acuitas Workplan Leader”), and [\*\*\*] for Omega (the “Omega Workplan Leader,” and together with the Acuitas Workplan Leader, or such other individuals as the Parties may designate in writing from time to time (the “Workplan Leaders”). Each Workplan Leader will be the primary point of contact for the other Party on all matters relating to the Program activities.

2.2 Joint Development Committee.

(a) Development Committee. As soon as practicable, the Parties will establish a joint development committee, comprised of at least one (1) and up to two (2) representatives of Omega and at least one (1) and up to two (2) representatives of Acuitas (the “JDC”). One such representative from each Party will be such Party’s Workplan Leader. Each Party may replace its Workplan Leader and other JDC representatives at any time upon written notice to the other Party, *provided, however*, that each Party shall use reasonable efforts to ensure continuity on the JDC. With the consent of the other Party (which will not be unreasonably withheld, conditioned or delayed), each Party may invite non-voting employees and consultants to attend JDC meetings as necessary, subject to consultant’s agreement to be bound to the same extent as a permitted subcontractor under Section 3.1(i).

(b) Meetings. During the Term, the JDC will meet [\*\*\*] by teleconference, videoconference or in person unless agreed otherwise by the JDC representatives. The JDC will have a quorum if at least one (1) representative of each Party is present or participating. Each Party will be responsible for all of its own expenses of participating in the JDC meetings. The Parties will endeavor to schedule meetings of the JDC at least [\*\*\*] ([\*\*\*) weeks in advance. The Parties will alternate in preparing the meeting agenda, and the Party that was responsible for preparing the meeting agenda will prepare and circulate for review and approval by the other Party written minutes of such meeting within [\*\*\*] ([\*\*\*) days after such meeting. The Parties will agree on the minutes of each meeting promptly, but in no event later than [\*\*\*] ([\*\*\*) days after such meeting.

(c) Responsibilities. The JDC will oversee and supervise the overall performance of the Workplan and within such scope will:

(i) review the efforts of the Parties in the performance of the Workplan and allocate those resources for the Workplan committed by Acuitas (FTE Costs and external costs) hereunder;

(ii) revise and approve any revisions to the Workplan, or confirm that no revisions are necessary, on a regular basis and in any event before the start of each Calendar Quarter during the Term;

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(iii) form such other committees as the JDC may deem appropriate, *provided that* such committees may make recommendations to the JDC but may not be delegated JDC decision-making authority;

(iv) address such other matters (A) relating to the activities of the Parties under the Workplan as either Party may bring before the JDC, (B) that are delegated to the JDC under this Agreement, or (C) as may be mutually agreed by the Parties from time to time; and

(v) attempt to resolve any disputes within the scope of the JDC's authority on an informal basis.

(d) Decision-making. The JDC will make decisions only by consensus with each Party having collectively one (1) vote. In the event the JDC is unable to reach agreement as to a matter within the JDC's jurisdiction within [\*\*\*] ([\*\*\*)] days after it has first met and attempted to reach agreement (such event, a "JDC Deadlock"), upon the written request of a Party, such matter will be referred to a senior executive of each Party that is not on the JDC (the "Executive Officers") (or their designees, provided *that* such designee is not on the JDC and has decision-making authority on behalf of such Party), who will attempt in good faith to resolve such JDC Deadlock by negotiation and consultation for a [\*\*\*] ([\*\*\*)] day period following receipt of such written notice. If, despite such efforts, agreement on a particular matter cannot be reached by the Executive Officers within such [\*\*\*] ([\*\*\*)] day period, then Omega will have the final decision-making authority with respect to such JDC Deadlock, subject to Section 3.1(c).

(e) Limits on JDC Authority. Each Party will retain the rights, powers and discretion granted to it under this Agreement and no such rights, powers, or discretion will be delegated to or vested in the JDC unless such delegation or vesting of rights is expressly provided for in this Agreement or the Parties expressly so agree in writing. The JDC will not have the power to amend, modify or waive compliance with this Agreement (other than as expressly permitted hereunder).

**ARTICLE 3**  
**The Program**

3.1 Program Generally. The Parties will jointly conduct the Program. It is intended that Acuitas will be responsible for the lipid chemistry and LNP formulation and characterization work, Omega will be responsible for Genome Modulating Construct and Omega Controller development and Acuitas and Omega will each undertake preclinical studies as set forth in the Workplan. It is intended that upon completion of the Workplan activities with respect to a Licensed Product, the Parties will have optimized the formulation for such Licensed Product such that GMP activities can be initiated by Omega upon exercise of an Option with respect to that Licensed Product.

(a) Workplan Preparation. The development activities to be undertaken by the Parties with respect to each Reserved Target will be described in a detailed written development plan (the "Workplan"). The initial Workplan is attached hereto as Exhibit 3.1(a).

(b) Workplan Contents. The goal of the Workplan and the Program will be to evaluate and produce LNP formulations that are safe and efficacious for delivery of Omega's Genome Modulating Constructs and to advance the development of such Genome Modulating Construct-LNP formulations as therapeutic or prophylactic drug candidates. All activities using Acuitas LNP Technology will be limited to Reserved Targets and will be only as set forth in the Workplan. The Workplan will include [\*\*\*]. The Workplan will be comprehensive and include all activities using the Acuitas LNP Technology by both Parties commencing after the Effective Date, including [\*\*\*], to be undertaken prior to Omega exercising an Option for a Non-Exclusive License. No Acuitas LNP Technology or Formulated Product will be used by Omega outside of the Workplan prior to Omega exercising an Option for a Non-Exclusive License and then only to the extent permitted under the Non-Exclusive License agreement.

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(c) Amendments to the Workplan. The Workplan will be reviewed as necessary at each meeting of the JDC, and at any other time upon the reasonable request of either Party, and will be modified in a manner that is consistent with the requirements for the Workplan set forth in Section 3.1(b) and otherwise at the direction of the JDC to reflect material scientific (and other) developments. Each [\*\*\*], the JDC will update the Workplan to cover at least the subsequent [\*\*\*] ([\*\*\*) months of the Program in detail or confirm that no updates are necessary. In all events, the Workplan will be consistent and not conflict with the terms of this Agreement, and in the event of any conflict between the Workplan and this Agreement, the terms of this Agreement will control. The Workplan may be amended by the JDC to accelerate, decelerate, add or remove activities thereunder, including reducing or eliminating Acuitas' responsibilities for an activity thereunder; *provided*, that [\*\*\*]. Acuitas will use commercially reasonable efforts and cooperate with Omega to comply with Omega's requests. Omega may not exercise its final decision-making authority to amend the Workplan to include any activities that conflict with Pre-Existing Restrictions.

(d) Obligations Under the Workplan. During the Term, each Party will perform the Works and Services in a professional manner and in accordance with the Workplan and all applicable Laws, and each Party will use Diligent Efforts to meet the objectives and timelines set forth therein. Neither Party shall knowingly employ (or use a subcontractor that employs) in the performance of the Works and Services any individual or entity that is Debarred or subject to Debarment. It is understood that the activities and goals of the Workplan are experimental and that successful results cannot be guaranteed. The Parties will otherwise conduct the Program on the terms and conditions set forth in this Agreement and in accordance with the Workplan. Each Party will cooperate with and provide reasonably requested non-financial support to the other Party in such other Party's performance of its responsibilities under the Workplan. In addition to the reporting obligations set forth in Section 3.3(b), each Party will keep the other Party reasonably informed of such Party's activities under the Workplan through the JDC or as otherwise reasonably requested by the other Party.

(e) Supply of Formulated Product. Acuitas will use Diligent Efforts to manufacture and supply Omega with Formulated Product as set forth in the Workplan and Omega will pay to Acuitas the Formulated Product Fee for such Formulated Product meeting the specifications and other requirements of the Workplan. Acuitas and Omega will use the Formulated Product solely for research purposes in laboratory animals or *in vitro* studies as set forth in the Workplan and will not use Formulated Product in humans. The Formulated Product will be manufactured and supplied by Acuitas (i) in accordance with the specifications set forth in the Workplan, (ii) in compliance with applicable Laws, and (iii) by the delivery date set forth in the Workplan. No Formulated Product will be used outside of the Workplan. Omega will not perform any chemical analysis or testing of Formulated Product except as set forth in the Workplan and specifically will not attempt to determine the lipid composition or lipid structures or in any way seek to reverse-engineer any Formulated Product. Further Omega will not provide any Formulated Product to a Third Party unless previously approved by Acuitas in writing.

(f) Technology Transfer to Contract Manufacturing Organization. Prior to Omega's exercise of an Option for a Licensed Product, Acuitas will be responsible for the Genome Modulating Construct-LNP formulation, including analytical testing and documentation for all Licensed Products directed to Reserved Targets. Following the completion of the Workplan for a Licensed Product and execution of a Non-Exclusive License agreement, Acuitas will promptly (and in any event within [\*\*\*] ([\*\*\*) days following designation by Omega of the applicable GMP contract manufacturing organization (a "CMO"), *provided* such CMO is able to support this timeline) transfer Know-How relating to the then-current formulation process, raw materials supply, and analytical characterization for the manufacture of

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such Licensed Product to a single CMO determined by Omega and [\*\*\*]. Acuitas will provide reasonable assistance to enable the CMO to manufacture such Licensed Product. Initiation of such technology transfer will be determined by Omega and will be for the then current formulation of the Licensed Product. For clarity, the then current formulation of the Licensed Product shall mean a single LNP formulation previously tested by Omega in accordance with the Workplan. [\*\*\*].

(g) Payment for External Expenses. On [\*\*\*], Omega will reimburse Acuitas for any reasonable external costs that are incurred by Acuitas in connection with performing the Works and Services in accordance with the Workplan and Workplan budget, *provided that* such external costs have been specified in the Workplan or, if agreed by the JDC, are promptly added to the Workplan. [\*\*\*].

(h) Collaboration Partners. Omega may conduct parts of the Program together with a Third Party other than as set forth in subsection (i) below (Permitted Subcontracting); *provided that* [\*\*\*]. Omega shall provide written notice to Acuitas of its execution of each agreement with a Collaboration Partner. Omega will ensure that each Collaboration Partner is subject to terms and conditions consistent with the terms and conditions in this Agreement (i) protecting and limiting use and disclosure of Confidential Information and Materials and Know-How, and (ii) requiring such Collaboration Partner and its personnel to assign to Omega all right, title and interest in and to any Technology created, conceived, developed or reduced to practice in the performance of the Workplan, in order to give effect to the provisions of ARTICLE 6 and 7, as applicable, excluding any such arising Technology that is an Improvement to Technology of such Collaboration Partner and does not incorporate or consist of an Improvement to Acuitas Background Technology or Acuitas Sole Technology. For avoidance of doubt, breach of any of the terms or conditions of this Agreement by a Collaboration Partner shall be a breach by Omega.

(i) Permitted Subcontracting. Each Party may subcontract activities to be performed under the Workplan to any of its Affiliates, subject to the Affiliate's compliance with the terms and conditions of this Agreement including Article 6 and ARTICLE 7 below. In addition, each Party may subcontract its activities to be performed under the Workplan to a Contract Research Organization. Any such Contract Research Organization will have entered into a written agreement with the subcontracting Party that includes terms and conditions protecting and limiting use and disclosure of Confidential Information, Materials and Know-How at least to the same extent as under this Agreement, and requiring such Contract Research Organization and its personnel to assign to the subcontracting Party all right, title and interest in and to any Patents and Know-How and Materials created, conceived, developed or reduced to practice in connection with the performance of subcontracted activities in accordance with this Agreement in order to give effect to the provisions of ARTICLE 6 and Article 7, as applicable, excluding any Improvement to such Contract Research Organization's Technology that does not incorporate or consist of an Improvement to Acuitas Background Technology or Acuitas Sole Technology. Any such subcontracting activities will be described in the reports for the Program required by Section 3.3(b).

### 3.2 FTEs.

(a) Generally. Acuitas will perform the Works and Services assigned to it under the Workplan and as part of the Program. The actual number of Acuitas FTEs committed to work on the Program at any particular point in time will be set forth in the Workplan. The Parties will prepare the Workplan, which will determine the number of Acuitas FTEs to be funded each year. Notwithstanding anything to the contrary set forth herein, in no event will (i) Acuitas be required to devote any FTEs to the conduct of the Program other than those funded by Omega or (ii) Omega be required to fund more than the actual number of FTEs devoted by Acuitas to the Workplan.



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(b) FTEs. Acuitas will ensure that those individuals selected by Acuitas to perform the Works and Services and otherwise support the activities to be undertaken by Acuitas pursuant to the Workplan will have sufficient scientific expertise, skill, training and competency to perform the proposed work and have similar skills, training and competency as those FTEs employed by Acuitas to perform work on Acuitas' internal programs and for Third Parties. In the event that Omega has concerns regarding the selection of an individual to perform Works and Services or other activities under this Agreement, the Parties will discuss such concerns in good faith through the JDC.

(c) FTE Costs. Omega will fund Acuitas FTEs based on the number of hours actually worked by such FTEs and otherwise as set forth in the Workplan. Omega will reimburse Acuitas for FTE Costs on a Calendar Quarter-by-Calendar Quarter basis. Upon request by Omega, Acuitas will provide an estimate of Calendar Quarter FTE costs within [\*\*\*] ([\*\*\*)] days of such request. Acuitas will send a reasonably detailed invoice to Omega no later than [\*\*\*] ([\*\*\*)] days after the end of each Calendar Quarter, which invoice shall include a summary of all activities by the name of each individual, number of hours devoted by each such individual, and Works and Services type/activity performed by each such individual during such Calendar Quarter. Omega agrees to pay undisputed amounts in each such invoice within [\*\*\*] ([\*\*\*)] days of Omega's receipt thereof.

### 3.3 Program Records, Reports and Materials.

(a) Records. Each Party will maintain, or cause to be maintained, records of its activities under the Program and the work conducted under the Evaluation Agreement in sufficient detail and in good scientific manner appropriate for scientific, Patent and regulatory purposes, that will properly reflect all work included in the Program and the Evaluation Agreement ("Records") for a period of at least [\*\*\*] ([\*\*\*)] years after the creation of such Records or such longer period required by applicable Laws. Omega will have the right to request and receive a copy of any such Records maintained by Acuitas; and Acuitas will have the right to request and receive a copy of any such Records maintained by Omega to the extent such Records are required by Acuitas to exercise its rights under this Agreement.

(b) Data and Program Reports. Acuitas and Omega will share with one another through the JDC the Workplan Data. The Parties will not share with each other Confidential Information or Know-How relating to their Background Technologies or the Acuitas Sole Technology or Omega Sole Technology, respectively, including, in the case of Acuitas, LNP formulation information, except as provided in Section 3.1(f). Omega will share with Acuitas Workplan Data regarding the Genome Modulating Constructs and Omega Controllers only as and if needed by Acuitas to evaluate performance of the LNP Technology in order to conduct the Program. Acuitas may disclose Workplan Data in connection with the filing of patent applications for Acuitas Sole Technology (so long as no Omega Confidential Information is disclosed). Omega may disclose Workplan Data in connection with the filing of patent applications for Omega Sole Technology (so long as no Acuitas Confidential Information is disclosed). Omega may only use Workplan Data for the performance of its obligations under this Agreement and for internal research and development activities (which, for clarity, shall not include regulatory approval or commercial exploitation of a product) and for avoidance of doubt may disclose Workplan Data for such purposes to Third Parties so long as no Acuitas Confidential Information is disclosed; *provided that* following Omega's exercise of an Option, Omega may also use such Workplan Data as set forth in a Non-Exclusive License. Acuitas may only use Workplan Data for the performance of its obligations under this Agreement and for internal research and development activities (which, for clarity, shall not include regulatory approval or commercial exploitation of a product) and for avoidance of doubt may disclose Workplan Data to Third Parties for such purposes so long as no Omega Confidential Information is disclosed. During the Term, each Party will furnish to the JDC a summary written report within [\*\*\*] ([\*\*\*)] days after [\*\*\*] describing its progress under the Workplan and evaluating such work in relation to the goals of the Workplan as well as provide such other information as reasonably requested by the JDC. Within [\*\*\*] ([\*\*\*)] days following expiration or earlier termination of this Agreement, each Party will furnish to the JDC a final summary written report.

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(i) Each Party will, during the Term, furnish to each other samples of Materials which comprise, embody or incorporate Omega Technology or Acuitas LNP Technology, as the case may be, only as expressly set forth in the Workplan. Acuitas will furnish to Omega the quantities of Formulated Product as set forth in the Workplan and will use commercially reasonable efforts to provide any additional quantities which will be required in performance of the Program. In addition, each Party will, upon the other Party's reasonable written request, furnish to such other Party other samples of Materials which comprise, embody or incorporate Omega Technology or Acuitas LNP Technology that are in such Party's Control and are reasonable (both in quantity and identity) and useful for the other Party to carry out its responsibilities under the Workplan, *provided* (A) such Materials are reasonably and readily available in excess of the providing Party's own requirements, and (B) supply of such Materials will not, in the providing Party's reasonable judgment, (1) conflict with the providing Party's internal or Third Party research programs, (2) conflict with the providing Party's internal policies regarding such Materials, or (3) violate any agreement to which the providing Party is a party. Upon termination or expiration of this Agreement and unless such Material is the GMP ready formulation as set forth in Section 3.1(f) of a Licensed Product under a Non-Exclusive License agreement, Materials will, at the providing Party's option and request to be made (if at all) within [\*\*\*] ([\*\*\*)] months after such termination or expiration or the effective date of termination, be returned to the providing Party or destroyed. The provision of Materials hereunder by either Party will not constitute any grant, option or license under any Patents or Know-How, except as expressly set forth herein.

(ii) Each Party will use such Materials only in accordance with the Workplan and otherwise in accordance with the terms and conditions of this Agreement. Except as otherwise specified in the Workplan or except with the prior written consent of the supplying Party, the Party receiving any Materials will not distribute or otherwise allow the release of Materials to any Third Party, except, with respect to either Party, to any permitted subcontractors under Section 3.1(i) and, with respect to Omega, to any Collaboration Partners. All Materials delivered to the receiving Party will remain the sole property of the providing Party (except that the Formulated Product will be the property of both Parties) and will be used in compliance with all applicable Laws and only to perform activities set forth in the Workplan. Formulated Product will be destroyed by both Parties upon written request by either Party. The Materials supplied under this Agreement will be used with prudence and appropriate caution in any experimental work because not all of their characteristics may be known.

**3.4 Program Licenses.**

(a) By Acuitas. Subject to the terms and conditions of this Agreement, Acuitas hereby grants to Omega (and to its Affiliates) a worldwide, non-exclusive, royalty-free license under the Acuitas LNP Technology, solely to the extent necessary to enable Omega (and its Affiliates) to perform its activities set forth in the Workplan and for no other purpose. The foregoing license will not include the right to grant sublicenses, except to permitted Collaboration Partners and Contract Research Organizations in accordance with Sections 3.1(i) and 3.1(h).

(b) By Omega. Subject to the terms and conditions of this Agreement, Omega hereby grants to Acuitas a worldwide, non-exclusive, royalty-free license under the (i) Omega Technology Controlled by Omega, solely to the extent needed to enable Acuitas to perform its activities set forth in the Workplan and for no other purpose. The foregoing license will not include the right to grant sublicenses, except to permitted Contract Research Organizations in accordance with Section 3.1(i).

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(c) No Other Licenses. No license or right is or will be created or granted hereunder by implication, estoppel or otherwise. All licenses and rights are or will be granted only as expressly provided in this Agreement.

(d) Technology Access Fee. For each Option, Omega will pay to Acuitas a technology access fee equal to [\*\*\*] Dollars (US\$[\*\*\*]) ("Technology Access Fee") within [\*\*\*] ([\*\*\*]) Business Days following the Effective Date, and thereafter on each anniversary of the Effective Date during the Term, Omega will pay to Acuitas a Technology Access Fee of [\*\*\*] Dollars (US\$[\*\*\*]) for each Option not exercised prior to such anniversary. [\*\*\*].

**ARTICLE 4**  
**Reserved Targets**

4.1 Generally. Omega will have the right, but not the obligation, to non-exclusively reserve Targets for potential use in the Workplan, in accordance with this ARTICLE 4. Omega will select the Targets that will be the subject of the work performed as part of the Program from the Reserved Targets specified in accordance with this ARTICLE 4. The initial Reserved Target for the Program has been confirmed by a Target Response Notice from the Escrow Agent dated the Effective Date. Additionally, Omega shall have the right, but not the obligation, to exercise Options in accordance with this ARTICLE 4 and ARTICLE 5.

4.2 Reserved Target List, Restricted Target List and Target Notices.

(a) Escrow Agent. The Escrow Agent will maintain in confidence the Restricted Target List and respond to Omega's Target Notices and Option Notices on behalf of Acuitas. The Escrow Agent shall not inform Acuitas of any Omega potential Reserved Targets or any Omega Reserved Targets, including any Omega Controller sequence information or the Human Genome Target(s) that any such Omega Controller is designed to Genome Modulate, without Omega's prior written consent. For the avoidance of doubt, the Escrow Agent shall not notify Acuitas if a potential Reserved Target has been rejected from the Reserved Target List under this Section 4.2. All costs and expenses incurred through the Escrow Agent will be borne by Acuitas.

