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

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

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**Lexeo Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**2836**  
(Primary Standard Industrial  
Classification Code Number)

**85-4012572**  
(I.R.S. Employer  
Identification No.)

**345 Park Avenue South, Floor 6  
New York, New York 10010  
Tel: (212) 547-9879**

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

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**R. Nolan Townsend  
Chief Executive Officer  
Lexeo Therapeutics, Inc.  
345 Park Avenue South, Floor 6  
New York, New York 10010  
Tel: (212) 547-9879**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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

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, please 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, 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

Non-accelerated filer

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.

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**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 Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

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The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to completion, dated September 29, 2023

PRELIMINARY PROSPECTUS



**Common Stock**

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

We are offering \_\_\_\_\_ shares of our common stock. The initial public offering is expected to be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_ per share.

Prior to this offering, there has been no public market for our common stock. We have applied to list our common stock on the Nasdaq Global Market under the trading symbol “LXEO” and this offering is contingent upon the listing of our common stock on the Nasdaq Global Market.

We are an “emerging growth company” and a “smaller reporting company” as defined under U.S. federal securities laws and, as such, will be subject to reduced public company reporting requirements for this prospectus and future filings. See “Prospectus Summary—Implications of Being an Emerging Growth Company and a Smaller Reporting Company.”

**Investing in our common stock involves risks. See “[Risk Factors](#)” beginning on page 16 to read about factors you should consider before buying shares of our common stock.**

**Neither the Securities and Exchange Commission nor any state securities commission 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.**

	Per Share	Total
Initial public offering price	\$ _____	\$ _____
Underwriting discounts <sup>(1)</sup>	\$ _____	\$ _____
Proceeds, before expenses, to Lexeo Therapeutics, Inc.	\$ _____	\$ _____

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

We have granted the underwriters an option for a period of 30 days to purchase up to \_\_\_\_\_ additional shares from us at the public offering price less the underwriting discount.

The underwriters expect to deliver the shares against payment in New York, New York on \_\_\_\_\_, 2023.

**J.P. Morgan      Leerink Partners      Stifel      RBC Capital Markets**  
**Chardan**

Prospectus dated \_\_\_\_\_, 2023.

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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 we have prepared. We and the underwriters take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may provide you. We are offering to sell, and seeking offers to buy, shares of common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of the common stock.

For investors outside of the United States: We have not, and the underwriters have not, 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 the United States. Persons outside of 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 of the United States.

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All trademarks, trade names and service marks appearing in this prospectus are the property of their respective owners. Solely for convenience, the trademarks and trade names in this prospectus may be referred to without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert their rights thereto.

## Prospectus summary

*This summary highlights, and is qualified in its entirety by, information contained elsewhere in this prospectus. This summary does not contain all of the information you should consider before investing in our common stock. You should read this entire prospectus carefully, especially the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and the related notes thereto appearing elsewhere in this prospectus, before making an investment decision. As used in this prospectus, unless the context otherwise requires, references to “we,” “us,” “our,” “the Company,” and “Lexeo” refer to Lexeo Therapeutics, Inc.*

### Overview

We are a clinical stage genetic medicine company dedicated to transforming healthcare by applying pioneering science to fundamentally change how disease is treated. By taking aim at the underlying genetic cause of the devastating diseases we target, we seek to create substantial positive impact and reduce the overwhelming burdens placed on people receiving treatment, their caregivers, and healthcare systems. Our current pipeline consists of candidates targeting patient populations that place significant burden on society and are most amenable to our genetic medicine approach.

Our most advanced cardiovascular product candidate, LX2006 for the treatment of patients with Friedreich’s ataxia, or FA, cardiomyopathy, is currently being evaluated in an ongoing Phase 1/2 clinical trial and we have observed an increase in frataxin protein expression in the heart from one patient in the low dose cohort based on a cardiac biopsy utilizing two separate analyses. We expect to report additional interim data from this trial in mid-2024. Our second most advanced cardiovascular product candidate, LX2020 for the treatment of arrhythmogenic cardiomyopathy, or ACM, caused by mutations in the *PKP2* gene, referred to as PKP2-ACM, received investigational new drug, or IND, clearance from the U.S. Food and Drug Administration, or FDA, in July 2023 and we expect to dose the first patient in a Phase 1/2 clinical trial in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024.

Our lead Alzheimer’s disease product candidate, LX1001, for the treatment of *APOE4* homozygous patients with Alzheimer’s disease, is in an ongoing Phase 1/2 trial, and we have initially observed an increase in expression levels of the protective protein, *APOE2*, in the first dose cohort and a consistent trend towards improvement in core Alzheimer’s disease biomarkers. We expect to complete enrollment in the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 clinical trial in the second half of 2024.

We are targeting diseases that have seen limited penetration of precision medicine, which we define as medications that treat the underlying molecular mechanism of a disease, and where we believe there is significant opportunity for gene therapy to play a role as a key therapeutic option. We believe the specific indications we are initially targeting, FA cardiomyopathy, PKP2-ACM and *APOE4*-associated Alzheimer’s disease, are highly amenable to gene therapy, where administration of a single dose has the potential to either restore loss-of-function or minimize gain-of-function mutations by treating the underlying genetic cause of the disease. Although few precision medicines are currently approved for the treatment of cardiovascular conditions or Alzheimer’s disease, recent approvals by the FDA suggest a willingness to approve new precision medicines based on biomarkers and functional endpoints. Together with improved diagnostics and increased testing, these developments may offer one of the most substantial opportunities for the uptake of precision medicines in the global pharmaceutical marketplace.

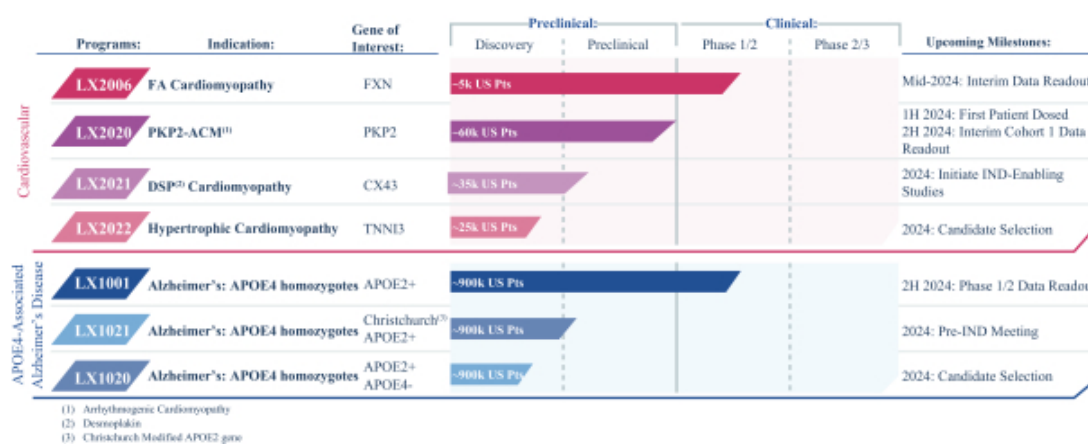
Each of our gene therapy candidates utilizes the vector construct, dose and route of administration that we believe will result in the most favorable biodistribution and safety profile for our product candidate for each

disease. Our most advanced cardiovascular and APOE4-associated Alzheimer’s disease programs use the AAVrh10 vector due to its high transduction efficiency in both myocardial cells and neurons, potential for lower toxicity given the opportunity to utilize lower doses compared to other well-established AAV serotypes, and low pre-existing immunity.

By specifically tailoring our technological approach to each targeted disease, we believe we can optimize our programs to achieve the highest likelihood of having therapeutic impact. We target genetically defined indications in specific sub-groups of patients that offer the potential to demonstrate therapeutic impact through improvement in functional endpoints or biomarkers, have high unmet need and large market opportunities, have established proof-of-concept in relevant preclinical models, and have organized patient advocacy groups and identifiable patient populations. In addition to targeting cardiovascular diseases and APOE4-associated Alzheimer’s disease that we believe can be addressed by our current approach utilizing AAVrh10, we have ongoing discovery efforts to identify next-generation vector technologies with the best potential therapeutic profile. Finally, we continuously seek to bolster our pipeline through relationships with academic institutions, providing us access to cutting edge genetic medicines research which will include not only AAV gene therapy but also other potential therapeutic payload types and non-viral delivery systems.

## Our pipeline

Utilizing a stepwise, capital-efficient development approach, we are leveraging early proof-of-concept functional and biomarker data to advance a deep and diverse pipeline of cardiovascular and APOE4-associated Alzheimer’s disease programs for larger-rare and prevalent indications. We retain exclusive worldwide development and commercialization rights to all of our product candidates and programs.



### Cardiovascular programs

We are developing a number of disease-modifying gene therapy candidates to treat larger-rare cardiovascular diseases that have significant unmet need and no approved treatments that address the underlying genetic cause of the disease. These programs include:

- LX2006 is an AAVrh10-based gene therapy candidate designed to intravenously deliver a functional frataxin, or *FXN*, gene for the treatment of FA cardiomyopathy. FA cardiomyopathy is the most common cause of

mortality in patients with FA and affects approximately 5,000 patients in the United States. LX2006 is designed to promote the expression of the protein frataxin to restore normal mitochondrial function and energy production in myocardial cells. In preclinical studies, LX2006 demonstrated improvement in cardiac function and survival in a severe *FXN* knockout mouse model. Similarly, in a partial *FXN* knockout mouse model, LX2006 was observed to restore cardiac function and reverse disease abnormalities of FA cardiomyopathy. LX2006 is currently being evaluated in an open-label, ascending dose Phase 1/2 clinical trial in patients with FA cardiomyopathy, and we have observed an increase in frataxin protein expression in the heart from one patient in the low dose cohort based on a cardiac biopsy utilizing two separate analyses. We expect to report additional interim data from this trial in mid-2024. The FDA has granted Rare Pediatric Disease designation and Orphan Drug designation to LX2006 for the treatment of FA.

- *LX2020* is an AAVrh10-based gene therapy candidate designed to intravenously deliver a functional *PKP2* gene to cardiac muscle for the treatment of *PKP2*-ACM. *PKP2* mutations are associated with approximately 75% of all genetic cases of ACM, and we estimate they affect approximately 60,000 patients in the United States. *PKP2* mutations can cause replacement of heart muscle with fibrotic tissue and fatty deposits, and severe abnormal heart rhythms, or arrhythmias, that cause cardiac dysfunction and can result in sudden cardiac death. *LX2020* is designed to increase desmosomal *PKP2* protein levels, reassemble desmosomes and restore myocardial cell function. In our preclinical studies, using a genetic mouse model of ACM harboring a *PKP2* mutation that recapitulates the phenotype of *PKP2*-ACM, *LX2020* resulted in fewer arrhythmias and increased survival. We received IND clearance for *LX2020* in July 2023 and we expect to dose the first patient in a Phase 1/2 clinical trial in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024.
- *LX2021* is a gene therapy candidate we are developing to intravenously deliver the coding sequence for the functional connexin 43, or Cx43, protein for a group of inherited cardiac muscle disorders associated with a high risk of sudden death, including ACM and certain forms of dilated cardiomyopathy. We believe restoring the Cx43 protein can potentially treat multiple genetic causes of ACM because the cardiac loss of Cx43 is a molecular deficit generally observed in all ACM patient populations. Our *LX2021* program is initially targeting Desmoplakin, or DSP, cardiomyopathy, a distinct form of ACM as well as a certain form of dilated cardiomyopathy, with a prevalence that may be as high as 4% of all inherited dilated cardiomyopathies and 4% of all ACMs, impacting up to approximately 35,000 patients in the United States. We plan to initiate IND-enabling studies for *LX2021* in 2024.
- *LX2022* is a gene therapy candidate we are developing to intravenously deliver a functional *TNNI3* gene to myocardial cells to treat a distinct form of hypertrophic cardiomyopathy, or HCM, due to mutations in the *TNNI3* gene. Mutations in the *TNNI3* gene often result in left ventricular hypertrophy and restrictive cardiomyopathy, leading to arrhythmias and heart failure. With an estimated prevalence of 1 in 500 people in the United States, HCM is one of the most common forms of genetic cardiomyopathy and is caused by mutations that affect the cardiac sarcomere in approximately 75% of cases. It is estimated that as many as 25,000 patients in the United States and 34,000 patients in the European Union are affected by HCM caused by mutations in the *TNNI3* gene. We plan to complete candidate selection for *LX2022* in 2024.

#### *APOE4-associated Alzheimer's disease programs*

We are developing a portfolio of approaches to treat the genetics underlying Alzheimer's disease.

- *LX1001* is an AAVrh10-based gene therapy candidate designed to deliver into the cerebrospinal fluid, or CSF, an *APOE2* gene for the treatment of *APOE4* homozygous patients with Alzheimer's disease. Alzheimer's disease is the leading cause of cognitive decline in late adult life and characterized by complex underlying pathology in the central nervous system, or CNS. Individuals homozygous for *APOE4*, an allele of the gene *APOE*, are approximately 15 times more likely to develop Alzheimer's disease than the general population,

and it is estimated that there are 900,000 *APOE4* homozygous patients with Alzheimer's disease in the United States alone. Conversely, individuals homozygous for the *APOE* allele *APOE2* are 40% less likely to develop Alzheimer's disease than the general population. This and other evidence suggest that *APOE2* may play a neuroprotective role. LX1001 is designed to express the protective *APOE2* gene in the CNS of *APOE4* homozygous patients in order to halt or slow the progression of Alzheimer's disease. LX1001 is being evaluated in an ongoing open-label, dose-escalation Phase 1/2 clinical trial. In the first dose cohort in the trial, we observed a consistent trend towards improvement in Alzheimer's disease CSF biomarkers, such as total tau and phosphorylated tau. We have also observed expression of the protective *APOE2* protein in all patients in the first dose cohort with follow-up data. LX1001 has been granted Fast Track designation by the FDA for the treatment of patients with early Alzheimer's disease who are *APOE4* homozygous to slow disease progression. We expect to complete enrollment in the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 clinical trial in the second half of 2024.

- *LX1021* is a gene therapy candidate we are developing to deliver a Christchurch mutation-modified *APOE2* allele for the treatment of *APOE4* homozygous patients with Alzheimer's disease. The Christchurch mutation has been recognized to protect individuals against Alzheimer's disease even in the presence of significant amyloid pathology. The mechanism of this protection may relate to the fact that *APOE*, in the presence of the Christchurch mutation, binds poorly to heparan sulfate proteoglycans, which are molecules found on the surface of neurons that may inhibit the spread of tau between cells. We believe this approach has the potential to enhance the protective effect of *APOE2* in homozygous *APOE4*-associated Alzheimer's disease. We plan to hold a pre-IND meeting with the FDA in 2024 to guide the next stage of development for this program.
- *LX1020* is a gene therapy candidate we are developing to deliver both the protective *APOE2* allele and miRNA to suppress *APOE4* for the treatment of *APOE4* homozygous patients. We believe delivery of *APOE2* with concurrent suppression of *APOE4* will achieve a higher degree of conversion to the *APOE4/E2* heterozygous profile, which should lead to greater therapeutic effect. We plan to complete candidate selection in 2024.

## Our approach

Our integrated modular approach enables us to optimize our strategy to pursue larger-rare and prevalent genetically defined indications in specific sub-groups of patients, and is comprised of our technology approach, our precision medicine focus, our disease area strategy, our manufacturing process and academic collaborations.

### *Our technology approach*

We believe that our approach to technology confers the following advantages over existing gene therapy technologies:

- **High Transduction Efficiency and Biodistribution.** The AAVrh10 vector has been shown to be capable of transducing myocardial cells based on preclinical research, and it has been shown to be capable of transducing neurons based on results from preclinical studies and our ongoing clinical trials. We believe these results demonstrate that among currently available, commonly used serotypes, AAVrh10 is an efficient vector for delivery and expression of transgenes for the treatment of the cardiovascular diseases that we are currently targeting and *APOE4*-associated Alzheimer's disease.
- **Reduced Toxicity.** The cardiac tropism of AAVrh10 may allow our gene therapy candidates to be systemically administered at lower doses than many other AAV-based therapies targeting cardiovascular or other systemic diseases.
- **Reduced Pre-Existing Neutralizing Antibodies.** Treatments leveraging vector serotypes to which humans have pre-existing immunity tend to be less effective. Among the naturally occurring and commonly used AAV



serotypes, AAVrh10 has been shown in preclinical studies to have among the lowest levels of pre-existing neutralizing antibodies.

- *Optimized Expression.* We are collaborating with our academic partners to develop novel solutions to optimize the potential therapeutic efficacy of our product candidates.

*Our precision medicine focus*

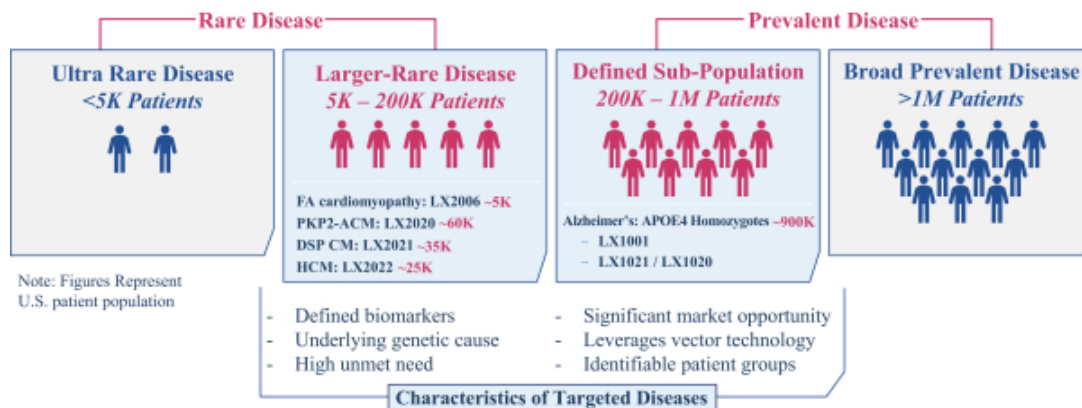
We believe a precision medicine focus for cardiovascular diseases and APOE4-associated Alzheimer’s disease represents a compelling opportunity and the next frontier in expanding the impact of genetic medicines across therapeutic areas:

- *Precision genetic medicines target the underlying cause of the disease.* Next-generation precision based genetic medicines offer the opportunity to directly target the mechanisms underlying cardiovascular disease and Alzheimer’s disease.
- *Significant unmet need in cardiovascular disease and APOE4-associated Alzheimer’s disease.* More than 30 million adults have been diagnosed and approximately 655,000 Americans die yearly from heart disease. Additionally, we believe there are approximately 900,000 APOE4 homozygous patients in the United States, and current treatment options are likely to be less effective for this subgroup of patients.
- *Improved landscape of regulatory precedents utilizing cardiac and CNS biomarkers.* Biomarkers can help accelerate development timelines, reduce patient attrition, and reduce the overall cost of drug development by providing an early read on potential efficacy and therapeutic impact.
- *Improved diagnostics expand market opportunity.* Implementation of genetic testing has the potential to help identify patients, including those who are asymptomatic or at a higher likelihood of developing the disease being evaluated or who respond less favorably to currently approved treatments.

*Our disease area strategy*

We employ a strategy to select targets in indications that have relatively large patient populations, high unmet need and technically feasible treatment profiles.

**Our disease area strategy**



Our cardiovascular and APOE4-associated gene therapy programs have the following characteristics:

- **Indications that may be effectively treated by gene therapy.** We select targets that correspond to populations with a specific genetic profile and clearly defined disease phenotype.
- **Indications with the potential to demonstrate early evidence of meaningful clinical benefit.** We pursue indications with defined biomarkers and functional endpoints that can provide early proof-of-mechanism and inform clinical development decisions, including the potential to seek accelerated approval pathways.
- **Present opportunity to address high unmet medical need.** We are focused on genetically defined cardiovascular diseases and APOE4-associated Alzheimer's disease where there are no currently approved treatments or where we believe our therapeutic candidates will have a meaningful improvement relative to existing standards of care.
- **Significant market opportunity.** We pursue indications with significant commercial opportunities beyond those typically associated with gene therapy companies targeting rare monogenic diseases. Our current focus is on targets that impact larger-rare disease or prevalent disease patient populations.
- **Targets that have established proof-of-concept.** We have leveraged our relationships with academic institutions including Weill Cornell Medical College, or Weill Cornell Medicine, and the University of California, San Diego, or UCSD, to in-license or acquire product candidates with established proof-of-concept in relevant preclinical models that closely resemble the clinical phenotype we are pursuing.
- **Targeted disease areas best treated by optimal delivery technologies.** Our current gene therapy candidates utilize the AAVrh10 vector due to its tropism for the heart and its observed tolerability in clinical trials for CNS disorders. We will pursue the optimal technology to address the diseases of interest for future indications while ensuring sufficient preclinical or clinical validation for any novel approaches.
- **Readily accessible patients.** Our goal is to accelerate patient recruitment for our clinical trials and increase the likelihood of commercial success of our potential products by focusing on diseases with established patient advocacy groups and university researchers who maintain registries of potentially eligible patients. Where possible, we leverage existing natural history studies to better define target patient phenotypes associated with the disease and may utilize these natural history datasets as a control group in future studies.

#### *Our manufacturing approach*

We are developing gene therapy candidates for larger-rare and prevalent disease patient populations, which require a high-quality process that can produce vectors in relatively large quantities while utilizing traditional biologics manufacturing infrastructure. We utilize a baculovirus/Sf9 expression system to manufacture our gene therapy candidates. Our manufacturing platform is designed to infect Sf9 cells at high densities in suspension cell culture with both an AAVrh10 and baculovirus containing the transgene. The output is coupled with a chromatography-based purification process which allows for efficient AAV purification, resulting in higher yields and fewer empty AAV capsids than traditional plasmid HEK adherent cell culture approaches.

Traditional adherent HEK manufacturing approaches, which use plasmid transfection to produce viral vectors, are based on mammalian-derived cell lines and cellular components that replicate in mammalian cells. We believe our process has an improved safety profile over these manufacturing approaches for the following reasons: through our sponsored next-generation PacBio and Illumina sequencing analyses performed by one of our clinical research organizations, we have observed reduced incorporation of non-transgene DNA plasmid DNA impurities, from 15% observed in the adherent HEK system used by the Belfer Gene Therapy Core Facility

to 0.2% in our process; our cellular components are non-replicating in mammalian cells; we have eliminated potentially immunogenic or toxic animal-derived proteins; and our cells are grown under serum-free conditions, leading to reduced risk of contamination from animal-derived products.

We believe our manufacturing process enables us to efficiently pursue our goal of targeting larger-rare and prevalent patient populations. Historically, manufacturing challenges largely driven by the quantity of vector required to pursue large commercial opportunities have limited the utility of gene therapy for large patient populations. We believe our proprietary SF9 baculovirus process will allow us to produce vectors at the necessary scale to support the patient populations we are targeting at a cost-of-goods profile similar to what the pharmaceutical marketplace has seen with biologics.

#### *Collaborations*

Our foundational science stems from partnerships and exclusive licenses with leading academic laboratories at Weill Cornell Medicine and UCSD, two preeminent institutions on the cutting edge of gene therapy research. In August 2023, we also announced a strategic investment from Sarepta Therapeutics, Inc., which we intend to use to support the development of our cardiovascular gene therapies and to explore collaboration opportunities within our preclinical cardiovascular pipeline. We believe our ongoing work with these institutions, as well as any potential new or expanded collaborations, will continue to be a valuable aspect of our efforts as we seek to further discover and develop novel gene therapies for devastating diseases.

#### **Our strategy**

Our company is purpose built to amplify genetic medicine's potential for empowering individuals by treating the underlying cause of genetic disease. The key elements of our strategy to achieve this vision are to:

- Focus our AAV-based gene therapy candidates in areas of high unmet need and with substantial potential for societal impact and commercial opportunity, such as genetically defined cardiovascular diseases and APOE4-associated Alzheimer's disease.
- Advance a deep and diverse pipeline that includes candidates that are designed to address both larger rare and more prevalent patient populations, prioritizing conditions most likely to benefit from our therapies.
- Pursue a staged, capital-efficient approach for advancing programs through clinical development and regulatory approval.
- Utilize a unified, high-quality manufacturing platform that can quickly respond at scale to high impact opportunities.
- Pursue next-generation genetic medicine technologies that can enhance our capabilities and expand our impact on patients.
- Leverage and expand upon our partnerships and exclusive licenses with world class academic institutions.
- Build a fully integrated genetic medicine company and selectively evaluate strategic opportunities to maximize the impact of our pipeline.

#### **Our company and team**

We are led by pioneers and experts with decades of collective experience in genetic medicines, rare disease drug development, manufacturing and commercialization. Our scientific founder and Chief Scientific Advisor, Ronald G. Crystal, M.D., is a world leader in gene therapy research and development and currently serves as

Professor and Chairman of Weill Cornell Medicine's Genetic Medicine Department and Director of the Belfer Gene Therapy Core Facility. Our Chief Executive Officer, R. Nolan Townsend, has spent more than a decade working in global biopharmaceutical commercial organizations. Mr. Townsend previously led Pfizer's U.S. rare disease commercial business unit, where he oversaw the successful U.S. launch of blockbuster rare cardiovascular product Vyndaqel/Vyndamax (tafamidis), now a \$2.4 billion product by revenue. Eric Adler, M.D., our Chief Scientific Officer, is a pioneer in cardiovascular gene therapy and Professor of Medicine, head of the Heart Failure Section, Director of the Strauss Center for Cardiomyopathy, and the Czarina and Humberto S. Lopez Chancellor's Endowed Chair in Cardiology at UCSD. Our Chief Technical Officer, Paul McCormac, Ph.D., has more than 20 years of experience and a proven track record in the field of gene therapy and biologics chemistry, manufacturing, and controls, or CMC. He previously served as Medicinal Sciences Category Lead for Pfizer Rare Disease, where he led gene therapy CMC and vector supply strategy for Pfizer's rare disease business and research units. Our Chief Legal and Administrative Officer, Jenny R. Robertson, previously served as Chief Counsel to Pfizer's Oncology Business Unit and held other senior legal roles across her 12-year tenure there, including Chief Counsel to Pfizer's Rare Disease Business Unit and its Emerging Markets Business Unit. Prior to joining Pfizer, Ms. Robertson spent 10 years in private practice with a large global law firm. Our Chairman, Steven Altschuler, M.D., is currently Managing Director at Ziff Capital Partners and was formerly chairman of the gene therapy pioneer Spark Therapeutics, Inc., which was responsible for the first FDA-approved gene therapy, voretigene neparvovec-rzyl (Luxturna), and was acquired by Roche Holding AG in 2019 for \$4.3 billion.

Since our inception, we have raised \$183.7 million in capital, including from certain funds affiliated with D1 Capital Partners, Eventide Healthcare & Life Sciences Fund, Janus Henderson Investors, Longitude Capital, Lundbeckfonden Ventures, Omega Funds and PBM Capital. Prospective investors should not rely on the investment decisions of our existing investors, as these investors may have different risk tolerances and have received their shares in prior offerings at prices lower than the price offered to the public in this offering. See "Certain Relationships and Related Party Transactions" for more information.

### **Risks associated with our business**

Our business is subject to numerous risks that you should be aware of before making an investment decision. These risks are described more fully in the section titled "Risk Factors" and include, among others:

- We have incurred significant losses since our inception. We expect to incur losses over the next several years and may never achieve or maintain profitability.
- We have a limited operating history and no history of commercializing products, which may make it difficult for an investor to evaluate the success of our business to date and to assess our future viability.
- Even if this offering is successful, we will need substantial additional funding to meet our financial obligations and to pursue our business objectives. If we are unable to raise capital when needed, we could be forced to curtail our planned operations and the pursuit of our growth strategy.
- Our business is dependent on our ability to advance our current and future product candidates through preclinical studies and clinical trials, obtain marketing approval and ultimately commercialize them. If we are unable to or experience significant delays in doing so, our business will be materially harmed.
- We are developing novel gene therapy product candidates, which makes it difficult to predict the time, cost and potential success of product candidate development.

- Because gene therapy is novel and the regulatory landscape that governs any product candidates we may develop is rigorous, complex, uncertain and subject to change, we can predict neither the geographic areas in which we could obtain regulatory approval nor the time and cost of obtaining regulatory approval, if we receive it at all, for any product candidates we may develop.
- Preclinical studies and clinical trials are expensive, time-consuming, difficult to design and implement and involve an uncertain outcome. Further, we may encounter substantial delays in completing the development of our product candidates.
- The regulatory approval processes of the FDA, EMA and comparable foreign authorities are lengthy, time consuming and inherently unpredictable. If we are not able to obtain required regulatory approval for our product candidates, our business will be substantially harmed.
- Success in preclinical studies or earlier clinical trials may not be indicative of results in future clinical trials.
- Our preclinical studies and clinical trials may fail to demonstrate the safety and efficacy of our product candidates, or serious adverse or unacceptable side effects may be identified during the development of our product candidates, which could prevent or delay regulatory approval and commercialization, increase our costs or necessitate the abandonment or limitation of the development of some of our product candidates. We may also identify safety and efficacy concerns after the approval of a product candidate which can result in negative consequences to our business and results of operations.
- We and our contract manufacturers are subject to significant regulation with respect to manufacturing our products. The third-party manufacturing facilities on which we rely, and any manufacturing facility that we may have in the future, may have limited capacity or fail to meet the applicable stringent regulatory requirements.
- Gene therapies are novel, complex and difficult to manufacture. We could experience manufacturing problems that result in delays in the development or commercialization of our product candidates or otherwise harm our business.
- We depend on third-party suppliers for materials used in the manufacture of our product candidates, and the loss of these third-party suppliers or their inability to supply us with adequate materials could harm our business.
- If we are unable to obtain or protect intellectual property rights related to any of our product candidates, we may not be able to compete effectively in our market.
- Our future success depends on our ability to retain key executives and advisors and to attract, retain and motivate qualified personnel.

### **Implications of being an emerging growth company and a smaller reporting company**

We qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. For so long as we remain an emerging growth company, we may take advantage of relief from certain reporting requirements and other burdens that are otherwise applicable generally to public companies. These provisions include:

- reduced obligations with respect to financial data, including only being required to present 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;

- an exception from compliance with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as amended;
- reduced disclosure about our executive compensation arrangements in our periodic reports, proxy statements and registration statements;
- exemptions from the requirements of holding non-binding advisory votes on executive compensation or golden parachute arrangements; and
- an exemption from compliance with the requirements of the Public Company Accounting Oversight Board regarding the communication of critical audit matters in the auditor's report on financial statements.

We may take advantage of these provisions until we no longer qualify as an emerging growth company. We will cease to qualify as an emerging growth company on the date that is the earliest of: (i) the last day of our fiscal year following the fifth anniversary of the date of the completion of this offering, (ii) the last day of the fiscal year in which we have more than \$1.235 billion in total annual gross revenues, (iii) the date on which we are deemed to be a "large accelerated filer" under the rules of the U.S. Securities and Exchange Commission, which means the market value of our common stock that is held by non-affiliates exceeds \$700 million as of the prior June 30, or (iv) the date on which we have issued more than \$1.0 billion of non-convertible debt over the prior three-year period. We may choose to take advantage of some but not all of these reduced reporting burdens. We have taken advantage of certain reduced reporting requirements in this prospectus. Accordingly, the information contained herein may be different than you might obtain from other public companies in which you hold equity interests.

In addition, under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to take advantage of the extended transition period to comply with new or revised accounting standards and to adopt certain of the reduced disclosure requirements available to emerging growth companies. As a result of the accounting standards election, we will not be subject to the same implementation timing for new or revised accounting standards as other public companies that are not emerging growth companies, which may make comparison of our financials to those of other public companies more difficult. As a result of these elections, the information that we provide in this prospectus may be different than the information you may receive from other public companies in which you hold equity interests. In addition, it is possible that some investors will find our common stock less attractive as a result of these elections, which may result in a less active trading market for our common stock and higher volatility in our share price.

We are also a "smaller reporting company," meaning that the market value of our shares held by non-affiliates plus the proposed aggregate amount of gross proceeds to us as a result of this offering is less than \$700 million and our annual revenue was less than \$100 million during the most recently completed fiscal year. We may continue to be a smaller reporting company after this offering if either (i) the market value of our shares 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 our shares 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, similar to emerging growth companies, smaller reporting companies have reduced disclosure obligations regarding executive compensation.

**Corporate information**

In February 2017, we were formed as a Delaware limited liability company under the name LEXEO Therapeutics, LLC. In November 2020, we converted into a Delaware corporation and were renamed Lexeo Therapeutics, Inc. Our principal executive offices are located at 345 Park Avenue South, Floor 6, New York, New York 10010, and our telephone number is (212) 547-9879. Our website address is [www.lexeotx.com](http://www.lexeotx.com). The information contained on, or accessible through, our website is not incorporated by reference into this prospectus.

## The offering

Common stock offered by us	shares
Underwriters' option to purchase additional shares	We have granted the underwriters an option for a period of 30 days from the date of this prospectus to purchase up to additional shares of our common stock.
Common stock to be outstanding immediately after this offering	shares (or shares if the underwriters exercise in full their option to purchase additional shares).
Use of proceeds	<p>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 up to additional shares of common stock), 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, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.</p> <p>We currently intend to use the net proceeds from this offering, together with our existing cash, to advance the clinical development of LX2006, LX2020 and LX1001, to fund the continued development of our other programs and cardiac discovery efforts, and for working capital and other general corporate purposes. See the section titled "Use of Proceeds" for additional information.</p>
Risk factors	You should read the section titled "Risk Factors" for a discussion of factors you should consider carefully, together with all the other information included in this prospectus, before deciding to invest in our common stock.
Proposed Nasdaq Global Market symbol	"LXEO"
The number of shares of our common stock to be outstanding after this offering is based on	shares of our common stock outstanding as of June 30, 2023 (which includes 323,374 shares of common stock issued pursuant to the early exercise of unvested options that are subject to a right of repurchase by us), after giving effect to the conversion of all outstanding shares of our convertible preferred stock into an aggregate of shares of common stock in connection with this offering, and excludes:
	<ul style="list-style-type: none"><li>shares of our common stock issuable upon the effectiveness of the registration statement of which this prospectus forms a part upon conversion of a \$4.0 million SAFE instrument issued by us to Sarepta Therapeutics, Inc. on August 24, 2023, or the Sarepta SAFE, assuming an initial public offering price of \$ per share, the midpoint of the offering range set forth on the cover of this prospectus;</li></ul>



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- 19,844,251 shares of our common stock issuable upon the exercise of options under our 2021 Equity Incentive Plan, or the Existing Plan, outstanding as of June 30, 2023 at a weighted average exercise price of \$0.75 per share;
- 4,765,213 shares of our common stock issuable upon the exercise of options granted under the Existing Plan after June 30, 2023, at a weighted average exercise price of \$1.04;
- 11,015,364 shares of our common stock reserved for future issuance under the Existing Plan as of June 30, 2023, which shares will cease to be available for issuance at the time our 2023 Equity Incentive Plan, or the 2023 Plan, becomes effective and will be added to, and become available for issuance under, the 2023 Plan;
- \_\_\_\_\_ shares of our common stock reserved for future issuance under our 2023 Plan (in addition to the shares of common stock reserved for issuance under our Existing Plan that will be added to the shares reserved under the 2023 Plan upon its effectiveness), which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the 2023 Plan; and
- \_\_\_\_\_ shares of our common stock reserved for future issuance under our 2023 Employee Stock Purchase Plan, or the 2023 ESPP, which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the 2023 ESPP.

Unless otherwise indicated, all information contained in this prospectus, including the number of shares of common stock that will be outstanding after this offering, assumes or gives effect to:

- the conversion of all outstanding shares of our convertible preferred stock on a one-for-one basis into \_\_\_\_\_ shares of our common stock, which will occur upon the closing of this offering;
- a \_\_\_\_\_-for-\_\_\_\_\_ stock split of our common stock effected on \_\_\_\_\_;
- the filing and effectiveness of our amended and restated certificate of incorporation immediately prior to the closing of this offering;
- no exercise of the outstanding options referred to above after June 30, 2023;
- no repurchases of shares of common stock by us subsequent to June 30, 2023; and
- no exercise by the underwriters of their option to purchase additional shares of our common stock.