(b) Pre-Existing Restrictions. Acuitas will maintain, at the Escrow Agent, a current and up-to-date list of Targets that are subject to Pre-Existing Restrictions (the "Restricted Target List"). Such list will also identify the scope of the Pre-Existing Restrictions. Acuitas represents, warrants and covenants to Omega that (i) the Restricted Target List is and will at all times be accurate and (ii) neither Acuitas nor any of its Affiliates will grant any licenses, options or other rights in or to the Acuitas LNP Technology that would preclude Acuitas from granting to Omega a Non-Exclusive License for each Reserved Target as set forth herein. The decision of the Escrow Agent with respect to the Targets subject to Pre-Existing Restrictions will be conclusive unless there is fraud on the part of Acuitas in which case Omega reserves all rights against Acuitas but absent fraud on the part of the Escrow Agent, Omega shall have no recourse against the Escrow Agent.

(c) Target Notices. If (i) Omega desires to add or remove a Target from the Reserved Target List, or (ii) Omega desires to exercise an Option for a Licensed Product, Omega will notify the Escrow Agent in writing of the same. Such notice will identify as applicable, in addition to the information relating to such proposed Targets set forth on the form of Target Notice attached hereto as Exhibit 4.2, (A) in the case of clause (i) above, whether Omega wishes to non-exclusively reserve such Target or remove such Target from the Reserved Target List, (B) in the case of clause (ii) above, if Omega wishes to exercise an Option (each such notice, a "Target Notice"). Each Target Notice will specify the Omega Controller(s) and the Human Genome Target(s) that each Omega Controller is designed to Genome Modulate. No Target will include more than [\*\*\*] ([\*\*\*]) Human Genome Targets.

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(d) Target Response Notices. The Escrow Agent, on behalf of Acuitas, will review each Target Notice provided by Omega and, within [\*\*\*] of the Escrow Agent's receipt of a Target Notice, the Escrow Agent will provide Omega with written notice that includes the following information (each such notice, a "Target Response Notice"):

(i) If, as of the date of Omega's Target Notice for a Target, such Target is on the Restricted Target List and is listed as being subject to Pre-Existing Restrictions that restrict Acuitas from taking the action requested by Omega in the Target Notice, or if the action requested by Omega would exceed the applicable Concurrent Reserved List Limit or the Option Limit, then the Target Response Notice issued for such Target will so certify to Omega and will specify whether such applicable Target is subject to a Pre-Existing Restriction (such notice, a "Target Rejection Notice"). For clarity, the Target Rejection Notice will specify which Target (Human Genome Target or Omega Controller) is subject to a Pre-Existing Restriction.

(ii) If, as of the date of Omega's Target Notice for a Target, such Target is not subject to any Pre-Existing Restrictions that would prevent the action requested by Omega in the Target Notice, and the action requested by Omega would not exceed the applicable Concurrent Reserved List Limit or the Option Limit, then such Target shall, consistent with the Target Notice, automatically be as of the date of the Target Notice (A) added or removed from the Reserved Target List on a non-exclusive basis, and (B) deemed to be subject to an Option exercised by Omega on a non-exclusive basis subject to terms and conditions of Section 5.2, including the payment of the applicable Option Exercise Fee, and the Target Response Notice issued for the Targets included in the Licensed Product will certify the same to Omega (such notice, an "Target Acceptance Notice"). So long as a Target is on the Reserved Target List and Omega has an Option with respect to such Target, Acuitas and its Affiliates will not exclusively internally reserve such Target or grant to any Third Party an exclusive license (or an option to obtain such a grant of rights) under the Acuitas LNP Technology with respect to such Target. This Section 4.2(d)(ii) shall survive the termination or expiration of this Agreement solely in the event that the Parties enter into a Non-Exclusive License prior to such termination or expiration.

(e) Concurrent Reserved List Limits. During the Term, Omega will have the right to select up to two (2) Reserved Targets at any one time to be placed on the Reserved Target List (the "Concurrent Reserved List Limit"). Targets can be removed from the Reserved Target List, added to the Reserved Target List or replaced on the Reserved Target List at any time subject to the limitations on the total numbers of each Target. The Concurrent Reserved List Limit will be reduced by one for each Option exercised such that the number of Reserved Targets plus the number of Options exercised shall not exceed two (2).

(f) Minimum Target Reservation Requirement. Subject to the Concurrent Reserved List Limit and the availability of potential Reserved Targets for reservation pursuant to this Section 4.2, Omega will elect and maintain at least one (1) Target to be placed on the Reserved Target List at all times ("Minimum Target Reservation Requirement").

4.3 Expiration of Pre-Existing Restrictions. If any Pre-Existing Restrictions identified in a Target Rejection Notice that precluded Acuitas from taking the action requested by Omega in a Target Notice later expire or otherwise are modified or terminate such that Acuitas is no longer precluded from taking the action requested by Omega in a Target Notice, the Escrow Agent will notify Omega of such event and Omega will have an option, for a period of [\*\*\*] ([\*\*\*) days following delivery of such notice to Omega, to (a) add such Target to the Reserved Target List, or (b) exercise an Option with respect to a

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Licensed Product directed to such Target, as the case may be, in each case ((a) and (b)), subject to the Concurrent Reserved List Limits and the Option Limit. For clarity, Omega will at all times thereafter have the right to provide a Target Notice for such Target to the Escrow Agent pursuant to Section 4.2(c) but such Target Notice will be subject to any intervening Pre-Existing Restrictions.

4.4 Fees.

(a) Target Reservation and Maintenance Fees. Omega will pay to Acuitas [\*\*\*] Dollars (US\$[\*\*\*]) per [\*\*\*] for each Reserved Target until such Target is removed from the Reserved Target List or Omega exercises an Option with respect to such Reserved Target. Target(s) removed from the Reserved Target List shall be available to Third Parties and [\*\*\*].

(b) [\*\*\*].

**ARTICLE 5**  
**Omega License Options**

5.1 Option. From the period commencing on the Effective Date and, subject to Section 9.2(a) and Section 10.15, ending on the expiration of the Term, Acuitas hereby grants to Omega the options (each, an "Option") set forth below. Omega's Option is non-exclusive with respect to Licensed Products directed to a Reserved Target.

(a) Non-Exclusive License. An Option shall include the right to enter into a non-exclusive, worldwide, license, with a right to sub-license through multiple tiers, under the Licensed Technology to research, develop, make, have made, keep, use, sell, offer to sell, have sold, import, export or otherwise commercialize and exploit Licensed Products directed to a Reserved Target in the Field of Use in the Territory. The Option to obtain a Non-Exclusive License will be limited to Targets that are on the Reserved Target List at the time of exercise of the Option. The Non-Exclusive License will also include Omega's right to replace such Licensed Product with a Backup Licensed Product at any time prior to the initiation by Omega of the first Phase 1 Study (as such term is defined in the Non-Exclusive License) of a Licensed Product, not to exceed [\*\*\*] ([\*\*\*]) such replacement Backup Licensed Products. Once an Option has been exercised with respect to Licensed Products directed to a Reserved Target, the Reserved Target will no longer be included in the Workplan and except as set forth in the Non-Exclusive License all further development work on Licensed Products directed to such Reserved Target and any Backup Licensed Products will be undertaken solely by Omega.

(b) Option Limit. Omega will have the right to exercise Options with respect to a maximum of two (2) Reserved Targets (the "Option Limit").

(c) Form of Non-Exclusive License Agreement. The form of Non-Exclusive License agreement attached hereto as Exhibit 5.2(b) will be used for all licenses granted upon the exercise of an Option hereunder. Each Non-Exclusive License will grant rights for Licensed Products directed to the Reserved Target specified in the Option Notice.

5.2 Omega's Exercise of Option. Omega may exercise each such Option by delivering to Acuitas an Option Notice and paying to Acuitas the Option Exercise Fee in accordance with this Section 5.2. If not exercised prior to the expiration of the Term, the Options granted to Omega under this ARTICLE 5 with respect to all Reserved Targets will terminate in full and will no longer be exercisable.

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(a) Option Notice. Omega has the right to deliver to the Escrow Agent, prior to the expiration of the Term, a Target Notice including the information set forth in Exhibit 4.2(c), as applicable, for the Licensed Products directed to the Reserved Target for which Omega wishes to exercise an Option (each such Target Notice, an “Option Notice”). Omega will submit one (1) Option Notice for the Licensed Products directed to each Reserved Target for which Omega wishes to exercise the Option.

(b) Non-Exclusive License Agreement. Within [\*\*\*] ([\*\*\*) Business Days of the Escrow Agent’s receipt of an Option Notice, Omega and Acuitas will enter into a Non-Exclusive License using the form attached hereto as Exhibit 5.2(b) for the Licensed Products directed to the Reserved Target specified in the relevant Option Notice.

(c) Option Exercise Fee. Within [\*\*\*] ([\*\*\*) Business Days after the effective date of a Non-Exclusive License and [\*\*\*], Acuitas will issue an invoice to Omega for the Option Exercise Fee less any amounts creditable against such Option Exercise Fee for such Non-Exclusive License pursuant to Section 4.4(b). Each such payment will be due within [\*\*\*] days ([\*\*\*) days after Omega’s receipt of such invoice from Acuitas. A separate Option Exercise Fee will be required for each Non-Exclusive License executed by the Parties in accordance with this ARTICLE 5.

**ARTICLE 6**

**Ownership of Program Technology**

6.1 Disclosure of LNP Know-How. Notwithstanding anything to the contrary in this Agreement, Acuitas will not disclose to Omega any Know-How within the Acuitas LNP Technology without Omega’s prior written consent other than pursuant to a Non-Exclusive License following Omega’s exercise of an Option.

6.2 Ownership.

(a) Omega Owned Technology. As between the Parties, Omega will own all right, title and interest in and to the Omega Technology.

(b) Acuitas Owned Technology. As between the Parties, Acuitas will own all right, title and interest in and to the Acuitas LNP Technology.

(c) Jointly Owned Technology. The Parties will jointly own any and all Joint IP. Each Party will have an undivided one-half interest in and to such Joint IP. Subject to the terms of this Agreement and any Non-Exclusive License agreement, each Party will exercise its ownership rights in and to such Joint IP, including the right to license and sublicense or otherwise to exploit, transfer or encumber its ownership interest, without an accounting or obligation to, or consent required from, the other Party, but subject to the licenses hereunder and the other terms and conditions of this Agreement. At the reasonable written request of a Party, the other Party will in writing grant such consents and confirm that no such accounting is required to affect the foregoing regarding Joint IP. Neither Party will file any Patent application or otherwise seek to protect any Joint IP without the prior written consent of the other Party.

(d) Assignment of Technology. Each Party, for itself and on behalf of its Affiliates, hereby assigns (and to the extent such assignment can only be made in the future, hereby agrees to assign), to the other Party (i) any Technology that is solely owned by such other Party under this Section 6.2, and (ii) a joint and undivided interest in and to all Joint IP. The Parties will reasonably cooperate to more fully document the rights of each Party as defined in this Section 6.2, including by executing all lawful papers and instruments, obtaining and executing necessary powers of attorney and assignments by the named inventors, making all rightful oaths and declarations and providing consultation and assistance as may be necessary.

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6.3 Assignment. Each Party will require, to the extent legally possible under relevant national or local Laws and subject to Section 3.1(h) and Section 3.1(i), all of its employees, Affiliates and any Third Parties working pursuant to this Agreement on its behalf, to assign, or otherwise convey rights to such Party in, its right, title and interest in any invention or Patent conceived, reduced to practice, created or otherwise made in performance of the Workplan or work conducted under the Evaluation Agreement, in order to accomplish the ownership provisions set forth in this ARTICLE 6. Each Party will be responsible for any compensation payable by such Party to its employees, Affiliates or any Third Parties working pursuant to this Agreement on its behalf.

6.4 Prosecution and Maintenance.

(a) General. As between the Parties and subject to any Non-Exclusive License, (i) Omega will have the sole right but not the obligation, at its expense, to prosecute and maintain Patents within the Omega Technology and (ii) Acuitas will have the sole right but not the obligation, at its expense, to prosecute and maintain Patents within the Acuitas LNP Technology. Upon request by either Party, the Parties will promptly enter into a joint prosecution and maintenance agreement (“Joint Prosecution and Maintenance Agreement”) with respect to the Joint IP that, unless otherwise agreed by the Parties, shall provide at a minimum that the Party with the responsibility to prosecute and maintain the Patents within the Joint IP will (i) keep the other Party reasonably informed of its prosecution and maintenance activities, (ii) provide the other Party with a reasonable opportunity to review and comment on any material submissions or correspondence with a patent office and incorporate in good faith any comments from the other Party, and (iii) provide to the other Party copies of all correspondence sent to or received from a patent office with respect to such Patents.

(b) Cooperation. Each Party will reasonably cooperate with the other Party in the prosecution and maintenance of the Patents within the Joint IP. Such cooperation includes promptly executing all documents, or requiring inventors, subcontractors, employees and consultants to execute all documents, as reasonable and appropriate so as to enable the prosecution and maintenance of any such Patents in any country.

6.5 Patent Enforcement and Defense.

(a) Notice. During the Term, to the extent not in breach of an obligation of confidentiality, Acuitas will promptly notify, in writing, Omega upon learning of any claim of invalidity or unenforceability of any Patents included in the Acuitas LNP Technology or any claim that the practice of the Acuitas LNP Technology infringes Third Party Patents, and will, along with such notice, supply Omega with any evidence in its possession pertaining thereto.

(b) Enforcement. As between the Parties and subject to any Non-Exclusive License Acuitas will have the sole right, but not the obligation, to seek to abate any infringement of the Patents included in the Acuitas LNP Technology by a Third Party, or to file suit against any such Third Party for such infringement. As between the Parties, Omega will have the sole right but not the obligation, at its expense, to enforce and defend any Patents within the Omega Technology.

(c) Defense. As between the Parties and subject to any Non-Exclusive License agreement, Acuitas will have the sole right, but not the obligation, to defend against a declaratory judgment action or other action challenging any Patents included in the Acuitas LNP Technology.

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**ARTICLE 7**  
**Confidentiality**

7.1 **Confidential Information.** Each Party (“Disclosing Party”) may disclose to the other Party (“Receiving Party”), and the Receiving Party may acquire during the course and conduct of activities under the Agreement, certain non-public confidential information of the Disclosing Party in connection with this Agreement or the Evaluation Agreement. The term “Confidential Information” means all information of any kind, whether in written, oral, graphical, machine-readable or other form, whether or not marked as confidential or proprietary, that is disclosed or made available by or on behalf of the Disclosing Party to or on behalf of the Receiving Party in connection with this Agreement or the Evaluation Agreement; *provided*, that (a) the Acuitas Sole Technology will be the Confidential Information of Acuitas and the Omega Sole Technology will be the Confidential Information of Omega, (b) the Joint IP will be Confidential Information of both Parties, and either Party may use and disclose Joint IP in connection with such Party’s permitted exploitation of such Technology, *provided that* the recipient is bound by confidentiality and non-use obligations corresponding to the obligations under this Agreement and any Non-Exclusive License agreement, and (c) the data and results generated from the Workplan and the work conducted under the Evaluation Agreement shall be subject to Section 3.3(b), which shall supersede any other provisions of this Agreement to the contrary. For the avoidance of doubt, the identity of potential Reserved Targets or any Omega Reserved Targets and the information contained in any Target Notice submitted by Omega to the Escrow Agent, including any Omega Controller sequence information and the Human Genome Target(s) any such Omega Controller is designed to Genome Modulate, are the Confidential Information of Omega. Confidential Information includes Confidential Information disclosed by either Party pursuant to the Confidential Disclosure Agreement.

7.2 **Restrictions.** During the Term and for [\*\*\*] ([\*\*\*)] years thereafter, or with respect to any trade secret included in the Confidential Information for so long as such trade secret is protected under applicable Laws (*provided*, that Receiving Party has not publicly disclosed such trade secret in breach of its obligations under this Article 7), the Receiving Party will keep all Disclosing Party’s Confidential Information in confidence with the same degree of care with which Receiving Party holds its own confidential information, but in no event less than reasonable care. Receiving Party will not use Disclosing Party’s Confidential Information except for in connection with the performance of its obligations and exercise of its rights under this Agreement or any Non-Exclusive License. Receiving Party has the right to disclose Disclosing Party’s Confidential Information without Disclosing Party’s prior written consent to (a) Receiving Party’s Affiliates, and (b) each of Receiving Party’s employees, permitted subcontractors (subject to Section 3.1(i)) and Collaboration Partners, consultants or agents who have a need to know such Confidential Information in order to perform (or for such entities to determine their interest in performing) Receiving Party’s obligations or in the exercise of the Receiving Party’s rights under this Agreement and who are under written obligations to comply with the restrictions on use and disclosure that are no less restrictive than those set forth in this Article 7. Receiving Party assumes responsibility for such persons maintaining Disclosing Party’s Confidential Information in confidence and using same only for the purposes described herein.

7.3 **Exceptions.** Receiving Party’s obligation of nondisclosure and the limitations upon the right to use the Disclosing Party’s Confidential Information will not apply to a specific portion of the Disclosing Party’s Confidential Information to the extent that Receiving Party can demonstrate that such portion: (a) was known to Receiving Party or any of its Affiliates prior to the time of disclosure by the Disclosing Party without obligation of confidentiality; (b) is or becomes public knowledge through no fault or omission of Receiving Party or any of its Affiliates; (c) is obtained on a non-confidential basis by Receiving Party or any of its Affiliates from a Third Party who to Receiving Party’s knowledge is lawfully in possession thereof and under no obligation of confidentiality to Disclosing Party; or (d) has been independently developed by or on behalf of Receiving Party or any of its Affiliates without the aid, application or use of Disclosing Party’s Confidential Information.



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7.4 Permitted Disclosures. Receiving Party may disclose Disclosing Party's Confidential Information to the extent (and only to the extent) such disclosure is permitted under Section 7.2 or is reasonably necessary in the following instances:

- (a) in order and to the extent required to comply with applicable Laws (including any securities Laws or the regulations or rules of a securities exchange applicable to Receiving Party) or with a legal or administrative proceeding or as required by a court or administrative order;
- (b) in connection with prosecuting or defending litigation including responding to a subpoena in a Third Party litigation;
- (c) in connection with filing, prosecuting and enforcing Patents in connection with Receiving Party's rights and obligations pursuant to this Agreement;
- (d) to actual or potential: acquirers or permitted assignees, investment bankers, investors lenders, and other financing sources, and to consultants and advisors of the Receiving Party; and
- (e) in the case of Omega, to Collaboration Partners, but in case the Collaboration Partner is only a potential licensee, partner or assignee, only such information that is reasonably necessary or useful for the potential licensee, partner or assignee to evaluate the Technology of interest, including design of experiments conducted under the Workplan, data and results generated under the Workplan and LNP/Licensed Product manufacturing processes, but if a Non-Exclusive License agreement has not been executed, excluding the particular chemical structure and formulation of any lipid nanoparticles (which excluded information may be disclosed to such potential licensee, partner or assignee upon Acuitas' prior written consent);

*provided*, that (1) where reasonably possible, Receiving Party will notify Disclosing Party of Receiving Party's intent to make any disclosure pursuant to subsections (a) or (b) above sufficiently prior to making such disclosure so as to allow Disclosing Party adequate time to take whatever action it may deem appropriate to protect the confidentiality of the information to be disclosed, and (2) with respect to subsections (d) or (e) above, each of those entities are required to comply with the restrictions on use and disclosure in Section 7.2 (other than investment bankers, investors, lenders, and other financing sources which must be bound prior to disclosure by commercially reasonable obligations of confidentiality). Confidential Information that is required to be disclosed pursuant to subsections (a) or (b) will remain otherwise subject to the confidentiality and non-use provisions of Section 7.1 and Section 7.2. If either Party concludes that a copy of this Agreement must be filed with the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States, at least [\*\*\*] ([\*\*\*) Business Days in advance of any such filing such Party will provide the other Party with a copy of this Agreement showing any provisions hereof as to which the Party proposes to request confidential treatment, will provide the other Party with a reasonable opportunity to comment on any such proposed redactions and to suggest additional redactions, and will take such Party's reasonable and timely comments into consideration before so filing the Agreement.

7.5 Return of Confidential Information. Upon expiry or earlier termination of the Agreement, upon written request of a Party (such request, if made, to be made within [\*\*\*] ([\*\*\*) months of such expiry or termination) the other Party will destroy or return (as specified in such request) to the requesting Party all copies of the Confidential Information of the requesting Party; *provided*, that a Party may retain: (a) one copy of such Confidential Information for record-keeping purposes, for the sole purpose of ensuring

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compliance with this Agreement; (b) any copies of such Confidential Information as are required to be retained under applicable Laws; (c) any copies of such Confidential Information as are necessary or useful for such Party to exercise a right or fulfill an obligation under this Agreement, including any Non-Exclusive License; and (d) any copies of any computer records and files containing Confidential Information that have been created by such Party's routine archiving/backup procedures, in each case *provided that* such copies are maintained in accordance with this ARTICLE 7.

7.6 Publications. Notwithstanding anything in this Agreement to the contrary, each Party shall be permitted to publish the results of the Program including Workplan Data that constitute the other Party's or joint Confidential Information only with the prior written consent of the other Party, subject to Section 7.3 and Omega's right to publish such results of its development under the applicable Non-Exclusive License agreement in accordance with Section 8.6 thereof. Either Party wishing to make a publication or public presentation of Program results that contains the Confidential Information of the other Party will deliver to the other Party a copy of any proposed written publication or presentation of Program results at least [\*\*\*] ([\*\*\*)] days prior to submission for publication or presentation. Each Party will have the right to (a) remove its Confidential Information from the other Party's proposed publications, (b) propose modifications to the publication or presentation for patent reasons, trade secret reasons or business reasons, which proposals the publishing Party will consider in good faith, and (c) request a reasonable delay in publication or presentation in order to protect patentable information in accordance with Article 6. Following the expiration of the applicable time period for review, the publishing Party will be free to submit for publication or otherwise disclose to the public such results, subject to the procedures set forth in the remainder of this Section 7.6. If the nonpublishing Party provides written notice to the publishing Party requesting a delay pursuant to clause (iii) in this Section 7.6, the publishing Party will delay such submission or presentation for a period of an additional [\*\*\*] ([\*\*\*)] days to enable the nonpublishing Party to file patent applications on the disclosed subject matter. The publishing Party will thereafter be free to publish or disclose such information, except that subject to Section 7.3 the publishing Party may not disclose any Confidential Information of the nonpublishing Party. Expedited reviews for abstracts or poster presentations, or for other publications that may relate to potential patent applications, may be arranged only with the prior written consent of both Parties. Omega and Acuitas will each comply with standard academic practice regarding authorship of scientific publications and recognition of the contributions of other parties in any publications relating to studies conducted under the Workplan.

7.7 Patents. Except as expressly permitted under this Agreement, neither Party will file a patent application that includes or discloses the Confidential Information of the other Party without the consent of such other Party.

7.8 Terms of this Agreement; Publicity. The Parties agree that the material terms of this Agreement will be treated as Confidential Information of both Parties, and thus may be disclosed only as permitted by Sections 7.2, 7.3 and 7.4. Except as required by applicable Laws (including any securities Laws or the regulations or rules of a securities exchange) or otherwise agreed by the Parties in writing, each Party agrees not to issue any press release or public statement disclosing information relating to the existence of this Agreement or the transactions contemplated hereby or the terms hereof without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed.

**ARTICLE 8****Warranties; Covenants; Limitations of Liability; Indemnification**

8.1 Representations and Warranties. Each Party represents and warrants to the other as of the Effective Date that (a) it is a corporation duly organized, validly existing, and in good standing under the Laws of the jurisdiction in which it is incorporated, (b) it has the legal right and power to enter into this Agreement, to extend the rights, licenses and options granted or to be granted to the other in this Agreement,

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and to fully perform its obligations hereunder, (c) it has taken all necessary corporate action on its part required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder, (d) this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, and binding obligation of such Party that is enforceable against it in accordance with its terms limited by applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting the enforcement of creditors' rights generally and as may be limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies, (e) the execution, delivery and performance of this Agreement by such Party does not violate any Law of any court, governmental body or administrative or other agency having jurisdiction over such Party, (f) no government authorization, consent, approval, license, exemptions of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any applicable Laws currently in effect, is necessary for the transactions contemplated by this Agreement or for the performance of its obligations under this Agreement, and (g) and during the Term, that its Affiliates, its and their employees, and their consultants and agents have executed agreements or have existing obligations under Law requiring assignment to such Party of all intellectual property and proprietary rights made during the course of and as the result of their association with such Party, and obligating such individuals to maintain as confidential the Confidential Information of a Disclosing Party under this Agreement or any Non-Exclusive License agreement, and of any Third Party which such Party may receive.

8.2 Additional Representations and Warranties of Acuitas. Acuitas hereby represents and warrants to Omega as of the Effective Date as follows:

(a) Impairment. Neither Acuitas nor any of its Affiliates has entered into any agreement or otherwise licensed, granted, assigned, transferred, conveyed or otherwise encumbered or disposed of any right, title or interest in or to any of its assets, including any Technology, that would in any way conflict with or impair the scope of any rights, licenses or options granted to Omega hereunder or that would be granted to Omega under any Non-Exclusive License agreement.

(b) Patents and Know-How. Exhibit 1.1 sets forth a complete and accurate list of all Patents included in the Acuitas Background Technology. Acuitas Controls the Acuitas Background Technology. All Acuitas inventors of the Acuitas Background Technology have validly assigned their rights to such Technology to Acuitas. Acuitas is and will remain entitled to grant to Omega the licenses and rights specified herein or under a Non-Exclusive License during the Term as contemplated by this Agreement, to the Patents and the Know-How within the Acuitas Background Technology. To Acuitas' knowledge, the Patents listed on Exhibit 1.1 have been diligently prosecuted and maintained in accordance with applicable Law. None of the Patents included in the Acuitas Background Technology listed on Exhibit 1.1 are or have been involved in any opposition, cancellation, interference, reissue or reexamination proceeding, and to Acuitas' knowledge as of the Effective Date, no Acuitas Background Technology is the subject of any judicial, administrative or arbitral order, award, decree, injunction, lawsuit, proceeding or stipulation. As of the Effective Date, neither Acuitas nor any of its Affiliates has received any notice alleging that the Patents in the Acuitas Background Technology listed on Exhibit 1.1 are invalid or unenforceable, or challenging Acuitas' ownership of or right to use the Acuitas Background Technology.

(c) Entire LNP Technology. The Acuitas Background Technology licensed to Omega under this Agreement or any Non-Exclusive License agreement comprises all LNP Technology owned or Controlled by Acuitas. [\*\*\*].

(d) Encumbrances. Acuitas and its Affiliates are not subject to any payment obligations to Third Parties as a result of the execution or performance of this Agreement or the Evaluation Agreement. As of the Effective Date, neither Acuitas nor any of its Affiliates has granted any liens or security interests on the Acuitas Background Technology, and the Acuitas Background Technology is free and clear of any mortgage, pledge, claim, security interest, covenant, easement, encumbrance, lien or charge of any kind.

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(e) Defaults. The execution, delivery and performance by Acuitas of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, conflict with, result in a breach of or constitute a default under any understanding, contract or agreement to which Acuitas is a party or by which it is bound, including the [\*\*\*], in each case as would reasonably be expected to have a material adverse effect on the rights granted to Omega hereunder or under any Non-Exclusive License agreement.

(f) Litigation. There is no action, suit, proceeding or investigation pending or, to the knowledge of Acuitas, currently threatened in writing against or affecting Acuitas that questions the validity of this Agreement, the right of Acuitas to enter into this Agreement or consummate the transactions contemplated hereby or that relates to the Acuitas LNP Technology.

(g) Infringement. Neither Acuitas nor any of its Affiliates has received any notice of any claim, nor does Acuitas or its Affiliates have any knowledge of any basis for any claim, that any Patent, Know-How or other intellectual property owned or controlled by a Third Party would be infringed or misappropriated by the practice of any Acuitas LNP Technology.

(h) Third Party Infringement. To Acuitas' knowledge, no Third Party is infringing or has infringed any Patent within the Acuitas LNP Technology or is misappropriating or has misappropriated any Know-How within the Acuitas LNP Technology.

(i) No Debarment. Neither Acuitas, nor to Acuitas' knowledge any of its employees, have been Debarred or are subject to Debarment.

8.3 Disclaimers. Without limiting the respective rights and obligations of the Parties expressly set forth herein, each Party specifically disclaims any guarantee that the Program will be successful, in whole or in part. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE PARTIES MAKE NO REPRESENTATIONS AND EXTEND NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED.

8.4 No Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT OR OTHERWISE, NEITHER PARTY WILL BE LIABLE TO THE OTHER OR ANY THIRD PARTY WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; *PROVIDED THAT THIS SECTION 8.4 WILL NOT APPLY TO BREACHES OF ARTICLES 6 OR 7 OR THE PARTIES' INDEMNIFICATION RIGHTS AND OBLIGATIONS UNDER ARTICLE 8.*

8.5 Performance by Others. The Parties recognize that each Party may perform some or all of its obligations under this Agreement through Affiliates, or permitted subcontractors in accordance with Section 3.1(i); *provided, however*, that each Party will remain responsible and liable for the performance by its Affiliates or permitted subcontractors and will cause its Affiliates and permitted subcontractors to comply with the provisions of this Agreement in connection therewith.

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(a) **Indemnification by Acuitas.** Acuitas will indemnify Omega, its Affiliates and their respective directors, officers, employees, Third Party licensors, licensees, permitted subcontractors, Collaboration Partners and agents, and their respective successors, heirs and assigns (collectively, "**Omega Indemnitees**"), and defend and hold each of them harmless, from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) (collectively, "**Losses**") in connection with any and all suits, investigations, claims or demands of Third Parties (collectively, "**Third Party Claims**") against the Omega Indemnitees to the extent arising from or occurring as a result of: (i) the breach by Acuitas of any provision of this Agreement or the Evaluation Agreement; or (ii) any negligence or willful misconduct on the part of any Acuitas Indemnitee in the conduct of the Workplan or the work conducted under the Evaluation Agreement; or (iii) the use, practice, license or other exploitation of the Joint IP by or on behalf of Acuitas for its own or a Third Party's account except in each case (i)-(iii) to the extent Omega is obligated to indemnify an Acuitas Indemnitee in accordance with Section 8.6(b).

(b) **Indemnification by Omega.** Omega will indemnify Acuitas, its Affiliates and their respective directors, officers, employees and agents, and their respective successors, heirs and assigns (collectively, "**Acuitas Indemnitees**"), and defend and hold each of them harmless, from and against any and all Losses in connection with any and all Third Party Claims against Acuitas Indemnitees to the extent arising from or occurring as a result of: (i) the breach by Omega of any provision of this Agreement or the Evaluation Agreement; or (ii) any negligence or willful misconduct on the part of any Omega Indemnitee in the conduct of the Workplan or the work conducted under the Evaluation Agreement; or (iii) any alleged infringement or misappropriation of Patents or other intellectual property rights by Acuitas in the conduct of the Workplan or the work conducted under the Evaluation Agreement based solely on Acuitas' use of Omega Technology, (iv) the use, practice, license or other exploitation of the Joint IP by or on behalf of Omega for its own or a Third Party's account (other than in connection with any Licensed Product that is the subject of a Non-Exclusive License agreement) except in each case (i)-(iv) to the extent Acuitas is obligated to indemnify Omega in accordance with Section 8.6(a).

(c) **Notice of Claim.** All indemnification claims provided for in subsections (a) and (b) above will be made solely by such Party to this Agreement (the "**Indemnified Party**"). The Indemnified Party will promptly notify the indemnifying Party (the "**Indemnifying Party**") in writing of any Losses or the discovery of any fact upon which the Indemnified Party intends to base a request for indemnification under subsections (a) or (b) above (each such notice, an "**Indemnification Claim Notice**"), *provided that* the failure to promptly provide such notice and details will not relieve the Indemnifying Party of any of its indemnification obligations hereunder, except to the extent that the Indemnifying Party's defense of the relevant Third Party Claim is prejudiced by such failure. Each Indemnification Claim Notice must contain a description of the claim and the nature and amount of such Loss (to the extent that the nature and amount of such Loss is known at such time). The Indemnified Party will furnish promptly to the Indemnifying Party copies of all papers and official documents received in respect of any Losses and Third Party Claims.

(d) **Defense, Settlement, Cooperation and Expenses.**

(i) **Control of Defense.** At its option, the Indemnifying Party may assume the defense of any Third Party Claim by giving written notice to the Indemnified Party within [\*\*\*] ([\*\*\*)] days after the Indemnifying Party's receipt of an Indemnification Claim Notice. Upon assuming the defense of a Third Party Claim, the Indemnifying Party may appoint as lead counsel in the defense of the Third Party Claim any legal counsel selected by the Indemnifying Party (the Indemnifying Party will consult with the Indemnified Party with respect to such legal counsel and a possible conflict of interest of such counsel retained by the Indemnifying Party). In the event the Indemnifying Party assumes the defense of a Third Party Claim, the Indemnified Party will immediately deliver to the Indemnifying Party all original notices and documents (including court papers) received by the Indemnified Party in connection with the Third Party Claim.

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(ii) Right to Participate in Defense. Without limiting subsection (i) above, any Indemnified Party will be entitled to participate in, but not control, the defense of such Third Party Claim and to employ counsel of its choice for such purpose; *provided, however*, that such employment will be at the Indemnified Party's own cost and expense unless (A) the Indemnifying Party has failed to assume the defense and employ counsel in accordance with subsection (i) above (in which case the Indemnified Party will control the defense) or (B) the Indemnified Party has received a written opinion of counsel, reasonably acceptable to the Indemnifying Party, to the effect that the interests of the Indemnified Party and the Indemnifying Party with respect to such Third Party Claim are sufficiently adverse to prohibit the representation by the same counsel of both Parties under applicable Law, ethical rules or equitable principles, [\*\*\*].

(iii) Settlement. With respect to any Third Party Claims that relate solely to the payment of money damages in connection with a Third Party Claim and that will not (A) result in the Indemnified Party's becoming subject to injunctive or other relief, (B) include any admission or concession of liability or wrongdoing on the part of the Indemnified Party, or (C) otherwise adversely affect the business or Patents of the Indemnified Party in any manner, and as to which the Indemnifying Party will have acknowledged in writing the obligation to indemnify the Indemnified Party hereunder, the Indemnifying Party will have the sole right to consent to the entry of any judgment, enter into any settlement or otherwise dispose of such Loss, on such terms as the Indemnifying Party, in its sole discretion, will deem appropriate. With respect to all other Losses in connection with Third Party Claims, where the Indemnifying Party has assumed the defense of the Third Party Claim in accordance with subsection (i) above, the Indemnifying Party will have authority to consent to the entry of any judgment, enter into any settlement or otherwise dispose of such Loss; *provided* it obtains the prior written consent of the Indemnified Party (which consent will not be unreasonably withheld, conditioned or delayed). Where the Indemnifying Party has assumed the defense of the Third Party Claim in accordance with subsection (i) above, the Indemnifying Party will not be liable for any settlement or other disposition of a Loss by an Indemnified Party that is reached without the written consent of the Indemnifying Party. Regardless of whether the Indemnifying Party chooses to defend or prosecute any Third Party Claim, no Indemnified Party will admit any liability with respect to or settle, compromise or discharge, any Third Party Claim without the prior written consent of the Indemnifying Party, such consent not to be unreasonably withheld, conditioned or delayed.

(iv) Cooperation. Regardless of whether the Indemnifying Party chooses to defend or prosecute any Third Party Claim, the Indemnified Party will cooperate in the defense or prosecution thereof and will furnish such records, information and testimony, provide such witnesses and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested in connection therewith at the Indemnifying Party's expense. Such cooperation will include access during normal business hours afforded to the Indemnifying Party to, and reasonable retention by the Indemnified Party of, records and information that are reasonably relevant to such Third Party Claim, and making indemnified parties and other employees and agents available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder, and the Indemnifying Party will reimburse the Indemnified Party for all its reasonable out-of-pocket costs and expenses in connection therewith.

(v) [\*\*\*].

8.7 Insurance. Each Party will maintain at its sole cost and expense, an adequate liability insurance or self-insurance program to protect against potential liabilities and risk arising out of activities to be performed under this Agreement and upon such terms (including coverages, deductible limits and self-insured retentions) as are customary in the respective industry of such Party for the activities to be conducted by such Party under this Agreement. The coverage limits set forth herein will not create any limitation on a Party's liability to the other under this Agreement. Upon the request of a Party, the other Party will provide evidence of the insurance coverage required by this Section 8.7.

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**ARTICLE 9**  
**Term and Termination**

9.1 Term. This Agreement will commence as of the Effective Date and, unless sooner terminated in accordance with the terms of this Article 9 or by mutual written consent of the Parties, will terminate on the first to occur of (a) Omega has reached the Option Limit and (b) third (3<sup>rd</sup>) anniversary of the Effective Date; *provided*, Omega will have one (1) option to extend the initial three (3) year term for an additional two (2) year period by providing written notice thereof to Acuitas at least six (6) months prior to the third (3<sup>rd</sup>) anniversary of the Effective Date (such three (3) year period, together with any such two (2) year extension if such extension is requested in accordance with the foregoing, and any extension of an Option exercise period pursuant to Section 10.15, the "Term").

9.2 Termination by Omega.

(a) Breach. Omega will have the right to terminate this Agreement or the Program in full upon delivery of written notice to Acuitas in the event of a material breach by Acuitas of its representations, warranties or obligations under this Agreement or any Non-Exclusive License agreement, *provided that* such breach has not been cured within [\*\*\*] ([\*\*\*)] days after written notice thereof is given by Omega to Acuitas specifying the nature of the alleged breach. In the event of a termination of the Program for Acuitas' uncured material breach, the JDC will be disbanded, Acuitas will receive no further reimbursement for FTE Costs or external expenses and Acuitas will conduct a technology transfer in accordance with Section 3.1(f) and provide necessary licenses to Omega or its Third Party designee each as reasonably necessary for Omega or such Third Party designee to complete the conduct of the Program. For avoidance of doubt, termination of the Program pursuant to this Section 9.2(a) will not terminate Omega's reservation of Reserved Targets or the Options, subject to the payment of all fees associated therewith. Unless terminated earlier by Omega in its sole discretion by written notice to Acuitas, any Option that is in effect as of the effective date of termination pursuant to Section 9.2(a), will continue in effect until the earlier of (i) such Option exercise and (ii) expiration of the Term.

(b) Discretionary Termination. Omega will have the right to terminate this Agreement in full at any time without cause or for any or no reason by giving [\*\*\*] ([\*\*\*)] days' prior written notice to Acuitas. Upon termination by Omega pursuant to this subsection, Omega will pay to Acuitas all accrued, then-unpaid Target Reservation and Maintenance Fees, and any amounts payable to Acuitas for any Works and Services performed pursuant to the Workplan up through the date of such termination and *provided however*, that if Omega terminates the Agreement within the first year after the Effective Date for any reason other than an acquisition or other change of control of Acuitas or the failure by Acuitas to perform any obligations under this Agreement for a period of more than three (3) months due to a force majeure condition described in Section 10.15, [\*\*\*].

9.3 Termination by Acuitas. Acuitas will have the right to terminate this Agreement in full upon delivery of written notice to Omega in the event of a material breach by Omega of its representations, warranties or obligations under this Agreement or any Non-Exclusive License (subject to Section 10.2(b) of such Non-Exclusive License), *provided that* such breach has not been cured within [\*\*\*] ([\*\*\*)] days after written notice thereof is given by Acuitas to Omega specifying the nature of the alleged breach. Omega hereby agrees that Acuitas is entitled to receive payment of any amounts payable to Acuitas for any Works and Services performed pursuant to the Workplan up through the date of such termination. If Omega disputes in good faith the existence or materiality of a breach specified in a notice provided in accordance with this Section 9.3, and Omega provides Acuitas notice of such dispute within such [\*\*\*] ([\*\*\*)] day

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cure period, then Acuitas will not have the right to terminate this Agreement under this Section 9.3 unless and until it is finally determined, in accordance with Section 10.1, that Omega has materially breached this Agreement and Omega has failed to cure such breach within [\*\*\*] ([\*\*\*)] days following such decision. It is understood and agreed that during the pendency of such dispute, all of the terms and conditions of this Agreement shall remain in effect and the Parties shall continue to perform all of their respective obligations (including payment obligations) hereunder. If Acuitas terminates this Agreement pursuant to this Section 9.3, then Acuitas will have the right, but not the obligation, to terminate any then-existing Non-Exclusive License.