## Summary financial data

The following tables set forth our summary financial data for the six months ended June 30, 2023 and June 30, 2022 and the years ended December 31, 2022 and 2021. We have derived the statement of operations and comprehensive loss data for the six months ended June 30, 2023 and June 30, 2022 and the years ended December 31, 2022 and 2021 and the balance sheet as of June 30, 2023 from our unaudited financial statements included elsewhere in this prospectus. In the opinion of management, the unaudited data reflects all adjustments, consisting only of normal recurring adjustments, considered necessary for a fair presentation of the financial information in those statements.

You should read the following summary financial data together with our financial statements and the related notes thereto included elsewhere in this prospectus and the section of this prospectus titled "Management's Discussion and Analysis of Financial Condition and Results of Operations." The summary financial data in this section are not intended to replace our financial statements and are qualified in their entirety by our financial statements and related notes included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results that should be expected in the future.

	Six months ended June 30		Year ended December 31	
	2023	2022	2022	2021
	(Unaudited)	(Unaudited)		
<b>Results of Operations Data</b> (In thousands, except share and per share amounts):				
<i>Revenue:</i>				
Grant revenue	\$ —	\$ 123	\$ 654	\$ 1,657
<b>Total revenue</b>	<b>—</b>	<b>123</b>	<b>654</b>	<b>1,657</b>
<i>Operating expenses:</i>				
Research and development	27,674	22,413	49,162	45,121
General and administrative	5,592	5,540	12,001	7,173
<b>Total operating expenses</b>	<b>33,266</b>	<b>27,953</b>	<b>61,163</b>	<b>52,294</b>
Operating loss	(33,266)	(27,830)	(60,509)	(50,637)
<i>Other income and expense:</i>				
Other expense, net	(7)	—	(2)	—
Interest expense	(103)	(9)	(91)	—
Interest income	1,277	194	1,325	15
<b>Total other income and expense</b>	<b>1,167</b>	<b>185</b>	<b>1,232</b>	<b>15</b>
Loss from operations before income taxes	(32,099)	(27,645)	(59,277)	(50,622)
Income taxes	—	—	—	—
<b>Net loss and comprehensive loss</b>	<b>\$ (32,099)</b>	<b>\$ (27,645)</b>	<b>\$ (59,277)</b>	<b>\$ (50,622)</b>
Net loss per common share, basic and diluted	\$ (1.88)	\$ (1.61)	\$ (3.43)	\$ (3.08)
Weighted average number of shares outstanding used in computation of net loss per common share, basic and diluted	17,111,777	17,127,869	17,272,352	16,449,814
Unaudited pro forma net loss per common share, basic and diluted <sup>(1)</sup>				
Unaudited pro forma weighted average number of shares outstanding used in computation of net loss per common share, basic and diluted <sup>(1)</sup>				

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- (1) Unaudited pro forma net loss per share, basic and diluted, is calculated giving effect to the automatic conversion of the convertible preferred stock into shares of common stock. Unaudited pro forma net loss per share does not include the shares expected to be sold and related proceeds to be received in this offering. Unaudited pro forma net loss per share for the six months ended June 30, 2023 and the year ended December 31, 2022 was calculated using the weighted average number of shares of common stock outstanding, including the pro forma effect of the automatic conversion of all outstanding shares of our convertible preferred stock into shares of our common stock, as if the initial public offering had occurred at the beginning of the period or their issuance dates, if later.

	As of June 30, 2023		
	Actual	Pro forma <sup>(1)</sup>	Pro forma as adjusted <sup>(2)</sup> <sub>(3)</sub>
<b>Balance Sheet Data (Unaudited, in thousands):</b>			
Cash and cash equivalents			
	\$ 45,539	\$	\$
Working capital <sup>(4)</sup>	35,052		
Total assets	64,939		
Convertible preferred stock	185,033		
Accumulated deficit	(147,545)		
Total stockholders' equity (deficit)	(143,619)		

- (1) The pro forma column reflects the conversion of all of the outstanding preferred shares of our redeemable convertible preferred stock into an aggregate of \_\_\_\_\_ shares of our common stock upon completion of this offering.
- (2) The pro forma as adjusted column reflects the pro forma adjustments set forth above and the sale of \_\_\_\_\_ shares of 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 estimated underwriting fees and commissions and estimated offering expenses payable by us. This pro forma as adjusted information is illustrative only and will depend on the actual initial public offering price and other terms of this offering determined at pricing.
- (3) Each \$1.00 increase or 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 or decrease the pro forma as adjusted amount of each of cash, working capital, total assets and total stockholders' equity 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 the estimated underwriting discounts and commissions. Each increase or decrease of 1.0 million in the number of shares we are offering would increase or decrease the pro forma as adjusted amount of each of cash, working capital, total assets and total stockholders' equity by \$ \_\_\_\_\_ million, assuming no change in the assumed initial public offering price per share and after deducting the estimated underwriting discounts and commissions.
- (4) We define working capital as current assets less current liabilities. See our financial statements appearing elsewhere in this prospectus.

## Risk factors

*Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including our financial statements and related notes, before deciding whether to purchase shares of our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that affect us. If any of the following risks are realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment.*

### Risks related to our financial position and capital needs

***We have incurred significant losses since our inception. We expect to incur losses over the next several years and may never achieve or maintain profitability.***

Since our inception, we have incurred significant net losses, and we expect to continue to incur significant expenses and operating losses for the foreseeable future. For the fiscal years ended December 31, 2021 and 2022 and the six months ended June 30, 2023, we incurred net losses of \$50.6 million, \$59.3 million and \$32.1 million, respectively, and we had an accumulated deficit of \$147.5 million as of June 30, 2023. We have primarily financed our operations with approximately \$183.7 million in gross proceeds raised in our private placements of convertible preferred stock in 2020 and 2021. We have no products approved for commercialization and have never generated any revenue from product sales.

We are still in the early clinical stages of development of our lead product candidates. We expect to continue to incur significant expenses and operating losses over the next several years. Our operating expenses and net losses may fluctuate significantly from quarter to quarter and year to year. We anticipate that our expenses will increase substantially as we:

- continue to advance the preclinical and clinical development of our product candidates and discovery programs;
- initiate and complete additional clinical trials of our current and future product candidates;
- seek regulatory approval for any product candidates that successfully complete clinical trials;
- continue to develop our gene therapy product candidate pipeline;
- scale up our clinical and regulatory capabilities;
- work with our third party manufacturing partners to produce material in accordance with current good manufacturing practices, or cGMP, for clinical trials or potential commercial sales;
- establish, either alone or with a third party, a commercialization infrastructure and scale up manufacturing and distribution capabilities to commercialize any product candidates for which we may obtain regulatory approval;
- adapt our regulatory compliance efforts to incorporate requirements applicable to marketed products;
- maintain, expand and protect our intellectual property portfolio and patent claims;
- hire additional clinical, quality control, regulatory, manufacturing, scientific and administrative personnel;

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- add operational, financial and management information systems and personnel, including personnel to support our product development and planned future commercialization efforts; and
- incur additional legal, accounting and other expenses in operating as a public company.

To date, we have not generated any revenue from the commercialization of our product candidates. To become and remain profitable, we must succeed in developing and eventually commercializing product candidates that generate significant revenue. This will require us to be successful in a range of challenging activities, including completing preclinical testing and clinical trials of our product candidates, obtaining regulatory approval, and manufacturing, marketing and selling any product candidates for which we may obtain regulatory approval, as well as discovering and developing additional product candidates. We are only in the preliminary stages of most of these activities and all of our product candidates are in early clinical trials or preclinical development. We may never succeed in these activities and, even if we do, may never generate any revenue or revenue that is significant enough to achieve profitability.

Even if we achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable would depress the value of our company and could impair our ability to raise capital, expand our business, maintain our development efforts, obtain product approvals, diversify our offerings or continue our operations. A decline in the value of our company could also cause you to lose all or part of your investment.

***We have a limited operating history and no history of commercializing products, which may make it difficult for an investor to evaluate the success of our business to date and to assess our future viability.***

We are a clinical stage genetic medicine company with a limited operating history. We commenced substantive business operations in 2020, and our operations to date have been largely focused on organizing and staffing our company, business planning, raising capital and entering into collaboration and license agreements for conducting preclinical and clinical research and development activities for our product candidates and gene therapy pipeline. To date, we have not yet demonstrated our ability to successfully complete internally sponsored clinical trials, complete pivotal clinical trials, manufacture a product on a commercial scale, arrange for a third party to do so on our behalf, or conduct sales and marketing activities necessary for successful commercialization. Consequently, any predictions you make 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 and commercializing products.

***Even if this offering is successful, we will need substantial additional funding to meet our financial obligations and to pursue our business objectives. If we are unable to raise capital when needed, we could be forced to curtail our planned operations and the pursuit of our growth strategy.***

We will require substantial future capital in order to complete planned and future clinical development for our lead product candidates, preclinical development for our other product candidates, and potential commercialization of these product candidates, if any are approved. We expect our spending levels to significantly increase in connection with our planned clinical trials of our lead product candidates. In addition, if we obtain marketing approval for any of our product candidates, we expect to incur significant expenses related to product sales, medical affairs, marketing, manufacturing and distribution. Furthermore, upon the closing of this offering, we expect to incur additional costs associated with operating as a public company. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital when needed or on acceptable terms, we would be forced to delay, reduce or eliminate certain of our clinical trials, our research and development programs or other operations.

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As of June 30, 2023, we had cash and cash equivalents of \$45.5 million. We believe that the anticipated net proceeds from this offering, together with our existing cash, will be sufficient to fund our operating expenses and capital requirements through . This estimate is based on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we expect. Changes may occur beyond our control that would cause us to consume our available capital before that time, including changes in and progress of our development activities, acquisitions of additional product candidates, and changes in regulation. Our future capital requirements will depend on many factors, including:

- the costs of and investment in ongoing and future development of our gene therapy product candidates;
- the scope, progress, costs and results of discovery, preclinical development, laboratory testing and clinical trials for our product candidates;
- the extent to which we develop, in-license or acquire other product candidates and technologies in our product candidate pipeline;
- the costs and timing of process development and manufacturing scale-up activities associated with our product candidates and other programs as we advance them through preclinical and clinical development;
- the number of, and development requirements for, product candidates that we may pursue;
- the costs, timing and outcome of regulatory review of our product candidates;
- our headcount growth and associated costs as we expand our research and development capabilities and establish a commercial infrastructure;
- the costs of establishing and maintaining commercial-scale cGMP manufacturing capabilities, either internally or with third parties;
- the costs and timing of future commercialization activities, including product manufacturing, marketing, sales and distribution, for any of our product candidates for which we receive marketing approval;
- the costs and timing of preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending any intellectual property-related claims;
- the revenue, if any, received from commercial sales of our product candidates for which we receive marketing approval;
- our ability to establish and maintain additional collaborations on favorable terms, if at all;
- the success of any collaborations that we may establish and our license agreements;
- the achievement of milestones or occurrence of other developments that trigger payments under our collaboration agreement or any additional collaboration agreements we may enter into; and
- the costs of operating as a public company.

We will require additional capital to achieve our business objectives. While the long-term economic impact of either the COVID-19 pandemic or the conflict between Russia and Ukraine is difficult to assess or predict, each of these events has caused significant disruptions to the global financial markets and contributed to a general global economic slowdown. Furthermore, inflation rates, particularly in the United States, have increased recently to levels not seen in decades. Increased inflation may result in increased operating costs and may affect our operating budgets, specifically with respect to increased labor costs and associated difficulties in recruiting qualified personnel. In addition, the U.S. Federal Reserve has raised, and may further raise, interest rates in

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response to concerns about inflation. Increases in interest rates, especially if coupled with reduced government spending and volatility in financial markets, may further increase economic uncertainty and heighten these risks. If the disruptions and slowdown deepen or persist, we may not be able to access additional capital on favorable terms, or at all, which could in the future negatively affect our financial condition and we could be forced to curtail our planned operations and the pursuit of our growth strategy.

***Raising additional capital may cause dilution to our stockholders, restrict our operations or require us to relinquish rights to our technologies or product candidates.***

Until such time, if ever, as we can generate substantial revenue, we may finance our cash needs through a combination of equity offerings, government or private party grants, debt financings and license and collaboration agreements. We do not currently have any committed external source of funds. 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 ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends.

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, grant licenses on terms that may not be favorable to us or commit to future payment streams. 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.

### **Risks related to the development of our product candidates**

***Our business is dependent on our ability to advance our current and future product candidates through preclinical studies and clinical trials, obtain marketing approval and ultimately commercialize them. If we are unable to or experience significant delays in doing so, our business will be materially harmed.***

We have invested a significant portion of our time and financial resources in the development of our product candidates and technology platforms. Our business is dependent on our ability to successfully complete preclinical and clinical development of, obtain regulatory approval for, and, if approved, successfully commercialize LX2006, LX1001, LX2020 and any other product candidates in a timely manner.

Each of our product candidates and programs will require additional preclinical and/or clinical development, regulatory approval and significant marketing efforts, and we will be required to obtain manufacturing supply and expertise and to build a commercial organization or successfully outsource commercialization before we generate any revenue from product sales. We do not have any products that are approved for commercial sale, and we may never be able to develop or commercialize marketable products.

Our ability to generate revenue from our product candidates, which we do not expect to occur for several years, if ever, will depend heavily on the successful development, regulatory approval and eventual commercialization of our product candidates. The success of our lead product candidates, or any other product candidates that we develop or otherwise may acquire will depend on several factors, including:

- timely and successful completion of preclinical studies, including toxicology studies, biodistribution studies and minimally efficacious dose studies in animals, where applicable, under FDA's good laboratory practices, or GLPs;

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- the availability or development of suitable animal disease models for nonclinical studies to enable us to proceed into clinical development or support the submission of a marketing application;
- effective investigational new drug, or IND, applications from the U.S. Food and Drug Administration, or FDA, or comparable foreign applications that allow commencement of our planned clinical trials or future clinical trials for our product candidates;
- sufficiency of our financial and other resources to complete the necessary preclinical studies and clinical trials;
- successful enrollment and completion of clinical trials, including under the FDA's current Good Clinical Practices, or cGCPs;
- establishment of our own manufacturing capabilities and/or arrangements with third-party manufacturers for our commercial manufacturing processes for any of our product candidates that receive regulatory approval;
- receipt of timely marketing approvals from applicable regulatory authorities;
- launch of commercial sales of products, if approved, whether alone or in collaboration with others;
- acceptance of the benefits and use of our products, including method of administration, if and when approved, by patients, the medical community and third-party payors, for their approved indications;
- the prevalence and severity of adverse events experienced with any of our product candidates;
- the availability, perceived advantages, cost, safety and efficacy of alternative therapies for any diseases for which we are developing our product candidates;
- our ability to produce our product candidates on a commercial scale;
- attainment and maintenance of patent, trademark and trade secret protection and regulatory exclusivity for our product candidates and otherwise protecting our rights in our intellectual property portfolio;
- maintenance of compliance with regulatory requirements such as cGMPs;
- attainment and maintenance of third-party coverage and adequate reimbursement for our product candidates and patients' willingness to pay out-of-pocket in the absence of such coverage and adequate reimbursement; and
- maintenance of a continued acceptable safety, tolerability and efficacy profile of our products following approval.

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

### ***We are developing novel gene therapy product candidates, which makes it difficult to predict the time, cost and potential success of product candidate development.***

Our future success depends on the successful development of a novel therapeutic approach. To date, very few products that utilize gene transfer have been approved in the United States or Europe. There have been a limited number of clinical trials using AAVrh10. Although gene therapies have been studied in human clinical trials for over 30 years, only six AAV-based gene therapy products have been approved by the FDA.



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We cannot be certain that our AAVrh10-based gene therapy product candidates will successfully complete clinical trials or that any future product candidates utilizing this or other vector constructs will successfully complete preclinical studies or clinical trials. We may not be successful in developing product candidates that avoid triggering toxicities or other side effects in preclinical studies or clinical trials. Our intravenous, intracisternal, intrathecal and intraparenchymal routes of administration may cause unforeseen side effects or present other challenges. Any such results could impact our ability to develop a product candidate, including our ability to enroll patients in our clinical trials. As a result of these factors, it is more difficult for us to predict the time and cost of product candidate development, and we cannot predict whether the application of our approach to gene therapy, or any similar or competitive programs, will result in the identification, development, and regulatory approval of any product candidate, or that other gene therapy programs will not be considered better or more favorable. There can be no assurance that any development problems we experience in the future related to our current gene therapy product candidates or any of our research programs will not cause significant delays or unanticipated costs, or that such development problems can be solved. We may also experience delays and challenges in achieving sustainable, reproducible, and scalable production. Any of these factors may prevent us from completing our preclinical studies or clinical trials or commercializing any product candidates we may develop on a timely or profitable basis, if at all.

***Because gene therapy is novel and the regulatory landscape that governs any product candidates we may develop is rigorous, complex, uncertain and subject to change, we can predict neither the geographic areas in which we could obtain regulatory approval nor the time and cost of obtaining regulatory approval, if we receive it at all, for any product candidates we may develop.***

The regulatory requirements that will govern any novel gene therapy product candidates we develop are not entirely clear and are subject to change. The novel nature of our capsids makes it difficult to further 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 other jurisdictions. Within the broader genetic medicine field, very few gene therapy products have received marketing authorization from the FDA or the European Medicines Agency, or EMA. Even with respect to gene therapies, the regulatory landscape is still developing. Regulatory requirements governing gene therapy products have changed frequently and will likely continue to change in the future. Moreover, there is substantial overlap in those responsible for regulation of existing gene therapy products. For example, in 2016, the FDA established the Office of Tissues and Advanced Therapies, or OTAT, within the Center for Biologics Evaluation and Research, or CBER, to consolidate the review of gene therapy and related products, and to advise the CBER on its review. In September 2022, the FDA announced retitling of OTAT to the Office of Therapeutic Products, or OTP, and elevation of OTP to a “Super Office” to meet its growing cell and gene therapy workload.

Our product candidates will need to meet safety and efficacy standards applicable to any new biologic being pursued for a given disease under the regulatory framework administered by the FDA. Although the FDA decides whether individual gene therapy protocols may proceed, the review process and determinations of other reviewing bodies, including Institutional Review Boards, or IRBs, can impede or delay the initiation of a clinical trial.

The same applies in the EU. The EMA’s Committee for Advanced Therapies, or CAT, is responsible for assessing the quality, safety and efficacy of advanced-therapy medicinal products. Advanced-therapy medicinal products include gene therapy medicines, somatic-cell therapy medicines and tissue-engineered medicines. The

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role of the CAT is to prepare a draft opinion on an application for marketing authorization for a gene therapy medicinal candidate that is submitted to the EMA. In the EU, the development and evaluation of a gene therapy product 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 products and require that we comply with these new guidelines. This could mean that any gene therapy product candidate we may develop in the future could be required to comply with additional and/or more stringent gene therapy guidelines in the EU.

Adverse developments in preclinical studies or clinical trials conducted by others in the field of gene therapy and gene regulation products may cause the FDA, the EMA and other regulatory bodies to revise the requirements for approval of any product candidates we may develop or limit the use of products utilizing gene regulation technologies, either of which could harm our business. In addition, the clinical trial requirements of the FDA, the EMA 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 and market of the potential products. The regulatory approval process for product candidates such as ours can be more expensive and take longer than for other, better known, or more extensively studied pharmaceutical or other product candidates. Further, as we are developing novel potential treatments for diseases in which, in some cases, there is little clinical experience with potential new endpoints and methodologies, there is heightened risk that the FDA, the EMA or other 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. In addition, we may not be able to identify or develop appropriate animal disease models to enable or support planned clinical development. Any natural history studies that we may rely upon in our clinical development may not be accepted by the FDA, EMA or other regulatory authorities. Regulatory agencies administering existing or future regulations or legislation may not allow production and marketing of products utilizing gene regulation technology in a timely manner or under technically or commercially feasible conditions. In addition, regulatory action or private litigation could result in expenses, delays, or other impediments to our research programs or the commercialization of resulting products. Further, approvals by one regulatory agency may not be indicative of what other regulatory agencies may require for approval.

The regulatory review committees and advisory groups described above and any new 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. As we advance our research programs and develop future product candidates, we will be required to consult with these regulatory and advisory groups and to comply with applicable guidelines. If we fail to do so, we may be required to delay or discontinue development of any product candidates we identify and develop. 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.

***Preclinical studies and clinical trials are expensive, time-consuming, difficult to design and implement and involve an uncertain outcome. Further, we may encounter substantial delays in completing the development of our product candidates.***

All of our product candidates are in preclinical or early clinical development, and the risk of failure is high. The preclinical studies, clinical trials and manufacturing of our product candidates are, and the manufacturing and marketing of our products, if approved, will be, subject to extensive and rigorous review and regulation by numerous government authorities in the United States and in other countries where we may test and market our product candidates. Before obtaining regulatory approvals for the commercial sale of any of our product

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candidates, we must demonstrate through lengthy, complex and expensive preclinical testing and clinical trials that our product candidates are both safe and effective for use in each target disease. In particular, because our product candidates are subject to regulation as biologics, we will need to demonstrate that they are safe and of sufficient purity and potency for use in their target diseases. Each product candidate must demonstrate an adequate risk-versus-benefit profile in its intended patient population and for its intended use.

Clinical testing is expensive, can take many years to complete and is subject to uncertainty. We cannot guarantee that any clinical trials will be initiated on schedule, conducted as planned or completed on schedule, if at all. To date, we are sponsoring clinical trials of LX1001 and LX2006, but we have not successfully completed any clinical trial that we have internally sponsored. Failure can occur at any time during the clinical trial process. Even if our ongoing and future clinical trials are completed as planned, we cannot be certain that their results will support the safety and effectiveness of our product candidates for their targeted diseases or support continued clinical development of such product candidates. Our future clinical trial results may not be successful.

In addition, even if such trials are successfully completed, we cannot guarantee that the FDA or foreign regulatory authorities will interpret the results as we do, and more trials could be required before we submit our product candidates for approval. This is particularly true for clinical trials in rare diseases, where the small patient populations make it difficult or impossible to conduct two traditional, adequate and well-controlled trials, and therefore the FDA or comparable foreign regulatory authorities are often required to exercise flexibility in approving therapies for such diseases. Moreover, results acceptable to support approval in one jurisdiction may be deemed inadequate by another regulatory authority to support regulatory approval in that other jurisdiction. To the extent that the results of the trials are not satisfactory to the FDA or foreign regulatory authorities for support of a marketing application, we may be required to expend significant resources, which may not be available to us, to conduct additional trials in support of potential approval of our product candidates.

We may experience delays in initiating and conducting clinical trials of our lead product candidates and we do not know whether our clinical trials will begin on time, need to be redesigned, recruit and enroll patients on time or be completed on schedule, or at all. Events that may prevent successful or timely completion of clinical development include:

- inability to generate sufficient preclinical, toxicology, or other *in vivo* or *in vitro* data to support the initiation of clinical trials;
- delays in sufficiently developing, characterizing or controlling a manufacturing process suitable for advanced clinical trials;
- delays in sourcing or qualifying ancillaries required for administration of our clinical drug product (such as vials, stoppers, or tubing);
- delays in developing suitable assays for screening patients for eligibility for trials with respect to certain product candidates;
- delays in reaching agreement with the FDA, EMA or other regulatory authorities as to the design or implementation of our clinical trials;
- failure to obtain regulatory approval to commence a clinical trial;
- failure to reach an agreement on acceptable terms with clinical trial sites or prospective contract research organizations, or CROs, the terms of which can be subject to extensive negotiation and may vary significantly among different clinical trial sites;
- inability to obtain IRB approval for each clinical trial site;

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- inability to recruit suitable patients to participate in a clinical trial in a timely manner;
- failure to have patients complete a clinical trial or return for post-treatment follow-up;
- deviations by clinical trial sites, CROs or other third parties from trial protocol;
- failure to perform our planned clinical trials in accordance with the FDA's cGCP requirements, or applicable regulatory guidelines in other countries;
- inability to address patient-safety concerns that arise during the course of a trial, including occurrence of adverse events associated with the product candidate that are viewed to outweigh its potential benefits;
- failure to add a sufficient number of clinical trial sites; or
- delays in manufacturing sufficient quantities of a product candidate for use in clinical trials.

We may experience numerous unforeseen events during, or as a result of, clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates or significantly increase the cost of such trials, including:

- we may experience changes in regulatory requirements or guidance, or receive feedback from regulatory authorities that requires us to modify the design of our clinical trials;
- clinical trials of our product candidates may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical trials or halt development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate, or participants may drop out of these clinical trials at a higher rate than we anticipate;
- our third-party contractors may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- we, our investigators or regulators may suspend or terminate clinical trials of our product candidates for various reasons, including non-compliance with regulatory requirements, a finding that our product candidates have undesirable side effects or other unexpected characteristics, or a finding that the participants are being exposed to unacceptable health risks;
- the cost of clinical trials of our product candidates may be greater than we anticipate, and we may not have funds to cover the costs;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate;
- regulators may revise the requirements for approving our product candidates, or such requirements may not be as we anticipate; and
- any future collaborators that conduct clinical trials may face any of the above issues and may conduct clinical trials in ways they view as advantageous to them but that are suboptimal for us.

If we are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we are unable to successfully initiate or complete clinical trials of our product candidates or other testing, if the results of these trials or tests are not positive or are only modestly positive or if there are safety concerns, we may:

- incur unplanned costs;

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- be delayed in obtaining marketing approval for our product candidates or not obtain marketing approval at all;
- obtain marketing approval in some countries and not in others;
- obtain marketing approval for diseases or patient populations that are not as broad as intended or desired;
- obtain marketing approval with labeling that includes significant use or distribution restrictions or safety warnings, including boxed warnings or Risk Evaluation and Mitigation Strategies, or REMS;
- be subject to additional post-marketing testing requirements; or
- have the product removed from the market after obtaining marketing approval.

We could encounter delays if a clinical trial is suspended or terminated by us, by the IRBs of the institutions in which such trials are being conducted, by the Data Safety Monitoring Board for such trial or by the FDA, EMA or other regulatory authorities. Such authorities may impose such a suspension or termination 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, EMA 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 drug, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

All of our product candidates will require extensive clinical testing before we are prepared to submit a biologics license application, or BLA, or marketing authorization application, or MAA, for regulatory approval. We cannot predict with any certainty if or when we might complete the clinical development for our product candidates and submit a BLA or MAA for regulatory approval of any of our product candidates or whether any such BLA or MAA will be approved. We may also seek feedback from the FDA, EMA or other regulatory authorities on our clinical development program, and the FDA, EMA or such regulatory authorities may not provide such feedback on a timely basis, or such feedback may not be favorable, which could further delay our development programs.

We cannot predict with any certainty whether or when we might complete a given clinical trial. If we experience delays in the commencement or completion of our clinical trials, or if we terminate a clinical trial prior to completion, the commercial prospects of our product candidates could be harmed, and our ability to generate revenues from our product candidates may be delayed or lost. In addition, any delays in our clinical trials could increase our costs, slow down the development and approval process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition and results of operations. 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.

***The regulatory approval processes of the FDA, EMA and comparable foreign authorities are lengthy, time-consuming and inherently unpredictable. If we are not able to obtain required regulatory approval for our product candidates, our business will be substantially harmed.***

The time required to obtain approval or other marketing authorizations by the FDA, EMA and comparable foreign authorities is unpredictable, and it 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, and 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, and it is possible that we may never obtain regulatory approval for any product candidates we may seek to develop in the future. Neither we nor any collaborator is permitted to market any of our biologic product candidates in the United States until we receive

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regulatory approval of a BLA from the FDA, and we cannot market any of our product candidates in the European Union until we receive approval for an MAA from the EMA, or other required regulatory approval in other countries.

Prior to obtaining approval to commercialize any product candidate in the United States or abroad, we must demonstrate with substantial evidence from well-controlled clinical trials, and to the satisfaction of the FDA or foreign regulatory agencies, that such product candidates are safe, effective and of sufficient purity for their intended uses. Results from preclinical studies and clinical trials can be interpreted in different ways. Even if we believe the preclinical or clinical data for our product candidates meet regulatory standards, such data may not be sufficient to support approval by the FDA and other regulatory authorities. The FDA may also require us to conduct additional preclinical studies or clinical trials for our product candidates either prior to or after approval, or it may object to elements of our clinical development programs, or require changes to our manufacturing approaches.

Of the large number of products in development, only a small percentage successfully complete the FDA or foreign regulatory approval processes and are commercialized. The lengthy approval and marketing authorization process as well as the unpredictability of future clinical trial results may result in our failing to obtain regulatory approval and marketing authorization to market our product candidates, which would significantly harm our business, financial condition, results of operations and prospects.

We have invested a significant portion of our time and financial resources in the development of our product candidates and technology platforms. Our business is dependent on our ability to successfully complete preclinical and clinical development of, obtain regulatory approval for, and, if approved, successfully commercialize LX2006, LX2020, LX1001 and our other product candidates in a timely manner.

Even if we eventually complete clinical testing and receive approval of a BLA or foreign marketing application for any of our product candidates, the FDA, EMA or the applicable foreign regulatory agency may grant approval or other marketing authorization contingent on the performance of costly additional clinical trials, including post-marketing clinical trials. The FDA, EMA or the applicable foreign regulatory agency also may approve or authorize for marketing a product candidate for a more limited disease or patient population than we originally request, and the FDA, EMA or applicable foreign regulatory agency may not approve or authorize the labeling that we believe is necessary or desirable for the successful commercialization of a product candidate. Any delay in obtaining, or inability to obtain, applicable regulatory approval or other marketing authorization would delay or prevent commercialization of that product candidate and would materially adversely impact our business and prospects.

In addition, the FDA, EMA and other regulatory authorities may change their policies, issue additional regulations or revise existing regulations, or take other actions, which may prevent or delay approval of our future products under development on a timely basis. Such policy or regulatory changes could impose additional requirements upon us that could delay our ability to obtain approvals, increase the costs of compliance or restrict our ability to maintain any marketing authorizations we may have obtained.

### ***Success in preclinical studies or earlier clinical trials may not be indicative of results in future clinical trials.***

Success in preclinical testing and early clinical trials does not ensure that later clinical trials will generate the same results or otherwise provide adequate data to demonstrate the efficacy and safety of a product candidate. Preclinical tests and Phase 1 and Phase 2 clinical trials are primarily designed to test safety, to study pharmacokinetics and pharmacodynamics and to understand the side effects of product candidates at various doses and schedules. Success in preclinical or animal studies and early clinical trials does not ensure that later large-scale efficacy and safety trials will be successful, nor does it predict final results. For example, we may be unable to identify suitable animal disease models for our product candidates, which could delay or frustrate our

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ability to proceed into clinical trials or obtain marketing approval. In addition, the preclinical studies conducted by Stelios Therapeutics, Inc., or Stelios (an entity that we acquired in 2021), and UCSD for our product candidates LX2021 and LX2022 employed an AAV9-based formulation and studies using this vector may not be predictive of future testing we intend to conduct using an AAVrh10-based formulation.

Our product candidates may fail to show the desired safety and efficacy in clinical development despite positive results in preclinical studies or having successfully advanced through initial clinical trials. Furthermore, our currently ongoing and most future clinical trials involve or will involve a small patient population. Because of the small sample sizes studied in our trials thus far, the results of these trials may not be indicative of results of future clinical trials.

Additionally, some of our ongoing and planned clinical trials utilize, or may utilize, an “open-label” trial design. An “open-label” clinical trial is one where both the patient and investigator know whether the patient is receiving the investigational product candidate or either an existing approved drug or placebo. Most typically, open-label clinical trials test only the investigational product candidate and sometimes may do so at different dose levels. Open-label clinical trials are subject to various limitations that may exaggerate any therapeutic effect as patients in open-label clinical trials are aware when they are receiving treatment. Open-label clinical trials may be subject to a “patient bias” where patients perceive their symptoms to have improved merely due to their awareness of receiving an experimental treatment. In addition, open-label clinical trials may be subject to an “investigator bias” where those assessing and reviewing the physiological outcomes of the clinical trials are aware of which patients have received treatment and may interpret the information of the treated group more favorably given this knowledge. The results from an open-label trial may not be predictive of future clinical trial results with any of our product candidates for which we include an open-label clinical trial when studied in a controlled environment with a placebo or active control.

Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in late-stage clinical trials even after achieving promising results in preclinical testing and earlier-stage clinical trials. Data obtained from preclinical and clinical activities are subject to varying interpretations, which may delay, limit or prevent regulatory approval. In addition, we may experience regulatory delays or rejections as a result of many factors, including changes in regulatory policy during the period of our product candidate development. Any such delays could negatively impact our business, financial condition, results of operations and prospects.

***Interim “top-line” and preliminary results from our clinical trials that we announce, publish or present 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 publish or present interim top-line or preliminary results from our clinical trials. Interim results 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. Preliminary or top-line results also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, interim and preliminary data should be viewed with caution until the final data are available. Differences between preliminary or interim data and final data could significantly harm our business prospects and may cause the trading price of our common stock to fluctuate significantly.

***Our preclinical studies and clinical trials may fail to demonstrate the safety and efficacy of our product candidates, or serious adverse or unacceptable side effects may be identified during the development of our product candidates, which could prevent or delay regulatory approval and commercialization, increase our costs or necessitate the abandonment or limitation of the development of some of our product candidates. We***

*may also identify safety and efficacy concerns after the approval of a product candidate which can result in negative consequences to our business and results of operations.*

Before obtaining regulatory approvals for the commercial sale of our product candidates, we must demonstrate through lengthy, complex and expensive preclinical testing and clinical trials that our product candidates are safe, effective and of sufficient purity for use in each target disease, and failures can occur at any stage of testing. Preclinical studies and clinical trials often fail to demonstrate safety or efficacy of the product candidate studied for the target disease. While we have developed our AAVrh10-mediated gene therapy product candidates to leverage the low seropositivity of AAVrh10, any gene therapy product based on viral vectors carries the risks of immunogenicity, elevated liver enzymes and insertional oncogenesis, which is the process whereby the insertion of a functional gene near a gene that is important in cell growth or division results in uncontrolled cell division, which could potentially enhance the risk of malignant transformation. In one of our preclinical studies of LX2006, we observed four cases of hepatocellular carcinoma, or HCC, in wild-type mice at 10 months post-treatment. Although data reported by the FDA Cellular, Tissue, and Gene Therapies Advisory Committee in September 2021 suggests that HCC observed in mice after AAV treatment is unlikely to translate to risks for humans, any future instances of HCC in our clinical trials could result in delays or the abandonment of our trials. Health authorities also ask that sponsors closely monitor the risk of elevated liver enzymes and abnormal liver ultrasound on a routine basis in patients participating in gene therapy clinical trials. Patients in our trial of LX1004, our AAVrh10-based gene therapy candidate designed to restore TPP1, the secreted protein that is deficient in neuronal ceroid lipofuscinosis type 2, or CLN2, Batten disease, reported six acute serious adverse events within two weeks of dosing and 15 chronic serious adverse events after two weeks of dosing that were deemed to be related to the study drug or its administration. The six acute serious adverse events consisted of one patient with seizures, two patients with abnormal movements, one patient with emesis, one patient with hematoma, and one patient with pneumocephalus. The 15 chronic serious adverse events consisted of six patients with seizures, one patient with dystonia, one patient with emesis, one patient with hematoma, one patient with hygroma, one patient with bronchospasm, one patient with aspiration, one patient with pneumonia, and two patients with elevated hepatic enzymes.

Possible adverse side effects that could occur with treatment with gene therapy products include an immunologic reaction early after administration, which, while not necessarily adverse to the patient's health, could substantially limit the effectiveness of the treatment. For example, in previous third-party clinical trials involving AAV capsids for gene therapy, some subjects experienced the development of a T-cell antibody response, whereby after the vector is within the target cell types, the cellular immune response system triggers the removal of transduced cell types by activated T-cells. If any of our product candidates demonstrate a similar effect, we may decide or be required to perform additional preclinical studies or to halt or delay further clinical development of our product candidates.

In addition to side effects caused by the product candidate, the administration process or related procedures also can cause adverse side effects. Our APOE-associated Alzheimer's disease product candidates are designed to be delivered via intracisternal administration. While the intracisternal method of administration has been available for some years, its use for gene therapies is new and no gene therapy is currently approved for this method of administration. Intracisternal administration may have greater risk and/or be perceived as having greater risk than more common methods of administration, such as intravenous injection, while parenchymal administration involves neurosurgery and carries all risks attendant with such a procedure. These risks include allergic reaction to anesthesia, bleeding or swelling in the brain, seizures, stroke, coma and infection. Other gene therapy product candidates in clinical development utilizing intracisternal or parenchymal delivery could also generate data that could adversely affect the clinical, regulatory or commercial perception of our product candidates.