9.4 Termination Upon Bankruptcy. If either Party makes an assignment for the benefit of creditors, appoints or suffers appointment of a receiver or trustee over all or substantially all of its property, files a petition under any bankruptcy or insolvency act in any state or country or has any such petition filed against it which is not discharged within [\*\*\*] ([\*\*\*)] days of the filing thereof, then the other Party may thereafter terminate this Agreement effective immediately upon written notice to such Party. All rights and licenses granted under or pursuant to this Agreement by Acuitas are, and will otherwise be deemed to be, for purposes of the relevant provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (“BIA”), including Sections 65.11(7), 65.13(9), 72.1 and 246.1 of the BIA; and the relevant provisions of the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (“CCAA”), including Sections 32(6) and 36(8) of the CCAA (the BIA and CCAA being referred to collectively as the “Insolvency Legislation”), a grant of a “right to use” “intellectual property” as used in the Insolvency Legislation. The Parties agree that Omega and its Affiliates, as licensees of such rights under this Agreement, will retain and may fully exercise all of their rights and elections under the Insolvency Legislation subject to the payment of amounts provided for herein. Without limiting Omega’s rights under the Insolvency Legislation, if Acuitas becomes insolvent or makes an assignment for the benefit of its creditors or there is filed by or against the Acuitas any bankruptcy, receivership, reorganization or similar proceeding pursuant to or under the Insolvency Legislation or otherwise, Omega will be entitled to a copy of any and all such intellectual property and all embodiments of such intellectual property, and the same, if not already in the possession of Omega, will be promptly delivered to Omega (a) if requested by Omega, before this Agreement is rejected, disclaimed, repudiated, rescinded or terminated by or on behalf of Acuitas, within [\*\*\*] ([\*\*\*)] days after Omega’s written request, unless Acuitas, or its trustee or receiver, elects within [\*\*\*] ([\*\*\*)] days to continue to perform all of its obligations under this Agreement, or (b) forthwith, if requested by Omega after any rejection, disclaimer, repudiation, rescission or termination of this Agreement by or on behalf of Acuitas, if not previously delivered as provided under clause (a) above. All rights of the Parties under this Section 9.4 and under the relevant intellectual property provisions of the Insolvency Legislation are in addition to and not in substitution of any and all other rights, powers, and remedies that each Party may have under this Agreement, the Insolvency Legislation, and any other applicable Laws.

9.5 Effects of Termination.

(a) In the event of a dispute as to whether Omega has materially breached its payment obligations or Acuitas has materially breached its obligations under the Workplan, Omega will [\*\*\*]. Upon the request of Omega, the following will apply to any dispute described in the first sentence of this Section 9.5(a): the informal dispute resolution process in Section 10.1(a) will not apply; or the negotiation period for the Executive Officers in Section 10.1(b) will be limited to [\*\*\*] ([\*\*\*)] Business Days.

(b) Upon termination by either Party under Sections 9.2, 9.3 or 9.4, (i) Acuitas will terminate all Works and Services in progress in an orderly manner as soon as practical and in accordance with a schedule agreed to by Omega, (ii) Acuitas will use commercially reasonable efforts to terminate or limit any outstanding commitments and costs associated with the Workplan, (iii) Acuitas will deliver to Omega any of Omega’s Materials in its possession or control and all deliverables developed through termination or expiration, (iv) [\*\*\*], and (v) Acuitas will promptly issue a final invoice to Omega and Omega will pay Acuitas within [\*\*\*] ([\*\*\*)] days of receipt of such invoice any monies due and owing Acuitas, up to the time of termination or expiration, for Works and Services actually performed and all authorized expenses actually incurred (as specified in the Workplan).



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9.6 Survival. In addition to the termination consequences set forth in Section 9.5, the following provisions will survive termination or expiration of this Agreement, as well as any other provision which by its terms or by the context thereof, is intended to survive such termination: Article 1 (to the extent applicable to any other surviving provisions), Article 6, Article 7 and Article 10 and Section 3.1(f) (with respect to Acuitas' obligation to complete a technology transfer, as applicable), Section 3.3(a), Section 3.3(b) (with respect to the Parties' permitted disclosure and use of Workplan Data), Section 3.3(c)(i) (with respect to the Parties' obligation to return or destroy Materials after expiration or termination of this Agreement), Section 4.2(a), Section 4.2(d)(ii) (in accordance with its terms), Section 5.1(c), Section 5.2 (to the extent that Omega exercises an Option, as applicable), Section 8.3, Section 8.4, Section 8.5, Section 8.6, Section 9.4, Section 9.5 and this Section 9.6. Termination or expiration of this Agreement will not relieve the Parties of any liability or obligation which accrued hereunder prior to the effective date of such termination or expiration nor preclude either Party from pursuing all rights and remedies it may have hereunder or at Law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation. All other rights and obligations will terminate upon expiration of this Agreement.

**ARTICLE 10**  
**Miscellaneous**

10.1 Dispute Resolution.

(a) Disputes. Disputes arising under or in connection with this Agreement (other than disputes regarding issues within the purview of the JDC which will be resolved pursuant to Section 2.2(d)) will be resolved pursuant to this Section 10.1; *provided, however*, that in the event a dispute cannot be resolved without an adjudication of the rights or obligations of a Third Party (other than any Omega Indemnitees or Acuitas Indemnitees identified in Section 8.6), the dispute procedures set forth Sections 10.1(b) and 10.1(c) will be inapplicable as to such dispute.

(b) Dispute Escalation. In the event of a dispute between the Parties, the Parties will first attempt in good faith to resolve such dispute by negotiation and consultation between themselves or the Workplan Leaders. In the event that such dispute is not resolved on an informal basis within [\*\*\*] ([\*\*\*)] days, any Party may, by written notice to the other, have such dispute referred to each Party's Chief Executive Officer or his or her designee (who will be a senior executive), who will attempt in good faith to resolve such dispute by negotiation and consultation for a [\*\*\*] ([\*\*\*)] day period following receipt of such written notice.

(c) Dispute Resolution. In the event the Chief Executive Officers of the Parties are not able to resolve such dispute as set forth above, the Chief Executive Officers will together elect whether to submit the dispute to mediation, litigation or arbitration. In the absence of such an agreement, either Party may elect to initiate litigation.

(d) Injunctive Relief. Notwithstanding the dispute resolution procedures set forth in this Section 10.1, in the event of an actual or threatened breach hereunder, the aggrieved Party may seek equitable relief (including restraining orders, specific performance or other injunctive relief) in any court or other forum, without first submitting to any dispute resolution procedures hereunder.

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(e) Tolling. The Parties agree that all applicable statutes of limitation and time-based defenses (such as estoppel and laches) will be tolled while the dispute resolution procedures set forth in this Section 10.1 are pending, and the Parties will cooperate in taking all actions reasonably necessary to achieve such a result.

(f) Prevailing Party. The prevailing Party in any suit related to this Agreement will be entitled to recover from the losing Party [\*\*\*].

(g) Cumulative Remedies and Irreparable Harm. All rights and remedies of the Parties hereunder will be cumulative and in addition to all other rights and remedies provided hereunder or available by agreement, at Law or otherwise. Each Party acknowledges and agrees that breach of any of the terms or conditions of this Agreement may cause irreparable harm and damage to the other and that such damage may not be ascertainable in money damages and that as a result thereof the non-breaching Party may be entitled to seek from a court equitable or injunctive relief restraining any breach or future violation of the terms contained herein by the breaching Party. Such right to equitable relief is in addition to whatever remedies either Party may be entitled to as a matter of Law or equity, including money damages.

10.2 Invoices and Payments. All invoices to be delivered to Omega hereunder shall be delivered in accordance with Section 10.11 or in such other manner specified by Omega from time to time. All amounts specified in, and all payments to be made by Omega under, this Agreement will be in U.S. dollars and will be paid by wire transfer to such bank account as Acuitas may designate at least [\*\*\*] ([\*\*\*) Business Days before such payment is due. Omega may withhold from payments due to Acuitas amounts for payment of any withholding tax that is required by Law to be paid to any taxing authority with respect to such payment. Omega will provide Acuitas all relevant documents and correspondence, and will also provide to Acuitas any other cooperation or assistance on a reasonable basis as may be necessary to enable Acuitas to claim exemption from such withholding taxes and to receive a refund of such withholding tax or claim a foreign tax credit. Upon the request of Acuitas, Omega will give proper evidence from time to time as to the payment of any such tax.

10.3 Relationship of Parties. Nothing in this Agreement is intended or will be deemed to constitute a partnership, agency, employer-employee or joint venture relationship between the Parties. No Party will incur any debts or make any commitments for the other, except to the extent, if at all, specifically provided therein. There are no express or implied Third Party beneficiaries hereunder.

10.4 Compliance with Law. Each Party will perform or cause to be performed any and all of its obligations or the exercise of any and all of its rights hereunder in good scientific manner and in compliance with all applicable Law.

10.5 Governing Law. This Agreement will be governed by and construed in accordance with the Laws of the state of New York, United States of America, without respect to its conflict of Laws rules, excluding (a) any of its conflicts of laws principles to the contrary; (b) the United Nations Conventions on Contracts for the International Sale of Goods; (c) the 1974 Convention on the Limitation Period in the International Sale of Goods; and (d) the Protocol amending the 1974 Convention on the Limitation Period in the International Sale of Goods, done at Vienna, April 11, 1980; and *provided that* any dispute relating to the scope, validity, enforceability or infringement of any Patents or Know-How will be governed by, and construed and enforced in accordance with, the substantive Laws of the jurisdiction in which such Patents or Know-How apply.

10.6 Counterparts; Facsimiles. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will be deemed to be one and the same instrument. Facsimile or PDF execution and delivery of this Agreement by either Party will constitute a legal, valid and binding execution and delivery of this Agreement by such Party.

**CERTAIN CONFIDENTIAL INFORMATION IN THIS DOCUMENT, MARKED BY [\*\*\*], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED****10.7 Headings; Rule of Construction; Interpretation.**

(a) Headings. All headings in this Agreement are for convenience only and will not affect the meaning of any provision hereof.

(b) Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement will be construed against the drafting Party will not apply.

(c) Interpretation. Whenever any provision of this Agreement uses the term “including” (or “includes”), such term will be deemed to mean “including without limitation” (or “includes without limitation”). “Herein,” “hereby,” “hereunder,” “hereof” and other equivalent words refer to this Agreement as an entirety and not solely to the particular portion of this Agreement in which any such word is used. In this Agreement, the word “or” means “and/or”. All definitions set forth herein will be deemed applicable whether the words defined are used herein in the singular or the plural. Unless otherwise provided, all references to Sections and Exhibits in this Agreement are to Sections and Exhibits of this Agreement. References to any Sections include Sections and subsections that are part of the related Section.

10.8 Further Assurances. Each Party shall take all customary and reasonable actions and do all things reasonably necessary or proper, including under applicable Law, to make effective and further the intents and purposes of the transactions contemplated by this Agreement, including executing any further instruments reasonably requested by the other Party.

10.9 Binding Effect. This Agreement will inure to the benefit of and be binding upon the Parties, their Affiliates, and their respective lawful successors and assigns.

10.10 Assignment. This Agreement may not be assigned by either Party, nor may either Party delegate its obligations or otherwise transfer licenses or other rights created by this Agreement, except as expressly permitted hereunder, without the prior written consent of the other Party, which consent will not be unreasonably withheld, conditioned or delayed; *provided*, that either Party may assign this Agreement in whole or in part without such consent to an Affiliate or to its successor in connection with the sale of all or substantially all of its assets or business or that portion of its business pertaining to the subject matter of this Agreement (whether by merger, consolidation or otherwise); *provided that* such Affiliates or Third Party agree to be bound by this Agreement.

10.11 Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly given upon the date of receipt if delivered by hand, email, recognized international overnight courier, or registered or certified mail, return receipt requested, postage prepaid to the following addresses:

If to Omega:	Omega Therapeutics, Inc. 20 Acorn Park Drive Cambridge, MA 02140 U.S.A. Attention: Chief Executive Officer Email: [***]
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With a copy to:           Omega Therapeutics, Inc.  
20 Acorn Park Drive  
Cambridge, MA 02140  
U.S.A.  
Attention: Legal Department  
Email: [\*\*\*]

If to Acuitas:           Acuitas Therapeutics Inc.  
6190 Agronomy Road, Suite 405  
Vancouver, B.C.  
Canada V6T 1Z3  
Attention: President and CEO  
Email: [\*\*\*]

With a copy to:           McCarthy Tetrault LLP  
Suite 2400 745 Thurlow Street  
Vancouver, B.C.  
Canada V6E 0C5  
Attention: [\*\*\*]  
Email: [\*\*\*]

Either Party may change its designated address by notice to the other Party in the manner provided in this Section 10.11.

10.12 Amendment and Waiver. This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both Parties; *provided that* any unilateral undertaking or waiver made by one Party in favor of the other will be enforceable if undertaken in a writing signed by the Party to be charged with the undertaking or waiver. Any waiver of any rights or failure to act in a specific instance will relate only to such instance and will not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

10.13 Severability. In the event that any provision of this Agreement will, for any reason, be held to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect any other provision hereof, and the Parties will negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent.

10.14 Entire Agreement. The Parties agree that the Evaluation Agreement terminates as of the Effective Date. This Agreement together with any Non-Exclusive License agreements and the Joint Prosecution and Maintenance Agreement (including all appendices and exhibits hereto and thereto) entered into during the Term are the sole agreements with respect to their subject matter and supersede all other agreements and understandings between the Parties with respect to same, including the Evaluation Agreement and the Confidential Disclosure Agreement.

10.15 Force Majeure. Neither Acuitas nor Omega will be liable for failure of or delay in performing obligations set forth in this Agreement (other than any obligation to pay monies when due), and neither will be deemed in breach of such obligations, if such failure or delay is due to natural disasters or any causes reasonably beyond the control of such Party; *provided that* the Party affected will promptly notify the other of the force majeure condition and will exert reasonable efforts to eliminate, cure or overcome any such causes and to resume performance of its obligations as soon as possible. If such force majeure event affects Acuitas' ability to timely perform its obligations under the Workplan, then [\*\*\*].

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[Signature page to follow]

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**IN WITNESS WHEREOF**, the Parties have caused this Development and Option Agreement to be executed by their respective duly authorized officers as of the Effective Date.

**ACUITAS THERAPEUTICS, INC.**

By: /s/ Thomas Madden  
(Signature)

Name: Thomas Madden

Title: President & CEO

**OMEGA THERAPEUTICS, INC.**

By: /s/ Mahesh Karande  
(Signature)

Name: Mahesh Karande

Title: President & CEO

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**EXHIBIT 1.1**

**PATENTS IN THE ACUITAS BACKGROUND TECHNOLOGY**

[\*\*\*]

TBD = To Be Determined  
NP-filed = Non-provisional filed

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EXHIBIT 3.1(a)

**WORKPLAN**

[\*\*\*]



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EXHIBIT 3.1(f)

[\*\*\*]

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EXHIBIT 4.2

FORM OF TARGET NOTICE: HUMAN GENOME TARGET(S)

[\*\*\*]

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**FORM OF TARGET NOTICE: PROTEIN TARGET(S) (OMEGA CONTROLLER(S))**

[\*\*\*]

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EXHIBIT 5.2(b)

**FORM OF NON-EXCLUSIVE LICENSE AGREEMENT**

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NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN ACUITAS THERAPEUTICS, INC. AND OMEGA THERAPEUTICS, INC.  
MYC  
EXECUTION COPY

**NON-EXCLUSIVE LICENSE AGREEMENT**

**by and between**

**ACUITAS THERAPEUTICS, INC.**

**and**

**OMEGA THERAPEUTICS, INC.**

**dated**

**March 22, 2021**

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**List of Appendices**

Appendix 1.46	Lead Licensed Product
Appendix 1.51	Patents within the Licensed Technology as of the License Agreement Effective Date
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**NON-EXCLUSIVE LICENSE AGREEMENT**

**THIS NON-EXCLUSIVE LICENSE AGREEMENT** (“License Agreement”), dated as of March 22, 2021 (the “License Agreement Effective Date”), is made by and between Acuitas Therapeutics, Inc., a British Columbia corporation (“Acuitas”), and Omega Therapeutics, Inc., a Delaware corporation (“Omega”). Each of Acuitas and Omega may be referred to herein as a “Party” or together as the “Parties.”

**WHEREAS**, Acuitas has proprietary LNP Technology (as defined below);

**WHEREAS**, Omega has expertise and intellectual property relating to gene modulating therapeutics, including Genome Modulating Constructs that encode Omega Controllers (as such terms are defined below);

**WHEREAS**, Acuitas and Omega are parties to that certain Development and Option Agreement dated October 5, 2020 (the “Development and Option Agreement”), pursuant to which Omega has options to take licenses under the Licensed Technology (as defined below) with respect to Omega’s Genome Modulating Constructs; and

**WHEREAS**, pursuant to the terms of the Development and Option Agreement, Omega has exercised an option with respect to a Licensed Product (as defined below) and the Parties are now entering into a licensing arrangement whereby Omega will have a license under the Licensed Technology to develop and commercialize such Licensed Product.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the amount and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1**  
**Definitions**

The following terms and their correlatives will have the following meanings:

- 1.1 “Acuitas Indemnitees” has the meaning set forth in Section 9.6(a).
- 1.2 “Acuitas Patents” has the meaning set forth in Section 7.2(a)(i).
- 1.3 “Acuitas Background Technology” has the meaning set forth in the Development and Option Agreement.
- 1.4 “Acuitas LNP Technology” has the meaning set forth in the Development and Option Agreement.
- 1.5 “Acuitas Sole Technology” has the meaning set forth in the Development and Option Agreement.

1.6 “Affiliate” of a person or entity means any other person or entity which (directly or indirectly) is controlled by, controls or is under common control with such person or entity. For the purposes of this definition, the term “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) as used with respect to an entity will mean (a) in the case of a corporate entity, direct or indirect ownership of voting securities entitled to cast more than fifty percent (50%) of the

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votes in the election of directors, or (b) in the case of a non-corporate entity, direct or indirect ownership of more than fifty percent (50%) of the equity interests with the power to direct the management and policies of such entity; *provided that* if local Law restricts foreign ownership, control will be established by direct or indirect ownership of the maximum ownership percentage that may, under such local Law, be owned by foreign interests.

1.7 “Backup Licensed Product” means any product that (a) is directed to the same [\*\*\*] as the Lead Licensed Product, (b) includes (i) Omega Controller(s) [\*\*\*], and (ii) that results from [\*\*\*], and (c) incorporates or utilizes any LNP Technology that is Controlled by Acuitas or its Affiliates as of the License Agreement Effective Date or at any time during the Term.

1.8 “Backup Product Notice” has the meaning set forth in Section 3.1(a).

1.9 “Bridging Work” has the meaning set forth in Section 3.1(b).

1.10 “Business Day” means mean a day on which banking institutions in both Boston, Massachusetts, USA and Vancouver, British Columbia, Canada are open for business.

1.11 “Calendar Quarter” means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31; *provided*, that (a) the first Calendar Quarter of the Term will begin on the License Agreement Effective Date and end on the first to occur of March 31, June 30, September 30 or December 31 thereafter and the last Calendar Quarter of the Term will end on the last day of the Term, and (b) the first Calendar Quarter of a Royalty Term for a Licensed Product in a country will begin on the First Commercial Sale of such Licensed Product in such country and end on the first to occur of March 31, June 30, September 30 or December 31 thereafter and the last Calendar Quarter of a Royalty Term will end on the last day of such Royalty Term.

1.12 “cGMP” means current Good Manufacturing Practices as specified in Parts 210 and 211 of Title 21 of the U.S. C.F.R., ICH Guideline Q7A, or equivalent Laws of an applicable Regulatory Authority at the time of manufacture.

1.13 “CMO” has the meaning set forth in Section 2.3(a).

1.14 “Combination Product” means a product that includes at least one additional active ingredient other than a Licensed Product sold in conjunction with or used in combination with a Licensed Product (whether packaged together or packaged separately but sold together for a single price). Drug delivery vehicles and excipients will not be deemed to be “active ingredients,” except in the case where such delivery vehicle or excipient is recognized as an active ingredient in accordance with 21 C.F.R. 210.3(b)(7) or equivalent Laws in other jurisdictions; *provided, however*, that should the lipid nanoparticle components of a Licensed Product be characterized as “active ingredients” at any time during the Term, such lipid nanoparticles will not be considered an “active ingredient” for the purposes of this definition.

1.15 “Confidential Disclosure Agreement” means the Confidential Disclosure Agreement between the Parties dated December 17, 2019.

1.16 “Confidential Information” has the meaning set forth in Section 8.1.

1.17 “Control” or “Controlled” means, with respect to a particular Technology, Acuitas owns or has a license to use and practice such Technology and has the right to grant a license or sublicense to such Technology without violating the terms of any agreement with any Third-Party and without owing any milestone, royalty or other monetary obligations to a Third-Party under the terms of any agreement with such Third-Party.

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1.18 “Covered” and “Covering” means, with reference to a Licensed Product, that without the licenses granted to Omega hereunder, the manufacture, development or commercialization of such Licensed Product would infringe a Valid Claim of an LNP Technology Patent.

1.19 “Debar”, “Debarred” or “Debarment” means (a) being debarred, or being subject to a pending debarment, pursuant to section 306 of the FDCA, 21 U.S.C. § 335a, (b) being listed by any federal and/or state agencies, excluded, debarred, suspended or otherwise made ineligible to participate in federal or state healthcare programs or federal procurement or non-procurement programs (as that term is defined in 42 U.S.C. § 1320a-7b(f)), or being subject to any pending process by which any such listing, exclusion, debarment, suspension or other ineligibility could occur, (c) being disqualified by any government or regulatory agency from performing specific services, or being subject to a pending disqualification proceeding, or (d) being convicted of a criminal offense related to the provision of healthcare items or services or being subject to any pending criminal action related to the provision of healthcare items or services.

1.20 “Development and Option Agreement” has the meaning set forth in the Preamble.

1.21 “Diligent Efforts” means, with respect to the efforts to be expended by a Party, active and sustained efforts to conduct the applicable activity, or to attempt to achieve the applicable requirement or goal, in a prompt and expeditious manner, as is reasonably practicable under the circumstances and the terms of this License Agreement.