If adverse events occur, either as a result of the product candidate or administration process, our clinical trials could be suspended or terminated. If we cannot demonstrate that any adverse events were not caused by the drug or administration process or related procedures, the FDA, EMA or foreign regulatory authorities could order us to cease further development of, or deny approval of, our product candidates for any or all targeted diseases. Even if we are able to demonstrate that all future serious adverse events are not product-related, such occurrences could affect patient recruitment or the ability of enrolled patients to complete the trial. Moreover, if we elect, or



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are required, to not initiate, delay, suspend or terminate any future clinical trial of any of our product candidates, the commercial prospects of such product candidates may be harmed and our ability to generate product revenues from any of these product candidates may be delayed or eliminated. Any of these occurrences may harm our ability to develop other product candidates, and may harm our business, financial condition and prospects significantly. Furthermore, negative results in our development of LX2006, LX1001, or LX2020 could be interpreted as a failure to achieve proof of concept for our technology and result in the abandonment of other development programs.

In addition, gene therapy is still a relatively new approach to disease treatment and additional adverse side effects could develop. There also is the potential risk of delayed adverse events following exposure to gene therapy products due to persistent biologic activity of the genetic material or other components of products used to carry the genetic material. If our product candidates are associated with side effects in clinical trials or have characteristics that are unexpected, we may need to abandon their development or limit development to more narrow uses in which the side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. The FDA or an IRB may also require that we suspend, discontinue, or limit our clinical trials based on safety information, or that we conduct additional animal or human studies regarding the safety and efficacy of our product candidates which we have not planned or anticipated. Such findings could further result in regulatory authorities failing to provide marketing authorization for our product candidates or limiting the scope of the approved indication, if approved. Many product candidates that initially showed promise in early-stage testing have later been found to cause side effects that prevented further development of the product candidate.

Additionally, if one or more of our product candidates receives marketing approval, and we or others identify undesirable side effects caused by such products or the administration procedure, a number of potentially significant negative consequences could result, including:

- regulatory authorities may withdraw approvals of such product;
- regulatory authorities may require additional warnings on the labels;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients or other requirements subject to a REMS;
- we could be sued and held liable for harm caused to patients;
- we may not be able to obtain or maintain third-party payor coverage and adequate reimbursement; and
- our reputation and physician or patient acceptance of our products may suffer.

There can be no assurance that we will resolve any issues related to any product-related adverse events to the satisfaction of the FDA or foreign regulatory agency in a timely manner or at all. Moreover, any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, and could significantly harm our business, results of operations and prospects.

***Some of the diseases we initially seek to treat have low prevalence and it may be difficult to identify and enroll patients with these diseases. If we experience delays or difficulties in the enrollment and/or maintenance of patients in clinical trials, our receipt of necessary regulatory approvals could be delayed or prevented.***

Successful and timely completion of clinical trials will require that we enroll a sufficient number of patients. Patient enrollment, a significant factor in the timing of clinical trials, is affected by many factors, including the size and nature of the patient population and competition for patients with other trials. The rare genetic diseases which some of our product candidates are designed to target have low incidence and prevalence. In particular, because we are focused on patients with specific genetic mutations, our ability to enroll eligible patients may be limited or enrollment may be slower than we anticipate. For example, we estimate that approximately 6,600 people in the United States have Friedreich's ataxia, or FA, and that approximately 80% of these patients will

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develop the cardiac manifestation of FA, or FA cardiomyopathy, and accordingly it may be difficult for us to identify and timely recruit a sufficient number of eligible patients to conduct our clinical trials. Even for more prevalent conditions such as Alzheimer's disease, it may be difficult to recruit patients to clinical trials due to the number of approved products, difficulty identifying patients with the specific genotype we are studying, and the number of clinical trials being conducted in this indication.

Our trials may be subject to delays as a result of patient enrollment taking longer than anticipated or patient withdrawal. We may not be able to initiate or continue clinical trials for our product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA, EMA or other foreign regulatory authorities. We cannot predict how successful we will be at enrolling subjects in future clinical trials. Subject enrollment is affected by other factors including:

- the severity of the disease under investigation;
- the eligibility criteria for the trial in question;
- the size of the patient population and process for identifying patients;
- the perceived risks and benefits of the product candidate under study;
- clinicians' and patients' perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies, including any new drugs that may be approved for the diseases we are investigating;
- the availability of competing commercially available therapies and other competing therapeutic candidates' clinical trials;
- the efforts to facilitate timely enrollment in clinical trials;
- the risk that patients enrolled in clinical trials will drop out of the clinical trials before completion of their treatment;
- the patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment; and
- the proximity and availability of clinical trial sites for prospective patients.

Our inability to enroll a sufficient number of patients for clinical trials would result in significant delays and could require us to abandon one or more clinical trials altogether. Enrollment delays in these clinical trials may result in increased development costs for our product candidates, which would cause the value of our company to decline and limit our ability to obtain additional financing. Furthermore, we rely on CROs and clinical trial sites to help ensure the proper and timely conduct of our clinical trials and we may have limited influence over their performance. For additional information, see the risk factor in this section under the heading *"We intend to continue to rely on third parties to conduct a significant portion of our existing clinical trials and potential future clinical trials for product candidates, and those third parties may not perform satisfactorily, including failing to meet deadlines for the completion of such trials."*

Furthermore, even if we are able to enroll a sufficient number of patients for our clinical trials, we may have difficulty maintaining enrollment of such patients in our clinical trials.

***We may seek Orphan Drug designation or Rare Pediatric Disease designation for some of our product candidates and we may be unsuccessful, or may be unable to maintain the benefits associated with Orphan Drug designation, including the potential for market exclusivity, for product candidates for which we obtain Orphan Drug designation.***

Regulatory authorities in some jurisdictions, including the United States, may designate drugs or biologics intended to treat relatively small patient populations as orphan drug products. Under the Orphan Drug Act, the

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FDA may designate a drug or biologic as an orphan drug if it is intended to treat a rare disease or condition, which is generally defined as a patient population of fewer than 200,000 individuals in the United States, or a patient population of 200,000 or more in the United States where there is no reasonable expectation that the cost of developing the drug will be recovered from sales in the United States.

In the United States, Orphan Drug designation entitles a party to potential financial incentives such as tax advantages and user fee waivers. Opportunities for grant funding toward clinical trial costs may also be available for clinical trials of drugs or biologics for rare diseases, regardless of whether the drugs or biologics are designated for the orphan use. In addition, if a drug or biologic with an Orphan Drug designation subsequently receives the first marketing approval for the disease for which it has such designation, the product is entitled to a seven-year period of marketing exclusivity, which precludes the FDA from approving another marketing application for the same drug and disease for that time period, except in limited circumstances. If our competitors are able to obtain orphan drug exclusivity prior to us, for products that constitute the “same drug” and treat the same diseases as our product candidates, we may not be able to have competing products approved by the applicable regulatory authority for a significant period of time.

Similarly, in the European Union, the European Commission, upon the recommendation of the EMA’s Committee for Orphan Medicinal Products, grants Orphan Drug designation to promote the development of drugs that are intended for the diagnosis, prevention or treatment of life-threatening or chronically debilitating conditions and either the prevalence of the condition is not more than 5 in 10,000 persons in the European Union, or, without incentives, it is unlikely that sales of the drug in the European Union would be sufficient to justify the necessary investment in developing the drug. In each case, there must be no satisfactory method of diagnosis, prevention or treatment of the condition that has been authorized, or, if such a method exists, the product in question must be of significant benefit to those affected by such condition. In the European Union, Orphan Drug designation entitles a party to financial incentives such as reduction of fees or fee waivers.

We have obtained from the FDA Orphan Drug designation for LX2006 for treatment of FA. We may seek orphan designation for some or all of our product candidates in orphan indications in which there is a medically plausible basis for the use of these product candidates. However, we may be unsuccessful in obtaining Orphan Drug designation and may be unable to maintain the benefits associated with such designations. Even if we obtain orphan drug exclusivity for any of our product candidates, that exclusivity may not effectively protect those product candidates from competition because different drugs can be approved for the same condition, and orphan drug exclusivity does not prevent the FDA from approving the same or a different drug in another indication. Even after an orphan drug is granted orphan exclusivity and approved, the FDA can subsequently approve a later application for the same drug for the same condition before the expiration of the seven-year exclusivity period if the FDA concludes that the later drug is clinically superior in that it is shown to be safer in a substantial portion of the target populations, more effective or makes a major contribution to patient care. On August 3, 2017, Congress passed the FDA Reauthorization Act of 2017, or FDARA. FDARA, among other things, codified the FDA’s preexisting regulatory interpretation, to require that a drug sponsor demonstrate the clinical superiority of an orphan drug that is otherwise the same as a previously approved drug for the same rare disease in order to receive orphan drug exclusivity. The statute supplants prior precedent holding that the Orphan Drug Act unambiguously requires that the FDA recognize the orphan exclusivity period regardless of a showing of clinical superiority. Moreover, in the Consolidated Appropriations Act of 2021, Congress clarified that the interpretation of orphan drug exclusivity codified in FDARA would apply in cases where the FDA issued an orphan designation before the enactment of FDARA but where product approval came after the enactment of FDARA. In addition, a designated Orphan Drug may not receive orphan drug exclusivity if it is approved for a use that is broader than the disease for which it received orphan designation. On January 24, 2023, the FDA announced its intention to apply its existing regulations and long-standing approach to grant orphan drug exclusivity based on the indications for which the drug is approved rather than granting the exclusivity for the entire rare disease or condition that was the subject of the orphan drug designation, in response to the U.S. Court of Appeals for the Eleventh Circuit’s September 30, 2021, decision in *Catalyst Pharms., Inc. v. Becerra*. The FDA may further reevaluate its regulations and policies under the Orphan Drug Act. We do not know if, when, or how the FDA

may change the orphan drug regulations and policies in the future, and it is uncertain how any changes might affect our business. Depending on what changes the FDA may make to its orphan drug regulations and policies, our business could be adversely impacted. Moreover, orphan drug-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 we are unable to manufacture sufficient quantities of the product to meet the needs of patients with the rare disease or condition. Orphan Drug designation neither shortens the development time or regulatory review time of a drug nor gives the drug any advantage in the regulatory review or approval process.

***Fast Track, Breakthrough Therapy, or Regenerative Medicine Advanced Therapy designation by the FDA may not actually lead to a faster development or regulatory review or approval process, and does not assure FDA approval of our product candidates.***

We may seek Fast Track, Breakthrough Therapy or Regenerative Medicine Advanced Therapy, or RMAT, designation from the FDA for some or all of our product candidates, but we may be unable to obtain such designations or to maintain the benefits associated with such designations. The FDA's Fast Track, Breakthrough Therapy, and RMAT designation programs are intended to expedite the development of certain qualifying product candidates 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, alone or in combination with one or more other drugs or biologics 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. For product candidates that have been designated as breakthrough therapies, interaction and communication between the FDA and the sponsor of the trial can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens. Drugs and biologics designated as breakthrough therapies by the FDA may also be eligible for accelerated approval.

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 disease or condition, and preliminary clinical evidence indicates that the product candidate has the potential to address an unmet medical need for such condition. RMAT designation allows companies developing regenerative medicine therapies to work more closely and frequently with the FDA, and RMAT-designated product candidates may be eligible for priority review and accelerated approval. FDA has confirmed that gene therapies, including genetically modified cells, that lead to a sustained effect on cells or tissues may meet the definition of a regenerative medicine therapy. For product candidates that have received an RMAT designation, interaction and communication between the FDA and the sponsor of the trial can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens.

We have received Fast Track designation for LX1001 for the treatment of patients with early Alzheimer's disease who are *APOE4* homozygous, to slow disease progression. While we may seek Fast Track, Breakthrough Therapy and/or RMAT designation for some or all of our product candidates, 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 Therapy, or RMAT designation does not ensure that the product candidate will receive marketing approval or that approval will be granted within any particular time frame. In addition, the FDA may withdraw Fast Track, Breakthrough Therapy, or RMAT designation if it believes that the designation is no longer supported by data from our clinical development program. Fast Track, Breakthrough Therapy and/or RMAT designation alone does not guarantee qualification for the FDA's priority review procedures.

***We have received Rare Pediatric Disease designation from the FDA for LX2006 for the treatment of FA and we may seek such designation for future product candidates. However, a marketing application for these product candidates, if approved, may not meet the eligibility criteria for a rare pediatric disease priority review voucher.***

We have received Rare Pediatric Disease designation from the FDA for LX2006 for the treatment of FA and LX1004 for the treatment of CLN2 disease and we may seek Rare Pediatric Disease designation for future product candidates. The FDA defines “rare pediatric disease” as a (i) serious or life-threatening disease in which the serious or life-threatening manifestations primarily affect individuals aged from birth to 18 years, including age groups often called neonates, infants, children, and adolescents; and (ii) a rare disease or condition within the meaning of the Orphan Drug Act. Designation of a product candidate as a product for a rare pediatric disease does not guarantee that a marketing application for such product candidate will meet the eligibility criteria for a rare pediatric disease priority review voucher at the time the application is approved. Under the U.S. Federal Food, Drug, and Cosmetic Act, or FDCA, we will need to request a rare pediatric disease priority review voucher in our original marketing application for our product candidates for which we have received Rare Pediatric Disease designation. The FDA may determine that a marketing application for any such product candidates, if approved, does not meet the eligibility criteria for a priority review voucher, including for the following reasons:

- the rare pediatric disease that received such designation no longer meets the definition of a “rare pediatric disease”;
- the marketing application contains an active ingredient (including any ester or salt of the active ingredient) that has been previously approved in a marketing application;
- the marketing application is not deemed eligible for priority review;
- the marketing application does not rely on clinical data derived from studies examining a pediatric population and dosages of the product intended for that population (that is, if the marketing application does not contain sufficient clinical data to allow for adequate labeling for use by the full range of affected pediatric patients); or
- the marketing application is approved for a different adult indication than the rare pediatric disease for which our product candidates are designated.

Under the current statutory sunset provisions, after September 30, 2024, the FDA may only award a priority review voucher, or PRV, for an approved rare pediatric disease product application if the sponsor has Rare Pediatric Disease designation for the drug or biologic that is the subject of such application, and that designation was granted by September 30, 2024. After September 30, 2026, the FDA may not award any rare pediatric disease priority review vouchers. However, it is possible the authority for FDA to award rare pediatric disease priority review vouchers will be further extended by Congress. As such, if we do not obtain approval of a marketing application for LX2006 in patients with FA on or before September 30, 2026, and if the priority review voucher program is not extended by Congressional action, we may not receive a priority review voucher.

***Where appropriate, we may seek approval from the FDA, EMA or comparable foreign regulatory authorities through the use of accelerated approval pathways. If we are unable to obtain such approval, we may be required to conduct additional preclinical studies or clinical trials beyond those that we contemplate, which could increase the expense of obtaining, and delay the receipt of, necessary marketing approvals. Even if we receive accelerated approval from the FDA, EMA or comparable regulatory authorities, if our confirmatory trials do not verify clinical benefit, or if we do not comply with rigorous post-marketing requirements, the FDA, EMA or such other regulatory authorities may seek to withdraw accelerated approval.***

Where possible, we may pursue accelerated development strategies in areas of high medical need. We may seek an accelerated approval pathway for one or more of our therapeutic candidates from the FDA, EMA or

comparable foreign regulatory authorities. Under the accelerated approval provisions in the FDCA and the FDA's implementing regulations, the FDA may grant accelerated approval to a therapeutic candidate that is designed to treat a serious or life-threatening condition, generally provides a meaningful therapeutic benefit over available therapies, and demonstrates 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, or IMM, that is reasonably likely to predict an effect on IMM or other clinical benefit. The FDA considers a clinical benefit to be a positive therapeutic effect that is clinically meaningful in the context of a given disease, such as irreversible morbidity or mortality. For the purposes of accelerated approval, a surrogate endpoint is a marker, such as a laboratory measurement, radiographic image, physical sign, or other measure that is thought to predict clinical benefit, but is not itself a measure of clinical benefit. An intermediate clinical endpoint is a clinical endpoint that can be measured earlier than an effect on irreversible morbidity or mortality that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit. The accelerated approval pathway may be used in cases in which the advantage of a new product over available therapy may not be a direct therapeutic advantage, but is a clinically important improvement from a patient and public health perspective. If granted, accelerated approval is usually contingent on the sponsor's agreement to conduct, in a diligent manner, additional post-approval confirmatory studies to verify and describe the product's clinical benefit. If such post-approval studies fail to confirm the product's clinical benefit, the FDA may withdraw its approval of the product. In addition, the FDA currently requires, unless otherwise informed by the agency, pre-approval of promotional materials for products receiving accelerated approval, which could adversely impact the timing of the commercial launch of the product.

Prior to seeking accelerated approval, we would seek feedback from the FDA, EMA or comparable foreign regulatory authorities and would otherwise evaluate our ability to seek and receive such accelerated approval. There can be no assurance that after our evaluation of the feedback and other factors we will decide to pursue or submit a BLA for accelerated approval or any other form of expedited development, review or approval. Similarly, there can be no assurance that after subsequent feedback from the FDA, EMA or comparable foreign regulatory authorities, we will continue to pursue or apply for accelerated approval or any other form of expedited development, review or approval, even if we initially decide to do so. Furthermore, if we decide to submit an application for accelerated approval, there can be no assurance that such application will be accepted or that any approval will be granted on a timely basis, or at all. The FDA, EMA or other comparable foreign regulatory authorities could also require us to conduct further studies prior to considering our application or granting approval of any type, including, for example, if other products are approved via the accelerated pathway and subsequently converted by FDA to full approval. A failure to obtain accelerated approval or any other form of expedited development, review or approval for our therapeutic candidate would result in a longer time period to commercialization of such therapeutic candidate, could increase the cost of development of such therapeutic candidate and could harm our competitive position in the marketplace.

***Priority review designation by the FDA may not lead to a faster regulatory review or approval process and, in any event, does not assure FDA approval of our product candidates.***

If the FDA determines that a product candidate is intended to treat a serious disease or condition and, if approved, would provide a significant improvement in the safety or effectiveness of the treatment, prevention, or diagnosis of such disease or condition, the FDA may designate the product candidate for priority review. A priority review designation means that the goal for the FDA to review a marketing application is six months from filing of the application, rather than the standard review period of ten months. We may request priority review for certain of our product candidates. The FDA has broad discretion with respect to whether or not to grant priority review status to a product candidate, so even if we believe a particular product candidate is eligible for such designation or status, the FDA may disagree and decide not to grant it. Moreover, a priority review designation does not necessarily mean a faster regulatory review process or necessarily confer any advantage with respect to

approval compared to conventional FDA procedures. Receiving priority review from the FDA does not guarantee approval within the six-month review cycle or thereafter.

***We may expend our limited resources to pursue a particular product candidate and fail to capitalize on product candidates that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial and management resources, we must focus on development programs and product candidates that we identify for specific diseases. As such, currently we are primarily focused on the development of our current pipeline of candidates. As a result, we may forego or delay pursuit of opportunities with other product candidates. For example, we are evaluating strategic alternatives to find the appropriate partner to advance our LX1004 program. 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 development programs and product candidates for specific diseases may not yield any commercially viable products. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate 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 product candidate.

***We may not be successful in our efforts to build a pipeline of additional product candidates.***

Our business model is centered on developing therapies for patients with both larger-rare and prevalent cardiac and central nervous system diseases by establishing focused selection criteria to select, develop and advance product candidates that we believe will have a high probability of technical and regulatory success through development into commercialization. We may not be able to continue to identify and develop new product candidates. Even if we are successful in continuing to build our pipeline, the potential product candidates that we identify may not be suitable for clinical development. For example, they may be shown to have side effects or other characteristics that indicate that they are unlikely to be drugs that will receive marketing approval and achieve market acceptance. If we do not successfully develop and commercialize product candidates based upon our approach, we will not be able to obtain product revenue in future periods, which likely would result in significant harm to our financial position and adversely affect our stock price.

***If we are unable to successfully validate, develop and obtain regulatory approval for companion diagnostic tests for our product candidates that require or would commercially benefit from such tests, or experience significant delays in doing so, we may not realize the full commercial potential of these product candidates.***

In connection with the clinical development of our product candidates for certain indications, we intend to work with collaborators to develop or obtain access to *in vitro* companion diagnostic tests to identify patient subsets within a disease category who may derive selective and meaningful benefit from our product candidates. To be successful, we or our collaborators will need to address a number of scientific, technical, regulatory and logistical challenges. The FDA and comparable foreign regulatory authorities regulate *in vitro* companion diagnostics as medical devices and, under that regulatory framework, will likely require the conduct of clinical trials to demonstrate the safety and effectiveness of any diagnostics we may develop, which we expect will require separate regulatory clearance or approval prior to commercialization. The FDA generally will require approval or clearance of the diagnostic at the same time that the FDA approves the therapeutic product if the FDA determines that safe and effective use of a therapeutic product depends on an *in vitro* companion diagnostic. The clearance or approval of a companion diagnostic as part of the product label will also limit the use of the product candidate to patients who have met the screening criteria tested for by the companion diagnostic.

We intend to rely on third parties for the design, development and manufacture of companion diagnostic tests for our therapeutic product candidates that may require such tests. If we enter into such collaborative agreements, we

will be dependent on the sustained cooperation and effort of our future collaborators in developing and obtaining approval for these companion diagnostics. It may be necessary to resolve issues such as selectivity/specificity, analytical validation, reproducibility, or clinical validation of companion diagnostics during the development and regulatory approval processes. Moreover, even if data from preclinical studies and early clinical trials appear to support development of a companion diagnostic for a product candidate, data generated in later clinical trials may fail to support the analytical and clinical validation of the companion diagnostic. We and our future collaborators may encounter difficulties in developing, obtaining regulatory approval for, manufacturing and commercializing companion diagnostics similar to those we face with respect to our therapeutic candidates themselves, including issues with achieving regulatory clearance or approval, production of sufficient quantities at commercial scale and with appropriate quality standards, and in gaining market acceptance. If we are unable to successfully develop companion diagnostics for these product candidates, or experience delays in doing so, the development of these product candidates may be adversely affected, these product candidates may not obtain marketing approval, and we may not realize the full commercial potential of any of these product candidates that obtain marketing approval. As a result, our business, results of operations and financial condition could be materially harmed. In addition, a diagnostic company with whom we contract may decide to discontinue selling or manufacturing the companion diagnostic test that we anticipate using in connection with development and commercialization of our product candidates or our relationship with such diagnostic company may otherwise terminate. We may not be able to enter into arrangements with another diagnostic company to obtain supplies of an alternative diagnostic test for use in connection with the development and commercialization of our product candidates or do so on commercially reasonable terms, which could adversely affect and/or delay the development or commercialization of our product candidates.

### **Risks related to the manufacturing of our product candidates**

***We and our contract manufacturers are subject to significant regulation with respect to manufacturing our products. The third-party manufacturing facilities on which we rely, and any manufacturing facility that we may have in the future, may have limited capacity or fail to meet the applicable stringent regulatory requirements.***

We currently have relationships with a limited number of suppliers for the manufacturing of all components of our product candidates. However, if we experience slowdowns or problems with our manufacturing partners and are unable to establish or scale our internal manufacturing capabilities, we will need to continue to contract with manufacturers that can produce the preclinical, clinical and commercial supply of our products. Each supplier may require licenses to manufacture such components if such processes are not owned by the supplier or in the public domain and we may be unable to license such intellectual property rights on reasonable commercial terms or to transfer or sublicense the intellectual property rights we may have with respect to such activities.

All entities involved in the preparation of therapeutics for clinical trials or commercial sale, including our existing contract manufacturers for components of our product candidates, are subject to extensive regulation. Components of a finished therapeutic product approved for commercial sale or used in late-stage clinical trials in the United States and European Union must be manufactured in accordance with cGMP. These regulations govern manufacturing processes and procedures (including recordkeeping) and the implementation and operation of quality systems to control and assure the quality of investigational products and products approved for sale. Poor control of production processes can lead to the introduction of adventitious agents or other contaminants, or to inadvertent changes in the properties or stability of our product candidates that may not be detectable in final product testing. We or our contract manufacturers must supply all necessary documentation in support of a BLA or an MAA on a timely basis. Our potential manufacturing facilities and quality systems and the facilities and quality systems of some or all of our third-party contractors must pass a pre-approval inspection for compliance with the applicable regulations as a condition of regulatory approval of our product candidates or any of our other



potential products. In addition, the regulatory authorities may, at any time, audit or inspect a manufacturing facility involved with the preparation of our product candidates or our other potential products or the associated quality systems for compliance with the regulations applicable to the activities being conducted, and they could put a hold on one or more of our clinical trials if the facilities of our contract manufacturing organizations, or CMOs, do not pass such audit or inspections. If these facilities do not pass a pre-approval plant inspection, FDA approval of the products will not be granted.

The regulatory authorities also may, at any time following approval of a product for sale, inspect or audit our manufacturing facilities or those of our third-party contractors. If any such inspection or audit identifies a failure to comply with applicable regulations or if a violation of our product specifications or applicable regulations occurs independent of such an inspection or audit, we or the relevant regulatory authority may require remedial measures that may be costly and/or time-consuming for us or a third party to implement and that may include the temporary or permanent suspension of a clinical trial or commercial sales or the temporary or permanent closure of a facility. Any such remedial measures imposed upon us or third parties with whom we contract could harm our business.

If we or any of our third-party manufacturers fail to maintain regulatory compliance, the FDA can impose regulatory sanctions including, among other things, refusal to approve a pending application for a new drug product or biologic product, or revocation of a pre-existing approval. As a result, our business, financial condition and results of operations may be harmed. Additionally, if supply from one approved manufacturer is interrupted, there could be a significant disruption in commercial supply. An alternative manufacturer would need to be qualified through a BLA and/or an MAA supplement which could result in further delay. The regulatory agencies may also require additional studies if a new manufacturer is relied upon for commercial production. Switching manufacturers may involve substantial costs and is likely to result in a delay in our desired clinical and commercial timelines.

These factors could cause the delay of clinical trials, regulatory submissions, required approvals or commercialization of our product candidates, cause us to incur higher costs and prevent us from commercializing our products successfully, if approved. Furthermore, if our suppliers fail to meet contractual requirements, and we are unable to secure one or more replacement suppliers capable of production at a substantially equivalent cost, our clinical trials may be delayed, or we could lose potential revenue.

***Gene therapies are novel, complex and difficult to manufacture. We could experience manufacturing problems that result in delays in the development or commercialization of our product candidates or otherwise harm our business.***

The manufacture of gene therapy products is technically complex and necessitates substantial expertise and capital investment. Production difficulties caused by unforeseen events may delay the availability of material for our clinical studies.

We rely on third-party manufacturers to manufacture our product candidates for preclinical studies and clinical trials. The manufacturers of pharmaceutical products must comply with strictly enforced cGMP requirements, state and federal regulations, as well as foreign requirements when applicable. Any failure of us or our CMOs to adhere to or document compliance to such regulatory requirements could lead to a delay or interruption in the availability of our product candidate materials for clinical trials or enforcement action from the FDA, EMA or foreign regulatory authorities. If we or our manufacturers fail to comply with the requirements of the FDA, EMA or other regulatory authority, sanctions could be imposed on us, including clinical holds, fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of product candidates or products, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our product candidates.

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There can be no assurances that our third-party manufacturers will be able to meet our timetable and requirements. If any third party with whom we contract fails to perform its obligations, we may be forced to either manufacture the materials ourselves, for which we may not have the capabilities or resources, or enter into an agreement with a different third-party manufacturer, which we may not be able to do on reasonable terms, if at all. In either scenario, our clinical trials and future commercial supply could be delayed significantly as we establish alternative supply sources. In some cases, the technical skills required to manufacture our product candidates may be unique or proprietary to the original third-party manufacturer and we may have difficulty, or there may be contractual restrictions prohibiting us from, transferring such skills to a back-up or alternate supplier, or we may be unable to transfer such skills at all. In addition, if we are required to change manufacturers for any reason, we will be required to verify that the new manufacturer maintains facilities and procedures that comply with quality standards and with all applicable regulations. We will also need to verify, such as through a manufacturing comparability study, that any new manufacturing process will produce our product candidates according to the specifications previously submitted to the FDA or another regulatory authority. The delays associated with the verification of a new manufacturer could negatively affect our ability to develop product candidates or commercialize our products, if approved, in a timely manner or within budget.

If we are unable to arrange for alternative third-party manufacturing sources on commercially reasonable terms or in a timely manner, we may be delayed in the development of our product candidates. Our dependence upon others for the manufacture of our product candidates may also adversely affect our future profit margins and our ability to commercialize any product candidates that receive regulatory approval on a timely and competitive basis.

Our product candidates require processing steps that are more complex than those required for most chemical pharmaceuticals. Moreover, unlike chemical pharmaceuticals, the physical and chemical properties of a biologic such as our modified virus generally cannot be fully characterized. As a result, assays of the finished product may not be sufficient to ensure that the product will perform in the intended manner. Although we believe that the manufacture of our product candidates may be simplified due to their shared raw materials and other similarities, we cannot be certain that this will be the case and we may be required to develop manufacturing methods that ultimately differ significantly between product candidates, which would require that we invest substantial time and capital to develop suitable manufacturing methods. Our program materials are manufactured using technically complex processes requiring specialized equipment and facilities, highly specific raw materials, cell types and reagents, and other production constraints. Our production process also requires a number of highly specific raw materials, cell types and reagents with limited suppliers. Even though we aim to have backup supplies of raw materials, cell types and reagents whenever possible, we cannot be certain they will be sufficient if our primary sources are unavailable. A shortage of a critical raw material, cell line, or reagent, or a technical issue during manufacturing may lead to delays in clinical development or commercialization plans. We are particularly susceptible to any shortages, delays or our inability to obtain suitable raw materials for our lead product candidates. Any changes in the manufacturing of components of the raw materials we use could result in unanticipated or unfavorable effects in our manufacturing processes, resulting in delays.

In addition, if any of our product candidates obtain approval, the FDA, EMA and other 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, EMA or other regulatory authorities may require that we not distribute a lot until the 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.

***We depend on third-party suppliers for materials used in the manufacture of our product candidates, and the loss of these third-party suppliers or their inability to supply us with adequate materials could harm our business.***

We rely on third-party suppliers for the materials and components required for the production of our product candidates. Our dependence on these third-party suppliers and the challenges we may face in obtaining adequate supplies of materials involve several risks, including limited control over pricing, availability, and delivery schedules. There is substantial demand and limited supply for certain of the raw materials used to manufacture gene therapy products. As a small company, our negotiation leverage is limited, and we may get lower priority than our competitors that are larger than we are. We cannot be certain that our suppliers will continue to provide us with the quantities of these raw materials within the timelines that we require or satisfy our anticipated specifications and quality requirements. Any supply interruption in limited or sole-sourced raw materials could materially harm our ability to manufacture our product candidates until a new source of supply, if any, could be identified and qualified. We may be unable to find a sufficient alternative supply channel in a reasonable time or on commercially reasonable terms. Any performance failure on the part of our suppliers could delay the development and potential commercialization of our product candidates, including limiting supplies necessary for clinical trials and regulatory approvals, which would have a material adverse effect on our business.

***Any contamination or interruption in our manufacturing process, shortages of raw materials or failure of our suppliers of viruses to deliver necessary components could result in delays in our clinical development or marketing schedules.***

Given the nature of gene therapy manufacturing, there is a risk of contamination occurring during the manufacturing process. Any contamination could adversely affect our ability to produce product candidates on schedule and could, therefore, harm our results of operations and cause reputational damage. Some of the raw materials required in our manufacturing process are derived from biologic sources. Such raw materials are difficult to procure and may be subject to contamination or recall. A material shortage, contamination, recall or restriction on the use of biologically derived substances in the manufacture of our product candidates could adversely impact or disrupt the commercial manufacturing or the production of clinical material, which could adversely affect our development timelines and our business, financial condition, results of operations and prospects.

***Changes in methods of product candidate manufacturing or formulation may result in additional costs or delay.***

As product candidates proceed through preclinical studies to late-stage clinical trials towards potential approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods and formulation, are altered along the way in an effort to optimize processes and product characteristics. Such changes carry the risk that they will not achieve our intended objectives. Any such changes could cause our product candidates to perform differently and affect the results of planned clinical trials or other future clinical trials conducted with the materials manufactured using altered processes. Such changes may also require additional testing, FDA notification or FDA approval. This could delay the initiation and completion of clinical trials, require the conduct of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our product candidates and jeopardize our ability to commence sales and generate revenue. In addition, we may be required to make significant changes to our upstream and downstream processes across our pipeline, which could delay the development of our future product candidates. Regulatory agencies, and in particular the FDA and EMA, have demonstrated increased caution in their regulation of gene therapies, including increased scrutiny related to chemistry, manufacturing and control, or CMC, issues. This increased regulatory scrutiny around gene therapy CMC may result in us being required to conduct additional preclinical studies or clinical trials with respect to any of our product candidates, which may result in delays and

increased costs in the development or commercialization of our product candidates and ultimately could lead to the failure to obtain approval for any gene therapy product.

### **Risks related to the commercialization of our product candidates**

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

- their efficacy, safety and potential advantages compared to alternative treatments;
- our ability to offer our products for sale at competitive prices;
- their convenience and ease of administration compared to alternative treatments;
- product labeling or product insert requirements of the FDA or foreign regulatory authorities, including any limitations or warnings contained in a product's approved labeling, including any boxed warning or REMS;
- the willingness of the target patient population to try new treatments, such as gene therapy as a novel modality for treatment of our target indications and of physicians to prescribe these treatments;
- our ability to hire and retain a sales force in the United States;
- the strength of marketing and distribution support;
- the availability of coverage and adequate reimbursement for our product candidates, once approved, from third-party payors and government authorities;
- the prevalence and severity of any side effects; and
- any restrictions on the use of our products together with other medications.

*Negative public opinion of gene therapy and increased regulatory scrutiny of gene therapy and genetic research may adversely impact the development or commercial success of our current and future product candidates.*

Our product candidates involve introducing genetic material into a patient's cells via intrathecal and intravenous administration. The clinical and commercial success of our potential products will depend in part on public acceptance of the use of gene therapy and gene regulation for the prevention or treatment of human diseases. Public attitudes may be influenced by claims that gene therapy and gene regulation are unsafe, unethical or immoral, and consequently, our products may not gain the acceptance of the public or the medical community. Adverse public attitudes may adversely impact our ability to enroll clinical trials. Moreover, our success will depend upon physicians prescribing, and their patients being willing to receive, treatments that involve the use of product candidates we may develop in lieu of, or in addition to, existing treatments with which they are already familiar and for which greater clinical data may be available.

More restrictive government regulations or negative public opinion would have a negative effect on our business or financial condition and may delay or impair the development and commercialization of our product candidates

or demand for any products once approved. In recent years, sponsors of other clinical trials involving gene therapies have announced imposition of clinical holds by the FDA to evaluate safety issues arising during the trials. Among the risks in any gene therapy product based on viral vectors are the risks of immunogenicity, elevated liver enzymes and insertional oncogenesis. If any of our vectors demonstrate a similar effect, we may decide or be required to halt or delay further clinical development of any product candidates that utilize that vector. Adverse events in our or others' clinical trials, even if not ultimately attributable to our product candidates, and the resulting publicity could result in increased governmental regulation, unfavorable public perception, potential regulatory delays in the testing or approval of our product candidates, stricter labeling requirements for those product candidates that are approved and a decrease in demand for any such product candidates. The risk of cancer remains a concern for gene therapy, and we cannot assure that it will not occur in any of our planned or future clinical trials or in any clinical trials conducted by other companies. In addition, there is the potential risk of delayed adverse events following exposure to gene therapy products due to persistent biological activity of the genetic material or other components of products used to carry the genetic material. In addition, for our regulated gene replacement therapy candidates which require that the expression of a therapeutic transgene be tightly regulated, such as LX1020, we may inadvertently cause overexpression, which could lead to numerous issues, including safety and toxicity concerns. Furthermore, these regulatory gene replacement therapy candidates require the insertion of microRNA, or miRNA, targets into the viral genome, which is a technology that to our knowledge is not present in any approved gene therapy products. If any such adverse events occur, commercialization of our product candidates or further advancement of our clinical trials could be halted or delayed, which would have a negative impact on our business and operations.

***The affected populations for our other product candidates may be smaller than we or third parties currently project, which may affect the addressable markets for our product candidates.***

We currently focus our research and product development on several indications that are larger-rare diseases. However, our projections of the number of people who have the diseases we are seeking to treat, as well as the subset of people with these diseases who have the potential to benefit from treatment with our product candidates, are estimates based on our knowledge and understanding of these diseases. These estimates may prove to be incorrect and new studies may further reduce the estimated incidence or prevalence of this disease. The number of patients in the United States, the European Union and elsewhere may turn out to be lower than expected, may not be otherwise amenable to treatment with our product candidate or patients may become increasingly difficult to identify and access, all of which would adversely affect our business, financial condition, results of operations and prospects.

The total addressable market opportunity for our product candidates will ultimately depend upon a number of factors, including the diagnosis and treatment criteria included in the final label, if approved for sale in specified indications, acceptance by the medical community, patient access and product pricing and reimbursement. Incidence and prevalence estimates are frequently based on information and assumptions that are not exact and may not be accurate, and the methodology is forward-looking and potentially speculative. The process we have used in developing an estimated incidence and prevalence range for the indications we are targeting has involved collating limited data from multiple sources. Accordingly, the incidence and prevalence estimates included in this prospectus should be viewed in that context. Further, the data and statistical information used in this prospectus, including estimates derived from them, may differ from information and estimates made by our competitors or from current or future studies conducted by independent sources.

***We face significant competition from other biotechnology and pharmaceutical companies, and our operating results will suffer if we fail to compete effectively.***

Drug development, particularly in the gene therapy field, is highly competitive and subject to rapid and significant technological advancements. As a significant unmet medical need exists in the cardiovascular disease and Alzheimer's disease areas, there are several large and small pharmaceutical companies focused on delivering therapeutics for the treatment of these diseases, including those that we are initially targeting. It is likely that additional drugs will become available in the future for the treatment of our target diseases.

We are aware that our competitors are developing product candidates for the treatment of diseases that our product candidates will target. With respect to LX2006, we are aware of preclinical gene therapy programs in development at Novartis, PTC Therapeutics, Inc., Aavanti Bio, Inc., Lacerta Therapeutics, Inc. and those being developed in collaborations between Voyager Therapeutics, Inc. and Neurocrine Biosciences, Inc. and between Takeda Pharmaceutical Company Limited and StrideBio, Inc. Among other treatment modalities for FA, we are aware that Larimar Therapeutics, Inc. is developing a clinical stage product candidate, CTI-1601, Design Therapeutics, Inc. is developing a clinical stage product candidate, DT-216, and that Reata Pharmaceuticals, Inc.'s Omaveloxolone (Skyclarys) was recently approved by the FDA.

With respect to LX2020, both Rocket Pharmaceuticals Inc. and Tenaya Therapeutics Inc. are developing an AAV-based gene therapy candidate designed to deliver a functional *PKP2* gene to patients with PKP2-ACM.

With respect to our portfolio of gene therapy programs for the treatment of homozygous APOE4-associated Alzheimer's disease, we are aware that uniQure, N.V. is pursuing AMT-240, a preclinical gene therapy candidate for autosomal dominant Alzheimer's disease intended to silence the toxic variant while expressing the protective variant, and Novartis has a gene therapy candidate for Alzheimer's disease that is in the early preclinical stages of development. Many large and small pharmaceutical companies and academic institutions are developing potential treatments for the condition given the significant unmet need and the large population suffering from Alzheimer's disease. There are multiple FDA-approved treatments for Alzheimer's disease, including donepezil (Aricept), memantine (Namenda), and aducanumab (Aduhelm), the latter of which was recently approved under accelerated approval and will require confirmatory data to verify clinical benefit. In January of 2023, lecanemab was granted accelerated approval by the FDA for the treatment of Alzheimer's disease based on the observed reduction of amyloid beta plaque. In addition, Eli Lilly and Company's product candidate for the treatment of Alzheimer's disease, donanemab, is currently in Phase 3 development. Finally, we are aware that Voyager Therapeutics, Inc. and Taysha Gene Therapies, Inc. are pursuing Alzheimer's disease treatments and have early-stage discovery efforts ongoing based on vectorized antibodies and tau-specific miRNA shuttles, respectively.

Many of our existing or potential competitors have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of product candidates, as well as in obtaining regulatory approvals of those product candidates in the United States and in foreign countries. Our current and potential future competitors may also have significantly more experience commercializing drugs, particularly gene therapy and other biologics, that have been approved for marketing. Mergers and acquisitions in the pharmaceutical and biotechnology industries could result in even more resources being concentrated among a small number of our competitors.

We will face competition from other drugs or from other non-drug products currently approved or that will be approved in the future in the cardiac and neurology fields, including for the treatment of diseases and diseases in the therapeutic categories we intend to target. Therefore, our ability to compete successfully will depend largely on our ability to:

- develop and commercialize drugs that are advantageous as compared to other products in the market;

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- demonstrate through our clinical trials that our product candidates are differentiated from existing and future therapies;
- attract qualified scientific, product development and commercial personnel;
- obtain patent or other proprietary protection for our medicines;
- obtain required regulatory approvals;
- obtain coverage and adequate reimbursement from, and negotiate competitive pricing with, third-party payors; and
- successfully collaborate with other pharmaceutical companies in the discovery, development and commercialization of new medicines.

The availability of our competitors' products could limit the demand, and the price we are able to charge, for any product candidate we develop. The inability to compete with existing or subsequently introduced drugs would have an adverse impact on our business, financial condition and prospects. In addition, the reimbursement structure of approved gene therapies by other companies could impact the anticipated reimbursement structure of our gene therapies, if approved, and our business, financial condition, results of operations and prospects.

Established pharmaceutical companies may invest heavily to accelerate discovery and development of novel compounds or to in-license novel compounds that could make our product candidates less competitive. In addition, any new product that competes with an approved product must demonstrate compelling advantages in efficacy, convenience, tolerability and safety in order to overcome price competition and to be commercially successful. Accordingly, our competitors may succeed in obtaining patent protection, discovering, developing, receiving regulatory and marketing approval for, or commercializing, drugs before we do, which would have an adverse impact on our business and results of operations.

### ***Any product candidates for which we intend to seek approval as biologic products may face competition sooner than anticipated.***

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively, the ACA, includes a subtitle called the Biologics Price Competition and Innovation Act of 2009, or BPCIA, which created an abbreviated approval pathway for biologics 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 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 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. The law is complex and is still being interpreted and implemented by the FDA. As a result, its ultimate impact, implementation and meaning are subject to uncertainty. While it is uncertain when such processes intended to implement BPCIA may be fully adopted by the FDA, any such processes could have an adverse effect on the future commercial prospects for our biologics.

There is a risk that any of our product candidates approved as a biological product under a BLA would not qualify for the 12-year period of exclusivity or 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 generic competition sooner than anticipated. Other aspects of the BPCIA, some of which may impact the BPCIA exclusivity provisions, have also been the subject

of recent litigation. Moreover, the extent to which a biosimilar, once approved, will be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biologics is not yet clear, and will depend on a number of marketplace and regulatory factors that are still developing. If competitors are able to obtain marketing approval for biosimilars referencing our candidates, if approved, our products may become subject to competition from such biosimilars, with the attendant competitive pressure and potential adverse consequences.

***The success of our product candidates will depend significantly on coverage and adequate reimbursement or the willingness of patients, commercial and government payors to pay for these procedures.***

We believe our success depends on obtaining and maintaining coverage and adequate reimbursement for our product candidates, including LX2006, LX1001 and LX2020, and the extent to which patients will be willing to pay out-of-pocket for such products, in the absence of reimbursement for all or part of the cost. In the United States and in other countries, patients who are provided medical treatment for their conditions generally rely on third-party payors to reimburse all or part of the costs associated with their treatment. The availability of coverage and adequacy of reimbursement for our products by third-party payors, including government health care programs (e.g., Medicare, Medicaid, TRICARE), managed care providers, private health insurers, health maintenance organizations and other organizations is essential for most patients to be able to afford medical services and pharmaceutical products such as our product candidates. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own coverage and reimbursement policies. However, decisions regarding the extent of coverage and amount of reimbursement to be provided are made on a payor-by-payor basis. One payor's determination to provide coverage for a drug product does not assure that other payors will also provide coverage, and adequate reimbursement. For more information, see the section titled "*Business – Government Regulation – Coverage and Reimbursement.*"

The principal decisions about reimbursement for new medicines are typically made by the Centers for Medicare & Medicaid Services, or CMS, an agency within the U.S. Department of Health and Human Services, or HHS. CMS decides whether and to what extent products will be covered and reimbursed under Medicare and private payors tend to follow CMS to a substantial degree.

Third-party payors determine which products and procedures they will cover and establish reimbursement levels. Even if a third-party payor covers a particular product or procedure, the resulting reimbursement payment rates may not be adequate. Patients who are treated in-office for a medical condition generally rely on third-party payors to reimburse all or part of the costs associated with the procedure, including costs associated with products used during the procedure, and may be unwilling to undergo such procedures in the absence of such coverage and adequate reimbursement. Physicians may be unlikely to offer procedures for such treatment if they are not covered by insurance and may be unlikely to purchase and use our product candidates, if approved, for our stated diseases unless coverage is provided and reimbursement is adequate. In addition, 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. Further, coverage policies and third-party reimbursement rates may change at any time. Therefore, even if favorable coverage and reimbursement status is attained, less favorable coverage policies and reimbursement rates may be implemented in the future. In addition, companion diagnostic tests require coverage and reimbursement separate and apart from the coverage and reimbursement for their companion pharmaceutical or biological products. Similar challenges to obtaining coverage and reimbursement, applicable to pharmaceutical or biological products, will apply to companion diagnostics.

Reimbursement by a third-party payor may depend upon a number of factors, including the third-party payor's determination that a procedure is a covered benefit under its health plan; safe, effective and medically necessary;



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appropriate for the specific patient; cost-effective; supported by peer-reviewed medical journals; included in clinical practice guidelines; and neither cosmetic, experimental, nor investigational. Further, increasing efforts by 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. In order to secure coverage and reimbursement for any product that might be approved for sale, we may need to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of our products, in addition to the costs required to obtain FDA or comparable regulatory approvals. Additionally, we may also need to provide discounts to purchasers, private health plans or government healthcare programs. Our product candidates may nonetheless not be considered medically necessary or cost-effective. If third-party payors do not consider a product to be cost-effective compared to other available therapies, they may not cover the product after approval as a benefit under their plans or, if they do, the level of payment may not be sufficient to allow a company to sell its products at a profit. We expect to experience pricing pressures from third-party payors in connection with the potential sale of any of our product candidates.

Foreign governments also have their own healthcare reimbursement systems, which vary significantly by country and region, and we cannot be sure that coverage and adequate reimbursement will be made available with respect to the treatments in which our products are used under any foreign reimbursement system.

There can be no assurance that LX2006, LX1001, LX2020 or any other product candidates, if approved for sale in the United States or in other countries, will be considered medically reasonable and necessary, that it will be considered cost-effective by third-party payors, that coverage or an adequate level of reimbursement will be available or that reimbursement policies and practices in the United States and in foreign countries where our products are sold will not adversely affect our ability to sell our product candidates profitably, if they are approved for sale.

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

We face an inherent risk of product liability exposure related to the testing of our product candidates in human clinical trials and will face an even greater risk if we commercially sell any products that we may develop. If we cannot successfully defend ourselves against claims that our product candidates or drugs caused injuries, we will incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- decreased demand for any product candidates or drugs that we may develop;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants;
- significant costs to defend the related litigation;
- substantial monetary awards paid to trial participants or patients;
- loss of revenue;
- reduced resources of our management to pursue our business strategy; and
- the inability to commercialize any products that we may develop.

Although we maintain product liability insurance coverage, such insurance may not be adequate to cover all liabilities that we may incur. We may need to increase our insurance coverage as we expand our clinical trials or if we commence commercialization of our product candidates. Insurance coverage is increasingly expensive. We

may not be able to maintain insurance coverage at a reasonable cost or in an amount adequate to satisfy any liability that may arise.

### **Risks related to our dependence on third parties**

***Currently, we rely on our collaborations with Cornell University and University of California, San Diego, or UCSD, to conduct research and development for many of our pipeline programs, including conducting preclinical and IND-enabling studies for portions of our near-term future pipeline. Failure or delay of Cornell University or UCSD to fulfill all or part of their respective obligations to us under our agreements, a breakdown in collaboration between the parties or a complete or partial loss of either of these relationships could materially harm our business.***

Our company's initial programs arose from a collaboration between us, Cornell University, and Ronald G. Crystal, M.D., Professor and Chairman of Weill Cornell Medicine's Department of Genetic Medicine. Our collaboration with Cornell University is critical to our business and in May 2020, we entered into two separate license agreements with Cornell University for preclinical research and development collaborations and non-exclusive license rights to patents for certain products and technologies. As part of our first license agreement, as amended, we assumed oversight for the conduct of the Phase 1/2 clinical trial of LX1001 that was initiated by Cornell University at the end of 2019. Pursuant to these license agreements, we are obligated to diligently proceed with the development, manufacture, and sale of licensed products. In February 2021, we further expanded our collaboration and entered into a Research Collaboration Agreement with Cornell University, or the Cornell Collaboration Agreement, to conduct preclinical research to further develop the licensed technology. If Cornell University delays or fails to perform its obligations under this collaboration agreement, disagrees with our interpretation of the terms of the collaboration or our discovery plan or terminates any of our existing license and collaboration agreements, our pipeline of product candidates would be significantly adversely affected and our prospects may be materially harmed.

Our collaboration with UCSD is also highly important to our business, as we have licensed from UCSD intellectual property rights related to our LX 2020, LX 2021 and LX 2022 programs under three separate license agreements, and we have entered into sponsored research agreements with UCSD for preclinical research and development for these programs. Furthermore, our Chief Scientific Officer, Eric Adler, M.D., is the director of the UCSD-affiliated lab at which the preclinical work for the LX2022 program is conducted. If UCSD delays or fails to perform its obligations under either of the sponsored research agreements, disagrees with our interpretation of the terms of the sponsored research agreement or our discovery plan or terminates any of our existing license agreements, our pipeline of product candidates would be significantly adversely affected and our prospects may be materially harmed.

***We intend to continue to rely on third parties to conduct a significant portion of our existing clinical trials and potential future clinical trials for product candidates, and those third parties may not perform satisfactorily, including failing to meet deadlines for the completion of such trials.***

We engage CROs to help conduct our ongoing clinical trials. We expect to continue to rely on third parties, including clinical data management organizations, medical institutions and clinical investigators, to conduct those clinical trials and any future clinical trials. Any of these third parties may terminate their engagements with us, some in the event of an uncured material breach and some at any time for convenience. If any of our relationships with these third parties terminate, we may not be able to timely enter into arrangements with alternative third parties or to do so on commercially reasonable terms, if at all. Switching or adding a CRO involves substantial 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 can materially impact our ability to meet

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our desired clinical development timelines. Though we intend to carefully manage our relationships with our CROs, 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.

In addition, any third parties conducting our clinical trials will not be our employees, and except for remedies available to us under our agreements with such third parties, we cannot control whether or not they devote sufficient time and resources to our clinical programs. If these third parties do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical protocols, regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated and we may not be able to obtain regulatory approval for or successfully commercialize our product candidates. Consequently, our results of operations and the commercial prospects for our product candidates would be harmed, our costs could increase substantially and our ability to generate revenue could be delayed significantly.

We rely on these parties for execution of our preclinical studies and clinical trials, and generally do not control their activities. Our reliance on these third parties for research and development activities will reduce our control over these activities but will not relieve us of our responsibilities. For example, we will remain responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the trial. Moreover, the FDA requires us to comply with cGCP regulations, for conducting, recording and reporting the results of clinical trials to assure that data and reported results are credible and accurate and that the rights, integrity and confidentiality of trial participants are protected. We also are required to register ongoing clinical trials and post the results of completed clinical trials on a government-sponsored database, [www.clinicaltrials.gov](http://www.clinicaltrials.gov), within specified time frames. Failure to do so can result in fines, adverse publicity and civil and criminal sanctions. If we or any of our CROs or other third parties, including trial sites, fail to comply with applicable cGCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA, EMA 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 cGCP regulations. In addition, our clinical trials must be conducted with product produced under cGMP conditions. Our failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process.

In addition, 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. The FDA may conclude that a financial relationship between us and a principal investigator has created a conflict of interest or otherwise affected interpretation of the trial. The FDA 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 and may ultimately lead to the denial of marketing approval of LX2006, LX1001, LX2020 or any other product candidates.

We also expect to rely on other third parties to store and distribute product supplies for our clinical trials. Any performance failure on the part of our distributors could delay clinical development or marketing approval of our product candidates or commercialization of our products, producing additional losses and depriving us of potential revenue.

***We may seek collaborations with non-academic third parties for the development or commercialization of our product candidates. If those collaborations are not successful, we may not be able to capitalize on the market potential of these product candidates.***

We may seek third-party collaborators for the development and commercialization of our product candidates, including for the commercialization of any of our product candidates that are approved for marketing outside the United States. Our likely collaborators for any such arrangements include regional and national pharmaceutical companies and biotechnology companies. If we enter into any additional such arrangements with any third parties, we will likely have limited control over the amount and timing of resources that our collaborators dedicate to the development or commercialization of our product candidates. Our ability to generate revenue from these arrangements will depend on our collaborators' abilities to successfully perform the functions assigned to them in these arrangements. Collaborations involving our product candidates pose the following risks to us:

- collaborators have significant discretion in determining the efforts and resources that they will apply to these collaborations;
- collaborators may not perform their obligations as expected;
- collaborators may not pursue development and commercialization of any product candidates that achieve regulatory approval 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 divert resources or create competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, 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;
- we could grant exclusive rights to our collaborators that would prevent us from collaborating with others;
- product candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own product candidates or drugs, which may cause collaborators to cease to devote resources to the commercialization of our product candidates;
- a collaborator with marketing and distribution rights to one or more of our product candidates that achieve regulatory approval may not commit sufficient resources to the marketing and distribution of such products;
- disagreements with collaborators, including disagreements over proprietary rights, contract interpretation or the preferred course of development, might cause delays or termination of the research, development or commercialization of product candidates, might lead to additional responsibilities for us with respect to product candidates, or might result in litigation or arbitration, any of which would be time-consuming and expensive;
- collaborators may not properly maintain or defend our or their intellectual property rights or may use our or their proprietary information in such a way as to invite litigation that could jeopardize or invalidate such intellectual property or proprietary information or expose us to potential litigation;
- collaborators may infringe the intellectual property rights of third parties, which may expose us to litigation and potential liability; and

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- collaborations may be terminated for the convenience of the collaborator and, if terminated, we could be required to raise additional capital to pursue further development or commercialization of the applicable product candidates.

Collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all. If any future collaborator of ours were to be involved in a business combination, the continued pursuit and emphasis on our product development or commercialization program could be delayed, diminished or terminated.

We face significant competition in seeking appropriate collaborators. Whether we reach a definitive agreement for any collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to patients, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar diseases that may be available to collaborate on and whether such a collaboration could be more attractive than the one with us for our product candidate. Collaborations are complex and time-consuming to negotiate and document. In addition, there have been a significant number of recent business combinations among large pharmaceutical companies that have resulted in a reduced number of potential future collaborators.

We may not be able to negotiate additional 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 such product candidate, reduce or delay its development program or one or more of our other development programs, 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 our product candidates or bring them to market and generate revenue.

### **Risks related to intellectual property**

*If we are unable to obtain or protect intellectual property rights related to any of our product candidates, we may not be able to compete effectively in our market.*

We rely upon a combination of patents, trade secret protection and confidentiality agreements to protect the intellectual property related to our product candidates, including LX2006, LX2020, LX2021, LX2022, LX1001, LX1020, LX1021, and other programs, their respective components, formulations, therapies, methods used to manufacture them and methods treatment. Furthermore, we currently do not have any patents or patent applications covering our LX1004 product candidate.

Our success depends in large part on our ability to obtain and maintain patent and other intellectual property protection in the United States and in other countries with respect to our proprietary technology and product candidates.

We cannot offer any assurances about which of our patent applications will issue, the breadth of any resulting patent or whether any of the issued patents will be found invalid and unenforceable or will be threatened by third parties. We cannot offer any assurances that the breadth of our granted patents will be sufficient to stop a competitor from developing and commercializing a product, including a biosimilar product that would be

competitive with one or more of our product candidates. Furthermore, any successful challenge to these patents or any other patents owned by or licensed to us after patent issuance could deprive us of rights necessary for the successful commercialization of any of our product candidates. 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 patent prosecution process is expensive and time-consuming. We may not be able to prepare, file and prosecute all necessary or desirable patent applications at a commercially reasonable cost or in a timely manner or in all jurisdictions. It is also possible that we may fail to identify patentable aspects of inventions made in the course of development and commercialization activities before it is too late to obtain patent protection on them. We may not be able to obtain or maintain patent applications and patents due to the subject matter claimed in such patent applications and patents being in the public domain. In some cases, the work of certain academic researchers in the gene therapy field has entered the public domain, which may preclude our ability to obtain patent protection for certain inventions relating to such work. Although we enter into nondisclosure and confidentiality agreements with parties who have access to confidential or patentable aspects of our research and development output, such as our employees, corporate collaborators, outside scientific collaborators, contract manufacturers, consultants, advisors and other third parties, any of these parties may breach these agreements and disclose such output before a patent application is filed, thereby jeopardizing our ability to seek patent protection. Consequently, we would not be able to prevent any third party from using any technology that is in the public domain to compete with our product candidates. Moreover, depending on the terms of any future in-licenses to which we may become a party, we may not have the right to control the preparation, filing and prosecution of patent applications, or to maintain the patents, covering technology in-licensed from third parties. Therefore, these patents and patent applications may not be prosecuted and enforced in a manner consistent with the best interests of our business.

The patent position of biotechnology and pharmaceutical companies generally is highly uncertain, involves complex legal and factual questions and has, in recent years, been the subject of much litigation. As a result, the issuance, scope, validity, enforceability and commercial value of any patent rights are highly uncertain. Our owned and licensed pending and future patent applications may not result in issued patents which protect our technology or product candidates, effectively prevent others from commercializing competitive technologies and product candidates or otherwise provide any competitive advantage. In fact, patent applications may not issue as patents at all. Even if patent applications we license or own currently or in the future issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors or other third parties from competing with us, or otherwise provide us with any competitive advantage. Any patents that we hold or in-license may be challenged, narrowed, circumvented, or invalidated by third parties. Consequently, we do not know whether any of our technologies and product candidates will be protectable or remain protected by valid and enforceable patents. In addition, our existing patents and any future patents we obtain may not be sufficiently broad to prevent others from using our technology or from developing competing technologies and products, and the coverage claimed in a patent application can be significantly reduced before the patent is issued, and its scope can be reinterpreted after issuance. Any failure to obtain, maintain or defend our patents and other intellectual property could have a material adverse effect on our business, financial conditions, results of operations and prospects.

We cannot be certain that we are the first to invent the inventions covered by pending patent applications and, if we are not, we may be subject to priority or entitlement disputes. We may be required to disclaim part or all of the term of certain patents or all of the term of certain patent applications. There may be prior art of which we are not aware that may affect the validity or enforceability of a patent claim. There also may be prior art of which we are aware, but which we do not believe affects the validity or enforceability of a claim, which may, nonetheless, ultimately be found to affect the validity or enforceability of a claim. Since patent applications in the United

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States and other countries are confidential for a period of time after filing, at any moment in time, we cannot be certain that we were in the past or will be in the future the first to file any patent application related to our product candidates. For example, some patent applications in the United States may be maintained in secrecy until the patents are issued. Further, publications in the scientific literature often lag behind actual discoveries. Consequently, we cannot be certain that others have not filed patent applications for technology covered by our owned and in-licensed issued patents or our pending applications, or that we or, if applicable, a licensor, were the first to invent or first to file an application for the technology.

It is possible that defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, for example, with respect to proper priority claims, inventorship, claim scope, or requests for patent term adjustments. If there are material defects in the form, preparation, prosecution, or enforcement of our patents or patent applications, such patents may be invalid and/or unenforceable, and such applications may never result in valid, enforceable patents. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business.

In addition to the protection provided by our patent estate, we rely on trade secret protection and confidentiality agreements to protect proprietary know-how that is not amenable to patent protection. Although we generally require all of our employees to assign their inventions to us, and all of our employees, consultants, advisors and any third parties who have access to our proprietary know-how, information, or technology to enter into confidentiality agreements, we cannot provide any assurances that all such agreements have been duly executed, or that our trade secrets and other confidential proprietary information will not be disclosed. In addition, while we have undertaken reasonable efforts to ensure such agreements are enforceable and that employees and third parties comply with their obligations thereunder, these agreements may be found insufficient by a court of law or may be breached, or we may not enter into sufficient agreements with such individuals in the first instance, in either case potentially resulting in the unauthorized use or disclosure of our trade secrets and other intellectual property, including to our competitors, which could cause us to lose any competitive advantage resulting from this intellectual property. Individuals not subject to invention assignment agreements may make adverse ownership claims to our current and future intellectual property. Moreover, our competitors may independently develop knowledge, methods and know-how equivalent to our trade secrets. Competitors could purchase our products, if approved, and replicate some or all of the competitive advantages we derive from our development efforts for technologies on which we do not have patent protection. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed. Enforcing a claim that a third-party entity illegally obtained and is using any of our trade secrets is expensive and time-consuming, and the outcome is unpredictable, and we may not be able to obtain adequate remedies for such breaches.

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, our agreements or security measures may be breached, and we may not have adequate remedies for any breach. Also, if the steps taken to maintain our trade secrets are deemed inadequate, we may have insufficient recourse against third parties for misappropriating the trade secret. In addition, others may independently discover our trade secrets and proprietary information. For example, the FDA is considering whether to make additional information publicly available on a routine basis, including information that we may consider to be trade secrets or other proprietary information, and it is not clear at the present time how the FDA's disclosure policies may change in the future. If we are unable to prevent material disclosure of the non-patented intellectual property related to our technologies to third parties, and there is no guarantee that we will have any such enforceable trade secret protection, 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.

***Patent terms may be inadequate to protect our competitive position on our products for an adequate amount of time, and if we do not obtain protection under the Hatch-Waxman Amendments and similar non-United States legislation for extending the term of patents covering each of our product candidates, our business may be materially harmed.***

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. Depending upon the timing, duration and conditions of FDA marketing approval of our product candidates, one or more of our United States patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments, and similar legislation in the European Union. The Hatch-Waxman Amendments permit 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. Only one patent may be extended, and only those claims covering the approved drug, a method for using it, or a method for manufacturing it may be extended. 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. Moreover, the length of the extension could be less than we request. If we are unable to obtain patent term extension or the term of any such extension is less than we request, the period during which we can enforce our patent rights for that product will be shortened and our competitors may obtain approval to market competing products sooner. As a result, our revenue from applicable products could be reduced and could have a material adverse effect on our business.

***We in-license key intellectual property necessary for the development of each of our current product candidates. If we fail to comply with our obligations in our current and future intellectual property licenses with third parties, resulting in the termination of such licenses, we could lose rights that are important to our business.***

We are heavily reliant upon licenses to certain patent rights and proprietary technology for the development of each of our current product candidates. In particular, we in-license key patents and patent applications from Adverum Biotechnologies, Inc., or Adverum, related to LX2006, we in-license patent applications and know-how from Cornell University related to our LX1001, LX1020 and LX1021 product candidates for the treatment of Alzheimer's disease, and we in-license patent applications and know-how from the Regents of the University of California, San Diego, related to our LX2020, LX2021 and LX2022 product candidates for the treatment of cardiomyopathy. Our license agreements impose diligence and milestone and royalty payment obligations on us, and also contain certain development requirements. If we fail to comply with our obligations, our licensors may have the right to terminate our licenses, in which event we will not be able to develop, manufacture or market any product using the intellectual property under any such terminated agreement and may face other penalties. Such an occurrence would materially adversely affect our business prospects.

Certain of our licenses may not provide us with exclusive rights to use the licensed intellectual property and technology, or may not provide us with exclusive rights to use such intellectual property and technology in all relevant fields of use and in all territories in which we may wish to develop or commercialize our technology and product candidates in the future. In addition, the intellectual property rights licensed to us by our licensors, including certain intellectual property licensed by Cornell University, The Regents of the University of California, San Diego, and Adverum, at least in some respects, may be used by such licensors or licensed to third



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parties, and such third parties may have certain enforcement rights with respect to such intellectual property. Thus, patents licensed to us could be put at risk of being invalidated or interpreted narrowly in litigation filed by or against our licensors or another licensee or in administrative proceedings brought by or against our licensors or another licensee in response to such litigation or for other reasons. As a result, we may not be able to prevent competitors or other third parties from developing and commercializing competitive products, including in territories covered by our licenses.

Licenses to additional third-party technology and materials that may be required for our development programs may not be available in the future or may not be available on commercially reasonable terms, or at all, which could have a material adverse effect on our business and financial condition. In such events, 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 or product candidates. Even if we are able to obtain such additional licenses, they may be non-exclusive thereby giving our competitors and other third parties access to the same technology licensed to us.

If we or our licensors fail to adequately protect our licensed intellectual property, our ability to commercialize our product candidates and technology could suffer. Although we have oversight rights, Cornell University and The Regents of the University of California, San Diego, generally control the prosecution, maintenance and enforcement of our in-licensed patents and patent applications. Therefore, we cannot be certain that the prosecution, maintenance and enforcement of these patent rights will be in a manner consistent with the best interests of our business, or in compliance with applicable laws and regulations, or will result in valid and enforceable patents and other intellectual property rights. It is possible that our licensors' infringement proceedings or defense activities may be less vigorous than had we conducted them ourselves or may not be conducted in accordance with our best interests. If we or our licensors fail to maintain such patents or patent applications, or if we or our licensor lose rights to those patents or patent applications, the rights we have licensed may be reduced or eliminated and our right to develop and commercialize any of our product candidates that are the subject of such licensed rights could be adversely affected. In addition to the foregoing, the risks associated with patent rights that we license from third parties will also apply to patent rights we may own in the future.

Further, if we fail to comply with our development obligations under our license agreements, we may lose our patent rights with respect to such agreement on a territory-by-territory basis, which would affect our patent rights worldwide. In spite of our efforts, our current and future licensors might conclude that we have materially breached our obligations under our license agreements and might therefore terminate such license agreements, thereby removing or limiting our ability to develop and commercialize products and technology covered by these license agreements. Disputes may also arise between us and our licensors regarding intellectual property subject to a license agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- our financial and other obligations under the license agreement;
- whether and the extent to which our technology and processes infringe on intellectual property of the licensor that is not subject to the licensing agreement;
- our right to sublicense patent and other rights to third parties under collaborative development relationships;
- our diligence obligations with respect to the use of the licensed technology in relation to our development and commercialization of our product candidates and what activities satisfy those diligence obligations;

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- the inventorship or ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners; and
- the priority of invention of patented technology.

If disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on acceptable terms, we may be unable to successfully develop and commercialize the affected technology or product candidates. In addition, if any such disputes result in the termination of our intellectual property licenses, this could result in the loss of our ability to develop and commercialize our lead product candidates, or we could lose other significant rights, experience significant delays in the development and commercialization of our other product candidates, or incur liability for damages, any of which could have a material adverse effect on our business, financial condition, results of operations and prospects. In addition, we may seek to obtain additional licenses from our licensors and, in connection with obtaining such licenses, we may agree to amend our existing licenses in a manner that may be more favorable to the licensors, including by agreeing to terms that could enable third parties, including our competitors, to receive licenses to a portion of the intellectual property that is subject to our existing licenses and to compete with our product candidates.

Some of our future agreements with certain of our third-party research partners may provide that improvements developed in the course of our relationship may be owned solely by either us or our third-party research partner. If we determine that rights to such improvements owned solely by a third-party research partner or other third party with whom we collaborate are necessary to commercialize our therapeutic candidates or maintain our competitive advantage, we may need to obtain a license from such third party in order to use the improvements and continue developing, manufacturing or marketing our drug candidates. We may not be able to obtain such a license on an exclusive basis, on commercially reasonable terms, or at all, which could prevent us from commercializing our product candidates or allow our competitors or others the chance to access technology that is important to our business.

Termination of our current or any future license agreements would reduce or eliminate our rights under these agreements and may result in our 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. Any of the foregoing could prevent us from commercializing our other product candidates, which could have a material adverse effect on our operating results and overall financial condition.

In addition, intellectual property rights that we in-license in the future may be sublicenses under intellectual property owned by third parties, in some cases through multiple tiers. The actions of our licensors may therefore affect our rights to use our sublicensed intellectual property, even if we are in compliance with all of the obligations under our license agreements. Should our licensors or any of the upstream licensors fail to comply with their obligations under the agreements pursuant to which they obtain the rights that are sublicensed to us, or should such agreements be terminated or amended, our ability to develop and commercialize our product candidates may be materially harmed.

In addition, a third party may in the future bring claims that our performance under our license agreements, including our sponsoring of clinical trials, interferes with such third party's rights under its agreement with one of our licensors. If any such claim were successful, it may adversely affect our rights and ability to advance our product candidates as clinical candidates or subject us to liability for monetary damages, any of which would have an adverse effect on our business, financial condition, results of operations and prospects.

***We are generally also subject to all of the same risks with respect to protection of intellectual property that we license as we are for intellectual property that we own, which are described above and below. If we or our licensors fail to adequately protect this intellectual property, our ability to commercialize products could***

***suffer. We may not be successful in obtaining or maintaining necessary rights to product components and processes for our development pipeline through acquisitions and in-licenses.***

Presently, we have obtained rights to certain intellectual property rights through licenses from third parties to develop, manufacture and commercialize our lead product candidates and other potential product candidates in our pipeline. Because the commercialization of our product candidates may require the use of additional intellectual property rights held by third parties, the growth of our business likely will depend, in part, on our ability to acquire or license these intellectual property rights. Our product candidates also require specific formulations and manufacturing processes to work effectively and efficiently, and some of these rights are held by others.

We may be unable to acquire or in-license any compositions, methods of use, processes or other third-party intellectual property rights from third parties that we identify as necessary, important or more expedient to further our business operations. In addition, even if we are able to obtain such licenses, we may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, which would harm our business. Were that to happen, we may need to cease use of the product candidates and technologies covered by those third-party intellectual property rights and may need to seek to develop alternative approaches that do not infringe, misappropriate or violate those intellectual property rights, which may entail additional costs and development delays if we are able to develop such alternatives, or which may not be feasible. Even if we are able to obtain a license, it may be non-exclusive, which means that our competitors may also receive access to the same technologies licensed to us. The licensing and acquisition of third-party intellectual property rights is a competitive practice, and companies that may be more established, or have greater resources than we do, may also be pursuing strategies to license or acquire third-party intellectual property rights that we may consider necessary or attractive in order to commercialize our product candidates. More established companies may have a competitive advantage over us due to their larger size and cash resources or 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. There can be no assurance that we will be able to successfully complete such negotiations and ultimately acquire the rights to the intellectual property surrounding the additional product candidates that we may seek to acquire. We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment.

If we are unable to successfully obtain rights to required third-party intellectual property or maintain the existing intellectual property rights we have licensed, we may be required to expend significant time and resources to redesign our product candidates, or to develop or license replacement technology, all of which may not be feasible on a technical or commercial basis, and we may have to abandon development of our product candidates, any of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

***Our intellectual property licenses with third parties may be subject to disagreements over contract interpretation, which could narrow the scope of our rights to the relevant intellectual property or technology or increase our financial or other obligations to our licensors.***

We currently depend, and will continue to depend, on our license agreements, including the license agreements with Cornell University and Adverum related to LX2006, with Cornell University related to our LX1001, LX1020 and LX1021 product candidates for the treatment of Alzheimer's disease, and with The Regents of the University of California, San Diego, related to LX2020, LX2021 and LX2022 product candidates for the treatment of cardiomyopathy. The agreements under which we currently license intellectual property or technology from third parties are complex, and certain provisions in such agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could narrow

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what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

If any of our licenses or material relationships or any in-licenses upon which our licenses are based are terminated or breached, we may:

- lose our rights to develop and market our products;
- lose patent protection for our products;
- experience significant delays in the development or commercialization of our products;
- not be able to obtain any other licenses on acceptable terms, if at all; or
- incur liability for damages.

These risks apply to any agreements that we may enter into in the future for our products or for any future product candidates. If we experience any of the foregoing, it could have a material adverse effect on our business, financial condition, results or operations and prospects.