1.22 “Disclosing Party” has the meaning set forth in Section 8.1.

1.23 “Dollars” means United States dollars.

1.24 “Escrow Agent” means the Third-Party escrow agent designated by Acuitas and reasonably acceptable to Omega, which escrow agent will initially be [\*\*\*].

1.25 “Executive Officers” has the meaning set forth in Section 11.1(b).

1.26 “Evaluation Agreement” means the Technology Evaluation Agreement between the Parties effective as of March 11, 2020.

1.27 “Field of Use” means all human therapeutic or prophylactic uses.

1.28 “First Commercial Sale” means the first sale for use or consumption for which revenue has been recognized of any Licensed Product in a country after all required Marketing Authorization Approvals for commercial sale of such Licensed Product have been obtained in such country. A sale for compassionate or named patient use, test marketing or clinical trial purposes will not constitute a First Commercial Sale.

1.29 “FTE” means the work of a full-time person for one year, or more than one person working the equivalent of a full-time person for one year, where “full-time” is determined by the standard practices in the biopharmaceutical industry in the geographic area in which such personnel are working, but means 1840 hours per year, in the performance of the agreed activities for the Technology Transfer or Bridging Work, including scientific management oversight as reasonably required.

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1.30 “FTE Costs” mean the amount obtained by multiplying the number of actual FTEs employed by Acuitas in the conduct of the agreed activities for the Technology Transfer by an annual rate per FTE equal to [\*\*\*] Dollars (US\$[\*\*\*]), which [\*\*\*].

1.31 “GAAP” means generally accepted accounting principles in the United States.

1.32 “Genome Modulate” means to downregulate or upregulate the expression of a Human Genome Target(s) for human therapeutic or prophylactic applications.

1.33 “Genome Modulating Construct” means a construct consisting of one or more mRNA Constructs that encode [\*\*\*] Protein Targets that are Omega Controllers designed to Genome Modulate [\*\*\*] Human Genome Targets.

1.34 “Human Genome Target” means

(a) a naturally occurring human gene, including all coding, non-coding and regulatory regions thereof, as identified by the applicable transcript identifier (*i.e.*, NCBI Refseq transcript ID), gene identifier (*i.e.*, NCBI Refseq Gene ID), gene name and synonyms and nucleotide sequence coordinates, gene transcript and nucleotide sequence; or

(b) any naturally occurring non-coding region of the human genome including transcriptional regulatory elements, non-protein coding RNA and intergenic regions; or

(c) a gene encoded by any nucleotide sequence of a human pathogen residing in a human cell *in vivo*; or

(d) any gene that is not covered by subclause (a) or (b) above, together with any variants of such gene, including the wild type and naturally occurring mutant and allelic variants, *provided however that* any such variant (i) encodes a protein with substantially similar mechanism of action and biological activity to the protein product of the original (reference) gene and (ii) has a coding region with [\*\*\*] percent ([\*\*\*]%) sequence identity to the coding region of the original (reference) gene.

For clarity, a nucleotide sequence may be considered to encode a protein regardless of whether such sequence contains a start codon.

1.35 “Indemnification Claim Notice” has the meaning set forth in Section 9.6(c).

1.36 “Indemnified Party” has the meaning set forth in Section 9.6(c).

1.37 “Indemnifying Party” has the meaning set forth in Section 9.6(c).

1.38 “Initial Payment Date” has the meaning set forth in Section 4.1.

1.39 “Insolvency Legislation” has the meaning set forth in Section 10.4.

1.40 “Insulated Genomic Domain” means [\*\*\*].

1.41 “Joint IP” has the meaning set forth in the Development and Option Agreement.

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1.42 “Know-How” means all Materials and all confidential and proprietary commercial, technical, scientific and other know-how and information, trade secrets, knowledge, technology, methods, processes, practices, formulae, instructions, skills, techniques, procedures, experiences, ideas, technical assistance, designs, drawings, assembly procedures, computer programs, specifications, data and results (including biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, preclinical, clinical, safety, manufacturing and quality control data and know-how, and including study designs and protocols), in all cases, *provided that* such information is confidential and proprietary, and regardless of whether patentable, in written, electronic or any other form now known or hereafter developed.

1.43 “Know-How Royalties” has the meaning set forth in Section 4.3(a).

1.44 “Late Stage Development” means, with respect to a product, that first dosing under Phase 2 Studies has been initiated.

1.45 “Law” or “Laws” means all laws, statutes, rules, regulations, orders, judgments or ordinances having the effect of law of any federal, national, multinational, state, provincial, county, city or other political subdivision.

1.46 “Lead Licensed Product” means the product consisting of Protein Targets that are Omega Controllers and associated Human Genome Target(s) identified on Appendix 1.46 hereto, where such product is derived from, incorporates, or utilizes any LNP Technology that is Controlled by Acuitas or its Affiliates as of the License Agreement Effective Date or at any time during the Term. Upon replacement of the Lead Licensed Product with a Backup Licensed Product, the Backup Licensed Product will become the Lead Licensed Product hereunder. For the avoidance of doubt, any product consisting of Protein Targets that are Omega Controllers that have at least [\*\*\*] percent ([\*\*\*]%) amino acid sequence identity to the Protein Targets that are Omega Controllers identified on Appendix 1.46 (or to the Protein Targets that are Omega Controllers in any Backup Licensed Product that becomes the Lead Licensed Product) will also be a Lead Licensed Product if such product is derived from, incorporates, or utilizes any LNP Technology that is Controlled by Acuitas or its Affiliates as of the License Agreement Effective Date or at any time during the Term.

1.47 “License Agreement” has the meaning set forth in the Preamble.

1.48 “License Agreement Effective Date” has the meaning set forth in the Preamble.

1.49 “License Maintenance Fees” means the fees set forth in Section 4.1.

1.50 “Licensed Product” means, subject to Section 3.1, the Lead Licensed Product.

1.51 “Licensed Technology” means LNP Technology that is (a) Controlled by Acuitas or its Affiliates, (i) as of the License Agreement Effective Date or (ii) and generated or obtained by Acuitas or its Affiliates during the Term (including the Acuitas Background Technology, Acuitas Sole Technology, but excluding Acuitas’ interest in any Joint IP), and (b) necessary or useful for the research, development, manufacture, use, sale or other exploitation of a Licensed Product. Without limiting the generality of this definition, the Patents included in the Licensed Technology as of the License Agreement Effective Date are listed in Appendix 1.51 attached hereto.

1.52 “LNP” means lipid nanoparticles.

1.53 “LNP Technology” means any Technology that claims, embodies or incorporates delivery systems (and components thereof) based on or incorporating LNPs.

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1.54 “LNP Technology Patent(s)” means Patents included in the Licensed Technology, including any future Patent that becomes part of the Licensed Technology during the Term.

1.55 “Losses” has the meaning set forth in Section 9.6(a).

1.56 “Major Market Country” means [\*\*\*].

1.57 “Marketing Authorization Approval” means, with respect to a country or extra-national territory, any and all approvals (including a New Drug Application or Biologics License Application approved by the FDA), licenses, registrations or authorizations of any Regulatory Authority necessary in order to commercially distribute, sell or market a product in such country or some or all of such extra-national territory, including any pricing or reimbursement approvals.

1.58 “Materials” has the meaning set forth in the Development and Option Agreement.

1.59 “Milestone Event” has the meaning set forth in Section 4.2.

1.60 “Milestone Payment” has the meaning set forth in Section 4.2.

1.61 “Minimum Royalty” has the meaning set forth in Section 4.3(c).

1.62 “mRNA Construct” means any mRNA that encodes [\*\*\*] Protein Targets and any associated non-coding sequences, including any cap sequence, 5' UTR, 3'UTR, and any polyadenylation sequences. The term “mRNA Construct” also includes the chemistry of natural and non-natural nucleic acids, and other chemical modifications associated with such mRNA and associated non-coding sequences.

1.63 “Net Sales” means, with respect to any Licensed Product, [\*\*\*].

1.64 “Omega Controller(s)” means a Protein Target that has a DNA targeting domain and an effector domain and that is designed to Genome Modulate either (a) a single Human Genome Target or (b) multiple Human Genome Targets within a single Insulated Genomic Domain.

1.65 “Omega Sole Technology” has the meaning set forth in the Development and Option Agreement.

1.66 “Party” and “Parties” has the meaning set forth in the Preamble.

1.67 “Patent(s)” means an (a) issued patent, a patent application, and a future patent issued from any such patent application, (b) a future patent issued from a patent application filed in any country worldwide that claims priority from a patent or patent application included in (a), (c) any additions, divisions, continuations, continuations-in-part, invention certificates, substitutions, reissues, reexaminations, extensions, registrations, utility models, supplementary protection certificates and renewals based on any patent or patent application under (a) or (b), but not including any rights that give rise to regulatory exclusivity periods (other than supplementary protection certificates, which will be treated as “Patents” hereunder), and (d) any counterpart of any patent or patent application under (a), (b) or (c) filed in any country worldwide.

1.68 “Patent Costs” means the reasonable, documented, out-of-pocket costs and expenses paid to outside legal counsel, and filing and maintenance expenses, actually and reasonably incurred by a Party in prosecuting and maintaining Patents.

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1.69 “Patent Royalties” has the meaning set forth in Section 4.3(a).

1.70 “Phase 1 Study” means a human clinical trial of a Licensed Product in any country, the primary purpose of which is the determination of safety and which may include the determination of metabolism and pharmacologic actions of the Licensed Product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness, as more fully defined in 21 C.F.R. § 312.21(a) or its successor regulation, or the equivalent in any foreign country.

1.71 “Phase 2 Study” means a human clinical trial of a Licensed Product in any country, the primary purpose of which is to evaluate the effectiveness of the Licensed Product for a particular indication or indications in patients with the disease or condition under study and to determine the common short-term side effects and risks associated with the Licensed Product, as more fully defined in 21 C.F.R. § 312.21(b) or its successor regulation, or the equivalent in any foreign country.

1.72 “Phase 3 Study” means a human clinical trial of a Licensed Product in any country, the primary purpose of which is to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit-risk relationship of the Licensed Product and to provide an adequate basis for physician labeling, as more fully defined in 21 C.F.R. § 312.21(c) or its successor regulation, or the equivalent in any foreign country.

1.73 “Protein Target” means either

(a) any naturally occurring protein encoded by a specific gene locus, as identified by the applicable transcript identifier (*i.e.*, NCBI Refseq transcript ID), gene identifier (*i.e.*, NCBI Refseq Gene ID), gene name and synonyms and DNA sequence coordinates and the applicable amino acid sequence, together with all variants of such protein, including the wild type, naturally occurring variants, engineered variants wherein modifications to the native amino acid sequence have been introduced (for example, mutated versions, derivatives or fragments), and species homologs and orthologs thereof, *provided however that* any such naturally occurring variant, engineered variant, or species homolog or ortholog possesses substantially similar mechanism of action and biological activity to the naturally occurring human protein (for example immunogenicity in case of antigens); or

(b) any protein that is not covered by subclause (a) above (together with any variants, mutated versions, derivatives or fragments of such protein, *provided that* any such variant, mutated version, derivative or fragment possesses substantially similar mechanism of action and biological activity as such protein and has greater than [\*\*\*] percent ([\*\*\*]%) sequence identity to the reference amino acid sequence provided by Omega to the Escrow Agent).

1.74 “Receiving Party” has the meaning set forth in Section 8.1.

1.75 “Regulatory Authority” means any national (*e.g.*, the United States Food and Drug Administration (“FDA”)), supra-national (*e.g.*, the European Medicines Agency), regional, state or local regulatory agency, department, bureau, commission, council or other governmental authority, in any jurisdiction in the world, involved in the granting of Marketing Authorization Approval.

1.76 “Regulatory Exclusivity” means with respect to any country or other jurisdiction in the Territory, an additional market protection, other than Patent protection, granted by a Regulatory Authority in such country or other jurisdiction which confers an exclusive commercialization period during which Omega or its Affiliates or Sublicensees have the exclusive right to market and sell a Licensed Product in such country or other jurisdiction through a regulatory exclusivity right (*e.g.*, new chemical entity exclusivity, new use or indication exclusivity, new formulation exclusivity, orphan drug exclusivity, pediatric exclusivity, or any applicable data exclusivity).

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- 1.77 “Royalties” has the meaning set forth in Section 4.3(a).
- 1.78 “Royalty Term” has the meaning set forth in Section 4.3(d).
- 1.79 “Solely Owned Technology” has the meaning set forth in Article 5.
- 1.80 “Sublicensee” means any Third-Party that is granted a sublicense as permitted by Section 2.2, either directly by Omega or its Affiliates or indirectly by any other Sublicensee hereunder.
- 1.81 “Technology” means collectively Patents and Know-How.
- 1.82 “Technology Transfer” has the meaning set forth in Section 2.3(a).
- 1.83 “Technology Transfer Plan” has the meaning set forth in Section 2.3(a).
- 1.84 “Term” has the meaning set forth in Section 10.1.
- 1.85 “Territory” means worldwide.
- 1.86 “Third-Party” means any person or entity other than Omega, Acuitas and their respective Affiliates.
- 1.87 “Third-Party Claims” has the meaning set forth in Section 9.6(a).
- 1.88 “Third-Party Payments” has the meaning set forth in Section 4.3(b).
- 1.89 “Transferred Technology” has the meaning set forth in Section 2.3(a).
- 1.90 “Valid Claim” means a claim of (a) an issued patent included in the Licensed Technology which has not expired or been abandoned and which has not been disclaimed, canceled, revoked or held invalid or unenforceable by a court or administrative agency of competent jurisdiction from which no further appeal is possible and that is not admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or (b) a pending patent application included in the Licensed Technology which claim is being actively prosecuted and which has not been (i) canceled, (ii) withdrawn from consideration, (iii) finally determined to be unallowable by the applicable governmental authority (and from which no appeal is or can be taken), (iv) abandoned, or (v) pending for more than five (5) years from the date of filing of such patent application.
- 1.91 “Omega Indemnitees” has the meaning set forth in Section 9.6(b).
- 1.92 “Workplan Data” has the meaning set forth in the Development and Option Agreement.



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**ARTICLE 2**  
**License Grant; Technology Transfer**

**2.1 License by Acuitas.**

(a) **License.** Subject to the terms and conditions of this License Agreement, Acuitas hereby grants to Omega a non-exclusive license, with the right to sublicense only as permitted by Section 2.2(b), under the Licensed Technology, to research, develop, have developed, make, have made, keep, use and have used, sell, offer for sale, have sold, import and have imported, export and have exported and otherwise commercialize and exploit Licensed Products in the Field of Use in the Territory.

(b) **License Limitations.** No licenses or other rights are granted by Acuitas hereunder to use any trademark, trade name, trade dress or service mark owned or otherwise Controlled by Acuitas or any of its Affiliates. All licenses and other rights are or will be granted only as expressly provided in this License Agreement, and no other licenses or other rights are or will be created or granted by either Party hereunder by implication, estoppel or otherwise.

**2.2 Sublicensing Rights.**

(a) **Transfer.** The license granted in Section 2.1 is transferable only upon a permitted assignment of this License Agreement in accordance with Section 11.11.

(b) **Omega Sublicenses.** The license granted in Section 2.1 may be sublicensed (with the right to sublicense through multiple tiers), in full or in part, by Omega, its Affiliates or Sublicensees to Omega's Affiliates and Third-Parties, *provided*, that for any sublicense to Third-Parties:

(i) Each sublicense will be in writing and on terms consistent with and subject to the terms of this License Agreement;

(ii) Omega will provide Acuitas with a copy of any sublicense agreement with a Sublicensee that includes commercialization rights within [\*\*\*] ([\*\*\*)] days of execution thereof, which sublicense agreement may be redacted as necessary to protect commercially sensitive information and will be treated as Omega's Confidential Information hereunder;

(iii) Omega will be responsible for any and all obligations of such Sublicensee as if such Sublicensee were Omega hereunder; and

(iv) Any sublicense granted by Omega to any rights licensed to it hereunder will terminate immediately upon the termination of the license from Acuitas to Omega and its Affiliates with respect to such rights; *provided*, that such sublicensed rights will not terminate if, as of the effective date of such termination pursuant to Sections 10.2, 10.3(a) or 10.4, a Sublicensee is not in material default of its obligations under its sublicense agreement, and within [\*\*\*] ([\*\*\*)] days of such termination, the Sublicensee agrees in writing to be bound directly to Acuitas under a license agreement substantially similar to this License Agreement with respect to the rights sublicensed hereunder, substituting such Sublicensee for Omega.

(c) **Subcontractors.** For clarity purposes, Omega is entitled to engage contract research organizations, contract manufacturing organizations and other service providers for the development and manufacture of Licensed Products on behalf of Omega. To the extent such contract organizations and service providers require a license to perform such subcontracted activities under applicable Laws, Omega is entitled to grant a limited research or manufacturing sublicense (as applicable) without an obligation to meet the conditions of Section 2.2(b)(ii) and 2.2(b)(iv).

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2.3 Technology Transfer.

(a) Technology Transfer. After the License Agreement Effective Date and promptly upon written request by Omega (and in any event within [\*\*\*] ([\*\*\*)] days following designation of the applicable CMO (as defined below), *provided* such CMO is able to support this timeline), Acuitas will conduct a single full transfer of the then-current formulation process, raw materials supply and analytical characterization for the manufacture of Licensed Product and related Know-How (the "Transferred Technology"), to a single cGMP contract manufacturing organization ("CMO") designated by Omega and [\*\*\*] (the "Technology Transfer") pursuant to a mutually agreed plan (the "Technology Transfer Plan"). Acuitas will provide reasonable assistance to enable such CMO to manufacture such Licensed Product. Initiation of such technology transfer will be determined by Omega and will be for the then current formulation of Licensed Product. [\*\*\*]. For clarity, the then-current formulation of Licensed Product will mean a single LNP formulation previously tested by Omega in accordance with the Workplan (as defined in the Development and Option Agreement). [\*\*\*].

(b) Activities. Acuitas will in particular:

(i) transfer to the CMO all documents relating to Licensed Technology necessary or useful for the manufacture of Licensed Products, including documents relating to the Transferred Technology, and that are owned or Controlled by Acuitas;

(ii) allow Omega to monitor the progress of the transfer and to confirm whether the transfer has been successfully completed;

(iii) provide training to the CMO by fully qualified and experienced employees or contractors of Acuitas in respect of the manufacture of Licensed Products. Unless otherwise agreed, the training will be provided at the CMO's site. For purposes of the training, Acuitas will make available at least two (2) experienced and competent Acuitas FTEs, the specific qualification of the Acuitas FTEs and the details of the training to be further described in the Technology Transfer Plan; and

(iv) provide ongoing technical support in relation to the Transferred Technology to the CMO, as reasonably requested by Omega from time to time.

(c) Diligence. Acuitas will perform the Technology Transfer in a professional manner and in accordance with the Technology Transfer Plan and use Diligent Efforts to meet the objectives and timelines set forth therein. Acuitas will ensure that the CMO is trained and empowered to perform the manufacturing. It is understood that successful Technology Transfer cannot be guaranteed and Acuitas will not be found not to have used Diligent Efforts based on the failure by the CMO to achieve any particular result, unless Acuitas contributed to or caused such failure.

(d) Intellectual Property. Any intellectual property generated during the Technology Transfer will be included in Acuitas Sole Technology, Omega Sole Technology or Joint IP, as the case may be, as set forth in the Development and Option Agreement, and will be subject to Sections 6.2, 6.3, 6.4, 6.5, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7 of the Development and Option Agreement, as such provisions may be further subject to the provisions of this License Agreement.

(e) Payment. Omega will reimburse Acuitas on [\*\*\*] for (i) FTE Costs based on the number of hours worked by Acuitas' FTEs, and (ii) any reasonable external costs approved by Omega in advance that are incurred by Acuitas, in each case in the performance of the agreed technology transfer activities for the Technology Transfer. Upon request by Omega, Acuitas will also submit an estimate of such costs to Omega within [\*\*\*] ([\*\*\*)] days after the end of such Calendar Quarter. Acuitas will send a reasonably detailed invoice to Omega no later than [\*\*\*] ([\*\*\*)] days after the end of each Calendar

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Quarter, which invoice will include a summary of all activities by the name of each individual, number of hours devoted by each such individual, and the type/activity performed by each such individual during such Calendar Quarter, and a detailed summary and reasonable documentation of all external costs incurred by Acuitas during such Calendar Quarter. Omega agrees to pay undisputed amounts in each such invoice within [\*\*\*] ([\*\*\*)] days of Omega's receipt thereof.