***We cannot be certain that any of our or licensed pending patent applications or our future owned or licensed patent applications will result in issued patent claims covering such aspects of our product candidates.***

Composition-of-matter patents on the active pharmaceutical ingredient, or API, in prescription drug products are generally considered to be the strongest form of intellectual property protection for drug products because those types of patents provide protection without regard to any particular method of use or manufacture or formulation of the API used. Although we intend to file patent applications in the future that cover these product candidates, we cannot be certain that our future owned or licensed patent applications will cover our current or future product candidates.

Method-of-use patents protect the use of a product for the specified method and formulation patents cover formulations of the API. These types of patents do not prevent a competitor or other third party from developing or marketing an identical product for an indication that is outside the scope of the patented method or from developing a different formulation that is outside the scope of the patented formulation. Moreover, with respect to method-of-use patents, even if competitors or other third parties do not actively promote their product for our targeted indications or uses for which we may obtain patents, physicians may recommend that patients use these products off-label, or patients may do so themselves. Although off-label use may infringe or contribute to the infringement of method-of-use patents, the practice is common, and this type of infringement is difficult to prevent or prosecute. In addition, there are numerous publications and other prior art that may be relevant to our owned or in-licensed method-of-use patents and patent applications and may be used to challenge the validity of these owned or in-licensed patents and patent applications in litigation or other intellectual property-related proceedings. If these types of challenges are successful, our owned or in-licensed patents and patent applications may be narrowed or found to be invalid, and we may lose valuable intellectual property rights. Any of the foregoing could have a material adverse effect on our business, financial conditions, prospects and results of operations.

The strength of patents in the biotechnology and pharmaceutical field involves complex legal and scientific questions and can be uncertain. The patent applications that we own or in-license may fail to result in issued patents with claims that cover our product candidates or uses thereof in the United States or in other countries. Even if patents do successfully issue, the issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability and third parties may challenge the validity, enforceability or scope of our owned and

licensed patents in courts or patent offices in the United States and abroad, which may result in those patents being narrowed, invalidated or held unenforceable. Furthermore, even if they are unchallenged, our owned and licensed patents and pending patent applications, if issued, may not adequately protect our intellectual property or prevent competitors or others from designing around our patent claims to circumvent our owned or licensed patents by developing similar or alternative technologies or therapeutics in a non-infringing manner. If the breadth or strength of protection provided by the patents and patent applications we own or license with respect to our product candidates is not sufficient to impede such competition or is otherwise threatened, it could dissuade companies from collaborating with us to develop, and threaten our ability to commercialize, our product candidates. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and prospects.

***We may be involved in lawsuits to protect or enforce our patents, which could be expensive, time-consuming and unsuccessful.***

Competitors may infringe the patents for which we have applied. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. If we initiate legal proceedings against a third party to enforce a patent covering one of our product candidates, the defendant could counterclaim that the patent covering our product or product candidate is invalid and/or unenforceable. In patent litigation in the United States, counterclaims alleging invalidity and/or unenforceability are common, and there are numerous grounds upon which a third party can assert invalidity or unenforceability of a patent. In an infringement proceeding, a court may decide that the patent claims we are asserting are invalid and/or unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patent claims do not cover the technology in question. Third parties may also raise similar 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 and equivalent proceedings in foreign jurisdictions (for example, opposition proceedings). Such proceedings could result in revocation of or amendment to our patents in such a way that they no longer cover our product candidates. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to the validity question, for example, we cannot be certain that there is no invalidating prior art, of which we, our patent counsel and the patent examiner were unaware during prosecution. If a defendant were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on our product candidates. An adverse result in any litigation or defense proceedings could put one or more of our patents at risk of being invalidated or interpreted narrowly, could put our patent applications at risk of not issuing and could have a material adverse impact on our business.

Interference proceedings provoked by third parties or brought by us may be necessary to determine the priority of inventions with respect to our patent applications. An unfavorable outcome could require us to cease using the related technology or force us to take a license under the patent rights of the prevailing party, if available. Furthermore, our business could be harmed if the prevailing party does not offer us a license on commercially reasonable terms. Our defense of litigation or interference proceedings may fail and, even if successful, may result in substantial costs and distract our management and other employees. We may not be able to prevent misappropriation of our intellectual property rights, particularly in countries where the laws may not protect those rights as fully as in the United States.

Even if we establish infringement of any of our patents by a competitive product, a court may decide not to grant an injunction against further infringing activity, thus allowing the competitive product to continue to be marketed by the competitor. It is difficult to obtain an injunction in U.S. litigation and a court could decide that the competitor should instead pay us a “reasonable royalty” as determined by the court, and/or other monetary

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damages. A reasonable royalty or other monetary damages may or may not be an adequate remedy. Loss of exclusivity and/or competition from a related product would have a material adverse impact on our business.

For certain of our in-licensed patent rights, such as patent rights in-licensed from Cornell University and Adverum, we may not have the right to file a lawsuit for infringement and may have to rely on a licensor to enforce these rights for us. If we are not able to directly assert our licensed patent rights against infringers or if a licensor does not vigorously prosecute any infringement claims on our behalf, we may have difficulty competing in certain markets where such potential infringers conduct their business, and our commercialization efforts may suffer as a result.

In addition, we or our licensors, as the case may be, may not be able to detect infringement against our owned or in-licensed patents, which may be especially difficult for manufacturing processes or formulation patents. Even if we or our licensors detect infringement by a third party of our owned or in-licensed patents, we or our licensors, as the case may be, may choose not to pursue litigation against or settlement with the third party. If we or our licensors later sue such third party for patent infringement, the third party may have certain legal defenses available to it that otherwise would not be available but for the delay between when the infringement was first detected and when the suit was brought. These legal defenses may make it impossible for us or our licensors to enforce our owned or in-licensed patents, as the case may be, against that third party.

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.

### ***Third parties may initiate legal proceedings alleging that we are infringing their intellectual property rights, the outcome of which would be uncertain.***

As our current and future product candidates progress toward commercialization, the possibility of a patent infringement claim against us increases. We cannot provide any assurance that our current and future product candidates do not infringe other parties' patents or other proprietary rights, and competitors or other parties may assert that we infringe their proprietary rights in any event. We may become party to, or threatened with, adversarial proceedings or litigation regarding intellectual property rights with respect to our current and future product candidates, including interference or derivation proceedings before the USPTO, or oppositions and other proceedings in foreign jurisdictions. We may be exposed to, or threatened with, future litigation by third parties having patent or other intellectual property rights alleging that our product candidates, manufacturing methods, formulations, administration methods and/or proprietary technologies infringe, misappropriate or otherwise violate their intellectual property rights.

Numerous issued patents and pending patent applications that are owned by third parties exist in the fields in which we are developing our product candidates. As the biotechnology and pharmaceutical industries expand and more patents are issued, the risk increases that our product candidates may give rise to claims of infringement of the patent rights of others. Moreover, it is not always clear to industry participants, including us, the claim scope that may issue from pending patent applications owned by third parties or which patents cover various types of drugs, products or their methods of use or manufacture. Thus, because of the large number of patents issued and patent applications filed in our fields, there may be a risk that third parties, including our competitors, may allege they have patent rights encompassing our product candidates, technologies or methods and that we are employing their proprietary technology without authorization.

If we were sued for patent infringement, we would need to demonstrate that the relevant product or methods of using the product either do not infringe the patent claims of the relevant patent or that the patent claims are

invalid or unenforceable, and we may not be able to do this. In order to successfully challenge the validity of any such United States patent in federal court, we would need to overcome a presumption of validity. As this burden is high and requires us to present clear and convincing evidence as to the invalidity of any such United States patent claim, there is no assurance that a court of competent jurisdiction would agree with us and invalidate the claims of any such United States patent. Moreover, given the vast number of patents in our field of technology, we cannot be certain that we do not infringe existing patents or that we will not infringe patents that may be granted in the future.

While we may decide to initiate proceedings to challenge the validity of these or other patents in the future, we may be unsuccessful, and courts or patent offices in the United States and abroad could uphold the validity of any such patent. Furthermore, because patent applications can take many years to issue and may be confidential for 18 months or more after filing, and because pending patent claims can be revised before issuance, there may be applications now pending which may later result in issued patents that may be infringed by the manufacture, use or sale of our product candidates. Regardless of when filed, we may fail to identify relevant third-party patents or patent applications, or we may incorrectly conclude that a third-party patent is invalid or not infringed by our product candidates or activities. If a patent holder believes that one of our product candidates infringes its patent, the patent holder may sue us even if we have received patent protection for our technology. Moreover, we may face patent infringement claims from non-practicing entities that have no relevant drug revenue and against whom our own patent portfolio may thus have no deterrent effect. If a patent infringement suit were threatened or brought against us, we could be forced to stop or delay research, development, manufacturing or sales of the drug or product candidate that is the subject of the actual or threatened suit.

If any third-party patents are held by a court of competent jurisdiction to be valid and enforceable and to cover any of our technology or product candidates, including the manufacturing process of our product candidates, constructs or molecules used in or formed during the manufacturing process, or any final product itself, we could be forced, including by court order, to cease developing, manufacturing or commercializing the infringing product. Alternatively, we may be required to obtain a license from such third party in order to use the infringing technology and continue developing, manufacturing or marketing the infringing product. If we were required to obtain a license to continue to manufacture or market the affected product, we may be required to pay substantial royalties or grant cross-licenses to our patents. We cannot, however, assure that any such license will be available on acceptable terms, if at all. Ultimately, we could be prevented from commercializing a product, or be forced to cease some aspect of our business operations as a result of claims of patent infringement or violation of other intellectual property rights. Further, the outcome of intellectual property litigation is subject to uncertainties that cannot be adequately quantified in advance, including the demeanor and credibility of witnesses and the identity of any adverse party. This is especially true in intellectual property cases that may turn on the testimony of experts as to technical facts upon which experts may reasonably disagree. 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 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. In addition, we could be found liable for significant monetary damages, including treble damages and attorneys' fees if we are found to have willfully infringed a patent. A finding of infringement could prevent us from commercializing a product or force us to cease some of our business operations, which could harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or administrative proceedings, there is a risk that some of our confidential information could be compromised by disclosure. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have material adverse effect on our ability to raise additional funds or otherwise have a material adverse effect on our business, results of operations, financial condition and prospects.

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The cost to us in defending or initiating any litigation or other proceeding relating to patent or other proprietary rights, even if resolved in our favor, could be substantial, and litigation would divert our management's attention. Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could delay our research and development efforts and limit our ability to continue our operations.

### ***We may be subject to claims that our employees, consultants, or independent contractors have wrongfully used or disclosed confidential information of third parties.***

We employ individuals who were previously employed at other biotechnology or biopharmaceutical companies. Although we try to ensure that our employees, consultants and advisors 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 confidential information of our employees' former employers or other third parties. We may also be subject to claims that former employers or other third parties have an ownership interest in our future patents. Litigation may be necessary to defend against these claims. There is no guarantee of success in defending these claims, and even if we are successful, litigation could result in substantial cost and be a distraction to our management and other employees. Even if we are successful in defending against these types of claims, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses and could distract our technical and management personnel from their normal responsibilities. 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, that perception could have a substantial adverse effect on the price of our common stock. This type of litigation or proceeding could substantially increase our operating losses and reduce our resources available for development activities. Some of our competitors may be able to sustain the costs of this type of litigation or proceedings more effectively than we can because of their substantially greater financial resources. Uncertainties resulting from the initiation and continuation of intellectual property litigation or other intellectual property related proceedings could adversely affect our ability to compete in the marketplace.

### ***We may be subject to claims challenging the inventorship or ownership of our future patents and other intellectual property.***

We may also be subject to claims that former employees, collaborators, or other third parties have an ownership interest in our patent applications, our future patents, or other intellectual property. We may be subject to ownership disputes in the future arising, for example, from conflicting obligations of consultants or others who are involved in developing our product candidates and platform discovery. Although it is our policy to require our employees and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own, and we cannot be certain that our agreements with such parties will be upheld in the face of a potential challenge, or that they will not be breached, for which we may not have an adequate remedy. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and litigation may be necessary to defend against these and other claims challenging inventorship or ownership. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, valuable intellectual property. Such an outcome could have a material adverse effect on 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.



***Reliance on third parties requires us to share our trade secrets, which increases the possibility that a competitor will discover them or that our trade secrets will be misappropriated or disclosed.***

If we rely on third parties to manufacture or commercialize our product candidates, or if we collaborate with additional third parties for the development of such product candidates, we must, at times, share trade secrets with them. We may also conduct joint research and development programs that may require us to share trade secrets under the terms of our research and development partnerships or similar agreements. We seek to protect our proprietary technology in part by entering into confidentiality agreements and, if applicable, material transfer agreements, consulting agreements or other similar agreements with our advisors, employees, third-party contractors and consultants prior to beginning research or disclosing proprietary information. These agreements typically limit the rights of the third parties to use or disclose our confidential information, including our trade secrets. Despite the contractual provisions employed when working with third parties, the need to share trade secrets and other confidential information increases the risk that such trade secrets become known by our competitors, are inadvertently incorporated into the technology of others, or are disclosed or used in violation of these agreements. Given that our proprietary position is based, in part, on our know-how and trade secrets, a competitor's discovery of our trade secrets or other unauthorized use or disclosure could have an adverse effect on our business and results of operations.

In addition, these agreements typically restrict the ability of our advisors, employees, third-party contractors and consultants to publish data potentially relating to our trade secrets. Despite our efforts to protect our trade secrets, we may not be able to prevent the unauthorized disclosure or use of our technical know-how or other trade secrets by the parties to these agreements. Moreover, we cannot guarantee that we have entered into such agreements with each party that may have or have had access to our confidential information or proprietary technology and processes. Monitoring unauthorized uses and disclosures is difficult, and we do not know whether the steps we have taken to protect our proprietary technologies will be effective. If any of the collaborators, scientific advisors, employees, contractors and consultants who are parties to these agreements breaches or violates the terms of any of these agreements, we may not have adequate remedies for any such breach or violation, and we could lose our trade secrets as a result. Moreover, if confidential information that is licensed or disclosed to us by our partners, collaborators, or others is inadvertently disclosed or subject to a breach or violation, we may be exposed to liability to the owner of that confidential information. Enforcing a claim that a third party illegally obtained and is using our trade secrets, like patent litigation, is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets.

***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 or use capsids, nucleic acids and vectors that are similar to the biological compositions of our products that are the same as or similar to our product candidates but that are not covered by the claims of owned or in-licensed patents;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- it is possible that others may circumvent our owned or in-licensed patents;
- others, including inventors or developers of our owned or in-licensed 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 our intellectual property rights;

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- it is possible that our owned or in-licensed patents or patent applications omit individual(s) who should be listed as inventor(s) or include individual(s) who should not be listed as inventor(s), which may cause these patents or patents issuing from these patent applications to be held invalid or unenforceable;
- we or our licensors or our other collaboration partners might not have been the first to conceive and reduce to practice the inventions covered by the patents or patent applications that we own, license or will own or license;
- we or our licensors or our other collaboration partners might not have been the first to file patent applications covering certain of the patents or patent applications that we or they own or have obtained a license, or will own or will have obtained a license;
- we or our licensors may fail to meet obligations to the U.S. government with respect to in-licensed patents and patent applications funded by U.S. government grants, leading to the loss of patent rights;
- it is possible that our pending patent applications will not result in issued patents;
- we may not be able to generate sufficient data to support full patent applications that protect the entire breadth of developments in one or more of our programs;
- no patent protection may be available with regard to formulation or method of use;
- the claims of our owned or in-licensed issued patents or patent applications, if and when issued, may not cover our product candidates;
- it is possible that there are prior public disclosures that could invalidate our or our licensors' patents;
- it is possible that there are unpublished applications or patent applications maintained in secrecy that may later issue with claims covering our products or technology similar to ours;
- issued patents that we own or exclusively license may not provide us with any competitive advantage, or may be held invalid or unenforceable, as a result of legal challenges by our competitors;
- we may not exclusively license our patents and, therefore, may not have a competitive advantage if such patents are licensed to others;
- our competitors 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;
- the laws of other countries may not protect our or our licensors', as the case may be, proprietary rights to the same extent as the laws of the United States;
- there may be significant pressure on the U.S. government and international governmental bodies to limit the scope of patent protection both inside and outside the United States for disease treatments that prove successful, as a matter of public policy regarding worldwide health concerns;
- countries other than the United States may, under certain circumstances, force us or our licensors to grant a license under our patents to a competitor, thus allowing the competitor to compete with us in that jurisdiction or forcing us to lower the price of our drug in that jurisdiction;
- we have engaged in scientific collaborations in the past and will continue to do so in the future and our collaborators may develop adjacent or competing products that are outside the scope of our patents;
- we may not successfully commercialize the product candidates, if approved, before our relevant patents expire;

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- we may not develop additional proprietary technologies for which we can obtain patent protection;
- it is possible that product candidates or technologies we develop may be covered by third parties' patents or other exclusive rights;
- ownership, validity or enforceability of our or our licensors' patents or patent applications may be challenged by third parties; and
- the patents of third parties or pending or future applications of third parties, if issued, may have an adverse effect on our business.

***We may enjoy only limited geographical protection with respect to certain patents and we may not be able to protect our intellectual property rights throughout the world.***

Filing and prosecuting patent applications and defending patents covering our product candidates in all countries throughout the world would be prohibitively expensive. Competitors may 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, but enforcement rights are not as strong as that in the United States or Europe. These products may compete with our product candidates, and our future 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 before they are granted. The examination of each national or regional patent application is an independent proceeding. As a result, patent applications in the same family may issue as patents in some jurisdictions, such as in the United States, but may issue as patents with claims of different scope or may even be refused in other jurisdictions. It is also quite common that depending on the country, the scope of patent protection may vary for the same product candidate or technology.

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 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 from others in those jurisdictions.

The laws of some jurisdictions do not protect intellectual property rights to the same extent as the laws or rules and regulations in the United States and Europe and many companies have encountered significant difficulties in protecting and defending such rights in such jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents, trade secrets and other intellectual property rights, which could make it difficult for us to stop the infringement of our future patents or marketing of competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in other jurisdictions, whether or not successful, could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our future patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing as patents, and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, 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.

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Some countries also have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, some countries limit the enforceability of patents against government agencies or government contractors. In those countries, the patent owner may have limited remedies, which could materially diminish the value of such patents. If we are forced to grant a license to third parties with respect to any patents relevant to our business, our competitive position may be impaired.

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

Periodic maintenance fees, renewal fees, annuity fees and various other government fees on patents and/or applications will be due to be paid to the USPTO and various government patent agencies outside of the United States over the lifetime of our patents and/or applications and any patent rights we may obtain in the future. Furthermore, the USPTO and various non-United States government patent agencies require compliance with several procedural, documentary, fee payment and other similar provisions during the patent application process. In many cases, an inadvertent lapse of a patent or patent application can be cured by payment of a late fee or by other means in accordance with the applicable rules. There are situations, however, in which non-compliance can result in abandonment or lapse of the patents or patent applications, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, potential competitors might be able to enter the market, which could have a material adverse effect on our business.

***Changes in patent laws or patent jurisprudence could diminish the value of patents in general, thereby impairing our ability to protect our product candidates.***

As is the case with other biotechnology companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the biotechnology and genetic medicine industries involve both technological and legal complexity. Therefore, obtaining and enforcing biotechnology and genetic medicine patents is costly, time-consuming and inherently uncertain. In addition, the Leahy-Smith America Invents Act (AIA), which was passed in September 2011, resulted in significant changes to the U.S. patent system.

An important change introduced by the AIA is that, as of March 16, 2013, 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. Under a “first-to-file” system, assuming the other requirements for patentability are met, the first inventor to file a patent application generally will be entitled to a patent on the invention regardless of whether another inventor had made the invention earlier. A third party that files a patent application in the USPTO after that date but before us could therefore be awarded a patent covering an invention of ours even if we made the invention before it was made by the third party. This will require us to be cognizant going forward of the time from invention to filing of a patent application and be diligent in filing patent applications, but circumstances could prevent us from promptly filing patent applications on our inventions.

Among some of the other changes introduced by the AIA are changes that limit where a patentee may file a patent infringement suit and providing opportunities for third parties to challenge any issued patent in the USPTO. This applies to all of our U.S. patents, even those issued before March 16, 2013. Because of a lower evidentiary standard in USPTO proceedings compared to the evidentiary standard in U.S. federal courts necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action.

Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. It is not clear what, if any, impact the AIA will have on the operation of our business. However, the AIA and its implementation could increase the uncertainties and costs surrounding the prosecution of our or our licensors' patent applications and the enforcement or defense of our or our licensors' issued patents.

We may become involved in opposition, interference, derivation, inter partes review or other proceedings challenging our or our licensors' patent rights, and the outcome of any proceedings are highly uncertain. An adverse determination in any such proceeding could reduce the scope of, or invalidate, our owned or in-licensed patent rights, allow third parties to commercialize our technology or products and compete directly with us, without payment to us, or result in our inability to manufacture or commercialize products without infringing third-party patent rights.

In addition, 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 allows 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 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.

Additionally, the U.S. Supreme Court has ruled on several patent cases in recent years either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations, and there are other open questions under patent law that courts have yet to decisively address. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on decisions by Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways and could weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future. In addition, the European patent system is relatively stringent in the type of amendments that are allowed during prosecution, but the complexity and uncertainty of European patent laws has also increased in recent years. Complying with these laws and regulations could limit our ability to obtain new patents in the future that may be important for our business.

***If our trademarks and trade names are not adequately protected, then we may not be able to build name recognition in our markets of interest and our business may be adversely affected.***

Our current or future trademarks or trade names may be challenged, infringed, circumvented or declared generic or descriptive or determined to be infringing on other marks. We may not be able to protect our rights to these trademarks and trade names or may be forced to stop using these names, which we need for name recognition by potential partners or customers in our markets of interest. During trademark registration proceedings, we may receive rejections of our applications by the USPTO or in other foreign jurisdictions. Although we would be given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many foreign jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. If we are unable to establish name recognition based on our trademarks and trade names, we may not be able to

compete effectively and our business may be adversely affected. We may license our trademarks and trade names to third parties, such as distributors. Although these license agreements may provide guidelines for how our trademarks and trade names may be used, a breach of these agreements or misuse of our trademarks and tradenames by our licensees may jeopardize our rights in or diminish the goodwill associated with our trademarks and trade names.

Moreover, any name we have proposed to use with our product candidate in the United States must be approved by the FDA, regardless of whether we have registered it, or applied to register it, as a trademark. Similar requirements exist in Europe. The FDA typically conducts a review of proposed product names, including an evaluation of potential for confusion with other product names. If the FDA (or an equivalent administrative body in a foreign jurisdiction) objects to any of our proposed proprietary product names, we may be required to expend significant additional resources in an effort to identify a suitable substitute name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA. Furthermore, in many countries, owning and maintaining a trademark registration may not provide an adequate defense against a subsequent infringement claim asserted by the owner of a senior trademark. At times, competitors or other third parties may adopt trade names or trademarks similar to ours, thereby impeding our ability to build brand identity and possibly leading to market confusion. In addition, there could be potential trade name or trademark infringement claims brought by owners of other registered trademarks or trademarks that incorporate variations of our registered or unregistered trademarks or trade names. 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.

## **Risks related to legal and regulatory compliance matters**

***Our current and future relationships with customers, healthcare providers, including physicians, and third-party payors may be subject, directly or indirectly, to federal and state healthcare fraud and abuse laws, false claims laws, health information privacy and security laws and other healthcare laws and regulations. If we are unable to comply, or have not fully complied, with such laws, we could face substantial penalties.***

We are currently or will in the future be subject to healthcare regulation and enforcement by the U.S. federal government and the states in which we will conduct our business once our product candidates are approved by the FDA and commercialized in the United States. In addition to the FDA's restrictions on marketing of pharmaceutical products, the U.S. healthcare laws and regulations that may affect our ability to operate include: the federal fraud and abuse laws, including the federal anti-kickback and false claims laws; federal data privacy and security laws; and federal transparency laws related to payments and/or other transfers of value made to physicians and other healthcare professionals and teaching hospitals. For more information, see the section titled "Business – Government Regulation – Other Healthcare Laws and Compliance Requirements." Many states have similar laws and regulations that may differ from each other and federal law in significant ways, thus complicating compliance efforts. For example, states have anti-kickback and false claims laws that may be broader in scope than analogous federal laws and may apply regardless of payor. In addition, state data privacy laws that protect the security of health information may differ from each other and may not be preempted by federal law. Moreover, several states have enacted legislation requiring pharmaceutical manufacturers to, among other things, establish marketing compliance programs, file periodic reports with the state, make periodic public disclosures on sales and marketing activities, report information related to drug pricing, require the registration of sales representatives, and prohibit certain other sales and marketing practices. These laws may adversely affect our sales, marketing and other activities with respect to any product candidate for which we receive approval to market in the United States by imposing administrative and compliance burdens on us. It is possible that governmental authorities will conclude that our current or future business practices may not comply with current

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or future statutes, regulations 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 these laws or any other governmental regulations that may apply to us, we may be subject to significant penalties, including, without limitation, civil, criminal and administrative penalties, damages, fines, disgorgement, individual imprisonment, exclusion from participating in federal and state funded healthcare programs, such as Medicare and Medicaid, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, contractual damages, diminished profits and future earnings, reputational harm and the curtailment or restructuring of our operations, any of which could harm our business.

The risk of being found in violation of these laws is increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations. Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. The shifting compliance environment and the need to build and maintain robust and expandable systems to comply with multiple jurisdictions with different compliance and/or reporting requirements increases the possibility that a healthcare company may run afoul of one or more of the requirements.

***Even if we obtain FDA or EMA approval for any of our product candidates in the United States or European Union, we may never obtain approval for or commercialize any of them in any other jurisdiction, which would limit our ability to realize their full market potential.***

In order to market any products in any particular jurisdiction, we must establish and comply with numerous and varying regulatory requirements on a country-by-country basis regarding safety and efficacy.

Approval by the FDA in the United States or the EMA in the European Union does not ensure approval by regulatory authorities in other countries or jurisdictions. However, the failure to obtain approval in one jurisdiction may negatively impact our ability to obtain approval elsewhere. In addition, clinical trials conducted in one country may not be accepted by regulatory authorities in other countries, and regulatory approval in one country does not guarantee regulatory approval in any other country.

Approval processes vary among countries and can involve additional product testing and validation and additional administrative review periods. Seeking foreign regulatory approval could result in difficulties and increased costs for us and require additional preclinical studies or clinical trials which could 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. We do not have any product candidates approved for sale in any jurisdiction, including in international markets. If we fail to comply with regulatory requirements in international markets or to obtain and maintain required approvals, or if regulatory approvals in international markets are delayed, our target market will be reduced and our ability to realize the full market potential of any product we develop will be unrealized.

***Even if we receive regulatory approval of our product candidates, we will be subject to ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense, and we may be subject to penalties if we fail to comply with regulatory requirements or experience unanticipated problems with our product candidates.***

Any product candidate for which we obtain marketing approval will be subject to ongoing regulatory requirements for, among other things, manufacturing processes, submission of post-approval clinical data and

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safety information, labeling, packaging, distribution, adverse event reporting, storage, recordkeeping, export, import, advertising, promotional activities and product tracking and tracing. These requirements include submissions of safety and other post-marketing information and reports, establishment registration and drug listing requirements, applicable tracking and tracing requirements, continued compliance with cGMP requirements relating to manufacturing, quality control, quality assurance and corresponding maintenance of records and documents, requirements regarding the distribution of samples to physicians and recordkeeping and cGCP requirements for any clinical trials that we conduct post-approval.

Any regulatory approvals that we receive for our product candidates or any future product candidates may also be subject to a REMS, limitations on the approved indicated uses for which the product may be marketed or to the conditions of approval, or requirements that we conduct potentially costly post-marketing testing, including Phase 4 trials and surveillance to monitor the quality, safety and efficacy of the product. An unsuccessful post-marketing study or failure to complete such a study could result in the withdrawal of marketing approval. We will further be required to immediately report any serious and unexpected adverse events and certain quality or production problems with our products to regulatory authorities along with other periodic reports.

The FDA and EMA closely regulate the post-approval marketing and promotion of genetic therapy medicines to ensure they are marketed only for the approved indications and in accordance with the provisions of the approved labeling. However, companies may share truthful and not misleading information that is otherwise consistent with a product's FDA approved labeling. The FDA imposes stringent restrictions on manufacturers' communications regarding off-label use and if we market our products for uses beyond their approved diseases, we may be subject to enforcement action for off-label marketing. Violations of the FDCA, relating to the promotion of prescription drugs for unapproved uses may lead to enforcement actions and investigations alleging violations of federal and state health care fraud and abuse laws, as well as state consumer protection laws. The holder of an approved BLA must submit new or supplemental applications and obtain prior approval for certain changes to the approved product, product labeling, or manufacturing process. A company that is found to have improperly promoted off-label uses of their products may be subject to significant civil, criminal and administrative penalties.

In addition, later discovery of previously unknown adverse events or other problems with our products, manufacturers or manufacturing processes, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may yield various results, including:

- restrictions on manufacturing such products;
- restrictions on the labeling or marketing of a product;
- restrictions on product distribution or use;
- refusal to allow entry into supply contracts, including government contracts;
- requirements to conduct post-marketing studies or clinical trials;
- warning or untitled letters, or holds on clinical trials;
- withdrawal of the products from the market;
- refusal to approve pending applications or supplements to approved applications that we submit;
- recall of products;
- fines, restitution or disgorgement of profits or revenues;



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- suspension or withdrawal of marketing approvals;
- refusal to permit the import or export of our products;
- product seizure or detention; or
- injunctions or the imposition of administrative, civil or criminal penalties or monetary fines.

The FDA's policies, and the policies of foreign regulatory agencies, may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates.

We also 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. For example, executive orders or other actions could impose significant burdens on, or otherwise materially delay, FDA's ability to engage in routine oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. If such executive actions were to impose restrictions on FDA's ability to engage in oversight and implementation activities in the normal course, our business could be negatively impacted. 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 which would adversely affect our business, prospects and ability to achieve or sustain profitability.

Any government investigation of alleged violations of law could require us to expend significant time and resources in response and could generate negative publicity. The occurrence of any event or penalty described above may inhibit our ability to commercialize our current product candidates or any future product candidates and harm our business, financial condition, results of operations and prospects.

### ***Enacted and future healthcare legislation may increase the difficulty and cost for us to progress our clinical programs and obtain marketing approval of and commercialize our product candidates and may affect the prices we may set.***

In the United States, the European Union 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 affect our future results of operations. 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. For more information, see the below section titled "*Business—Government Regulation—Healthcare Reform.*"

The continuing efforts of the government, insurance companies, managed care organizations and other payers of healthcare services to contain or reduce costs of healthcare may adversely affect:

- the demand for any of our product candidates, if approved;
- the ability to set a price that we believe is fair for any of our product candidates, if approved;
- our ability to generate revenues and achieve or maintain profitability;
- the level of taxes that we are required to pay; and
- the availability of capital.

Legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical and biologic products. We cannot be sure whether additional legislative changes will be enacted, or whether FDA 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.

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 bundled payment models. 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. presidential executive orders, 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 and could negatively affect our customers and accordingly, our financial operations.

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 European Union, 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 European Union or member state level may result in significant additional requirements or obstacles that may increase our operating costs. The delivery of healthcare in the European Union, including the establishment and operation of health services and the pricing and reimbursement of medicines, is almost exclusively a matter for national, rather than European Union, law and policy. National governments and health service providers have different priorities and approaches to the delivery of health care and the pricing and reimbursement of products in that context. In general, however, 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 European Union 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 European Union, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific products and therapies.

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 European Union 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.

***Changes in funding for the FDA and other government agencies could hinder their ability to hire and retain key leadership and other personnel, or otherwise prevent new products and services from being developed or commercialized in a timely manner, which could negatively impact our business.***

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel, accept the payment of user fees, and statutory, regulatory and policy changes. Average review times at the agency 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 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. Our business depends upon the ability of the FDA to accept and review our potential regulatory filings. If a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our ability to advance clinical development of our product candidates.

***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 our product candidates or realizing the synergies in the target diseases of our programs, even if they are approved.***

We do not have any infrastructure for the sales, marketing or distribution of our products, and the cost of establishing and maintaining such an organization may exceed the cost-effectiveness of doing so. We expect to build a focused sales, distribution and marketing infrastructure to market our product candidates in the United States and European Union, if approved. There are significant expenses and risks involved with establishing 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 candidates. Additionally, if the commercial launch of our product candidates for which we recruit a sales force and 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.

We may not have the resources in the foreseeable future to allocate to the sales and marketing of our product candidates in certain international markets. Therefore, our future sales in these markets will largely depend on our ability to enter into and maintain collaborative relationships for such capabilities, the collaborator's strategic interest in the product and such collaborator's ability to successfully market and sell the product. We may pursue collaborative arrangements regarding the sale and marketing of LX2006, LX1001 or LX2020, if approved, for certain markets overseas; however, we cannot assure that we will be able to establish or maintain such collaborative arrangements, or if able to do so, that they will have effective sales forces.

If we are unable to build our own sales force or negotiate a collaborative relationship for the commercialization of LX2006, LX1001 or LX2020, or any of our other product candidates, if approved, we may be forced to delay the potential commercialization of LX2006, LX1001 or LX2020 or any of our other product candidates or reduce the scope of our sales or marketing activities for LX2006, LX1001 or LX2020 or any of our other product candidates. If we elect to increase our expenditures to fund commercialization activities internationally, we will

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need to obtain additional capital, which may not be available to us on acceptable terms, or at all. We could enter into arrangements with collaborative partners at an earlier stage than otherwise would be ideal and we may be required to relinquish rights to LX2006, LX1001 or LX2020 or any of our other 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 LX2006, LX1001 or LX2020 or any of our other product candidates, if approved, 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.

***If we obtain approval to commercialize any products outside of the United States or the European Union, a variety of risks associated with international operations could adversely affect our business.***

If LX2006, LX1001, LX2020 or any of our other product candidates are approved for commercialization, we may seek to enter into agreements with third parties to market them in certain jurisdictions outside the United States and the European Union. We expect that we would be subject to additional risks related to international pharmaceutical operations, including:

- different regulatory requirements for drug and biologic approvals and rules governing drug and biologic commercialization in foreign countries;
- reduced protection for intellectual property rights;
- foreign reimbursement, pricing and insurance regimes;
- unexpected changes in tariffs, trade barriers and regulatory requirements;
- economic weakness, including inflation, or political instability in particular foreign economies and markets;
- foreign currency fluctuations, which could result in increased operating expenses and reduced revenues, and other obligations incident to doing business in another country;
- business interruptions resulting from geopolitical actions, including war and terrorism or natural disasters including earthquakes, typhoons, floods and fires, or from economic or political instability;
- greater difficulty with enforcing our contracts;
- 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.

In addition, there are complex regulatory, tax, labor and other legal requirements imposed by individual countries in Europe with which we will need to comply. If we are unable to successfully manage the challenges of international expansion and operations, our business and operating results could be harmed.

***If we fail to comply with environmental, health and safety laws and regulations, we could become subject to fines or penalties or incur costs that could harm our business.***

We are subject to numerous environmental, health and safety laws and regulations, including those governing laboratory procedures and the handling, use, storage, treatment and disposal of hazardous materials and wastes.

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From time to time and in the future, our operations may involve the use of hazardous and flammable materials, including chemicals and biological materials, and may also produce hazardous waste products. Even if we contract with third parties for the disposal of these materials and waste products, we cannot completely eliminate the risk of contamination or injury resulting from these materials. In the event of contamination or injury resulting from the use or disposal of our hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties for failure to comply with such laws and regulations.

We maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees, but this insurance may not provide adequate coverage against potential liabilities. However, we do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us.

In addition, we may incur substantial costs in order to comply with current or future environmental, health and safety laws and regulations. Environmental laws and regulations may impair our research, development or production efforts. In addition, failure to comply with these laws and regulations may result in substantial fines, penalties or other sanctions.

***We are subject to a variety of privacy and data security laws, rules, regulations, policies, industry standards and contractual obligations, and our failure to comply with them could harm our business.***

We maintain a large quantity of sensitive information, including confidential business and personal information in connection with the conduct of our clinical trials and related to our employees, and we are subject to laws and regulations governing the privacy and security of such information. In the United States, there are numerous federal and state privacy and data security laws and regulations governing the collection, use, disclosure and protection of personal information, including federal and state health information privacy laws, federal and state security breach notification laws and federal and state consumer protection laws. The legislative and regulatory landscape for privacy and data protection continues to evolve, and there has been an increasing focus on privacy and data protection issues, which may affect our business and is expected to increase our compliance costs and exposure to liability. In the United States, numerous federal and state laws and regulations could apply to our operations or the operations of our partners, including state and federal data breach notification laws, state health information privacy laws and federal and state consumer protection laws and regulations that govern the collection, use, disclosure and protection of health-related and other personal information. Among these regulations are: Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive commercial practices; new rules adopted by the SEC in July 2023, which require public companies to disclose material cybersecurity incidents they experience and to disclose on an annual basis material information regarding their cybersecurity risk management, strategy, and governance; and HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, and the regulations promulgated thereunder. We may obtain health information from third parties, including research institutions from which we obtain clinical trial data, that are subject to privacy and security requirements under HIPAA, and depending on the facts and circumstances, we could be subject to significant penalties if we obtain, use or disclose individually identifiable health information in a manner that is not authorized or permitted by HIPAA.

In the European Economic Area, or EEA, and the UK, the collection, use, disclosure, transfer or other processing of personal data, including clinical trial data, of individuals is governed by the General Data Protection Regulation, or EU GDPR (with regards to the EEA) and UK GDPR (with regards to the UK), as well as applicable national data protection legislation and requirements. In this document, "GDPR" refers to both the EU GDPR and the UK GDPR, unless specified otherwise. The GDPR is wide ranging in scope imposes numerous requirements on companies that process personal data, including requirements relating to processing health and other sensitive data, obtaining consent of the individuals to whom the personal data relates, providing information to individuals regarding data processing activities, implementing safeguards to protect the security and confidentiality of personal data, providing notification of data breaches, and taking certain measures when engaging third-party processors. The GDPR imposes substantial fines

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for breaches and violations (up to the greater of €20 million (£17.5 million for the UK) or 4% of our consolidated annual worldwide gross revenue), and confers a private right of action on data subjects and consumer associations to lodge complaints with supervisory authorities, seek judicial remedies and obtain compensation for damages resulting from violations of the GDPR.

The GDPR also includes restrictions on cross-border data transfers of personal data to countries outside the EEA and the UK that are not considered by the European Commission and UK government as providing “adequate” protection to personal data, or third countries, including the United States, unless a valid GDPR transfer mechanism (for example, the European Commission approved Standard Contractual Clauses, or SCCs, and the UK International Data Transfer Agreement/Addendum, or UK IDTA) has been put in place. Where relying on the SCCs or UK IDTA for data transfers, we may also be required to carry out transfer impact assessments to assess whether the recipient is subject to local laws which allow public authority access to personal data. The international transfer obligations under the EEA and UK data protection regimes will require significant effort and cost, and may result in us needing to make strategic considerations around where EEA and UK personal data is transferred and which service providers we can utilize for the processing of EEA and UK personal data. Although the UK is regarded as a third country under the EU GDPR, the European Commission has issued a decision recognizing the UK as providing adequate protection under the EU GDPR, or Adequacy Decision, and, therefore, transfers of personal data originating in the EEA to the UK remain unrestricted.

The UK government has confirmed that personal data transfers from the UK to the EEA remain free flowing. The UK Government has also now introduced a Data Protection and Digital Information Bill, or UK Bill, into the UK legislative process. The aim of the UK Bill is to reform the UK’s data protection regime following Brexit. If passed, the final version of the UK Bill may have the effect of further altering the similarities between the UK and EEA data protection regime and threaten the UK Adequacy Decision from the European Commission. This may lead to additional compliance costs and could increase our overall risk. The respective provisions and enforcement of the EU GDPR and UK GDPR may further diverge in the future and create additional regulatory challenges and uncertainties.

Compliance with these and any other applicable privacy and data security laws and regulations is a rigorous and time-intensive process, and we may be required to put in place additional mechanisms ensuring compliance with the new data protection rules. If we fail to comply with any such laws or regulations, we may face significant fines and penalties that could adversely affect our business, financial condition and results of operations. Furthermore, the laws are not consistent, and compliance in the event of a widespread data breach is costly. In addition, states are constantly adopting new laws or amending existing laws, requiring attention to frequently changing regulatory requirements. For example, California enacted the California Consumer Privacy Act, or CCPA, which took effect on January 1, 2020, became enforceable by the California Attorney General on July 1, 2020 and has been dubbed the first “GDPR-like” law in the United States. The CCPA gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used by requiring covered companies to provide new disclosures to California consumers (as that term is broadly defined) and provide such consumers new ways to opt out of certain sales of personal information. The CCPA 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. Further, the California Privacy Rights Act, or CPRA, which became effective as of January 1, 2023, amended the CCPA and imposes additional data protection obligations on companies doing business in California, including additional consumer rights processes, limitations on data uses, new audit requirements for higher risk data and opt outs for certain uses of sensitive data. The amendments introduced by the CPRA also created a new California data protection agency authorized to issue substantive regulations, and it is anticipated that this development could result in increased privacy and information security enforcement. Although the CCPA, as amended by the CPRA, currently exempts certain health-related information, including clinical trial data, the CCPA may increase our compliance costs and potential liability if we expand our operations into California.

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Similar broad consumer privacy laws have been enacted in Colorado, Connecticut, Virginia, Utah, Iowa and Indiana and have been proposed in numerous other states and at the federal level. If passed, these bills may have potentially conflicting requirements that would make compliance challenging.

In addition to these consumer privacy laws, the state of Washington recently a comprehensive privacy bill, called the My Health My Data Act. Effective March 2024, this new law will impose strict requirements on the collection, use and processing of health related information that is not subject to HIPAA. Other states are considering bills with similar requirements. The Washington law and, if passed, the other state bills, will add additional complexity to our existing compliance obligations.

With the GDPR, CCPA and other laws, regulations and other obligations relating to privacy and data protection imposing new and relatively burdensome obligations, and with the substantial uncertainty over the interpretation and application of these and other obligations, we may face challenges in addressing their requirements and making necessary changes to our policies and practices and may incur significant costs and expenses in an effort to do so. We are currently in the process of developing and updating our policies and procedures in accordance with requirements under applicable data privacy and protection laws and regulations. We do not currently have any formal data privacy policies and procedures in place and have not completed formal assessments of whether we are in compliance with all applicable data privacy laws and regulations. Additionally, if third parties with which we work, such as vendors or service providers, violate applicable laws, rules or regulations or our policies, such violations may also put our or our clinical trial and employee data, including personal data, at risk, which could in turn have an adverse effect on our business.

***We are subject to U.S. and certain foreign anti-corruption laws and regulations, export and import controls, sanctions and embargoes. We could face liability and other serious consequences for violations.***

We are subject to anti-corruption laws and regulations, including the U.S. Foreign Corrupt Practices Act, or the FCPA, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act and other state and national anti-bribery laws in the countries in which we may conduct activities in the future. Anti-corruption laws are interpreted broadly and generally prohibit companies and their employees, agents, contractors and other third-party collaborators from offering, promising, giving, or authorizing others to give anything of value, either directly or indirectly through third parties, to any person in the public or private sector to obtain or retain business. The FCPA also requires public companies to make and keep books and records that accurately and fairly reflect the transactions of the corporation and to devise and maintain an adequate system of internal accounting controls.

Our business is heavily regulated and therefore involves significant interaction with public officials, including officials of non-United States governments. Additionally, in many other countries, the healthcare providers who prescribe pharmaceuticals are employed by their government, and therefore will be considered foreign officials for purposes of the FCPA. We also expect to rely on third parties for research, preclinical studies and clinical trials and/or to obtain necessary permits, licenses, patent registrations and other marketing approvals. We can be held liable for the corrupt or other illegal activities of our employees, agents, CROs, contractors and other collaborators and partners, even if we do not explicitly authorize or have actual knowledge of such activities.

We are also subject to export control and import laws and regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations and various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls. Compliance with applicable regulatory requirements regarding the export of our products may create delays in the introduction of our products in international markets or, in some cases, prevent the export of our products to some countries altogether. Furthermore, U.S. export control laws and economic sanctions prohibit the shipment of certain products and services to countries, governments and persons targeted by U.S. sanctions.

There is no certainty that all of our employees, agents, suppliers, manufacturers, contractors or collaborators, or those of our affiliates, will comply with all applicable anti-corruption, export and import control, and sanctions laws and regulations, particularly given the high level of complexity of these laws. Violations of these laws and regulations could result in fines, criminal sanctions against us, our officers, or our employees, the closing down of facilities, including those of our suppliers and manufacturers, requirements to obtain export licenses, cessation of business activities in sanctioned countries, implementation of compliance programs, and prohibitions on the conduct of our business. Any such violations could include prohibitions on our ability to offer our products in one or more countries as well as difficulties in manufacturing or continuing to develop our products, and could materially damage our reputation, our brand, our international expansion efforts, our ability to attract and retain employees, and our business, prospects, operating results and financial condition.

## **Risks related to employee matters and managing our growth**

***Our future success depends on our ability to attract and retain key executives and advisors and to attract, retain and motivate qualified personnel.***

We are highly dependent on the management, development, clinical, financial and business development expertise of our executive officers, particularly R. Nolan Townsend, our Chief Executive Officer and a member of our board of directors, Paul McCormac, Ph.D., our Chief Technical Officer, and Eric Adler, M.D., our Chief Scientific Officer, as well as on the scientific expertise of our founder, Ronald G. Crystal, M.D., Professor and Chairman of Weill Cornell Medicine's Department of Genetic Medicine. Each of our executive officers may currently terminate their employment with us at any time and we do not have an employment contract with Dr. Crystal. We do not maintain "key person" insurance for any of our executives or employees.

Recruiting and retaining qualified executives, scientists and clinical personnel and, if we progress the development of our product pipeline toward scaling up for commercialization, manufacturing and sales and marketing personnel, will also be critical to our success. The loss of the services of our executive officers or other key employees, or our inability to recruit certain executives, could impede the achievement of our development and commercialization objectives and seriously harm our ability to successfully implement our business strategy. Furthermore, recruiting executive officers, or replacing executive officers and key employees may be difficult 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 successfully develop, gain regulatory approval of and commercialize gene therapy products. Competition to hire from this limited pool is intense, and we have experienced and may continue to experience challenges filling certain executive roles. We may be unable to hire, train, retain or motivate key personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for the hiring of 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 development and commercialization strategy. Our consultants and advisors may be employed by employers 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 pursue our growth strategy will be limited.

***We expect to expand our clinical development, manufacturing and regulatory capabilities and potentially implement sales, marketing and distribution capabilities, and as a result, we may encounter difficulties in managing our growth, which could disrupt our operations.***

As of September 19, 2023, we had 53 full-time employees. As our development progresses, we expect to experience significant growth in the number of our employees and the scope of our operations, particularly in the areas of clinical product development, regulatory affairs and, if any of our product candidates receives marketing approval, sales, marketing and distribution. To manage our anticipated future growth, we must continue to



implement and improve our managerial, operational and financial systems, expand our facilities 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. Our choice to focus on multiple therapeutic areas may negatively affect our ability to develop adequately the specialized capability and expertise necessary for operations. The expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

***Our employees, independent contractors, consultants, collaborators, principal investigators, CROs, suppliers and vendors may be improperly classified and may engage in misconduct or other improper activities, including non-compliance with regulatory standards and requirements.***

We endeavor to properly classify our employees as exempt or non-exempt with respect to wage and hour laws (including, but not limited to, for purposes of minimum wage, overtime and applicable meal and rest periods), and we monitor and evaluate such classifications. Although there are no current, pending, or threatened claims or investigations against us asserting that any employees have been incorrectly classified as exempt, the possibility nevertheless exists that certain job roles could be deemed to have been incorrectly classified as exempt. In addition, we endeavor to classify our workforce properly, and we monitor and evaluate such classifications. Although there are no current, pending, or threatened claims or investigations against us asserting that any independent contractors have been incorrectly classified, the possibility nevertheless exists that certain contractors could be deemed to be employees.

We are exposed to the risk that our employees, independent contractors, consultants, collaborators, principal investigators, CROs, suppliers and vendors may engage in fraudulent conduct or other illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct that violates FDA regulations, including those laws requiring the reporting of true, complete and accurate information to the FDA, manufacturing standards, federal and state healthcare laws and regulations, and laws that require the true, complete and accurate reporting of financial information or data. In particular, sales, marketing and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, 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. Misconduct by these parties could also involve the improper use of individually identifiable information, including, without limitation, information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. In connection with this offering, we intend to adopt a code of business conduct and ethics; however, even with such a code of conduct in place, it is not always possible to identify and deter misconduct, 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 be in compliance with such laws or regulations. 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, including the imposition of significant civil, criminal and administrative penalties, including, without limitation, damages, fines, disgorgement, imprisonment, exclusion from participation in government healthcare programs, such as Medicare and Medicaid, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, and the curtailment or restructuring of our operations.

***The administrator of the 2023 Plan is authorized to exercise its discretion to reprice stock options and stock appreciation rights, and if a repricing occurs, there may be adverse consequences to our business.***

The administrator of the 2023 Plan (which we expect to be our compensation committee) is authorized, subject to the consent of any award holder whose award is materially impaired by such action, to reduce the exercise price of a stock option or stock appreciation right; to cancel a stock option or stock appreciation right in exchange for a different award, cash or other consideration; or to take any other action that is treated as a repricing under generally accepted accounting principles (each such action, a “repricing”).

We have no current expectation that a repricing will occur. However, if the administrator were to implement a repricing without seeking prior stockholder approval, certain proxy advisory firms and/or institutional investors may express a lack of support for the repricing, and proxy advisory firms may recommend an “against” or “withhold” vote for members of our compensation committee or the board. In addition, if we are required to hold an advisory vote on named executive officer compensation (known as a “say on pay” vote) at the time of, or subsequent to, any such repricing, it is likely, based on their current policies, that proxy advisory firms would issue an “against” recommendation on our say on pay proposal. Defending against negative recommendations with respect to our directors and/or say on pay proposal would require management attention, and could be costly and time-consuming.

If our stockholders agree with proxy advisory firms’ recommendations, we may need to make changes to our compensation and corporate governance practices, and perhaps the composition of our board and its committees, potentially leading to business disruptions and a negative impact on our stock price. Even absent negative reactions from proxy advisory firms and institutional investors, we may be required to recognize a compensation expense and the repricing will require management’s time and attention and the payment of administrative costs and attorney and accounting firm fees. As such, a repricing could cause a negative impact on our stock price, and adverse consequences to our business.

### **Risks related to this offering, ownership of our common stock and our status as a public company**

***An active trading market for our common stock may not develop and you may not be able to resell your shares of our common stock at or above the initial offering price, if at all.***

Prior to this offering, there has been no public market for our common stock. We have applied to list our common stock on Nasdaq under the symbol “LXEO”. The closing of this offering is contingent upon such listing. Although we anticipate our common stock being approved for listing on Nasdaq, an active trading market for our common stock may never develop or be sustained following this offering. The initial public offering price for our common stock will be determined through negotiations with the underwriters and may not be indicative of the price at which our common stock will trade after the closing of this offering. If an active market for our common stock does not develop or is not sustained, it may be difficult for you to sell shares you purchase in this offering at an attractive price or at all.

***The trading price of the shares of our common stock may be volatile, and purchasers of our common stock could incur substantial losses.***

Our stock price may be volatile. The stock market in general and the market for biopharmaceutical companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. As a result of this volatility, investors may not be able to sell their common stock at or

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above the price paid for the shares. The market price for our common stock may be influenced by many factors, including:

- the reporting of unfavorable preclinical and clinical results;
- the commencement, enrollment or results of our clinical trials of LX2006, LX1001, LX2020 or any future clinical trials we may conduct, or changes in the development status of our product candidates;
- any delay in our regulatory filings for LX2006, LX1001, LX2020 or any other product candidate we may develop, and any adverse development or perceived adverse development with respect to the applicable regulatory authority's review of such filings, including without limitation the FDA's issuance of a "refusal to file" letter or a request for additional information;
- adverse results from, delays in or termination of clinical trials;
- adverse regulatory decisions, including failure to receive regulatory approval of our product candidates;
- unanticipated serious safety concerns related to the use of LX2006, LX1001 or LX2020 or any other product candidate;
- changes in financial estimates by us or by any equity research analysts who might cover our stock;
- conditions or trends in our industry;
- changes in the market valuations of similar companies;
- stock market price and volume fluctuations of comparable companies and, in particular, those that operate in the biopharmaceutical industry;
- publication of research reports about us or our industry or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- announcements by us or our competitors of significant acquisitions, strategic partnerships or divestitures;
- our relationships with our collaborators;
- announcements of investigations or regulatory scrutiny of our operations or lawsuits filed against us;
- investors' general perception of our company and our business;
- recruitment or departure of key personnel;
- overall performance of the equity markets;
- trading volume of our common stock;
- disputes or other developments relating to proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our technologies;
- significant lawsuits, including patent or stockholder litigation or employee or independent contractor litigation;
- changes in the structure of healthcare payment systems;
- general political and economic conditions; and
- other events or factors, many of which are beyond our control.

The global economy, including credit and financial markets and the banking sector, has experienced extreme volatility and disruptions, including, among other things, severely diminished liquidity and credit availability,

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declines in consumer confidence, declines in economic growth, increases in unemployment rates, supply chain shortages, increases in inflation rates, bank failures, higher interest rates and uncertainty about economic stability. For example, the ongoing war between Russia and Ukraine created volatility in the global capital markets and may have further global economic consequences, including disruptions of the global supply chain and energy markets. Any such volatility and disruptions may have adverse consequences on us or the third parties on whom we rely. If the equity and credit markets continue to deteriorate, it may make any necessary debt or equity financings more difficult to obtain in a timely manner or on favorable terms, more costly or more dilutive. Increased inflation rates can adversely affect us by increasing our costs, including labor and employee benefit costs. In addition, higher inflation and macro turmoil and uncertainty could also adversely affect our buyers and sellers, which could reduce demand for our products. These factors may negatively affect the market price of our common stock, regardless of our actual operating performance.

In addition, in the past, stockholders have initiated class action lawsuits against pharmaceutical and biotechnology companies following periods of volatility in the market prices of these companies' stock. Such litigation, if instituted against us, could cause us to incur substantial costs and divert management's attention and resources from our business.

***A significant portion of our total outstanding shares are restricted from immediate resale but may be sold into the market in the near future. This 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 could occur at any time. These sales, 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 \_\_\_\_\_ shares of common stock outstanding based on the number of shares outstanding as of June 30, 2023. This includes the shares that we are selling in this offering, which may be resold in the public market immediately. Following the consummation of this offering, approximately \_\_\_\_\_ % of our outstanding shares will be subject to a 180-day lock-up period provided under lock-up agreements executed in connection with this offering described in "Underwriting" and restricted from immediate resale under the federal securities laws as described in "Shares Eligible for Future Sale." All of these shares will, however, be able to be resold after the expiration of the lock-up period, as well as pursuant to customary exceptions thereto or upon the waiver of the lock-up agreement by or on behalf of the underwriters. We also intend to register 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 the lock-up agreements. As restrictions on resale end, the market price of our stock could decline if the holders of currently-restricted shares sell them or are perceived by the market as intending to sell them.

***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 pro forma as adjusted 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 pro forma as adjusted net tangible book value per share after this offering. To the extent outstanding options are exercised, you will incur further dilution. Based on an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus, you will experience immediate dilution of \$ \_\_\_\_\_ per share, 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.

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***If equity research analysts do not publish research or reports, or publish unfavorable research or reports, about us, our business or our market, our stock price and trading volume could decline.***

The trading market for our common stock will be influenced by the research and reports that equity research analysts publish about us and our business. As a newly public company, we have only limited research coverage by equity research analysts. Equity research analysts may elect not to provide research coverage of our common stock, and such lack of research coverage may adversely affect the market price of our common stock. In the event we do have equity research analyst coverage, we will not have any control over the analysts or the content and opinions included in their reports. The price of our stock could decline if one or more equity research analysts downgrade our stock or issue other unfavorable commentary or research. If one or more equity research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which in turn could cause our stock price or trading volume to decline.

***Our executive officers, directors and their affiliates, if they choose to act together, have the ability to significantly influence all matters submitted to stockholders for approval and may prevent new investors from influencing significant corporate decisions.***

Upon the closing of this offering, based on the number of common stock outstanding as of June 30, 2023, 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 common stock. 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 persons, if they choose to act together, would control or significantly influence the election of directors, the composition of our management and approval of any merger, consolidation, sale of all or substantially all of our assets or other business combination that other stockholders may desire. Any of these actions could adversely affect the market price of our common stock.

Some of these persons or entities may have interests different than yours. For example, because many of these stockholders purchased their shares at prices substantially below the current market price of our common stock and have held their shares for a longer period, they may be more interested in selling our company to an acquirer than other investors, or they may want us to pursue strategies that deviate from the interests of other stockholders.

***We are an “emerging growth company” and a “smaller reporting company” and, as a result of the reduced disclosure and governance requirements applicable to emerging growth companies and smaller reporting companies, our common stock may be less attractive to investors.***

We are an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or JOBS Act, and we intend to take advantage of some of the exemptions from reporting requirements that are applicable to other public companies that are not emerging growth companies, including:

- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- 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;
- reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and
- not being required to hold a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

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We cannot predict if investors will find our common stock less attractive because we will 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 price may be more volatile. We may take advantage of these reporting exemptions until we are no longer an emerging growth company. We will remain an emerging growth company until the last day of the fiscal year ending after the fifth anniversary of this offering, or, if earlier, (i) the last day of the fiscal year in which we have total annual gross revenue of at least \$1.235 billion, (ii) the date on which we are deemed to be a large accelerated filer, which means the market value of our common stock that is held by non-affiliates exceeds \$700 million as of the prior June 30, or (iii) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period.

In addition, we have elected to take advantage of the extended transition period to comply with new or revised accounting standards and to adopt certain of the reduced disclosure requirements available to emerging growth companies. As a result of the accounting standards election, we will not be subject to the same implementation timing for new or revised accounting standards as other public companies that are not emerging growth companies, which may make comparison of our financials to those of other public companies more difficult. As a result of these elections, the information that we provide in this prospectus may be different than the information investors may receive from other public companies in which they hold equity interests. In addition, it is possible that some investors will find our common stock less attractive as a result of these elections, which may result in a less active trading market for our common stock and higher volatility in our share price.

Even after we no longer qualify as an emerging growth company, we may, under certain circumstances, 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 disclosure obligations regarding executive compensation in our periodic reports and proxy statements.

***We will have broad discretion in the use of proceeds from this offering and may invest or spend the proceeds in ways with which you do not agree and in ways that may not increase the value of your investment.***

We will have broad discretion over the use of proceeds from this offering. You may not agree with our decisions, and our use of the proceeds may not yield any return on your investment. We expect to use the net proceeds to us from this offering, together with our existing cash, to advance the clinical development of LX2006, LX2020 and LX1001, to fund the continued development of our other programs and cardiac discovery efforts, and for working capital and other general corporate purposes. See “Use of Proceeds.” In addition, we may use a portion of the proceeds from this offering to pursue our strategy to in-license or develop additional product candidates. Our failure to apply the net proceeds from this offering effectively could compromise our ability to pursue our growth strategy and we might not be able to yield a significant return, if any, on our investment of these net proceeds. You will not have the opportunity to influence our decisions on how to use our net proceeds from this offering.

***Because we do not anticipate paying any cash dividends on our common stock in the foreseeable future, capital appreciation, if any, will be your sole source of gains and you may never receive a return on your investment.***

You should not rely on an investment in our common stock to provide dividend income. We have not declared or paid cash dividends on our common stock to date. We currently intend to retain our future earnings, if any, to fund the development and growth of our business. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future. Investors seeking cash dividends should not purchase our common stock.

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***Our amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware and the federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.***

Our amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware is the exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action asserting a breach of fiduciary duty;
- any action asserting a claim against us arising under the Delaware General Corporation Law, our amended and restated certificate of incorporation, or our amended and restated bylaws;
- any claim or cause of action seeking to interpret, apply, enforce or determine the validity of our restated certificate or our amended and restated bylaws;
- any claim or cause of action as to which the Delaware General Corporation Law confers jurisdiction on the Court of Chancery of the state of Delaware; and
- any action asserting a claim against us that is governed by the internal-affairs doctrine.

This provision would not apply to suits brought to enforce a duty or liability created by the Securities Exchange Act of 1934, as amended, or the Exchange Act. Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated certificate of incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our amended and restated certificate of incorporation. This may require significant additional costs associated with resolving such action in other jurisdictions and there can be no assurance that the provisions will be enforced by a court in those other jurisdictions.

These exclusive forum provisions may result in increased costs for investors to bring a claim. Further, these exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find either exclusive forum provision in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur further significant additional costs associated with resolving the dispute in other jurisdictions, all of which could seriously harm our business.

***Provisions in our corporate charter documents and under Delaware law could make an acquisition of us, 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 certificate of incorporation and our bylaws that 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

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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:

- establish a classified board of directors such that only a portion of our directors stand for election at any given annual stockholder meeting;
- allow the authorized number of our directors to be changed from time to time by our shareholders or our board of directors;
- limit the manner in which stockholders can remove directors from our board of directors;
- establish requirements for stockholder proposals that can be acted on at stockholder meetings;
- require that stockholder actions must be effected at a duly called stockholder meeting and allow actions by our stockholders by written consent, with certain requirements;
- limit who may call stockholder meetings; and
- authorize our board of directors to issue preferred stock without stockholder approval, which could be used to institute a “poison pill” that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our board of directors.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, or the DGCL, 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.

### ***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 biopharmaceutical 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.

## **General risks**

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

The global economy, including credit and financial markets, has experienced extreme volatility and disruptions recently, including, among other things, diminished liquidity and credit availability, declines in consumer confidence, declines in economic growth, supply chain shortages, increases in inflation rates, higher interest rates, and uncertainty about economic stability. For example, the COVID-19 pandemic resulted in widespread unemployment, economic slowdown and extreme volatility in the capital markets. The Federal Reserve has raised interest rates multiple times in response to concerns about inflation and it may raise them again. Higher interest



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rates, coupled with reduced government spending and volatility in financial markets, may increase economic uncertainty and affect consumer spending. Similarly, the ongoing military conflict between Russia and Ukraine and increasing tensions between China and Taiwan have created extreme volatility in the global capital markets and may have further global economic consequences, including disruptions of the global supply chain. Any such volatility and disruptions may adversely affect our business or the third parties on whom we rely. If the equity and credit markets deteriorate, including as a result of political unrest or war, it may make any necessary debt or equity financing more difficult to complete, more costly, and more dilutive. Failure to secure any necessary financing in a timely manner and on favorable terms could have a material adverse effect on our growth strategy, financial performance and share price and could require us to delay or abandon development or commercialization plans. In addition, there is a risk that one or more of our service providers, manufacturers or other partners would not survive or be able to meet their commitments to us under such circumstances, which could directly affect our ability to attain our operating goals on schedule and on budget. We have experienced and may in the future experience disruptions as a result of such macroeconomic conditions, including delays or difficulties in initiating or expanding clinical trials and manufacturing sufficient quantities of materials. Any one or a combination of these events could have a material and adverse effect on our results of operations and financial condition.

### ***If we fail to maintain proper and effective internal controls, our ability to produce accurate financial statements on a timely basis could be impaired.***

After the closing of this offering, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, and the rules and regulations of the stock market on which our common stock is listed. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting.

Commencing with our fiscal year ending December 31, 2024, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on the effectiveness of our internal control over financial reporting in our Form 10-K filing for that year, as required by Section 404 of the Sarbanes-Oxley Act. This will require that we incur substantial additional professional fees and internal costs to expand our accounting and finance functions and that we expend significant management efforts. Prior to this offering, we have never been required to test our internal control within a specified period, and, as a result, we may experience difficulty in meeting these reporting requirements in a timely manner.

We may identify weaknesses in our system of internal financial and accounting controls and procedures that could result in a material misstatement of our financial statements. Our internal control over financial reporting will not prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected. If we fail to remediate our identified material weakness, or identify additional material weaknesses, in our internal control over financial reporting, if we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls, we may not be able to produce timely and accurate financial statements. If that were to happen, the market price of our stock could decline and we could be subject to sanctions or investigations by the stock exchange on which our common stock is listed, the Securities and Exchange Commission or other regulatory authorities.

### ***Our ability to utilize our net operating loss carryforwards and research tax credits to offset future taxable income may be subject to limitations.***

As of December 31, 2022, we had approximately \$48.6 million of U.S. federal net operating loss carryforwards, or NOLs, \$109.3 million of U.S. state and local NOLs, and \$3.9 million of federal research tax credits. U.S. federal

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NOLs generated in taxable years beginning after December 31, 2017, do not expire and may be carried forward indefinitely, but the deductibility of such NOLs is limited to no more than 80% of current year taxable income. Our U.S. state and local NOLs begin to expire in 2040 and our federal research tax credits begin to expire in 2041.

In addition, under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an “ownership change,” which is generally defined as a greater than 50% change, by value, in its equity ownership by certain stockholders over a rolling three-year period, the corporation’s ability to use its pre-change NOLs and certain other pre-change tax attributes (such as research tax credits) to offset its post-change taxable income or taxes may be limited. We may have undergone an ownership change in the past and may undergo an ownership change in connection with this offering or in the future some of which may be outside of our control. As a result, if we undergo an ownership change, and our ability to use our pre-change NOLs and other pre-change tax attributes (such as research tax credits) to offset our post-change income or taxes is limited, it would harm our future results of operations by effectively increasing our future tax obligations. U.S. state and local NOLs may be similarly limited. In addition, at the U.S. state and local level, there may be periods during which the use of NOLs is suspended or otherwise limited, which could accelerate or permanently increase U.S. state and local taxes owed.

Irrespective of the above, our ability to utilize our NOLs and research tax credits to offset future taxable income or taxes is conditioned on our attaining profitability and generating taxable income. We do not know if and when we will generate sufficient taxable income to utilize our NOLs and research tax credits.

### ***Changes in tax laws or regulations that are applied adversely to us or our customers may materially harm our business.***

New tax laws, statutes, rules, regulations, or ordinances could be enacted at any time. Further, existing tax laws, statutes, rules, regulations, or ordinances could be interpreted differently, changed, repealed, or modified at any time. Any such enactment, interpretation, change, repeal, or modification could adversely affect us, possibly with retroactive effect. The Inflation Reduction Act of 2022, or the IRA, enacted a 15% minimum tax on the adjusted financial statement income of certain large U.S. corporations for taxable years beginning after December 31, 2022, as well as a 1% excise tax on stock repurchases made by public corporations after December 31, 2022. Further, the Tax Cuts and Jobs Act of 2017, or the Tax Act, enacted many significant changes in U.S. federal tax laws, some of which were further modified by the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act, and may be modified in the future by the current or a future presidential administration. Among other changes, the Tax Act amended the Code to require that certain research and experimental expenditures be capitalized and amortized over five years if incurred in the United States or fifteen years if incurred in foreign jurisdictions for taxable years beginning after December 31, 2021. Although the U.S. Congress has considered legislation that would defer, modify, or repeal the capitalization and amortization requirement, there is no assurance that such changes will be made. If the requirement is not deferred, repealed, or otherwise modified, it may increase our cash taxes and effective tax rate. In addition, it is uncertain if and to what extent various states will conform to the IRA, the Tax Act, the CARES Act, or any future U.S. federal tax laws. Changes in corporate tax rates, the realization of net deferred tax assets relating to our operations, the taxation of foreign earnings, and the deductibility of expenses could have a material impact on the value of our deferred tax assets, result in significant one-time charges, and increase our future U.S. tax expenses.

### ***Our business and operations would suffer in the event of system failures, cyberattacks or a deficiency in our or our CMOs’, CROs’, manufacturers’ contractors’, consultants’ or collaborators’ cybersecurity.***

Despite the implementation of security measures, our internal computer systems, as well as those of third parties on which we rely, are vulnerable to damage from, among other things, computer viruses, malware, unauthorized

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access, natural disasters, terrorism, war telecommunication and electrical failures, system malfunctions, cyberattacks or cyber-intrusions over the Internet, attachments to emails, phishing attacks, persons inside our organization, or persons with access to systems inside our organization. The risk of a security breach or disruption, particularly through cyberattacks 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. If such an event were to occur and cause interruptions in our operations, it could lead to the loss, destruction, alteration, prevention of access to, disclosure, dissemination of, or damage or unauthorized access to, our data (including trade secrets or other confidential information, intellectual property, proprietary business information and personal data) or data that is processed or maintained on our behalf, and cause interruptions in our operations, which could result in a material disruption of our product candidate development programs. For example, the loss of preclinical study or clinical trial data from completed, ongoing or planned 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.

In the ordinary course of our business, we collect and store sensitive data, including intellectual property, clinical trial data, proprietary business information, personal data and personally identifiable information of our clinical trial subjects and employees, in our data centers and on our networks. The secure processing, maintenance and transmission of this information is critical to our operations. Despite our security measures, we cannot ensure that our information technology and infrastructure will prevent breakdowns or breaches in our or their systems or other cybersecurity incidents that cause loss, destruction, unavailability, alteration, dissemination of, or damage or unauthorized access to, our data, including personal data, assets and other data processed or maintained on our behalf, that could have a material adverse effect upon our reputation, business, operations or financial condition. 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. 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, 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 clinical development of our product candidates.

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 confidential or proprietary information or personal data, we could incur material legal claims and liability and damage to our reputation, and the further development of our product candidates could be delayed. Any such event could also compel us to comply with federal and state breach notification laws, and foreign law equivalents, subject us to mandatory corrective action and otherwise subject us to substantial liability under laws, rules, regulations and standards that protect the privacy and security of personal data, which could result in significant legal and financial exposure and reputational damages that could potentially have an adverse effect on our business.

Notifications and follow-up actions related to a data breach or other security incident could impact our reputation and cause us to incur significant costs, including significant legal expenses and remediation costs. We expect to incur significant costs in an effort to detect and prevent security incidents, and we may face increased costs and requirements to expend substantial resources in the event of an actual or perceived security incident. However, we cannot guarantee that we will be able to detect or prevent any such incidents, or that we can remediate any such incidents in an effective or timely manner. Our efforts to improve security and protect data from compromise may also identify previously undiscovered instances of data breaches or other cybersecurity

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incidents. To the extent that any data breach, disruption or security incident were to result in any loss, destruction, or alteration of, damage, unauthorized access to or inappropriate or unauthorized disclosure or dissemination of, our data, including personal data, or other information that is processed or maintained on our behalf, we could be exposed to litigation and governmental investigations and inquiries, the further development and commercialization of our product candidates could be delayed, and we could be subject to significant fines or penalties for any noncompliance with applicable state, federal and foreign privacy and security laws, rules, regulations and standards.

### ***We will incur increased costs and demands upon management as a result of being a public company.***

As a public company listed in the United States, we will incur significant additional legal, accounting and other expenses that we did not incur as a private company, including the cost of director and officer liability insurance. These additional costs could negatively affect our financial results. In addition, changing laws, regulations and standards relating to corporate governance and public disclosure, including regulations implemented by the SEC and the Nasdaq Stock Market, may increase legal and financial compliance costs and make some activities more time-consuming. These laws, regulations and standards are subject to varying interpretations and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If notwithstanding our efforts to comply with new laws, regulations and standards, we fail to comply, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

Failure to comply with these rules might also make it more difficult for us to obtain some types of insurance, including director and officer liability insurance, and we might be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, on committees of our board of directors or as members of senior management.

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

Upon completion of this offering, we will become subject to certain reporting requirements of the Exchange Act. Our disclosure controls and procedures are designed to reasonably assure that information required to be disclosed by us in reports we file or submit under the Exchange Act is accumulated and communicated to management, 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 or internal 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 or insufficient disclosures due to error or fraud may occur and not be detected.