**ARTICLE 3**  
**Backup Licensed Products**

**3.1 Backup Licensed Products.**

(a) **Lead Licensed Product Replacement.** Omega will promptly notify the Escrow Agent in writing if, at any time during the Term prior to [\*\*\*] of the Lead Licensed Product, Omega desires to replace the Lead Licensed Product with a Backup Licensed Product ("**Backup Product Notice**"). Such Backup Product Notice will identify the proposed Target (as such term is defined in the Development and Option Agreement) to which the Backup Licensed Product is directed in accordance with Section 4.2 of the Development and Option Agreement, and Section 4.2(a)-(d) and Section 4.3 of the Development and Option Agreement are incorporated herein by reference and apply as if the Backup Product Notice were a Target Notice (as such term is defined in the Development and Option Agreement). Effective upon issuance by the Escrow Agent of a Target Acceptance Notice confirming that there are no Pre-Existing Restrictions (as such terms are defined in the Development and Option Agreement) with respect to the requested Targets, all references to Licensed Product in this License Agreement will no longer refer to the then-current Lead Licensed Product but will instead mean the replacement Backup Licensed Product identified in such notice in lieu of such former Lead Licensed Product, Appendix 1.46 will be updated accordingly and Omega's license and other rights with regard to the former Lead Licensed Product will automatically terminate. The provisions of this Section 3.1 will apply to up to [\*\*\*] ([\*\*\*)] instances of Backup Licensed Product replacement.

(b) **Bridging Work.** Upon written request of Omega Acuitas will (i) provide such assistance as Omega may reasonably require in order for Omega to conduct bridging studies for the LNP formulation of Licensed Product and (ii) if necessary, consult with Omega and its CMO regarding modifications of the then-current formulation process, raw materials supply and analytical characterization for the manufacture of Licensed Product (collectively, "**Bridging Work**"). Any Materials provided for, or generated in, the Bridging Work will be subject to the provisions of the Development and Option Agreement applicable to Materials provided for or generated under such agreement, as such provisions may be further subject to the provisions of this License Agreement.

(c) **Intellectual Property.** Any intellectual property generated during the Bridging Work conducted by Acuitas will be included in Acuitas Sole Technology, Omega Sole Technology or Joint IP, as the case may be, as set forth in the Development and Option Agreement, and will be subject to Sections 6.2, 6.3, 6.4, 6.5, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7 of the Development and Option Agreement, as such provisions may be further subject to the provisions of this License Agreement.

(d) **Payment.** Omega will reimburse Acuitas for (i) FTE Costs based on the number of hours worked by Acuitas' FTEs, and (ii) any reasonable external costs approved by Omega in advance that are incurred by Acuitas, in each case in the performance of the Bridging Work. Acuitas will send a reasonably detailed invoice to Omega no later than [\*\*\*] ([\*\*\*)] days after the end of the Calendar Quarter in which such work was performed, which invoice will include a summary of all activities by the name of each individual, number of hours devoted by each such individual, and the type/activity performed by each such individual during such Calendar Quarter, and a detailed summary and reasonable documentation of

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all external costs incurred by Acuitas during such Calendar Quarter. Upon request by Omega Acuitas will also submit an estimate of such costs to Omega within [\*\*\*] ([\*\*\*)] days after the end of such Calendar Quarter. Omega agrees to pay undisputed amounts in each such invoice within [forty-five] ([45]) days of Omega’s receipt thereof. [\*\*\*].

**ARTICLE 4**  
**Payments and Royalties**

4.1 License Maintenance Fees. A License Maintenance Fee of [\*\*\*] Dollars (US\$[\*\*\*)] will be payable on (a) [\*\*\*] (“Initial Payment Date”) and (b) each [\*\*\*] thereafter until such time as the Milestone Payment for [\*\*\*] is paid. [\*\*\*].

4.2 Milestone Payments. Omega will make milestone payments (each, a “Milestone Payment”) to Acuitas upon the first occurrence of each of the milestone events (each, a “Milestone Event”) by Omega or its Affiliates with respect to a Licensed Product as set forth below in Table 4.2. Omega will notify Acuitas of the achievement of each Milestone Event within [\*\*\*] ([\*\*\*)] Business Days of such achievement. Each Milestone Payment will be payable to Acuitas by Omega within [\*\*\*] ([\*\*\*)] days of the achievement of the specified Milestone Event and such payments when owed or paid will be non-creditable. If one or more of the Milestone Events set forth below are not achieved with respect to a Licensed Product for any reason, the payment for such skipped Milestone Event will be due at the same time as the payment for the next achieved Milestone Event for a Licensed Product. For clarity, Milestone Payments are payable for the Lead Licensed Product and for each Backup Licensed Product to achieve such Milestone Event and are not creditable in the event Omega elects to replace a Lead Licensed Product in accordance with Section 3.1(a). Each Milestone Payment is payable a maximum of one (1) time only per Licensed Product.

**Table 4.2– Milestone Events**

Milestone Event	Milestone Payment
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

4.3 Royalties.

(a) Royalties. During the Royalty Term, Omega will pay to Acuitas a royalty equal to [\*\*\*] percent ([\*\*\*)% of Net Sales of all Licensed Products sold by Omega, its Affiliates, or Sublicensees in a country which, but for the license granted to Omega hereunder, the manufacture or sale of such Licensed Product would infringe a Valid Claim of an LNP Technology Patent in such country (“Patent Royalties”). If, at any time during the Royalty Term, the manufacture or sale of a Licensed Product in a particular country would not infringe a Valid Claim of an LNP Technology Patent, then the Royalty rate used to calculate royalty payments on Net Sales of such Licensed Product in such country will be the Minimum Royalty (“Know-How Royalties”, and together with the Patent Royalties, the “Royalties”).

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(b) Third-Party Payments. If Omega or its Affiliate or Sublicensee considers it necessary or useful to acquire or obtain a license from any Third-Party under or to Technology relating to LNP Technology in order to develop, manufacture or commercialize a Licensed Product, the amount of Omega's Royalty obligations under Section 4.3(a) will be reduced by [\*\*\*] percent ([\*\*\*]%) of the amount of the payments made to such Third-Party in respect of such Technology ("Third-Party Payments"); *provided, however*, that such reduction will not result in less than the Minimum Royalty.

(c) Minimum Royalty. In no event will the Royalty reductions under subparagraph (a) or (b) above result in a Royalty payable by Omega to Acuitas for any Licensed Product that is less than the Royalty payable using a royalty rate of [\*\*\*] percent ([\*\*\*]%) (the "Minimum Royalty").

(d) Royalty Term. The Royalty term ("Royalty Term") will be determined on a country-by-country and Licensed Product-by-Licensed Product basis and will commence on the First Commercial Sale of a Licensed Product in such country and will expire on the last to occur of (i) the expiration of the last to expire Valid Claim in the Licensed Technology that Covers the Licensed Product in such country, (ii) the expiration of any period of Regulatory Exclusivity, if any, for the Licensed Product in such country and (iii) ten (10) years from the First Commercial Sale of Licensed Product in such country. Thereafter, Omega's license under Section 2.1 will become irrevocable, fully paid-up and royalty-free on a country-by-country and Licensed Product-by-Licensed Product basis.

(e) Blended Royalty. The Parties acknowledge and agree that the Licensed Technology licensed under this License Agreement may justify Royalty rates or Royalty Terms of differing amounts for the sale of Licensed Products in the Territory, depending on the number of LNP Technology Patents and their respective expiry. The Parties have determined in light of such considerations and for reasons of mutual convenience that blended Royalty rates for the Licensed Technology licensed hereunder will apply during a single Royalty Term for sales of a Licensed Product in the Territory. Consequently, the Parties have agreed to adopt the Royalty rates set forth in this Section 4.3 with respect to the sales of Licensed Products in the Territory as blended Royalty rates. For the avoidance of doubt, Omega's obligation to pay Royalties under this Section 4.3 is imposed only once at the applicable Royalty rate set forth in this Section 4.3 with respect to the same unit of Licensed Product, notwithstanding that such Licensed Product may be Covered by more than one Valid Claim of an LNP Technology Patent.

#### 4.4 Payment Terms.

(a) Manner of Payment; Invoices. All amounts specified in this License Agreement are in U.S. dollars and all payments to be made by Omega hereunder will be made in U.S. dollars by wire transfer to such bank account as Acuitas may designate in advance in writing. All invoices to be delivered to Omega hereunder will be delivered in accordance with Section 11.12 or in such other manner specified by Omega from time to time.

(b) Records and Audits. Omega will keep, and will cause each of its Affiliates and Sublicensees, as applicable, to keep adequate books and records of accounting for the purpose of calculating all Royalties payable to Acuitas hereunder. For the [\*\*\*] ([\*\*\*]) years next following the end of the calendar year to which each will pertain, such books and records of accounting of Omega (including those of Omega's Affiliates) will be kept at each of their principal places of business and will be open for inspection at reasonable times and upon reasonable notice by an independent certified accountant selected by Acuitas, and which is reasonably acceptable to Omega, for the sole purpose of inspecting the Royalties

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due to Acuitas under this License Agreement. In no event will such inspections be conducted hereunder more frequently than [\*\*\*] or more than once for the same time period. Such accountant must have executed and delivered to Omega and its Affiliates a confidentiality agreement as reasonably requested by Omega, which will include provisions limiting such accountant's disclosure to Acuitas to only the results and basis for such results of such inspection. The results of such inspection, if any, will be binding on both Parties absent manifest error. Any underpayments will be paid by Omega within [\*\*\*] ([\*\*\*)] days of notification of the results of such inspection. Any overpayments will be fully creditable against amounts payable in subsequent payment periods, or, upon the request of Omega, paid by Acuitas to Omega within [\*\*\*] ([\*\*\*)] days of notification of the results of such inspection. Acuitas will pay for such inspections, [\*\*\*].

(c) Reports and Royalty Payments. For as long as Royalties are due under Section 4.3, Omega will furnish to Acuitas a written report [\*\*\*], showing the amount of Net Sales of Licensed Products and Royalties due for such [\*\*\*]. Reports will be provided within [\*\*\*] ([\*\*\*)] days of the end of [\*\*\*] for Net Sales generated by Omega and its Affiliates, and within [\*\*\*] ([\*\*\*)] days of [\*\*\*] for Net Sales generated by Sublicensees. Royalty payments for each [\*\*\*] will be due at the same time as the last such written report [\*\*\*]. The report will include, at a minimum, the following information [\*\*\*]. Omega will require each Sublicensee to share with Omega the information listed in the foregoing clauses as it relates to Net Sales made by such Sublicensee, and to the extent practicable, will include such Sublicensee information in such report. All such reports will be treated as Confidential Information of Omega.

(d) Currency Exchange. With respect to Net Sales invoiced in U.S. dollars, the Net Sales and the amounts due to Acuitas hereunder will be expressed in U.S. dollars. With respect to Net Sales invoiced in a currency other than U.S. dollars, payments will be calculated based on standard methodologies employed by Omega or its Affiliates or Sublicensees for consolidation purposes [\*\*\*] for which remittance is made for Royalties.

(e) Taxes. Omega may withhold from payments due to Acuitas amounts for payment of any withholding tax that is required by Law to be paid to any taxing authority with respect to such payments. Omega will provide Acuitas all relevant documents and correspondence and will also provide to Acuitas any other cooperation or assistance on a reasonable basis including proper evidence as to the payment of any such tax, as may be necessary to enable Acuitas to claim exemption from such withholding taxes and to receive a refund of such withholding tax or claim a foreign tax credit. The Parties will cooperate with each other in seeking deductions under any double taxation or other similar treaty or agreement from time to time in force. Such cooperation may include Omega making payments from a single source in the U.S., where reasonably possible. Apart from any such permitted withholding and those deductions expressly included in the definition of Net Sales, the amounts payable by Omega to Acuitas hereunder will not be reduced on account of any taxes, charges, duties or other levies.

(f) Blocked Payments. In the event that, by reason of applicable Law in any country, it becomes impossible or illegal for Omega or its Affiliates or Sublicensees to transfer, or have transferred on its behalf, payments owed to Acuitas hereunder, Omega will promptly notify Acuitas of the conditions preventing such transfer and such payments will be deposited in local currency in the relevant country to the credit of Acuitas in a recognized banking institution designated by Acuitas or, if none is designated by Acuitas within a period of [\*\*\*] ([\*\*\*)] days, in a recognized banking institution selected by Omega or its Affiliate or Sublicensee, as the case may be, and identified in a written notice given to Acuitas.

(g) Interest Due. If any payment due to Acuitas under this License Agreement is overdue (and is not subject to a good faith dispute), then Omega will pay interest thereon (before and after any judgment) at an annual rate of the lesser of [\*\*\*], and [\*\*\*], such interest to run from the date upon which payment of such sum became due until payment thereof in full together with such interest.

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(h) Mutual Convenience of the Parties. The Royalty and other payment obligations set forth hereunder have been agreed to by the Parties for the purpose of reflecting and advancing their mutual convenience, including the ease of calculating and paying Royalties and other amounts to Acuitas.

**ARTICLE 5**  
**Ownership and Inventorship of IP**

As between the Parties, and except as set forth in Section 2.3(d) or 3.1(b) each Party will own and retain all right, title and interest in and to any and all Know-How and Patents arising therefrom that are discovered, created, conceived, developed or reduced to practice solely by or on behalf of such Party under or in connection with this License Agreement ("Solely Owned Technology"). Subject to the licenses hereunder and the other terms and conditions of this License Agreement or any other agreement between the Parties, each Party will be solely responsible for the prosecution and maintenance, and the enforcement and defense, of any Patents within its Solely Owned Technology.

**ARTICLE 6**  
**Patent Prosecution and Maintenance**

6.1 LNP Technology Patents.

(a) Prosecution and Maintenance. As between the Parties and subject to Section 6.1(b) below, Acuitas will have the sole right, at its sole cost, to prosecute and maintain LNP Technology Patents.

(b) Election Not to Prosecute or Maintain or Pay Patent Costs. If Acuitas elects not (i) to file, prosecute or maintain any LNP Technology Patents for which it is responsible under Section 6.1 in any particular country before the applicable filing deadline or continue such activities once filed in a particular country, or (ii) to pay the Patent Costs associated with prosecution or maintenance of any such LNP Technology Patents, then in each such case Acuitas will so notify Omega, promptly in writing and in good time to enable Acuitas to meet any deadlines by which an action must be taken to preserve such LNP Technology Patent in such country, if Omega so requests. Upon receipt of each such notice by Acuitas, Omega will have the right, but not the obligation, to notify Acuitas in writing on a timely basis that Acuitas should continue the prosecution or maintenance of such LNP Technology Patent in the respective country, and thereafter, (x) Acuitas would prosecute and maintain such LNP Technology Patent in such country at the direction and expense of Omega and any other Acuitas Third-Party licensee of such LNP Technology Patent so electing (on a pro rata basis), (y) Acuitas would make available to Omega all documentation and correspondence with respect to such LNP Technology Patent, and (z) Omega's license to such LNP Technology Patent under Section 2.1 will automatically become irrevocable, perpetual, fully paid-up and royalty free but such LNP Technology Patent will thereafter no longer be part of the Licensed Technology in such country for all other purposes of this License Agreement (e.g., such LNP Technology Patent will not be considered for purposes of determining whether a Valid Claim exists in a particular country). Omega is entitled to discontinue the payment of Patent Costs for any LNP Technology Patents at any time, *provided* that it will so notify Acuitas in writing in time for such discontinuance.

6.2 Regulatory Exclusivity Periods. With respect to any Patent term extension, supplemental protection certificate or any other Patent listing or extension with respect to any LNP Technology Patent Covering a Licensed Product, the Parties will discuss and seek to reach mutual agreement, subject to applicable Law, on whether and which LNP Technology will be subject to such action, and once such agreement is reached, Acuitas will cooperate with such action. Except where required under applicable Law, without the written consent of Omega, Acuitas will not apply for, and is not authorized under this License Agreement to apply for, any Patent term extension, supplemental protection certificate or any other

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Patent listing or extension required for any regulatory exclusivity periods for any Licensed Product. For the avoidance of doubt, Acuitas is not restricted from applying for any Patent term extension, supplemental protection certificate or any other Patent listing or extension required for any regulatory exclusivity periods for any product but the Licensed Products and the Backup Licensed Products.

6.3 Patent Listings. Omega will have the sole right, in its sole discretion, to make all filings with Regulatory Authorities in the Territory for the Licensed Products in the FDA's Orange Book or Purple Book or in response to a biosimilar application under Section 351(k) of the Public Health Service Act, and under any similar or equivalent Laws in other countries or jurisdictions.

6.4 Cooperation. Each Party will reasonably cooperate with the other Party in those activities involving the LNP Technology Patents set forth in Sections 6.1 to 6.3. Such cooperation includes promptly executing all documents, or requiring inventors, subcontractors, employees and consultants and agents of Omega and Acuitas and their respective Affiliates and Sublicensees to execute all documents, as reasonable and appropriate so as to enable such activities in respect of any such LNP Technology Patents in any country.

**ARTICLE 7**  
**Patent Enforcement and Defense**

7.1 Notice. To the extent not in breach of an obligation of confidentiality, each Party will promptly notify, in writing, the other Party upon learning of any actual or suspected infringement of any LNP Technology Patents by a Third-Party, or of any claim of invalidity, unenforceability, or non-infringement of any LNP Technology Patents and will, along with such notice, supply the other Party with any evidence in its possession pertaining thereto.

7.2 Enforcement and Defense.

(a) Enforcement.

(i) As between the Parties, Acuitas will have the first right, but not the obligation, at its sole cost to seek to abate any infringement of the LNP Technology Patents (the "Acuitas Patents") by a Third-Party, or to file suit against any such Third-Party for such infringement. If Acuitas elects not to exercise its first right to take action or to bring suit to prosecute such infringement or to continue such action or suit, it will notify Omega in writing of such election within [\*\*\*] ([\*\*\*)] days after becoming aware of or receipt of the notice of the infringement or within [\*\*\*] ([\*\*\*)] days after the election to stop any such action or suit, as applicable. If after the expiration of the [\*\*\*] ([\*\*\*)] day period (or, if earlier, the date upon which Acuitas provides written notice that it does not plan to bring such action), Acuitas has neither obtained a discontinuance of infringement nor filed suit against any such Third-Party infringer of such Patent, or in the case of an election by Acuitas not to continue to prosecute an infringement of an Acuitas Patent, Omega will have the right, but not the obligation, to take action or bring suit against such Third-Party infringer of Acuitas Patents to the extent the Acuitas Patents are necessary or useful for the research, development, manufacturing and commercialization of Licensed Product but not necessary or useful for the research, development, manufacturing or commercialization of any other LNP comprising product covered by such Acuitas Patent that is licensed or optioned by Acuitas to a Third-Party or is under Late Stage Development by Acuitas, *provided that* Omega will bear all of the expense of such abatement action or suit.



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(b) Defense.

(i) As between the Parties, Acuitas will have the first right, but not the obligation, at its sole cost, to defend against a declaratory judgment action or other action to the extent challenging the validity or enforceability of any Acuitas Patent. Omega will have the right but not the obligation, at its sole cost, to defend against any other declaratory judgment action or other action challenging any Acuitas Patent that, on the date of first notice of such action, are not necessary or useful for the research, development, manufacturing and commercialization of any lipid nanoparticle comprising product that is licensed or optioned by Acuitas to a Third-Party or is under Late Stage Development by Acuitas. If Acuitas does not take steps to defend within a commercially reasonable time, or elects not to continue any such defense (in which case it will promptly provide notice thereof to Omega), then Omega will have the right, but not the obligation, to defend any Acuitas Patents that cover a Licensed Product and no other product licensed or optioned by Acuitas to a Third-Party or commercialized by Acuitas, [\*\*\*].

(ii) In the event that any action, suit or proceeding is brought against either Party or an Affiliate of either Party, or a Sublicensee of Omega or its Affiliates, alleging the infringement of the Patents or Know-How of a Third-Party by the research, development, manufacture, use, sale, import, export, commercialization or exploitation of a Licensed Product, such Party will promptly notify the other Party within [\*\*\*] ([\*\*\*) Business Days of the earlier of (x) receipt of service of process in such action, suit or proceeding, or (y) the date such Party becomes aware that such action, suit or proceeding has been instituted. Except as set forth in Section 7.2(b)(i) above of this License Agreement, Omega will have the right, but not the obligation, to defend such action, suit or proceeding in the Territory at its sole cost. For clarity, Omega will have the sole right to defend any Patents owned or controlled by Omega other than the LNP Technology Patents.

(c) Response to Infringement Claims. Notwithstanding the foregoing, any response to a Third-Party infringer's counterclaim of invalidity or unenforceability of any LNP Technology Patents will be controlled by the Party who controls the relevant enforcement proceeding pursuant to Section 7.2(a) unless otherwise mutually agreed by the Parties.

(d) Withdrawal, Cooperation and Participation. With respect to any infringement or defensive action identified above in this Section 7.2 which may be controlled by either Omega or Acuitas:

(i) The non-controlling Party will cooperate with the Party controlling any such action (as may be reasonably requested by the controlling Party), including by (A) providing access to relevant documents and other evidence, (B) making its and its Affiliates and Sublicensees and all of their respective employees, subcontractors, consultants and agents available at reasonable business hours and for reasonable periods of time, but only to the extent relevant to such action, and (C) if necessary, being joined as a party, subject for this clause (C) to the controlling Party agreeing to indemnify such non-controlling Party for its involvement as a named party in such action and paying those Losses incurred by such Party in connection with such joinder, but subject in all respects to the indemnification obligations of the Parties pursuant to Section 8.6 of the Development and Option Agreement and Section 9.6 of this License Agreement. The Party controlling any such action will keep the other Party updated with respect to any such action, including providing copies of all documents received or filed in connection with any such action.

(ii) Each Party will have the right to participate or otherwise be involved in any such action controlled by the other Party, in each case at the participating (*i.e.*, non-controlling) Party's sole cost and expense. If a Party elects to so participate or be involved, the controlling Party will provide the participating Party and its counsel with an opportunity to consult with the controlling Party and its counsel regarding the prosecution of such action (including reviewing the contents of any correspondence, legal papers or other documents related thereto), and the controlling Party will take into account reasonable requests of the participating Party regarding such enforcement or defense. The foregoing will not apply to any defensive actions described in Section 7.2(b)(ii) that do not involve claims specifically relating to an LNP Technology Patent.

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(e) Settlement. Neither Party will settle or consent to an adverse judgment in any action described in this Section 7.2 and controlled by such Party, including any judgment which affects the scope, validity or enforcement of any LNP Technology Patents involved therewith, without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); *provided*, that the foregoing will not apply to the extent that such settlement or consent to an adverse judgment does not relate to an LNP Technology Patent.

(f) Damages. Unless otherwise agreed by the Parties, all monies recovered upon the final judgment or settlement of any action which may be controlled by either Omega or Acuitas and described in Section 7.2(a) or 7.2(b) in each case will be used first to reimburse the controlling Party, and thereafter the non-controlling Party, for each of their out-of-pocket costs and expenses relating to the action, with the balance of any such recovery to be divided as follows: [\*\*\*].

**ARTICLE 8**  
**Confidentiality**

8.1 Confidential Information. Each Party (“Disclosing Party”) may disclose to the other Party (“Receiving Party”) and Receiving Party may acquire during the course and conduct of activities under this License Agreement, certain non-public confidential information of Disclosing Party in connection with this License Agreement. The term “Confidential Information” means all information of any kind, whether in written, oral, graphical, machine-readable or other form, whether or not marked as confidential or proprietary, that is disclosed or made available by or on behalf of the Disclosing Party to or on behalf of the Receiving Party in connection with this License Agreement. For the avoidance of doubt, except as otherwise set forth in this License Agreement, Confidential Information (as such term is defined in the Development and Option Agreement) relating to Licensed Product (or any Backup Licensed Product) that is disclosed or made available by or on behalf of the Disclosing Party to the Receiving Party in connection with or under the Development and Option Agreement, the Evaluation Agreement or the Confidential Disclosure Agreement remains subject to the confidentiality and non-use provisions of the Development and Option Agreement. Notwithstanding Section 3.3(b) or any other provision of the Development and Option Agreement to the contrary, Omega may use and disclose Workplan Data with respect to Licensed Product in the performance of its obligations and exercise of its rights under this License Agreement, including in connection with the development, manufacture and commercialization of Licensed Product. For the avoidance of doubt, the identity of potential Target to which a Backup Licensed Product is directed and the information contained in any Backup Product Notice submitted by Omega to the Escrow Agent, including any Omega Controller sequence information and the Human Genome Target(s) any such Omega Controller is designed to Genome Modulate, are the Confidential Information of Omega.

8.2 Restrictions. During the Term and for [\*\*\*] ([\*\*\*)] years thereafter, or with respect to any trade secret included in the Confidential Information for so long as such trade secret is protected under applicable Laws (*provided*, that Receiving Party has not publicly disclosed such trade secret in breach of its obligations under this Article 8), Receiving Party will keep all Disclosing Party’s Confidential Information in confidence with the same degree of care with which Receiving Party holds its own confidential information, but in no event less than reasonable care. Receiving Party will not use Disclosing Party’s Confidential Information except for in connection with the performance of its obligations and exercise of its rights under this License Agreement. Receiving Party has the right to disclose Disclosing Party’s Confidential Information without Disclosing Party’s prior written consent to Receiving Party’s

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Affiliates, and each of their employees, subcontractors, consultants and agents who have a need to know such Confidential Information in order to perform (or for such entities to determine their interest in performing) Receiving Party's obligations or in the exercise of the Receiving Party's rights under this License Agreement and who are under written obligation to comply with the restrictions on use and disclosure that are no less restrictive than those set forth in this Article 8. Receiving Party assumes responsibility for such entities and persons maintaining Disclosing Party's Confidential Information in confidence and using same only for the purposes described herein.

8.3 Exceptions. Receiving Party's obligation of nondisclosure and the limitations upon the right to use the Disclosing Party's Confidential Information will not apply to a specific portion of the Disclosing Party's Confidential Information to the extent that Receiving Party can demonstrate that such portion: (a) was known to Receiving Party or any of its Affiliates prior to the time of disclosure by the Disclosing Party without obligation of confidentiality; (b) is or becomes public knowledge through no fault or omission of Receiving Party or any of its Affiliates; (c) is obtained on a non-confidential basis by Receiving Party or any of its Affiliates from a Third-Party who to Receiving Party's knowledge is lawfully in possession thereof and under no obligation of confidentiality to Disclosing Party; or (d) has been independently developed by or on behalf of Receiving Party or any of its Affiliates without the aid, application or use of Disclosing Party's Confidential Information.

8.4 Permitted Disclosures. Subject to Section 8.3, Receiving Party may disclose Disclosing Party's Confidential Information to the extent (and only to the extent) such disclosure is permitted under Section 8.2 or is reasonably necessary in the following instances:

(a) in order and to the extent required to comply with applicable Laws (including any securities Laws or regulations or the rules of a securities exchange applicable to Receiving Party) or with a legal or administrative proceeding or as required by a court or administrative order;

(b) in connection with prosecuting or defending litigation, including responding to a subpoena in a Third-Party litigation;

(c) in connection with filing, prosecuting and enforcing LNP Technology Patents in connection with Receiving Party's rights and obligations pursuant to this License Agreement;

(d) to actual and potential acquirers, assignees, investment bankers, investors, lenders and other financing sources, and to consultants and advisors of the Receiving Party; and

(e) in the case of Omega, to (i) subcontractors, (ii) licensees, Sublicensees, assignees and collaboration partners, or (iii) potential licensees, Sublicensees, assignees or collaboration partners, but in case (iii) only such information that is reasonably necessary or useful for the potential licensee, Sublicensee, assignee or collaboration partner to evaluate Licensed Product, Backup Licensed Products and LNP/Licensed Product manufacturing processes, including the particular chemical structure and formulation of any lipid nanoparticles incorporated in such products.

Where reasonably possible, Receiving Party will notify Disclosing Party of Receiving Party's intent to make any disclosure pursuant to subsections (a) or (b) above sufficiently prior to making such disclosure so as to allow Disclosing Party adequate time to take whatever action it may deem appropriate to protect the confidentiality of the information to be disclosed. Moreover, with respect to subsections (d) or (e) above, each of those entities will be required to comply with the restrictions on use and disclosure in Section 8.2 (other than investment bankers, investors, lenders, and other financing sources which must be bound prior to disclosure by commercially reasonable obligations of confidentiality). Confidential Information that is

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required to be disclosed pursuant to subsections (a) or (b) above will remain otherwise subject to the confidentiality and non-use provisions of Section 8.1 and Section 8.2. If either Party concludes that a copy of this License Agreement must be filed with the United States Securities and Exchange Commission or similar regulatory agency in a country other than the United States, at least [\*\*\*] ([\*\*\*)] days in advance of any such filing such Party will provide the other Party with a copy of this License Agreement showing any provisions hereof as to which the Party proposes to request confidential treatment, will provide the other Party with a reasonable opportunity to comment on any such proposed redactions and to suggest additional redactions, and will take such Party's reasonable and timely comments into consideration before so filing this License Agreement.

8.5 Return of Confidential Information. Upon expiry or earlier termination of this License Agreement, upon written request of a Party (such request, if made, to be made within [\*\*\*] ([\*\*\*)] months of such expiry or termination) the other Party will destroy or return (as will be specified in such request) to the requesting Party all copies of the Confidential Information of the requesting Party; *provided*, that a Party may retain: (a) one copy of such Confidential Information for record-keeping purposes, for the sole purpose of ensuring compliance with this License Agreement; (b) any copies of such Confidential Information as is required to be retained under applicable Laws; (c) any copies of such Confidential Information as is necessary or useful for such Party to exercise a right or fulfill an obligation under another License Agreement, if any, or as set forth in this License Agreement; and (d) any copies of any computer records and files containing Confidential Information that have been created by such Party's routine archiving/backup procedures, in each case *provided that* such copies are maintained in accordance with this Article 8.

8.6 Publications. Notwithstanding anything in this License Agreement or the Development and Option Agreement to the contrary, Omega is permitted to publish the results of its development and other activities under this License Agreement, *provided, however*, that Omega will not disclose Confidential Information of Acuitas. Omega will deliver to Acuitas a copy of any proposed written publication or presentation of such results that contains the Confidential Information of Acuitas at least [\*\*\*] ([\*\*\*)] days prior to submission for publication or presentation. Acuitas will have the right to (i) remove Acuitas' Confidential Information, (ii) propose modifications to the publication or presentation for patent reasons, trade secret reasons or business reasons, which proposals Omega will consider in good faith, and (iii) request a reasonable delay in publication or presentation in order to protect patentable information in accordance with Article 6. Following the expiration of the applicable time period for review, Omega will be free to submit for publication or otherwise disclose to the public such results, subject to the procedures set forth in the remainder of this Section 8.6. If Acuitas provides written notice to Omega requesting a delay pursuant to clause (iii) in this Section 8.6, Omega will delay such submission or presentation for a period of an additional [\*\*\*] ([\*\*\*)] days to enable Acuitas to file patent applications on the disclosed subject matter. Omega will thereafter be free to publish or disclose such information, except that Omega may not disclose any Confidential Information of Acuitas. Expedited reviews for abstracts or poster presentations, or for other publications that may relate to potential patent applications, in each case that contain Confidential Information of Acuitas, may be mutually agreed by the Parties. Omega will comply with standard academic practice regarding authorship of scientific publications and recognition of the contributions of other parties in any scientific publications.

8.7 Terms of this License Agreement; Publicity. The Parties agree that the existence and terms of the Parties' relationship and this License Agreement will be treated as Confidential Information of both Parties, and thus may be disclosed only as permitted by Sections 8.2, 8.3 or 8.4. Except as required by applicable Laws (including any securities Laws or the regulations or rules of a securities exchange) or otherwise agreed by the Parties in writing, each Party agrees not to issue any press release or public statement disclosing information relating to the existence of this License Agreement or the transactions contemplated hereby or the terms hereof without the prior written consent of the other Party.

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**ARTICLE 9**

**Warranties; Limitations of Liability; Indemnification**

9.1 Representations and Warranties. Each Party represents and warrants to the other as of the License Agreement Effective Date that:

(a) it is a corporation duly organized, validly existing, and in good standing under the Laws of the jurisdiction in which it is incorporated,

(b) it has the legal right and power to enter into this License Agreement, to extend the rights and licenses granted or to be granted to the other in this License Agreement, and to fully perform its obligations hereunder,

(c) it has taken all necessary corporate action on its part required to authorize the execution and delivery of this License Agreement and the performance of its obligations hereunder,

(d) this License Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, and binding obligation of such Party that is enforceable against it in accordance with its terms, limited by applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting the enforcement of creditors' rights generally and as may be limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies,

(e) the execution, delivery and performance of this License Agreement by such Party does not violate any Law of any court, governmental body or administrative or other agency having jurisdiction over such Party,

(f) no government authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any applicable Laws currently in effect, is necessary for the transactions contemplated by this License Agreement or for the performance of its obligations under this License Agreement, and

(g) during the Term, that its Affiliates, its and their employees, and their consultants and agents have executed agreements or have existing obligations under Law requiring assignment to such Party of all intellectual property and proprietary rights made during the course of and as the result of their activities in connection with this License Agreement, and obligating such individuals to maintain as confidential the Confidential Information of a Disclosing Party under the Development and Option Agreement or this License Agreement, and of any Third-Party which such Party may receive.

9.2 Additional Representations of Acuitas. [\*\*\*], Acuitas hereby represents and warrants to Omega as of the License Agreement Effective Date as follows:

(a) Impairment. Neither Acuitas nor any of its Affiliates has entered into any agreement or otherwise licensed, granted, assigned, transferred, conveyed or otherwise encumbered or disposed of any right, title or interest in or to any of its assets, including any Technology, that would in any way conflict with or impair the scope of any rights or licenses granted to Omega hereunder.

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(b) Patents and Know-How. Appendix 1.51 sets forth a complete and accurate list of all LNP Technology Patents. Acuitas is the sole and exclusive owner of the Licensed Technology, or otherwise has the right to license the Licensed Technology and grant rights to Omega as set forth in this License Agreement on the License Agreement Effective Date and during the Term. All Acuitas inventors of the Licensed Technology have validly assigned their rights to the Licensed Technology to Acuitas. Acuitas is and will remain entitled to grant to Omega the licenses and rights specified or contemplated by this License Agreement, to the Patents and the Know-How within the Licensed Technology. To Acuitas' knowledge, the LNP Technology Patents have been diligently prosecuted and maintained in accordance with applicable Laws. None of the LNP Technology Patents are or have been involved in any opposition, cancellation, interference, reissue or reexamination proceeding, and to Acuitas' knowledge as of the License Agreement Effective Date, no Licensed Technology is the subject of any judicial, administrative or arbitral order, award, decree, injunction, lawsuit, proceeding or stipulation. As of the License Agreement Effective Date, neither Acuitas nor any of its Affiliates has received any notice alleging that the LNP Technology Patents are invalid or unenforceable or challenging Acuitas' ownership of or right to use the Licensed Technology.

(c) Entire LNP Technology. The Acuitas LNP Technology licensed to Omega under this License Agreement comprises all LNP Technology owned or Controlled by Acuitas. [\*\*\*].

(d) Encumbrances. Acuitas and its Affiliates are not subject to any payment obligations to Third-Parties as a result of the execution or performance of this License Agreement. As of the License Agreement Effective Date, neither Acuitas nor any of its Affiliates has granted any liens or security interests on the Licensed Technology, and the Licensed Technology is free and clear of any mortgage, pledge, claim, security interest, covenant, easement, encumbrance, lien or charge of any kind.

(e) Defaults. The execution, delivery and performance by Acuitas of this License Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, conflict with, result in a breach of or constitute a default under any understanding, contract or agreement to which Acuitas is a party or by which it is bound, in each case as would reasonably be expected to have a material adverse effect on the rights granted to Omega hereunder.

(f) Litigation. There is no action, suit, proceeding or investigation pending or, to the knowledge of Acuitas, currently threatened in writing against or affecting Acuitas that questions the validity of this License Agreement, the right of Acuitas to enter into this License Agreement or consummate the transactions contemplated hereby or that relates to the Licensed Technology.

(g) Infringement. Neither Acuitas nor any of its Affiliates has received any notice of any claim, nor does Acuitas or its Affiliates have any knowledge of any reasonable basis for any claim, that any Patent, Know-How or other intellectual property owned or controlled by a Third-Party would be infringed or misappropriated by the practice of any Licensed Technology in connection with the production, use, research, development, manufacture or commercialization of any Licensed Product.

(h) Third-Party Infringement. To Acuitas' knowledge, no Third-Party is infringing or has infringed any Patent within the Licensed Technology or is misappropriating or has misappropriated any Know-How within the Licensed Technology.

(i) No Debarment. Neither Acuitas nor any of its Affiliates, nor its or their respective employees, have been Debarred or are subject to Debarment.

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9.3 Disclaimers. Without limiting the respective rights and obligations of the Parties expressly set forth herein, each Party specifically disclaims any guarantee that any Licensed Product will be successful, in whole or in part. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS LICENSE AGREEMENT, THE PARTIES MAKE NO REPRESENTATIONS AND EXTEND NO WARRANTY OF ANY KIND UNDER THIS LICENSE AGREEMENT, EITHER EXPRESS OR IMPLIED.

9.4 No Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS LICENSE AGREEMENT OR OTHERWISE, NEITHER PARTY WILL BE LIABLE TO THE OTHER OR ANY THIRD-PARTY WITH RESPECT TO ANY SUBJECT MATTER OF THIS LICENSE AGREEMENT FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; *PROVIDED THAT THIS SECTION 9.4 WILL NOT APPLY TO BREACHES OF A PARTY'S OBLIGATIONS UNDER ARTICLE 8 OR THE PARTIES' INDEMNIFICATION RIGHTS AND OBLIGATIONS UNDER SECTION 9.6.*

9.5 Performance by Others. The Parties recognize that each Party may perform some or all of its obligations under this License Agreement through Affiliates and Third-Party agents; *provided, however*, that each Party will remain responsible and liable for the performance by its Affiliates and Third-Party agents and will cause its Affiliates and Third-Party agents to comply with the applicable provisions of this License Agreement in connection therewith.

9.6 Indemnification.

(a) Indemnification by Omega. Omega will indemnify Acuitas, its Affiliates and their respective directors, officers, employees and agents, and their respective successors, heirs and assigns (collectively, "Acuitas Indemnitees"), and defend and hold each of them harmless, from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) (collectively, "Losses") in connection with any and all suits, investigations, claims or demands of Third-Parties (collectively, "Third-Party Claims") against the Acuitas Indemnitees to the extent arising from or occurring as a result of: (i) the breach by Omega of any provision of this License Agreement; (ii) any negligence or willful misconduct on the part of any Omega Indemnitee in connection with this License Agreement; or (iii) the development or commercialization by or on behalf of Omega or any of its Affiliates or Sublicensees of Licensed Products other than if related to any infringement of Third-Party Patents by the LNP composition (for clarity the lipid composition excludes the combination of the LNP with a nucleic acid) or lipid components of Licensed Products, except in each case (i)-(iii) to the extent Acuitas is obligated to indemnify Omega in accordance with Section 9.6(b) of this License Agreement or Section 8.6(a) of the Development and Option Agreement.

(b) Indemnification by Acuitas. Acuitas will indemnify Omega, its Affiliates, its Sublicensees and their respective directors, officers, employees and agents, and their respective successors, heirs and assigns (collectively, "Omega Indemnitees"), and defend and hold each of them harmless, from and against any and all Losses in connection with any and all Third-Party Claims against Omega Indemnitees to the extent arising from or occurring as a result of: (i) the breach by Acuitas of any provision of this License Agreement; or (ii) any negligence or willful misconduct on the part of any Acuitas Indemnitee in connection with this License Agreement, except in each case (i)-(ii) to the extent Omega is obligated to indemnify Acuitas in accordance with Section 9.6(a) of this License Agreement.

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(c) Notice of Claim. All indemnification claims provided for in Sections 9.6(a) and 9.6(b) will be made solely by such Party to this License Agreement (the “Indemnified Party”). The Indemnified Party will promptly notify the Indemnifying Party (the “Indemnifying Party”) in writing of any Losses or the discovery of any fact upon which the Indemnified Party intends to base a request for indemnification under Section 9.6(a) and 9.6(b) (each such notice, an “Indemnification Claim Notice”), *provided that* the failure to promptly provide such notice and details will not relieve the Indemnifying Party of any of its indemnification obligations hereunder except to the extent that the Indemnifying Party’s defense of the relevant Third-Party Claim is prejudiced by such failure. Each Indemnification Claim Notice must contain a description of the claim and the nature and estimated amount of such Loss (to the extent that the nature and amount of such Loss is known at such time). The Indemnified Party will furnish promptly to the Indemnifying Party copies of all papers and official documents received in respect of any Losses and Third-Party Claims.

(d) Defense, Settlement, Cooperation and Expenses.

(i) Control of Defense. At its option, the Indemnifying Party may assume the defense of any Third-Party Claim by giving written notice to the Indemnified Party within [\*\*\*] ([\*\*\*)] days after the Indemnifying Party’s receipt of an Indemnification Claim Notice. Upon assuming the defense of a Third-Party Claim, the Indemnifying Party may appoint as lead counsel in the defense of the Third-Party Claim any legal counsel selected by the Indemnifying Party (the Indemnifying Party will consult with the Indemnified Party with respect to such counsel and a possible conflict of interest of such counsel retained by the Indemnifying Party). In the event the Indemnifying Party assumes the defense of a Third-Party Claim, the Indemnified Party will immediately deliver to the Indemnifying Party all original notices and documents (including court papers) received by the Indemnified Party in connection with the Third-Party Claim.

(ii) Right to Participate in Defense. Without limiting Section 9.6(d)(i), any Indemnified Party will be entitled to participate in, but not control, the defense of such Third-Party Claim and to employ counsel of its choice for such purpose; *provided, however*, that such employment will be at the Indemnified Party’s own cost and expense unless (A) the Indemnifying Party has failed to assume the defense and employ counsel in accordance with Section 9.6(d)(i) (in which case the Indemnified Party will control the defense), or (B) the Indemnified Party has received a written opinion of counsel, reasonably acceptable to the Indemnifying Party, to the effect that the interests of the Indemnified Party and the Indemnifying Party with respect to such Third-Party Claim are sufficiently adverse to prohibit the representation by the same counsel of both Parties under applicable Law, ethical rules or equitable principles, [\*\*\*].