## Special note regarding forward-looking statements

*This prospectus contains forward-looking statements that involve substantial risks and uncertainties. The forward-looking statements are contained principally in the sections titled “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Business” and elsewhere in this prospectus. In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “expect,” “plan,” “anticipate,” “could,” “intend,” “target,” “project,” “estimate,” “believe,” “estimate,” “predict,” “potential” or “continue” or the negative of these terms or other similar expressions intended to identify statements about the future. These statements speak only as of the date of this prospectus and 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. We have based these forward-looking statements 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 include, without limitation, statements about the following:*

- the timing, progress and results of our preclinical studies and clinical trials of our product candidates, including statements regarding the timing of initiation and completion of studies or trials and related preparatory work, the period during which the results of the trials will become available and our research and development programs;
- the timing of our planned IND submissions, initiation of planned clinical trials and timing of expected clinical results for LX2006, LX1001, LX2020, if applicable, and our other future product candidates;
- the timing of any submission of filings for regulatory approval of, and our ability to obtain and maintain regulatory approvals for LX2006, LX1001, LX2020 and any other product candidates;
- the impact of public health crises (such as COVID-19) and other adverse global economic conditions on our operations and the potential disruption in the operations and business of third-party manufacturers, CROs, other service providers, and collaborators with whom we conduct business;
- our ability to identify patients with the diseases treated by our product candidates, and to enroll patients in trials;
- our expectations regarding the size of the patient populations, market acceptance and opportunity for and clinical utility of our product candidates, if approved for commercial use;
- our manufacturing capabilities and strategy, including the scalability and commercial viability of our manufacturing methods and processes;
- our reliance on third party manufacturing partners to comply with significant regulations with respect to manufacturing our products;
- our expectations regarding the scope of any approved indication for LX2006, LX1001, LX2020 or any other product candidate;
- our ability to successfully commercialize our product candidates, if approved;
- our ability to leverage our platform to identify and develop future product candidates;
- our estimates of our expenses, ongoing losses, future revenue, capital requirements and our need for or ability to obtain additional funding before we can expect to generate any revenue from product sales;

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- our ability to establish or maintain collaborations or strategic relationships;
- our ability to identify, recruit and retain key personnel;
- our reliance upon intellectual property licensed from third parties and our ability to obtain such licenses on commercially reasonable terms or at all;
- our ability to protect and enforce our intellectual property position for our product candidates, and the scope of such protection;
- our financial performance;
- our anticipated use of proceeds from this offering;
- our competitive position and the development of and projections relating to our competitors or our industry;
- our estimates regarding future revenue, expenses and needs for additional financing;
- the impact of laws and regulations; and
- our expectations regarding the time during which we will be an emerging growth company under the JOBS Act.

The foregoing list of risks is not exhaustive. Other sections of this prospectus may include additional factors that could harm our business and financial performance. 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. As a result of these factors, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate. 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. You should, however, review the factors and risks and other information we describe in the reports we will file from time to time with the SEC after the date of 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. Although we believe that we have a reasonable basis for each forward-looking statement contained in this prospectus, 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. You should refer to the “Risk Factors” section of this prospectus for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements.

You should read this prospectus and the documents that we reference in this prospectus and have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

## **Market and industry data**

We obtained the industry, statistical and market 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. All of the market data used in this prospectus involve a number of assumptions and limitations, and the sources of such data cannot guarantee the accuracy or completeness of such information. While management is responsible for the accuracy of such data and believes that each of these studies and publications is reliable, the industry in which we operate is subject to a high degree of uncertainty and risk due to a variety of important factors, including those described in the section titled “Risk Factors.” These and other factors could cause results to differ materially from those expressed in the estimates made by third parties and by us.

## Use of proceeds

We estimate that the net proceeds from our issuance and sale of \_\_\_\_\_ shares of our common stock in this offering will be approximately \$ \_\_\_\_\_ million (or approximately \$ \_\_\_\_\_ million if the underwriters exercise in full their option to purchase up to \_\_\_\_\_ additional shares), 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.

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 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 approximately \$ \_\_\_\_\_ million, assuming the assumed initial public offering price stays the same. We do not expect that a change in the offering price or the number of shares by these amounts would have a material effect on our intended uses of the net proceeds from this offering, although it may impact the amount of time prior to which we may need to seek additional capital.

As of September 30, 2023, we had an estimated cash and cash equivalents balance of \$ \_\_\_\_\_ million. We intend to use the net proceeds from this offering, together with our existing cash, as follows:

- approximately \$ \_\_\_\_\_ million to fund our ongoing and planned clinical development of LX2006 for the treatment of FA cardiomyopathy, including \_\_\_\_\_ ;
- approximately \$ \_\_\_\_\_ million to fund our ongoing and planned clinical development of LX2020 for the treatment of PKP2-ACM, including \_\_\_\_\_ ;
- approximately \$ \_\_\_\_\_ million to fund our ongoing and planned clinical development of LX1001 for the treatment of Alzheimer’s disease in *APOE4* homozygous patients, including \_\_\_\_\_ ;
- approximately \$ \_\_\_\_\_ million to fund the continued development of our other programs and cardiac discovery efforts, including \_\_\_\_\_ ; and
- the remainder for working capital and other general corporate purposes.

Based on our current operational plans and assumptions, we expect our cash as of September 30, 2023, together with the net proceeds from this offering, will be sufficient to fund our operations through \_\_\_\_\_. However, we do not expect these funds will be sufficient to complete the clinical development of, or commercialize, any of our product candidates or programs. We have based these estimates on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we expect.

We believe opportunities may exist from time to time to expand our current business through acquisitions of complementary companies, products or technologies. While we have no current agreements, commitments or understandings for any specific acquisitions at this time, we may also use a portion of the net proceeds for these purposes.

This anticipated use of our existing cash and 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. The amounts and timing of our actual expenditures may vary significantly depending on numerous factors, including the progress of our development, the status of and results from clinical trials and the timing and



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outcome of any regulatory submissions, as well as any collaborations that we may enter into with third parties for our drug candidates, and any unforeseen cash needs. As a result, our management will have broad discretion in the application of the net proceeds from this offering, and investors will be relying on the judgment of our management regarding the application of those net proceeds. 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, investment grade, interest-bearing instruments and U.S. government securities.

## **Dividend policy**

We have never declared or paid, and do not anticipate declaring or paying, in the foreseeable future, any cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings to support our operations and finance the growth and development of our business. Any future determination related to our dividend policy will be made at the discretion of our board of directors and will depend upon, among other factors, our results of operations, financial condition, capital requirements, contractual restrictions, business prospects and other factors our board of directors may deem relevant.

## Capitalization

The following table sets forth our cash and our capitalization as of June 30, 2023 (unaudited, in thousands, except share and per share amounts):

- on an actual basis;
- on a pro forma basis to give effect to: (i) the conversion of all outstanding shares of our convertible preferred stock into an aggregate of shares of our common stock; and (ii) the filing and effectiveness of our amended and restated certificate of incorporation upon the closing of this offering; and
- on a pro forma as adjusted basis to give effect to: (i) the pro forma adjustments described above; and (ii) our issuance and sale of \_\_\_\_\_ shares of 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 estimated offering expenses payable by us.

This pro forma as adjusted information is illustrative only and will depend on the actual initial public offering price and other terms of this offering determined at pricing. Our capitalization following the closing of this offering will depend 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, the section of this prospectus titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and other financial information contained in this prospectus.

	June 30, 2023		
	Actual	Pro Forma	Pro Forma As Adjusted
Series A convertible preferred stock, \$0.0001 par value; 85,495,722 shares authorized, issued, and outstanding as of June 30, 2023; aggregate liquidation value of \$85,496 as of June 30, 2023; _____ shares authorized, no shares issued or outstanding, pro forma; _____ shares authorized, no shares issued or outstanding, pro forma as adjusted	\$ 85,268	—	—
Series B convertible preferred stock, \$0.0001 par value; 58,157,824 shares authorized as of June 30, 2023; 58,157,823 shares issued and outstanding as of June 30, 2023; aggregate liquidation value of \$100,060 as of June 30, 2023; _____ shares authorized, no shares issued or outstanding, pro forma; _____ shares authorized, no shares issued or outstanding, pro forma as adjusted	99,765	—	—
<b>Stockholders’ (deficit) equity:</b>			
Common stock, \$0.0001 par value, 192,020,973 shares authorized as of June 30, 2023; 17,507,813 shares issued and 17,184,439 shares outstanding as of June 30, 2023; _____ shares authorized, _____ shares issued and outstanding, pro forma; _____ shares authorized, _____ shares issued and outstanding, pro forma as adjusted	2		
Additional paid-in capital	3,924		
Accumulated deficit	(147,545)		
<b>Total stockholders’ (deficit) equity</b>	<b>(143,619)</b>		
<b>Total capitalization</b>	<b>\$ 41,414</b>		

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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, additional paid in capital, total stockholders' equity and total capitalization 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 estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, 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 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, additional paid in capital, total stockholders' equity and total capitalization by approximately \$ \_\_\_\_\_ million.

The number of shares of our common stock outstanding as of June 30, 2023 (which includes 323,374 shares of common stock issued pursuant to the early exercise of unvested options that are subject to a right of repurchase by us) in the table above excludes:

- \_\_\_\_\_ shares of our common stock issuable upon the effectiveness of the registration statement of which this prospectus forms a part upon conversion of the Sarepta SAFE, assuming an initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the offering range set forth on the cover of this prospectus;
- 19,844,251 shares of our common stock issuable upon the exercise of options under the Existing Plan outstanding as of June 30, 2023, at a weighted average exercise price of \$0.75 per share;
- 4,765,213 shares of our common stock issuable upon the exercise of options granted under the Existing Plan after June 30, 2023, at a weighted average exercise price of \$1.04;
- 11,015,364 shares of our common stock reserved for future issuance under the Existing Plan, which shares will cease to be available for issuance at the time the 2023 Plan becomes effective and will be added to, and become available for issuance under, the 2023 Plan;
- \_\_\_\_\_ shares of our common stock reserved for future issuance under the 2023 Plan (in addition to the shares of common stock reserved for issuance under our Existing Plan that will be added to the shares reserved under the 2023 Plan upon its effectiveness), which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the 2023 Plan; and
- \_\_\_\_\_ shares of our common stock reserved for future issuance under the 2023 Employee Stock Purchase Plan, or ESPP, which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the ESPP.

## 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 and the pro forma as adjusted net tangible book value per share of our common stock after this offering.

As of June 30, 2023, we had a historical net tangible book value (deficit) of \$(144.1) million, or \$(8.39) per share of common stock. Our historical net tangible book value (deficit) per share represents total tangible assets less total liabilities and convertible preferred stock, divided by the number of shares of our common stock outstanding as of June 30, 2023.

Our pro forma net tangible book value (deficit) as of June 30, 2023 was \$ \_\_\_\_\_ million, or \$ \_\_\_\_\_ per share of our common stock. Pro forma net tangible book value represents the amount of our total tangible assets less our total liabilities, after giving effect to the conversion of all outstanding shares of our convertible preferred stock into an aggregate of \_\_\_\_\_ shares of our common stock, as if such conversion had occurred on June 30, 2023. Pro forma net tangible book value per share represents pro forma net tangible book value divided by the total number of shares outstanding as of June 30, 2023, after giving effect to the pro forma adjustments described above.

After giving further effect to the sale of \_\_\_\_\_ shares of 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 June 30, 2023 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 immediate dilution of \$ \_\_\_\_\_ per share to new investors 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 in this offering.

The following table illustrates this dilution:

Assumed initial public offering price per share	\$
Historical net tangible book value (deficit) per share as of June 30, 2023	\$(8.39)
Pro forma increase in net tangible book value (deficit) per share attributable to the pro forma transactions described above	_____
Pro forma net tangible book value (deficit) per share as of June 30, 2023	_____
Increase in pro forma as adjusted net tangible book value per share attributable to new investors participating in this offering	_____
Pro forma as adjusted net tangible book value per share after this offering	_____
Dilution per share to new investors participating in this offering	\$

The dilution information discussed above is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing. 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 approximately \$ \_\_\_\_\_, and dilution in pro forma as adjusted net tangible book value per share to new investors by approximately \$ \_\_\_\_\_, 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. An increase of 1.0 million shares in

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the number of shares we are offering would increase the pro forma as adjusted net tangible book value per share after this offering by \$ [redacted] and decrease the dilution per share to new investors participating in this offering by \$ [redacted], assuming no change in the assumed initial public offering price per share and after deducting the estimated underwriting discounts and commissions. A decrease of 1.0 million shares in the number of shares we are offering would decrease the pro forma as adjusted net tangible book value per share after this offering by \$ [redacted] and increase the dilution per share to new investors participating in this offering by \$ [redacted], assuming no change in the assumed initial public offering price per share and after deducting the estimated underwriting discounts and commissions.

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 \$ [redacted] per share, the increase in pro forma as adjusted net tangible book value per share would be \$ [redacted] and the dilution per share to new investors would be \$ [redacted] per share, in each case assuming an initial public offering price of \$ [redacted] per share, which is the midpoint of the price range set forth on the cover page of this prospectus.

The following table summarizes, as of June 30, 2023, on the pro forma as adjusted basis described above, 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 for such shares. The calculation below is based on an assumed initial public offering price of \$ [redacted] 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.

	<u>Total Shares</u>		<u>Total Consideration</u>		<u>Weighted Average Price Per Share</u>
	<u>Number</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>	
Existing stockholders		%	\$	%	\$
New investors					\$
<b>Total</b>		<b>100%</b>		<b>\$ 100%</b>	

The foregoing tables and calculations are based on the number of shares of our common stock outstanding as of June 30, 2023 (which includes 323,374 shares of common stock issued pursuant to the early exercise of unvested options that are subject to a right of repurchase by us), after giving effect to the conversion of all outstanding shares of our convertible preferred stock into an aggregate of [redacted] shares of common stock, and excludes:

- [redacted] shares of our common stock issuable upon the effectiveness of the registration statement of which this prospectus forms a part upon conversion of the Sarepta SAFE, assuming an initial public offering price of \$ [redacted] per share, the midpoint of the offering range set forth on the cover of this prospectus;
- 19,844,251 shares of our common stock issuable upon the exercise of options under the Existing Plan outstanding as of June 30, 2023, at a weighted average exercise price of \$0.75 per share;
- 4,765,213 shares of our common stock issuable upon the exercise of options granted under the Existing Plan after June 30, 2023, at a weighted average exercise price of \$1.04 ;
- 11,015,364 shares of our common stock reserved for future issuance as of June 30, 2023 under the Existing Plan, which shares will cease to be available for issuance at the time the 2023 Plan becomes effective and will be added to, and become available for issuance under, the 2023 Plan;
- [redacted] shares of our common stock reserved for future issuance under the 2023 Plan (in addition to shares of common stock reserved for issuance under our Existing Plan that will be added to the shares reserved under the 2023

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Plan upon its effectiveness), which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the 2023 Plan; and

- shares of our common stock reserved for future issuance under the ESPP, which will become effective in connection with this offering, as well as any automatic increases in the number of shares of common stock reserved for future issuance under the 2023 ESPP.

To the extent that stock options are exercised, new stock options are issued under our equity incentive plan or we issue additional shares of common stock in the future, there will be further dilution to investors participating in this offering. In addition, we may choose to raise additional capital because of market conditions or strategic considerations, even if we believe that we have sufficient funds for our current or future operating plans. If we raise additional capital through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

## 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 consolidated financial statements and related notes included 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. Many factors, including those factors set forth in the "Risk Factors" section of this prospectus, may materially and adversely affect our actual results, which may differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.*

### Overview

We are a clinical stage genetic medicine company dedicated to transforming healthcare by applying pioneering science to fundamentally change how disease is treated. By taking aim at the underlying genetic cause of the devastating diseases we target, we seek to create substantial positive impact and reduce the overwhelming burdens placed on people receiving treatment, their caregivers, and healthcare systems. Our current pipeline consists of candidates targeting patient populations that place significant burden on society and are most amenable to our genetic medicine approach.

Since our inception, we have devoted substantially all of our efforts to organizing and staffing our company, research and development activities, business planning, raising capital, building our intellectual property portfolio and providing general and administrative support for these operations. To date, we have funded our operations primarily through proceeds from the sale of shares of our convertible preferred stock. As of June 30, 2023, we had \$45.5 million of cash and cash equivalents and we had raised aggregate gross proceeds of \$183.7 million from the sale of convertible equity securities.

We have incurred significant operating losses since the commencement of our operations. Our ability to generate product revenue sufficient to achieve profitability will depend heavily on the successful development and eventual commercialization of one or more of our current gene therapy candidates or any future gene therapy candidates. Our net losses for the six months ended June 30, 2023 and for the year ended December 31, 2022 were \$32.1 million and \$59.3 million, respectively, and our accumulated deficit was \$147.5 million at June 30, 2023. We expect to continue to incur significant losses for the foreseeable future as we advance our current and future product candidates through preclinical and clinical development, continue to build our operations and transition to operating as a public company.

We expect to continue to incur net operating losses for at least the next several years, and we expect our research and development expenses, general and administrative expenses, and capital expenditures to continue to increase. We expect our expenses and capital requirements will increase significantly in connection with our ongoing activities as we:

- continue our ongoing and planned clinical trials as well as research and development of our Friedrich's ataxia cardiomyopathy, or FA cardiomyopathy (LX2006), APOE-associated Alzheimer's disease (LX1001), and arrhythmogenic cardiomyopathy caused by mutations in the PKP2 gene, or PKP2-ACM (LX2020) programs and other product candidates;
- initiate preclinical studies and clinical trials for any additional product candidates that we may pursue in the future;



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- seek to discover and develop additional product candidates and further expand our clinical product pipeline;
- seek regulatory approvals for any product candidates that successfully complete clinical trials;
- invest in capital equipment in order to expand our research and development and manufacturing activities;
- attract, hire and retain additional clinical, scientific, quality control, regulatory, and manufacturing management and administrative personnel;
- add clinical, operational, financial and management information systems and personnel, including personnel to support our product development;
- develop, maintain, expand, protect and enforce our intellectual property portfolio, including patents, trade secrets and know-how;
- acquire or in-license other product candidates and technologies;
- expand our operations in the United States and to other geographies;
- incur additional legal, accounting, investor relations and other general and administrative expenses associated with operating as a public company; and
- establish a sales, marketing and distribution infrastructure, either ourselves or in partnership with others, to commercialize any product candidates, if approved, and related additional commercial manufacturing costs.

We will not generate revenue from product sales unless and until we successfully complete clinical development and obtain regulatory approval for one or more of our product candidates. If we obtain regulatory approval for any of our product candidates, we expect to incur significant expenses related to product sales, marketing and distribution to the extent that such sales, marketing and distribution are not the responsibility of potential collaborators. We will require substantial additional funding to develop our product candidates and support our continuing operations. We may also require additional capital to pursue in-licenses or acquisitions of other product candidates. We may also require additional capital if we choose to pursue an in-house manufacturing strategy. Further, following the completion of this offering we expect to incur additional costs associated with operating as a public company. We also expect to increase the size of our administrative function to support the growth of our business. Our net losses may fluctuate significantly from quarter-to-quarter and year-to-year, depending on the timing of our clinical trials and our expenses related to other research and development activities.

Until such time that we can generate significant revenue from product sales or other sources, we expect to finance our operations through the sale of equity, debt financings or other capital sources, which could include proceeds from potential collaborations, strategic partnerships or marketing, distribution, licensing or other strategic arrangements with third parties, or from grants. We may be unable to raise additional funds or to enter into such agreements or arrangements on favorable terms, or at all. If we fail to raise capital or enter into such agreements as, and when, needed, we may have to significantly delay, scale back or discontinue the development or commercialization of our product candidates or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

Our failure to obtain sufficient funds with acceptable terms could have a material adverse effect on our business, results of operations or financial condition, including requiring us to have to delay, reduce or eliminate our product development or future commercialization efforts. Because of the numerous risks and uncertainties associated with pharmaceutical product development, we are unable to accurately predict the amount of increased expenses or timing, or if we will be able to achieve or maintain profitability. If we fail to become profitable or are unable to sustain profitability on a continuing basis, then we may be unable to continue our

operations at planned levels and be forced to reduce or terminate our operations. We cannot provide assurance that we will ever be profitable or generate positive cash flow from operating activities.

## **Summary of key factors impacting the comparability of our performance**

### ***Stelios Therapeutics Inc. acquisition***

On July 16, 2021, we purchased all of the issued and outstanding capital stock of Stelios Therapeutics, Inc., or Stelios, for initial cash consideration of \$7.0 million, with payments of up to an additional \$20.5 million due upon the achievement of the following milestones: clinical candidate selection for either the ACM or the TNNI3-associated programs; first patient dosed in a Phase 1 clinical trial for any product in our CX43 program; first patient dosed in a Phase 1 clinical trial for any product in our ACM program; or first patient dosed in a Phase 1 clinical trial for any candidate in our TNNI3 program. In the third quarter of 2022, a development milestone associated with a clinical candidate selection was achieved resulting in a \$2.0 million payment to the selling shareholders of Stelios.

We accounted for the acquisition of Stelios as an asset acquisition pursuant to Financial Accounting Standards Board, or FASB, Accounting Standards Codification, or ASC, Section 805, *Business Combinations*. We acquired in-process research and development, or IPR&D, assets from Stelios related to ACM and TNNI3-associated hypertrophic cardiomyopathy programs. Such programs relate to our development efforts for LX2020, LX2021 and LX2022. The fair value of the IPR&D acquired of \$7.0 million was charged to research and development expense as it had no alternative future use at the time of the acquisition. Stelios was merged into Lexeo Therapeutics, Inc. on December 15, 2022 and ceased to exist.

See Note 3 to the audited consolidated financial statements appearing elsewhere in this prospectus for more information on the Stelios acquisition.

### ***Lease agreement***

In February 2022, we entered into a lease agreement for our New York headquarters located at 345 Park Avenue South, 6<sup>th</sup> Floor, New York, NY 10010, pursuant to which we lease a total of approximately 15,839 square feet of office and laboratory space. The lease began in April 2022 and ends in July 2029 with an additional five-year option to extend at the then prevailing effective market rental rate. We accounted for this lease pursuant to FASB ASC Topic 842, *Leases*. Upon commencement of this lease, we recorded operating lease right-of-use assets and operating lease liabilities of approximately \$11.6 million based on the present value of payments over the lease term using an estimated incremental borrowing rate of 8.53%. In connection with this lease, we provided a security deposit to the landlord in the form of a letter of credit totaling \$1.2 million.

See Note 5 to the audited consolidated financial statements appearing elsewhere in this prospectus for more information on this lease.

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

### ***Revenue***

Our revenue to date has been comprised of grant revenue, which are amounts earned from performing contracted research and development services. These grants generally require us to meet certain research milestones in order to receive the funds. To date, we have not generated any revenue from product sales. If our development efforts for LX2006, LX1001, and LX2020 or any future product candidates, are successful and result in regulatory approval, or if we enter into collaboration or license agreements with third parties, we may generate revenue in the future from product sales, royalties or payments from such collaboration or license agreements, or a combination of product sales and payments from such agreements.

## ***Operating expenses***

### *Research and development*

Research and development expenses consist of costs incurred for our research activities, including our discovery efforts and the preclinical and clinical development of our programs. These expenses include:

- employee-related expenses, including salaries, benefits, and stock-based compensation expense for employees engaged in research and development functions;
- expenses incurred under agreements with third parties, such as consultants, clinical investigators, contractors and clinical research organizations, or CROs, that assist with (i) identification of potential product candidates in discovery platforms and (ii) the preclinical and clinical studies of our product candidates;
- the cost of developing and scaling our manufacturing process and manufacturing product candidates for use in our research, preclinical studies and clinical trials, including under agreements with third parties, such as consultants, contractors and CMOs;
- costs to maintain compliance with FDA and other regulatory requirements;
- laboratory supplies and research materials;
- facilities, depreciation, and other expenses, which include direct and allocated expenses for rent and maintenance of facilities;
- payments made under our licensing agreements with third parties, including milestone payments; and
- other expenses incurred as a result of research and development activities.

We expense research and development costs as incurred. Nonrefundable advance payments for goods and services that will be used in future research and development activities are expensed when the activity has been performed or when the goods have been received rather than when the payment is made. When third-party service providers' billing terms do not coincide with our period-end, we are required to make estimates of our obligations to those third parties incurred in a given accounting period and record accruals at the end of the period. We base these estimates on our knowledge of the research and development programs, services performed for the period, past history for related activities and the expected duration of the third-party service contract, where applicable. If timelines or contracts are modified based upon changes in the scope of work to be performed, we modify our estimates of accrued expenses accordingly on a prospective basis; therefore, actual results could differ from our estimates. Upfront payments under license agreements are expensed upon receipt of the license, and annual maintenance fees under license agreements are expensed in the period in which they are incurred. Milestone payments under license agreements are accrued, with a corresponding expense being recognized, in the period in which the milestone is determined to be probable of achievement and the related amount is reasonably estimable.

Our direct research and development expenses are tracked on a program-by-program basis and consist primarily of external costs, such as fees paid to CROs, CMOs, central laboratories and certain outside consultants in connection with our research and discovery, preclinical development, process development, manufacturing, clinical development, clinical trials, regulatory and quality assurance activities. We do not allocate professional services costs and licensing fees and other similar costs to specific programs because these costs are deployed across multiple programs.

Research and development activities are central to our business model and account for a significant portion of our operating expenses. Product candidates in later stages of clinical development generally have higher

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development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later-stage clinical trials. As a result, we expect our research and development expenses to increase substantially in absolute dollars for the foreseeable future as we and further advance LX2006, LX2020, LX1001, and any other future product candidates that we may develop, into and through preclinical studies and clinical trials and pursue regulatory approvals. We cannot determine with certainty the timing of initiation, the duration or the completion costs of current or future preclinical studies and clinical trials of our product candidates due to the inherently unpredictable nature of preclinical and clinical development. Clinical and preclinical development timelines, the probability of success and development costs can differ materially from expectations. We anticipate that we will make determinations as to which product candidates to pursue and how much funding to direct to each product candidate on an ongoing basis in response to the results of ongoing and future research, preclinical studies and clinical trials, regulatory developments and our assessments as to each product candidate's commercial potential. In addition, we cannot forecast whether any of our current or future product candidates will be subject to future collaborations, when such arrangements will be secured, if at all, and to what degree such arrangements would affect our development plans and capital requirements. We are also unable to predict when, if ever, we will generate revenue from our product candidates to offset our expenses. Our future expenses may vary significantly each period based on factors such as:

- the timing and progress of preclinical and clinical development activities;
- the number and scope of preclinical and clinical programs we decide to pursue;
- our ability to maintain our current research and development programs and to establish new ones;
- establishing an appropriate safety profile with investigational new IND-enabling toxicology studies;
- successful patient enrollment in, and the initiation and completion of, our ongoing and planned clinical trials;
- the successful completion of clinical trials with safety, tolerability and efficacy profiles that are satisfactory to the FDA or any comparable foreign regulatory authority;
- receipt of regulatory approvals from applicable regulatory authorities;
- the timing, receipt and terms of any marketing approvals from applicable regulatory authorities;
- our ability to establish licensing or collaboration arrangements;
- the performance of our current and potential future collaborators;
- establishing commercial manufacturing capabilities or making arrangements with third-party manufacturers;
- development and timely delivery of commercial-grade therapeutics that can be used in our planned clinical trials and for commercial launch;
- commercializing our product candidates, if approved, whether alone or in collaboration with others;
- obtaining, maintaining, defending and enforcing patent claims and other intellectual property rights;
- maintaining a continued acceptable safety profiles of our therapeutics following approval; and
- hiring and retaining key research and development personnel.

Any changes in the outcome of any of these variables could mean a significant change in the costs and timing associated with the development of our product candidates. We may never obtain regulatory approval for any of our product candidates, and, even if we do, drug commercialization takes several years and involves substantial cost.

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### *General and administrative*

General and administrative expenses consist primarily of personnel expenses, including salaries, benefits and stock-based compensation expense, for personnel in executive, accounting, business development, legal, human resources and administrative functions. General and administrative expenses also include corporate facility costs not otherwise included in research and development expenses, depreciation and other expenses, which include direct or allocated expenses for rent and maintenance of facilities and insurance, not otherwise included in research and development expenses, as well as professional fees for legal, consulting, investor and public relations, accounting and audit services.

We expect that our general and administrative expenses will increase significantly in the near-to-medium term as we incur additional expenses associated with operating as a public company, including increased expenses for insurance premiums and audit, legal, regulatory, and tax-related services associated with maintaining compliance with the rules and regulations of the Securities and Exchange Commission, or SEC, and standards applicable to companies listed on a national securities exchange, investor relations activities and other administrative and professional services. We also plan to increase our headcount to support the continued research and development of our programs and the growth of our business.

### ***Other income (expense)***

Other income (expense) includes net foreign exchange gains and (losses).

### ***Interest expense***

Interest expense is primarily associated with our finance right of use asset equipment leases.

### ***Interest income***

Interest income is related to interest earned from our investments in U.S. government money market funds.

### **Income taxes**

Provision for income taxes consists of U.S. federal and state income taxes in which we conduct business. Since our inception, we have not recorded any income tax benefits for the net losses we have incurred in each year or for our research and development tax credits, as we believe, based upon the weight of available evidence, that it is more likely than not that all of our net operating loss, or NOL, carryforwards and tax credits will not be realized. Accordingly, we have recorded a full valuation allowance against our net deferred tax assets at June 30, 2023, December 31, 2022, June 30, 2022 and December 31, 2021. As of June 30, 2023, December 31, 2022, June 30, 2022 and December 31, 2021, we had no unrecognized tax benefits.

## Results of operations

### Comparison of the three and six-months ended June 30, 2023 and 2022

The following table summarizes our results of operations for the three and six-months ended June 30, 2023 and 2022 (in thousands):

	Three Months Ended June 30,			Six Months Ended June 30,		
	2023	2022	Change	2023	2022	Change
<b>Revenue</b>						
Grant revenue	\$ —	\$ 37	\$ (37)	\$ —	\$ 123	\$ (123)
Total revenue	—	37	(37)	—	123	(123)
<b>Operating expenses</b>						
Research and development	11,236	12,267	(1,031)	27,674	22,413	5,261
General and administrative	2,739	3,081	(342)	5,592	5,540	52
Total operating expenses	13,975	15,348	(1,373)	33,266	27,953	5,313
Operating loss	(13,975)	(15,311)	1,336	(33,266)	(27,830)	(5,436)
<b>Other income and expense</b>						
Other expense, net	(3)	—	(3)	(7)	—	(7)
Interest expense	(53)	(9)	(44)	(103)	(9)	(94)
Interest income	590	177	413	1,277	194	1,083
Total other income and expense	534	168	366	1,167	185	982
Loss from operations before income taxes	(13,441)	(15,143)	1,702	(32,099)	(27,645)	(4,454)
Income taxes	—	—	—	—	—	—
Net loss and comprehensive loss	\$(13,441)	\$(15,143)	\$ 1,702	\$(32,099)	\$(27,645)	\$(4,454)

#### Grant revenue

Grant revenue was \$37,000 and \$123,000 for the three and six-months ended June 30, 2022, respectively. We did not record any grant revenue for the three and six-months ended June 30, 2023. The decreases in grant revenue were due to the wind-down of the underlying grants, which were closed-out by the third quarter of 2022.

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### Research and development expenses

The following table summarizes our research and development expenses incurred for the three and six-months ended June 30, 2023 and 2022 (in thousands):

	Three Months Ended June 30,			Six Months Ended June 30,		
	2023	2022	Change	2023	2022	Change
Direct external research and development expenses by program:						
LX2020	\$ 2,760	\$ 1,155	\$ 1,605	\$ 6,373	\$ 1,593	\$ 4,780
LX1001	2,267	2,093	174	4,857	3,111	1,746
LX2006	888	2,627	(1,739)	5,298	4,815	483
LX1004	(29)	403	(432)	113	1,431	(1,318)
Other programs	801	1,466	(665)	1,658	2,498	(840)
Total direct external research and development expenses by program	\$ 6,687	\$ 7,744	\$(1,057)	\$18,299	\$13,448	\$ 4,851
Unallocated research and development expenses:						
Employee compensation and stock-based compensation expense	\$ 3,264	\$ 2,390	\$ 874	\$ 6,072	\$ 4,333	\$ 1,739
Professional fees	450	424	26	1,001	641	360
Lab-related costs and supplies	358	193	165	626	244	382
Other unallocated	477	1,516	(1,039)	1,676	3,747	(2,071)
Total unallocated research and development expenses:	4,549	4,523	26	9,375	8,965	410
Total research and development expenses	\$11,236	\$12,267	\$(1,031)	\$27,674	\$22,413	\$ 5,261

### Direct external research and development expenses

The net decrease of \$1.1 million in direct external research and development expenses from the three months ended June 30, 2022 to the three months ended June 30, 2023 was primarily due to a decrease of \$1.7 million in our FA cardiomyopathy product candidate (LX2006) program costs, which consisted mostly of a decrease in CMC expenses of \$0.9 million primarily related to third-party GMP batch costs as well as a decrease of \$0.8 million in clinical costs primarily related to clinical start up activities.

The increase of \$1.6 million in direct research and development expenses for our PKP2-ACM program (LX2020) from the three months ended June 30, 2023 consisted mostly of (i) CMC expenses of \$0.7 million related to the development of our manufacturing processes at third-party vendors, (ii) non-clinical and pre-clinical expenses of \$0.6 million related to the completion of our IND-enabling studies, and (iii) regulatory expenses of \$0.2 million.

The increase of \$0.2 million in direct research and development expenses for our APOE4-associated Alzheimer's disease product candidate (LX1001) from the three months ended June 30, 2022 to the three months ended June 30, 2023 was primarily due to increases in clinical expenses of \$0.8 million related to the ongoing Phase 1/2 clinical trial partially offset by a decrease in CMC expenses of \$0.7 million primarily related to third-party GMP batch costs.

The decrease of \$0.4 million in direct external research and development expenses for our CLN2 Batten disease product candidate (LX1004) from the three months ended June 30, 2022 to the three months ended June 30, 2023 was primarily due to decreases in CMC expenses, including a vendor credit received during the three months ended June 30, 2023.

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Direct external research and development expenses for our other programs decreased by \$0.7 million from the three months ended June 30, 2022 to the three months ended June 30, 2023, which was primarily attributable to a decrease in expenses for our early stage cardiovascular and central nervous system disease programs.

The net increase of \$4.9 million in direct external research and development expenses from the six months ended June 30, 2022 to the six months ended June 30, 2023 was primarily due to an increase in LX2020 program costs of \$4.8 million, which consisted mostly of (i) CMC expenses of \$2.4 million related to the development of our manufacturing processes at third-party vendors, (ii) non-clinical and pre-clinical expenses of \$1.9 million related to the advancement of our LX2020 program through IND-enabling studies, and (iii) \$0.4 million of clinical and regulatory expenses.

The increase of \$1.7 million in direct research and development expenses for our LX1001 program from the six months ended June 30, 2022 to the six months ended June 30, 2023 was primarily due to increases in clinical expenses of \$2.9 million related to the ongoing Phase 1/2 clinical trial partially offset by a decrease in CMC expenses of \$1.2 million primarily related to third-party GMP batch costs.

The increase of \$0.5 million in direct external research and development expenses for our LX2006 program from the six months ended June 30, 2022 to the six months ended June 30, 2023 was primarily due to the achievement of a development milestone in the first quarter of 2023 due to Adverum of \$3.5 million, partially offset by a decrease in CMC expenses of \$2.3 million primarily related to third-party GMP batch costs as well as a decrease of \$0.7 million in clinical costs primarily related to clinical start up activities.

The decrease of \$1.3 million in direct external research and development expenses for our LX1004 program from the six months ended June 30, 2022 to the six months ended June 30, 2023 was primarily due to decreases in CMC expenses of \$1.1 million and non-clinical expenses of \$0.2 million.

Direct external research and development expenses for our other programs decreased by \$0.8 million from the six months ended June 30, 2022 to the six months ended June 30, 2023, which was primarily attributable to a decrease in expenses for our early stage cardiovascular and central nervous system disease programs.

### *Unallocated research and development expenses*

The net decrease of \$0.1 million in unallocated research and development expenses from the three months ended June 30, 2022 to the three months ended June 30, 2023 was primarily due to decreased other non-allocable expenses of \$1.1 million, which was partially offset by (i) increased employee compensation and stock-based compensation expense of \$0.9 million due to increased headcount, and (ii) \$0.2 million related to lab-related costs and supplies associated with our New York City office and laboratory lease that commenced in April 2022.

The net increase of \$0.4 million in unallocated research and development expenses from the six months ended June 30, 2022 to the six months ended June 30, 2023 was primarily due to (i) increased employee compensation and stock-based compensation expense of \$1.7 million due to increased headcount, (ii) \$0.4 million related to increased professional fees and consulting expenses, and (iii) \$0.4 million related to lab-related costs and supplies associated with our New York City office and laboratory lease that commenced in April 2022, which were partially offset by a decrease of \$2.1 million related to non-allocable expenses.

### *General and administrative expenses*

General and administrative expenses were \$3.0 million for the three months ended June 30, 2022 compared to \$2.7 million for the three months ended June 30, 2023. The decrease of \$0.3 million was primarily due to decreases professional services and consulting fees primarily due to less third-party accounting, legal and human resource costs.