(iii) Settlement. With respect to any Third-Party Claims that relate solely to the payment of money damages in connection with a Third-Party Claim and that will not (A) result in the Indemnified Party’s becoming subject to injunctive or other relief, (B) include any admission or concession of liability or wrongdoing on the part of the Indemnified Party, or (C) otherwise adversely affect the business of the Indemnified Party in any manner, and as to which the Indemnifying Party will have acknowledged in writing the obligation to indemnify the Indemnified Party hereunder, the Indemnifying Party will have the sole right to agree to the entry of any judgment, enter into any settlement or otherwise dispose of such Loss, on such terms as the Indemnifying Party, in its sole discretion, will deem appropriate. With respect to all other Losses in connection with Third-Party Claims, where the Indemnifying Party has assumed the defense of the Third-Party Claim in accordance with Section 9.6(d)(i), the Indemnifying Party will have authority to consent to the entry of any judgment, enter into any settlement or otherwise dispose of such Loss, *provided* it obtains the prior written consent of the Indemnified Party (which consent will not be unreasonably withheld, delayed or conditioned). Where the Indemnifying Party has assumed the defense of the Third-Party Claim in accordance with Section 9.6(d)(i), the Indemnifying Party will not be liable for any settlement or other disposition of a Loss by an Indemnified Party that is reached without the prior written consent of the Indemnifying Party. Regardless of whether the Indemnifying Party chooses to defend or prosecute any Third-Party Claim, no Indemnified Party will admit any liability with respect to or settle, compromise or discharge, any Third-Party Claim without the prior written consent of the Indemnifying Party, such consent not to be unreasonably withheld, delayed or conditioned.



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(iv) Cooperation. Regardless of whether the Indemnifying Party chooses to defend or prosecute any Third-Party Claim, the Indemnified Party will cooperate in the defense or prosecution thereof and will furnish such records, information and testimony, provide such witnesses and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested in connection therewith, at the Indemnifying Party's expense. Such cooperation will include access during normal business hours afforded to the Indemnifying Party to, and reasonable retention by the Indemnified Party of, records and information that are reasonably relevant to such Third-Party Claim, and making Indemnified Parties and other employees and agents available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder, and the Indemnifying Party will reimburse the Indemnified Party for all its reasonable out-of-pocket costs and expenses in connection therewith.

(v) [\*\*\*].

9.7 Insurance. Each Party will maintain at its sole cost and expense, an adequate liability insurance or self-insurance program (including product liability insurance) to protect against potential liabilities and risk arising out of activities to be performed under this License Agreement, including personal injury, physical injury or property damage arising out of the manufacture, sale, use, distribution or marketing of Licensed Products, and upon such terms (including coverages, deductible limits and self-insured retentions) as are customary in the respective industry of such Party for the activities to be conducted by such Party under this License Agreement. The coverage limits set forth herein will not create any limitation on a Party's liability to the other under this License Agreement. Upon the request of a Party, the other Party will provide evidence of the insurance coverage required by this Section 9.7.

**ARTICLE 10**  
**Term and Termination**

10.1 Term. This License Agreement will commence as of the License Agreement Effective Date and, unless sooner terminated in accordance with the terms hereof or by mutual written consent of the Parties, will continue on a Licensed Product-by-Licensed Product and a country-by-country basis, until there are no more Royalty payments owed to Acuitas in such country with respect to such Licensed Product (the longest such period of time hereunder, the "Term"). Upon expiration of the applicable Royalty Term with respect to the applicable Licensed Product in the applicable country, the license contained in Section 2.1 will become fully paid-up, royalty-free, perpetual and irrevocable with respect to such Licensed Product in such country.

10.2 Termination by Acuitas.

(a) Breach. Acuitas will have the right to terminate this License Agreement in full upon delivery of written notice to Omega in the event of a material breach by Omega of its representations, warranties or obligations under this License Agreement, *provided that* such breach has not been cured within [\*\*\*] ([\*\*\*)] days after written notice thereof is given by Acuitas to Omega specifying the nature of the alleged breach.

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(b) Disputed Breach. If Omega disputes in good faith the existence or materiality of a breach specified in a notice provided in accordance with Section 10.2(a), and Omega provides Acuitas notice of such dispute within such [\*\*\*] ([\*\*\*)] day period, then Acuitas will not have the right to terminate this License Agreement under Section 10.2(a) unless and until it is finally determined, in accordance with Section 11.1, that Omega has materially breached this License Agreement and Omega has failed to cure such breach within [\*\*\*] ([\*\*\*)] days following such decision. It is understood and agreed that during the pendency of such dispute, all of the terms and conditions of this License Agreement will remain in effect and the Parties will continue to perform all of their respective obligations hereunder. During the pendency of any such dispute, Omega will pay to Acuitas all Milestone Payments and Royalty payments set forth herein that may become due during such period.

10.3 Termination by Omega.

(a) Breach. Omega will have the right to terminate this License Agreement in full upon delivery of written notice to Acuitas in the event of a material breach by Acuitas of its representations, warranties or obligations under this License Agreement, *provided that* such breach has not been cured within [\*\*\*] ([\*\*\*)] days after written notice thereof is given by Omega to Acuitas specifying the nature of the alleged breach.

(b) Discretionary Termination. Omega will have the right to terminate this License Agreement in full at its discretion for any or no reason by delivering written notice to Acuitas, such termination to be effective [\*\*\*] ([\*\*\*)] days following the date of such notice.

(c) Alternative to Termination Under Section 10.3(a).

(i) If Omega has the right to terminate this License Agreement under Section 10.3(a), then Omega may, in lieu of exercising such termination right, elect by written notice to Acuitas before the end of such applicable cure period to have this License Agreement continue in full force and effect for the Term, *provided that* the following will apply: starting immediately after the end of such applicable cure period, Omega may reduce by [\*\*\*] percent ([\*\*\*)] the Milestone Payments and the Royalty rates.

(ii) In the event Acuitas notifies Omega within [\*\*\*] ([\*\*\*)] days of receipt of Omega's notice of material breach that Acuitas reasonably and in good faith disputes Omega's right to terminate this License Agreement pursuant to Section 10.3(a), Omega will instead deposit such [\*\*\*] percent ([\*\*\*)] of Milestone Payments and Royalty payments into an escrow account maintained by a mutually agreeable Third-Party pending the resolution of such dispute in accordance with Section 11.1. If Acuitas raises such dispute, the informal dispute resolution process in Section 11.1(a) will not apply, and the negotiation period for the Executive Officers in Section 11.1(a) will be limited to [\*\*\*] ([\*\*\*)] days.

(iii) In the event that it is established through the dispute resolution process that Omega did have the right to terminate this License Agreement under Section 10.3(a), then the escrowed funds will be released to Omega and the [\*\*\*] percent ([\*\*\*)] reduction will continue to apply going forward. In the event that it is established through the dispute resolution process that Omega did not have the right to terminate this License Agreement under Section 10.3(a), then the escrowed funds will be released to Omega and Omega will pay to Acuitas the full amount of the Milestone Payments and Royalties that would have been payable with interest payable by Omega in accordance with Section 4.4(g), and the Milestone Payments and the Royalty payments going forward will continue to be paid in accordance with Article 4 without any reduction under this Section 10.3(c) subject to the Minimum Royalty.

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**10.4 Termination Upon Bankruptcy.** If either Party makes an assignment for the benefit of creditors, appoints or suffers appointment of a receiver or trustee over all or substantially all of its property, files a petition or commences a proceeding under any bankruptcy or insolvency act in any state or country or has any such petition or application filed against it which is not discharged within [\*\*\*] ([\*\*\*)] days of the filing thereof, then the other Party may thereafter terminate this License Agreement effective immediately upon written notice to such Party. All rights and licenses granted under or pursuant to this License Agreement by Acuitas are, and will otherwise be deemed to be, for purposes of the relevant provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (“BIA”), including Sections 65.11(7), 65.13(9), 72.1 and 246.1 of the BIA; and the relevant provisions of the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (“CCAA”), including Sections 32(6) and 36(8) of the CCAA (the BIA and CCAA being referred to collectively as the “Insolvency Legislation”), a grant of a “right to use” “intellectual property” as used in the Insolvency Legislation. The Parties agree that Omega and its Affiliates and Sublicensees, as licensees of such rights under this License Agreement, will retain and may fully exercise all of their rights and elections under the Insolvency Legislation subject to the payment of amounts provided for herein. Without limiting Omega’s rights under the Insolvency Legislation, if Acuitas becomes insolvent or makes an assignment for the benefit of its creditors or there is filed by or against Acuitas any bankruptcy, receivership, reorganization or similar proceeding pursuant to or under the Insolvency Legislation or otherwise, Omega will be entitled to a copy of any and all such intellectual property and all embodiments of such intellectual property, and the same, if not already in the possession of Acuitas, will be promptly delivered to Omega (a) if requested by Omega, before this License Agreement is rejected, disclaimed, repudiated, rescinded or terminated by or on behalf of Acuitas, within [\*\*\*] ([\*\*\*)] days after Omega’s written request, unless Acuitas, or its trustee or receiver, elects within [\*\*\*] ([\*\*\*)] days to continue to perform all of its obligations under this License Agreement, or (b) forthwith, if requested by Omega after any rejection, disclaimer, repudiation, rescission or termination of this License Agreement by or on behalf of Acuitas, if not previously delivered as provided under clause (a) above. All rights of the Parties under this Section 10.4 and the relevant intellectual property provisions of the Insolvency Legislation are in addition to and not in substitution of any and all other rights, powers, and remedies that each Party may have under this License Agreement, the Insolvency Legislation, and any other applicable Laws.

**10.5 Effects of Termination.** Upon termination (but not expiration of the Term pursuant to Section 10.1) of this License Agreement for any reason:

(a) **Cessation of Rights.** Except as otherwise expressly provided herein, all rights and licenses granted by Acuitas to Omega in Section 2.1 will terminate.

(b) **Sell Off.** Notwithstanding the termination of Omega’s licenses and other rights under this License Agreement, Omega will retain the right to distribute, sell or otherwise dispose of its existing inventory of the Licensed Products, in each case that is intended for distribution, sale or disposition in the Territory, for a period of [\*\*\*] following the date of the effective termination, as though this License Agreement had not been terminated, and such distribution, sale or other disposition will not constitute infringement of the Patents or other intellectual property or proprietary rights of Acuitas or its Affiliates. Omega’s right to distribute, sell or otherwise dispose of its existing inventory of the Licensed Products pursuant to this Section 10.5(b) will be subject to Omega’s continuing obligation to pay Royalties with respect to the Net Sales.

**10.6 Survival.** In addition to the termination consequences set forth in Section 10.5, the following provisions will survive termination or expiration of this License Agreement, as well as any other provision that by its terms or by the context thereof, is intended to survive such termination: Article 1 (to the extent applicable to any other surviving provisions), Article 5, Article 8 and Article 11, and Sections 2.2(b)(iv) (only upon the circumstances set forth therein), 2.3(d), 3.1(c), 4.4(b), 4.4(d), 6.2, 6.4, 9.3, 9.4, 9.5, 9.6, the last sentence of Section 10.1 (only upon expiration of the Term), 10.4, 10.5 and this Section 10.6. Termination or expiration of this License Agreement will not relieve the Parties of any liability or obligation which accrued hereunder prior to the effective date of such termination or expiration nor preclude either Party from pursuing all rights and remedies it may have hereunder or at Law or in equity with respect to any breach of this License Agreement nor prejudice either Party’s right to obtain performance of any obligation. All other rights and obligations will terminate upon termination or expiration of this License Agreement.

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**ARTICLE 11**  
**General Provisions**

11.1 Dispute Resolution.

(a) Disputes. Disputes arising under or in connection with this License Agreement will be resolved pursuant to this Section 11.1; *provided, however,* that in the event a dispute cannot be resolved without an adjudication of the rights or obligations of a Third-Party (other than any Omega Indemnitees or Acuitas Indemnitees identified in Section 9.6), the dispute procedures set forth Sections 11.1(b) and 11.1(c) will be inapplicable as to such dispute.

(b) Dispute Escalation. In the event of a dispute between the Parties, the Parties will first attempt in good faith to resolve such dispute by negotiation and consultation between themselves. In the event that such dispute is not resolved on an informal basis within [\*\*\*] ([\*\*\*)] days, any Party may, by written notice to the other, have such dispute referred to each Party's Chief Executive Officer (or his or her designee who will be a senior executive) ("Executive Officers"), who will attempt in good faith to resolve such dispute by negotiation and consultation for a [\*\*\*] ([\*\*\*)] day period following receipt of such written notice.

(c) Dispute Resolution. In the event the Executive Officers of the Parties are not able to resolve such dispute as set forth above, the Executive Officers will together elect whether to submit the dispute to mediation, litigation or arbitration. In the absence of such an agreement, either Party may elect to initiate litigation.

(d) Injunctive Relief. Notwithstanding the dispute resolution procedures set forth in this Section 11.1, in the event of an actual or threatened breach hereunder, the aggrieved Party may seek equitable relief (including restraining orders, specific performance or other injunctive relief) in any court or other forum, without first submitting to any dispute resolution procedures hereunder.

(e) Tolling. The Parties agree that all applicable statutes of limitation and time-based defenses (such as estoppel and laches) will be tolled while the dispute resolution procedures set forth in this Section 11.1 are pending, and the Parties will cooperate in taking all actions reasonably necessary to achieve such a result.

(f) Prevailing Party. The prevailing Party in any suit related to this License Agreement will be entitled to recover from the losing Party [\*\*\*].

11.2 Cumulative Remedies and Irreparable Harm. All rights and remedies of the Parties hereunder will be cumulative and in addition to all other rights and remedies provided hereunder or available by agreement, at Law or otherwise. Each Party acknowledges and agrees that breach of any of the terms or conditions of this License Agreement may cause irreparable harm and damage to the other and that such damage may not be ascertainable in money damages and that as a result thereof the non-breaching Party may be entitled to seek from a court equitable or injunctive relief restraining any breach or future violation of the terms contained herein by the breaching Party. Such right to equitable relief is in addition to whatever remedies either Party may be entitled to as a matter of Law or equity, including money damages.

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11.3 Relationship of Parties. Nothing in this License Agreement is intended or will be deemed to constitute a partnership, agency, employer-employee or joint venture relationship between the Parties. No Party will incur any debts or make any commitments for the other, except to the extent, if at all, specifically provided therein. There are no express or implied Third-Party beneficiaries hereunder (except for Omega Indemnitees and Acuitas Indemnitees for purposes of Section 9.6, and Omega's Sublicensees for purposes of Section 2.2(b)(iv)). For clarity, Omega does not grant to Acuitas any rights or licenses under this License Agreement to any Omega Technology, Omega's interest in Joint IP, or any other intellectual property rights of Omega.

11.4 Compliance with Law. Each Party will perform or cause to be performed any and all of its obligations or the exercise of any and all of its rights hereunder in good scientific manner and in compliance with all applicable Law.

11.5 Governing Law. This License Agreement will be governed by and construed in accordance with the Laws of the State of New York, United States of America, without respect to any of its conflicts of laws principles to the contrary, *provided that* any dispute relating to the scope, validity, enforceability or infringement of any Patents or Know-How will be governed by, and construed and enforced in accordance with, the substantive Laws of the jurisdiction in which such Patents or Know-How apply.

11.6 Counterparts; Facsimiles. This License Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will be deemed to be one and the same instrument. Facsimile or PDF execution and delivery of this License Agreement by either Party will constitute a legal, valid and binding execution and delivery of this License Agreement by such Party.

11.7 Headings. All headings in this License Agreement are for convenience only and will not affect the meaning of any provision hereof.

11.8 Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this License Agreement. Accordingly, the rule of construction that any ambiguity in this License Agreement will be construed against the drafting Party will not apply.

11.9 Interpretation. Whenever any provision of this License Agreement uses the term "including" (or "includes"), such term will be deemed to mean "including without limitation" (or "includes without limitation"). "Herein," "hereby," "hereunder," "hereof" and other equivalent words refer to this License Agreement as an entirety and not solely to the particular portion of this License Agreement in which any such word is used. In this License Agreement, the word "or" means "and/or". All definitions set forth herein will be deemed applicable whether the words defined are used herein in the singular or the plural. Unless otherwise provided, all references to Sections and Appendices in this License Agreement are to Sections and Appendices of this License Agreement. References to any Sections include Sections and subsections that are part of the related Section.

11.10 Binding Effect. This License Agreement will inure to the benefit of and be binding upon the Parties, their Affiliates, and their respective lawful successors and assigns.

11.11 Assignment. This License Agreement may not be assigned by Acuitas, nor may Acuitas delegate its obligations or otherwise transfer licenses or other rights created by this License Agreement, except as expressly permitted hereunder or otherwise without the prior written consent of Omega, which consent will not be unreasonably withheld, conditioned or delayed; *provided that* Acuitas may assign this

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License Agreement without such consent to an Affiliate or to its successor in connection with the sale of all or substantially all of its assets or business or that portion of its business pertaining to the subject matter of this License Agreement (whether by merger, consolidation or otherwise); *provided that* such Affiliates or Third-Party agree to be bound by this License Agreement and the relevant provisions of the Development and Option Agreement. Omega may assign this License Agreement in whole or in part to an Affiliate or to any Third-Party; *provided that* such Affiliate or Third-Party agree to be bound by the applicable terms of this License Agreement and the Development and Option Agreement.

11.12 Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this License Agreement will be in writing and will be deemed to have been duly given upon the date of receipt if delivered by hand, email, recognized international overnight courier, or registered or certified mail, return receipt requested, postage prepaid to the following addresses:

If to Omega:	Omega Therapeutics, Inc. 20 Acorn Park Drive Cambridge, MA 02140 U.S.A. Attention: Chief Executive Officer Email: [***]
With a copy to:	Omega Therapeutics, Inc. 20 Acorn Park Drive Cambridge, MA 02140 U.S.A. Attention: Legal Department. Email: [***]
If to Acuitas:	Acuitas Therapeutics Inc. 6190 Agronomy Road, Suite 405 Vancouver, B.C. V6T 1Z3 Attention: President and CEO Email: [***]
With a copy to:	McCarthy Tetrault LLP Suite 2400 745 Thurlow Street Vancouver, B.C. Canada V6E 0C5 Attention: [***] Email: [***]

Either Party may change its designated address by notice to the other Party in the manner provided in this Section 11.12.

11.13 Amendment and Waiver. This License Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both Parties; *provided that* any unilateral undertaking or waiver made by one Party in favor of the other will be enforceable if undertaken in a writing signed by the Party to be charged with the undertaking or waiver. Any waiver of any rights or failure to act in a specific instance will relate only to such instance and will not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

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11.14 Severability. In the event that any provision of this License Agreement will, for any reason, be held to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect any other provision hereof, and the Parties will negotiate in good faith to modify the License Agreement to preserve (to the extent possible) their original intent.

11.15 Entire Agreement. This License Agreement (including all appendices and exhibits hereto and thereto) and the Development and Option Agreement are the sole agreements with respect to the subject matter hereof and thereof and supersede all other agreements and understandings between the Parties with respect to same.

11.16 Force Majeure. Neither Party will be liable for failure of or delay in performing obligations set forth in this License Agreement (other than any obligation to pay monies when due), and neither will be deemed in breach of such obligations, if such failure or delay is due to natural disasters or any causes reasonably beyond the control of such Party; *provided*, that the Party affected will promptly notify the other of the force majeure condition and will exert reasonable efforts to eliminate, cure or overcome any such causes and to resume performance of its obligations as soon as possible.

11.17 Further Assurances. Each Party will take all customary and reasonable actions and do all things reasonably necessary or proper, including under applicable Law, to make effective and further the intents and purposes of the transactions contemplated by this License Agreement, including executing any further instruments reasonably requested by the other Party.

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**WITNESS WHEREOF**, the Parties have caused this Non-Exclusive License Agreement to be executed by their respective duly authorized officers as of the License Agreement Effective Date.

ACUITAS THERAPEUTICS, INC.

By: /s/ Thomas Madden  
(Signature)

Name: Thomas Madden

Title: President & CEO

Date: March 25, 2021

OMEGA THERAPEUTICS, INC.

By: /s/ Mahesh Karande  
(Signature)

Name: Mahesh Karande

Title: President & CEO

Date: 03/25/2021



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**APPENDIX 1.46**

**LEAD LICENSED PRODUCT**

[\*\*\*]

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**APPENDIX 1.51**

**PATENTS WITHIN THE LICENSED TECHNOLOGY AS OF THE LICENSE AGREEMENT EFFECTIVE DATE**

[\*\*\*]

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**APPENDIX 9.2**

[\*\*\*]

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the use in this Registration Statement on Form S-1 of our report dated May 7, 2021, relating to the financial statements of Omega Therapeutics, Inc. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ Deloitte & Touche LLP

Boston, Massachusetts  
July 9, 2021