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General and administrative expenses were \$5.5 million for the six months ended June 30, 2022 compared to \$5.6 million for the six months ended June 30, 2023. The increase of \$0.1 million was primarily due to increases in (i) employee compensation and stock-based compensation expense of \$0.6 million due to increased headcount and (ii) rent and facility expenses of \$0.2 million as our New York City office and laboratory lease commenced in April 2022, which were partially offset by decreases in third-party accounting and legal fees of \$0.6 million.

### *Interest income*

We recognized interest income of \$0.2 million and \$0.6 million for the three months ended June 30, 2022 and June 30, 2023, respectively, and \$0.2 million and \$1.3 million for the six months ended June 30, 2022 and June 30, 2023, respectively, related to interest earned on our investment in a U.S. government money market fund, with increased interest rates on such money market fund investment earned over those periods.

### ***Comparison of the years ended December 31, 2022 and 2021***

The following table summarizes our results of operations for the years ended December 31, 2022 and 2021 (in thousands):

	Years Ended December 31,		
	2022	2021	Change
Revenue			
Grant revenue	\$ 654	\$ 1,657	\$(1,003)
Total revenue	654	1,657	(1,003)
Operating expenses			
Research and development	49,162	45,121	4,041
General and administrative	12,001	7,173	4,828
Total operating expenses	61,163	52,294	8,869
Operating loss	(60,509)	(50,637)	(9,872)
Other income and expense			
Other expense, net	(2)	—	2
Interest expense	(91)	—	91
Interest income	1,325	15	1,310
Total other income and expense	1,232	15	1,217
Loss from operations before income taxes	(59,277)	(50,622)	(8,655)
Income taxes	—	—	—
Net loss and comprehensive loss	\$(59,277)	\$(50,622)	\$(8,655)

### *Grant revenue*

Grant revenue was \$1.7 million for the year ended December 31, 2021 compared to \$0.7 million for the year ended December 31, 2022. The decrease of \$1.0 million was primarily due to the wind-down of the underlying grants, which were closed-out by the third quarter of 2022.

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The following table summarizes our research and development expenses incurred for the years ended December 31, 2022 and 2021 (in thousands):

	Years Ended December 31,		
	2022	2021	Change
Direct external research and development expenses by program:			
LX2020	\$ 8,551	\$ 84	\$ 8,467
LX1001	7,605	4,544	3,061
LX2006	7,591	10,499	(2,908)
LX1004	1,783	4,341	(2,558)
Other programs	5,226	148	5,078
Total direct external research and development expenses by program	\$30,756	\$19,616	\$11,140
Unallocated research and development expenses:			
Employee compensation and stock-based compensation expense	\$10,087	\$ 3,548	\$ 6,539
Professional fees	1,341	1,896	(555)
Lab-related costs and supplies	979	22	957
License fees	451	1,306	(855)
Adverum up-front fee	—	7,500	(7,500)
Stelios acquisition	—	7,000	(7,000)
Other unallocated	5,548	4,233	1,315
Total unallocated research and development expenses:	18,406	25,505	(7,099)
Total research and development expenses	\$49,162	\$45,121	\$ 4,041

Research and development expenses were \$45.1 million for the year ended December 31, 2021 compared to \$49.2 million for the year ended December 31, 2022. The increase of \$4.0 million was primarily due to a net increase of \$11.1 million in direct external research and development program expenses, which was partially offset by a \$7.1 million net decrease in unallocated research and development expenses.

*Direct external research and development expenses*

The net increase of \$11.1 million in direct external research and development expenses was primarily due to an increase in PKP2-ACM program (LX2020) costs of \$8.5 million during the year ended December 31, 2022, which consisted mostly of (i) CMC expenses of \$3.8 million related to the development of our manufacturing processes at third-party vendors, (ii) a \$2.0 million milestone payment to the selling shareholders of Stelios, for a development milestone achieved in the third quarter of 2022, and (iii) non-clinical and pre-clinical expenses of \$2.7 million related to the advancement of our LX2020 program into IND-enabling studies. We did not incur significant direct external research and development expenses for our LX2020 program during the year ended December 31, 2021.

The increase of \$3.1 million in direct research and development expenses for our APOE4-associated Alzheimer's disease product candidate (LX1001) was primarily due to increases in CMC expenses of \$2.3 million primarily related to third-party GMP batch costs and clinical expenses of \$0.7 million related to the ongoing Phase 1/2 clinical trial.

The decrease of \$2.9 million in direct external research and development expenses for our FA cardiomyopathy product candidate (LX2006) was primarily due to a decrease in non-clinical expenses of \$6.6 million related to the completion of IND-enabling activities in 2021, which was partially offset by increases in clinical expenses of \$2.4 million related to the initiation of the ongoing Phase 1/2 clinical trial and CMC expenses of \$1.2 million primarily related to third-party GMP batch costs.

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The decrease of \$2.6 million in direct external research and development expenses for our CLN2 Batten disease product candidate (LX1004) was primarily due to decreases in CMC expenses of \$1.6 million and non-clinical expenses of \$1.1 million.

Direct external research and development expenses for our other programs increased by \$5.1 million during the year ended December 31, 2022, which was primarily attributable to pre-clinical and non-clinical expenses for our early stage cardiovascular and central nervous system disease programs. We did not incur significant direct external research and development expenses for our other programs for the year ended December 31, 2021.

### *Unallocated research and development expenses*

The net decrease of \$7.1 million in unallocated research and development expenses was primarily due to a \$7.5 million upfront fee paid to Adverum to in-license materials and technology in 2021 and \$7.0 million paid for the Stelios acquisition in 2021. These decreases were partially offset by increases in (i) employee compensation and stock-based compensation expense of \$6.5 million due to increased headcount, and (ii) \$1.3 million of other expenses primarily related to rent and facilities costs and lab-related costs and supplies of \$1.0 million, which were associated with our New York City office and laboratory lease that commenced in April 2022.

### *General and administrative expenses*

General and administrative expenses were \$7.2 million for the year ended December 31, 2021 compared to \$12.0 million for the year ended December 31, 2022. The increase of \$4.8 million was primarily due to increases in (i) employee compensation and stock-based compensation expense of \$2.1 million due to increased headcount, (ii) rent and facility expenses of \$1.0 million as our New York City office and laboratory lease commenced in April 2022, and (iii) nonrecurring legal, finance and accounting, consulting and professional fees of \$0.9 million.

### *Interest income*

We recognized interest income of \$1.3 million for the year ended December 31, 2022 related to interest earned on our investments in U.S. government money market funds.

## **Liquidity and capital resources**

### ***Sources of liquidity***

Since our inception, we have not generated any revenue from product sales and have incurred significant operating losses and negative cash flows from our operations. We expect to incur significant expenses and operating losses for the foreseeable future as we advance the clinical development of our product candidates. Since our inception through June 30, 2023, we have funded our operations primarily with net proceeds from sales of our convertible preferred stock and Convertible Securities Agreements of \$183.7 million. As of June 30, 2023, we had cash and cash equivalents of \$45.5 million.

Based on our current operating plans, we expect the net proceeds from this offering, together with our existing cash, will be sufficient to fund our planned operating expenses and capital expenditure requirements into the third quarter of 2024. Our total future capital requirements will depend on many factors and is subject to the risks and uncertainties set forth in the section titled "Risk Factors." Our development plans may be revised, and our estimated use of proceeds may be impacted.

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## Cash flows

The following table summarizes our sources and uses of cash for the six months ended June 30, 2023 and June 30, 2022 (unaudited, in thousands):

	Six Months Ended June 30,	
	2023	2022
Net cash used in operating activities	\$ (31,566)	\$ (26,145)
Net cash used in investing activities	(39)	(394)
Net cash (used in) provided by financing activities	(192)	305
Net decrease in cash	\$ (31,797)	\$ (26,234)

### Operating activities

During the six months ended June 30, 2022, net cash used in operating activities consisted primarily of our net loss of \$27.6 million, which was partially offset by \$0.8 million in stock-based compensation expense, \$0.4 million in depreciation and amortization of operating and finance right-of-use assets, and \$0.3 million in net cash provided by changes in operating assets and liabilities.

During the six months ended June 30, 2023, net cash used in operating activities consisted primarily of our net loss of \$32.1 million and \$1.7 million in net cash used by changes in operating assets and liabilities, which were partially offset by \$1.4 million in stock-based compensation expense and \$0.9 million in depreciation and amortization of our right-of-use assets for our operating and finance leases.

### Investing activities

During the six months ended June 30, 2022, net cash used in investing activities was \$0.4 million and consisted of purchases of lab equipment and internal use software.

During the six months ended June 30, 2023, net cash used in investing activities of approximately \$39,000 consisted of purchases of lab equipment and internal use software.

### Financing activities

During the six months ended June 30, 2022, net cash provided by financing activities consisted primarily of \$0.3 million of proceeds received from the exercise of stock options.

During the six months ended June 30, 2023, net cash used in financing activities consisted primarily of \$0.2 million of principal payments made on equipment finance leases.

The following table summarizes our sources and uses of cash for the years ended December 31, 2022 and December 31, 2021 (in thousands):

	Years Ended December 31,	
	2022	2021
Net cash used in operating activities	\$(54,560)	\$(44,182)
Net cash used in investing activities	(901)	(188)
Net cash provided by financing activities	189	150,857
Net increase (decrease) in cash	\$(55,272)	\$106,487

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### *Operating activities*

During the year ended December 31, 2021, net cash used in operating activities consisted primarily of our net loss of \$50.6 million, partially offset by (i) \$6.0 million in net cash provided by changes in operating assets and liabilities and (ii) \$0.4 million in stock-based compensation expense.

During the year ended December 31, 2022, net cash used in operating activities consisted primarily of our net loss of \$59.3 million, partially offset by (i) \$1.8 million in stock-based compensation expense, (ii) \$1.8 million in net cash provided by changes in operating assets and liabilities, and (iii) \$1.0 million in amortization of our right-of-use assets for our operating and finance leases.

### *Investing activities*

During the year ended December 31, 2021, net cash used in investing activities was \$0.2 million and consisted of the purchase of lab equipment.

During the year ended December 31, 2022, net cash used in investing activities was \$0.9 million and consisted of the purchase of lab equipment and internal use software.

### *Financing activities*

During the year ended December 31, 2021, net cash provided by financing activities consisted primarily of \$151.1 million gross proceeds from the issuance of 50,999,997 shares of Series A convertible preferred stock at a purchase price of \$1.00 per share and 58,157,823 shares of Series B convertible preferred stock at a purchase price of \$1.72 per share, as well as proceeds from the exercise of stock options of \$0.2 million, partially offset by \$0.3 million of issuance costs.

During the year ended December 31, 2022, net cash provided by financing activities consisted primarily of proceeds from the exercise of stock options of \$0.3 million, partially offset by \$0.2 million of principal payments made on equipment finance leases.

Our primary uses of cash are to fund our clinical trials, research and development activities related to our discovery programs and our preclinical and clinical product candidates, hiring personnel, raising capital and providing general and administrative support for these operations.

### *Funding requirements*

We expect our expenses and capital requirements to increase significantly in connection with our ongoing activities, particularly as we advance our lead product candidates and other development programs. Further, following the completion of this offering, we expect to incur additional costs associated with operating as a public company. Accordingly, we will require substantial additional funding to support our continuing operations.

The timing and amount of our future operating and capital requirements will largely depend on many factors, including:

- the initiation, scope, progress, timing, results and costs of product discovery, preclinical studies and clinical trials for our product candidates or any future candidates we may develop;
- our ability to maintain our relationships with Weill Cornell Medicine, Adverum, UCSD, and any other key licensors or collaborators;
- the scope, prioritization and number of our research and development programs;

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- the costs, timing and outcome of seeking and obtaining regulatory approvals from the FDA and comparable foreign regulatory authorities, including the potential for such authorities to require that we perform more preclinical studies or clinical trials than those that we currently expect or change their requirements on studies that had previously been agreed to;
- our ability to establish and maintain collaborations on favorable terms, if at all;
- the achievement of milestones or occurrence of other developments that trigger payments under any collaboration agreements we have or may enter into;
- the extent to which we are obligated to reimburse, or entitled to reimbursement of, clinical trial costs under collaboration agreements, if any;
- the costs to establish, maintain, expand, enforce and defend the scope of our intellectual property portfolio, including preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending intellectual property-related claims;
- the extent to which we acquire or in-license other product candidates and technologies;
- the costs of securing manufacturing arrangements for commercial production;
- the costs of establishing or contracting for sales and marketing capabilities if we obtain regulatory approvals to market our product candidates; and
- our need to implement additional internal systems and infrastructure, including financial and reporting systems.

Identifying potential product candidates and conducting preclinical studies and clinical trials is a time-consuming, expensive and uncertain process that takes years to complete, and we may never generate the necessary data or results required to obtain regulatory approval and commercialize our product candidates. In addition, our product candidates, if approved, may not achieve commercial success. Our commercial revenues, if any, will be derived from sales of products that we do not expect to be commercially available for many years, if at all. Accordingly, we will need to continue to rely on additional financing to achieve our business objectives.

Until such time, if ever, as we can generate significant revenue from product sales or other sources, we expect to finance our operations through the sale of equity, debt financings, or other capital sources, which could include proceeds from potential collaborations, strategic partnerships or marketing, distribution, licensing or other similar arrangements with third parties. See the “Business” for a discussion of our material license agreements and sponsored research agreements for further information regarding milestone and royalty payments we may be obligated to make in the future.

We may be unable to raise additional funds or enter into such agreements or arrangements on favorable terms, or at all. Both the COVID-19 pandemic and the Russia-Ukraine war resulted in a significant disruption of global financial markets and contributed to a general global economic slowdown. If the disruption persists and deepens, whether as a result of these events or otherwise, we could experience an inability to access additional capital. 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. Any future debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, selling or licensing our assets, making capital expenditures, declaring dividends or encumbering our assets to secure future indebtedness. Such restrictions could adversely impact our ability to conduct our operations and execute our business plan.

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If we raise funds through collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates or to grant licenses on terms that may not be favorable to us. If we fail to raise capital or enter into such agreements as, and when, needed, we may have to significantly delay, scale back or discontinue the development or commercialization of our product candidates or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

### **Known trends, events and uncertainties**

We continue to actively monitor the impact of various macroeconomic trends, such as high rates of inflation, supply chain disruptions and geopolitical instability caused by the Russian-Ukrainian war.

The recent trends towards rising inflation may materially affect our business and corresponding financial position and cash flows. Inflationary factors, such as increases in the cost of our clinical trial materials and supplies, interest rates and overhead costs may adversely affect our operating results. Rising interest rates also present a recent challenge impacting the U.S. economy and could make it more difficult for us to obtain traditional financing on acceptable terms, if at all, in the future. Additionally, the general consensus among economists suggests that we should expect a higher recession risk to continue over the next year, which, together with the foregoing, could result in further economic uncertainty and volatility in the capital markets in the near term, and could negatively affect our operations. We may experience increases in our operating costs, including our labor costs and research and development costs, due to supply chain constraints, consequences associated with COVID-19 and the ongoing conflict between Russia and Ukraine, and employee availability and wage increases, which may result in additional stress on our working capital resources.

### **Critical accounting policies and significant judgements and estimates**

Our management's discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles, or U.S. GAAP. The preparation of our consolidated financial statements and related disclosures requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, expenses, and the disclosure of our contingent liabilities in our consolidated financial statements. We base our estimates on historical experience, known trends and events and various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. We evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are described in more detail in Note 2 to our audited consolidated financial statements included elsewhere in this prospectus, we believe that the following accounting policies are those most critical to the judgments and estimates used in the preparation of our audited consolidated financial statements.

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

As part of the process of preparing our consolidated financial statements, we are required to estimate our accrued research and development expenses. This process involves 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

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accrued expenses as of each balance sheet date in the consolidated financial statements based on facts and circumstances known to us at that time. At each period end, we corroborate the accuracy of these estimates with the service providers and make adjustments, if necessary. Examples of estimated accrued research and development expenses include those related to fees paid to:

- vendors in connection with discovery and preclinical development activities;
- CROs in connection with preclinical studies and testing; and
- CMOs in connection with the process development and scale up activities and the production of materials.

We record the expense and accrual related to contract research and manufacturing based on our estimates of the services received and efforts expended considering a number of factors, including our knowledge of the progress towards completion of the research, development, and manufacturing activities; invoicing to date under contracts; communication from the CROs, CMOs, and other companies of any actual costs incurred during the period that have not yet been invoiced; and the costs included in the contracts and purchase orders. 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 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 expense 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 reporting amounts that are too high or too low in any particular period. To date, there have not been any material adjustments to our prior estimates of accrued research and development expenses; however, we cannot guarantee that such adjustments will not be made in the future.

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

As there has been no public market for our common stock to date, the estimated fair value of our common stock has been 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 believed were relevant and which may have changed from the date of the most recent valuation through the date of the grant. These third-party valuations were 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 were prepared using either an option pricing method, or OPM, or a hybrid method of OPM and probability-weighted expected return method, or PWERM. Both the OPM and hybrid methods use market approaches to estimate our enterprise value. These third-party valuations were performed at various dates, which resulted in valuations of our common stock of \$1.38 as of December 17, 2021, \$1.43 as of February 15, 2022, \$1.66 as of February 14, 2023, and \$1.04 as of June 23, 2023. In addition to considering the results of these third-party valuations, our board of directors considered various objective and subjective factors to determine the fair value of our common stock as of each grant date, including:

- the prices at which we sold shares of preferred stock and the superior rights and preferences of the 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;



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- external market conditions affecting the biopharmaceutical 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 preferred stock;
- significant changes to the key assumptions underlying the factors used could have resulted in different fair values of common stock at each valuation date;
- the likelihood of achieving a liquidity event, such as an initial public offering, or IPO, or sale of our company in light of prevailing market conditions; and
- the analysis of IPOs and the market performance of similar companies in the therapeutics industry.

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

Once a public trading market for our common stock has been established in connection with the completion of this offering, it will no longer be necessary for our board of directors to estimate the fair value of our common stock in connection with our accounting for granted stock options and other such awards we may grant, as the fair value of our common stock will be determined based on the quoted market price of our common stock.

### **Stock option awards**

We recognize share-based compensation expense related to stock option awards granted based on the estimated fair value of the awards on the date of grant using a Black-Scholes option pricing model. The grant date fair value of the share-based awards is recognized on a straight-line basis over the requisite service period, which is the vesting period of the respective awards. Share-based payments to non-employees issued in exchange for services are based upon the fair value of the equity instruments issued. Compensation expense for stock options issued to non-employees is calculated using the Black-Scholes option pricing model and is recorded over the requisite service performance period.

The Black-Scholes option-pricing model requires the use of highly subjective assumptions, which are used to determine the fair value stock option awards granted. These assumptions include:

*Expected Term.* The expected term represents the period that our stock option awards granted are expected to be outstanding and is determined using the simplified method (based on the mid-point between the vesting date and the end of the contractual term).

*Expected Volatility.* Because we do not have any trading history for our shares of common stock, the expected volatility is estimated using averages of the historical volatility of our peer group of companies for a period equal to the expected life of the stock options granted. Our peer group of publicly traded companies was chosen based on their similar size, stage in the life cycle or area of specialty.

*Risk-Free Interest Rate.* The risk-free interest rate is based on the interest rates paid on securities issued by the U.S. Treasury with a term approximating the expected life of stock options granted.

*Expected Dividend.* We have never paid, and do not anticipate paying, cash dividends on our shares of common stock. Therefore, the expected dividend yield was assumed to be zero.

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The following table summarizes by grant date the number of shares subject to options granted from January 1, 2022 through the date of this prospectus, the per share exercise price of the options, the per share fair value of our common stock on each grant date and the per share estimated fair value of the options:

<b>Grant Date</b>	<b>Number of Shares Subject to Options Granted</b>	<b>Per Share Exercise Price of Options</b>	<b>Per Share Fair Value of Common Stock on Grant Date</b>	<b>Per Share Estimated Fair Value of Options</b>
January 26, 2022	449,060	\$ 1.38	\$ 1.38	\$ 0.89
March 7, 2022	15,000	\$ 1.43	\$ 1.43	\$ 0.92
May 6, 2022	850,786	\$ 1.43	\$ 1.43	\$ 0.95
July 20, 2022	388,542	\$ 1.43	\$ 1.43	\$ 0.97
December 2, 2022	25,250	\$ 1.43	\$ 1.43	\$ 0.98
March 14, 2023	4,922,272	\$ 1.66	\$ 1.66	\$ 1.23
July 24, 2023	1,549,339	\$ 1.04	\$ 1.04	\$ 0.74
August 22, 2023	4,871,569	\$ 1.04	\$ 1.04	\$ 0.78
September 17, 2023	674,531	\$ 1.04	\$ 1.04	\$ 0.78

### **Emerging growth company status**

The JOBS Act permits an “emerging growth company” such as us to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies until those standards would otherwise apply to private companies. 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 will adopt the new or revised standard at the time private companies adopt the new or revised standard and will 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. There are other exemptions and reduced reporting requirements provided by the JOBS Act that we are currently evaluating. For example, as an “emerging growth company,” we are exempt from Sections 14A(a) and (b) of the Securities Exchange Act of 1934, as amended, which would otherwise require us to (1) submit certain executive compensation matters to shareholder advisory votes, such as “say-on-pay,” “say-on-frequency,” and “golden parachutes;” and (2) disclose certain executive compensation related items such as the correlation between executive compensation and performance and comparisons of our chief executive officer’s compensation to our median employee compensation. We also intend to rely on an exemption from the rule requiring us to provide an auditor’s attestation report on our internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act. We will continue to remain an “emerging growth company” until the earliest of the following: (1) the last day of the fiscal year following the fifth anniversary of the date of the completion of this offering; (2) the last day of the fiscal year in which our total annual gross revenue is equal to or more than \$1.235 billion; (3) the date on which we have issued more than \$1.0 billion in nonconvertible debt during the previous three years; or (4) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

### **Recently issued accounting pronouncements**

A description of recently issued accounting pronouncements that may potentially impact our financial position, results of operations and cash flows is disclosed in Note 2 to our audited consolidated financial statements included elsewhere in this prospectus.

## **Qualitative and quantitative disclosures about market risk**

### *Interest rate risk*

As of June 30, 2023, we had cash and cash equivalents of \$45.5 million. Interest income is sensitive to changes in the general level of interest rates. Our surplus cash has been invested in money market fund accounts and interest-bearing savings accounts. 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 one percentage point 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, 2021, we had no debt outstanding, and as of December 31, 2022 and June 30, 2023, we had approximately \$2.2 million and \$2.0 million, respectively, of total finance lease liabilities that bear interest on a fixed basis. Therefore, we are not significantly exposed to interest rate risk with respect to debt.

All of our employees and our operations are currently located in the United States. We have, from time to time, engaged with contractors or other vendors in a currency other than the U.S. dollar. To date, we have not been exposed to significant market risk related to changes in foreign currency exchange rates. Our operations may be subject to fluctuations in foreign currency exchange rates in the future.

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. Our operations may be subject to inflation in the future.

## Business

### Overview

We are a clinical stage genetic medicine company dedicated to transforming healthcare by applying pioneering science to fundamentally change how disease is treated. By taking aim at the underlying genetic cause of the devastating diseases we target, we seek to create substantial positive impact and reduce the overwhelming burdens placed on people receiving treatment, their caregivers, and healthcare systems. Our current pipeline consists of candidates targeting patient populations that place significant burden on society and are most amenable to our genetic medicine approach.

Our most advanced cardiovascular product candidate, LX2006 for the treatment of patients with Friedreich's ataxia, or FA, cardiomyopathy, is currently being evaluated in an ongoing Phase 1/2 clinical trial. We have observed an increase in frataxin protein expression in the heart from one patient in the low dose cohort based on a cardiac biopsy utilizing two separate analyses, and we expect to report additional interim data from this trial in mid-2024. Our second most advanced cardiovascular product candidate, LX2020 for the treatment of arrhythmogenic cardiomyopathy, or ACM, caused by mutations in the *PKP2* gene, referred to as PKP2-ACM, received IND clearance from the U.S. Food and Drug Administration, or FDA, in July 2023 and we expect to dose the first patient in a Phase 1/2 clinical trial in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024.

Our lead Alzheimer's disease product candidate, LX1001 for the treatment of *APOE4* homozygous patients with Alzheimer's disease, is in an ongoing Phase 1/2 trial, and we have initially observed an increase in expression levels of the protective protein, *APOE2*, in the first dose cohort and a consistent trend towards improvement in core Alzheimer's disease biomarkers. We expect to complete enrollment of the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 clinical trial in the second half of 2024.

We are targeting diseases that have seen limited penetration of precision medicine, which we define as medications that treat the underlying molecular mechanism of a disease, and where we believe there is a significant opportunity for gene therapy to play a role as a key therapeutic option. We believe the specific indications we are initially targeting, FA cardiomyopathy, PKP2-ACM and *APOE4*-associated Alzheimer's disease, are highly amenable to gene therapy, where administration of a single dose has the potential to either restore loss-of-function or minimize gain-of-function mutations by treating the underlying genetic cause of the disease. Although few precision medicines are currently approved for the treatment of cardiovascular conditions or Alzheimer's disease, recent approvals by the FDA suggest a willingness to approve new precision medicines based on biomarkers and functional endpoints. Together with improved diagnostics and increased testing, these developments may offer one of the most substantial opportunities for the uptake of precision medicines in the global pharmaceutical marketplace.

Each of our gene therapy candidates utilizes the vector construct, dose and route of administration that we believe will result in the most favorable biodistribution and safety profile for our product candidate for each disease. Our most advanced cardiovascular and *APOE4*-associated Alzheimer's disease programs use the AAVrh10 vector due to its high transduction efficiency in both myocardial cells and neurons, potential for lower toxicity given the opportunity to utilize lower doses compared to other well-established AAV serotypes, and low pre-existing immunity.

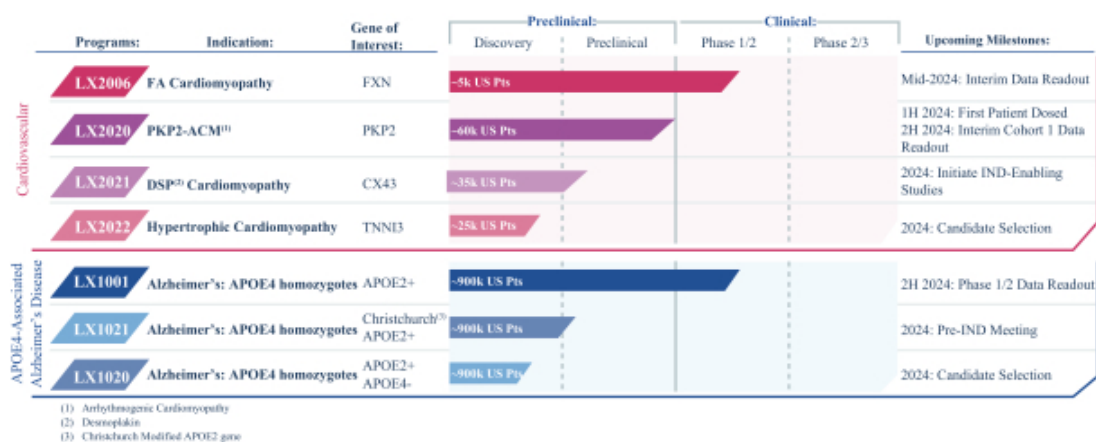
By specifically tailoring our technological approach to each targeted disease, we believe we can optimize our programs to achieve the highest likelihood of having therapeutic impact. We target genetically defined indications in specific sub-groups of patients that offer the potential to demonstrate therapeutic impact through improvement in functional endpoints or biomarkers, have high unmet need and large market opportunities, have established proof-of-concept in relevant preclinical models, and have organized patient advocacy groups and

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identifiable patient populations. In addition to targeting cardiovascular diseases and APOE4-associated Alzheimer’s disease that we believe can be addressed by our current approach utilizing AAVrh10, we have ongoing discovery efforts to identify next-generation vector technologies with the best potential therapeutic profile. Finally, we continuously seek to bolster our pipeline through relationships with academic institutions, providing us access to cutting edge genetic medicines research which will include not only AAV gene therapy but also other potential therapeutic payload types and non-viral delivery systems. In August 2023, we also announced a strategic investment from Sarepta Therapeutics, Inc., which we intend to use to support the development of our cardiovascular gene therapies and to explore collaboration opportunities within our preclinical cardiovascular pipeline.

## Our pipeline

Utilizing a stepwise, capital-efficient development approach, we are leveraging early proof-of-concept functional and biomarker data to advance a deep and diverse pipeline of cardiovascular and APOE4-associated Alzheimer’s disease programs for larger-rare and prevalent indications. We retain exclusive worldwide development and commercialization rights to all of our product candidates and programs.



### Cardiovascular programs

We are developing a number of disease-modifying gene therapy candidates to treat larger-rare cardiovascular diseases that have significant unmet need and no approved treatments that address the underlying genetic cause of the disease. These programs include:

- **LX2006** is an AAVrh10-based gene therapy candidate designed to intravenously deliver a functional frataxin, or *FXN*, gene for the treatment of FA cardiomyopathy. FA cardiomyopathy is the most common cause of mortality in patients with Friedreich’s ataxia and affects approximately 5,000 patients in the United States. LX2006 is designed to promote the expression of the protein frataxin to restore normal mitochondrial function and energy production in myocardial cells. In preclinical studies, LX2006 demonstrated improvement in cardiac function and survival in a severe *FXN* knockout mouse model. Similarly, in a partial *FXN* knockout mouse model, LX2006 was observed to restore cardiac function and reverse disease abnormalities of FA cardiomyopathy. LX2006 is currently being evaluated in an open-label, ascending dose Phase 1/2 clinical trial in patients with FA cardiomyopathy and we have observed an increase in frataxin protein expression in the heart from one patient in the low dose cohort based on a cardiac biopsy utilizing two separate analyses. We

expect to report additional interim data from this trial in mid-2024. The FDA has granted Rare Pediatric Disease designation and Orphan Drug designation to LX2006 for the treatment of FA.

- **LX2020** is an AAVrh10-based gene therapy candidate designed to intravenously deliver a functional *PKP2* gene to cardiac muscle for the treatment of PKP2-ACM. *PKP2* mutations are associated with approximately 75% of all genetic cases of ACM, and we estimate they affect approximately 60,000 patients in the United States. *PKP2* mutations can cause replacement of heart muscle with fibrotic tissue and fatty deposits and severe abnormal heart rhythms, or arrhythmias, that cause cardiac dysfunction and can result in sudden cardiac death. LX2020 is designed to increase desmosomal PKP2 protein levels, reassemble desmosomes and restore myocardial cell function. In our preclinical studies using a genetic mouse model of ACM harboring a *PKP2* mutation that recapitulates the phenotype of PKP2-ACM, LX2020 resulted in fewer arrhythmias and increased survival. We received IND clearance for LX2020 in July 2023 and we expect to dose the first patient in a Phase 1/2 clinical trial in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024.
- **LX2021** is a gene therapy candidate we are developing to intravenously deliver the coding sequence for the functional Cx43 protein for a group of inherited cardiac muscle disorders associated with a high risk of sudden death, including arrhythmogenic cardiomyopathy and certain forms of dilated cardiomyopathy. We believe restoring the Cx43 protein can potentially treat multiple genetic causes of ACM because the cardiac loss of Cx43 is a molecular deficit generally observed in all ACM patient populations. Our LX2021 program is initially targeting DSP cardiomyopathy, a distinct form of ACM as well as a certain form of dilated cardiomyopathy, with a prevalence that may be as high as 4% of all inherited dilated cardiomyopathies and 4% of all ACMs, impacting up to approximately 35,000 patients in the United States. We plan to initiate IND-enabling studies for LX2021 in 2024.
- **LX2022** is a gene therapy candidate we are developing to intravenously deliver a functional *TNNI3* gene to myocardial cells to treat a distinct form of hypertrophic cardiomyopathy, or HCM, due to mutations in the *TNNI3* gene. Mutations in the *TNNI3* gene often result in left ventricular hypertrophy and restrictive cardiomyopathy, leading to arrhythmias and heart failure. With an estimated prevalence of 1 in 500 people in the United States, HCM is one of the most common forms of genetic cardiomyopathy caused by mutations that affect the cardiac sarcomere in approximately 75% of cases. It is estimated that as many as 25,000 patients in the United States and 34,000 patients in the European Union are affected by HCM caused by mutations in the *TNNI3* gene. We plan to complete candidate selection for LX2022 in 2024.

### *APOE4-associated Alzheimer's programs*

We are developing a portfolio of approaches to treat the genetics underlying Alzheimer's disease.

- **LX1001** is an AAVrh10-based gene therapy candidate designed to deliver into the cerebrospinal fluid, or CSF, an *APOE2* gene for the treatment of *APOE4* homozygous patients with Alzheimer's disease. Alzheimer's disease is the leading cause of cognitive decline in late adult life and characterized by complex underlying pathology in the central nervous system, or CNS. Individuals homozygous for *APOE4*, an allele of the gene *APOE*, are approximately 15 times more likely to develop Alzheimer's disease than the general population, and it is estimated that there are 900,000 *APOE4* homozygous patients with Alzheimer's disease in the United States alone. Conversely, individuals homozygous for the *APOE* allele *APOE2* are 40% less likely to develop Alzheimer's disease than the general population. This and other evidence suggest that *APOE2* may play a neuroprotective role. LX1001 is designed to express the protective *APOE2* gene in the CNS of *APOE4* homozygous patients in order to halt or slow the progression of Alzheimer's disease. LX1001 is being evaluated in an ongoing open-label, dose-escalation Phase 1/2 clinical trial. In the first dose cohort in the trial, we observed a consistent trend towards improvement in Alzheimer's disease CSF biomarkers, such as total tau and phosphorylated tau. We have also observed expression of the protective *APOE2* protein in all patients in the first dose cohort with follow-up data. LX1001 has been granted Fast Track designation by the FDA for the treatment of patients with early Alzheimer's disease who are *APOE4* homozygous to slow disease progression. We expect to complete enrollment in the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 clinical trial in the second half of 2024.

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- *LX1021* is a gene therapy candidate we are developing to deliver a Christchurch mutation-modified *APOE2* allele for the treatment of *APOE4* homozygous patients with Alzheimer's disease. The Christchurch mutation has been recognized to protect individuals against Alzheimer's disease even in the presence of significant amyloid pathology. The mechanism of this protection may relate to the fact that APOE, in the presence of the Christchurch mutation, binds poorly to heparan sulfate proteoglycans, which are molecules found on the surface of neurons that may inhibit the spread of tau between cells. We believe this approach has the potential to enhance the protective effect of *APOE2* in homozygous *APOE4*-associated Alzheimer's disease. We plan to hold a pre-IND meeting with the FDA in 2024 to guide the next stage of development for this program.
- *LX1020* is a gene therapy candidate we are developing to deliver both the protective *APOE2* allele and miRNA to suppress *APOE4* for the treatment of *APOE4* homozygous patients. We believe delivery of *APOE2* with concurrent suppression of *APOE4* will achieve a higher degree of conversion to the *APOE4/E2* heterozygous profile, which should lead to greater therapeutic effect. We plan to complete candidate selection in 2024.

### **Our company and team**

We were founded through a collaboration between the world-class gene therapy research at Weill Cornell Medicine and a team of pioneering scientists, clinicians, and business leaders with deep expertise in gene therapy. We continue to leverage our long-standing relationship with Weill Cornell Medicine through sponsored research and development efforts to progress our cardiovascular platform technology as well as our *APOE4*-associated Alzheimer's disease product candidates. Through our acquisition of Stelios Therapeutics, Inc., we have an ongoing collaboration with the University of California, San Diego, or UCSD, through which we sponsor research and development designed to advance our earlier stage cardiovascular pipeline. We work with highly experienced teams at both Weill Cornell Medicine and UCSD that have deep expertise in the underlying biology of cardiovascular and *APOE4*-associated Alzheimer's disease and the patient populations that they treat. We believe our ongoing work with these preeminent institutions, as well as any potential new or expanded collaborations, will continue to be a valuable aspect of our efforts as we seek to further discover and develop novel gene therapies for devastating diseases.

We are led by pioneers and experts with decades of collective experience in genetic medicines, rare disease drug development, manufacturing and commercialization. Our scientific founder and Chief Scientific Advisor, Ronald G. Crystal, M.D., is a world leader in gene therapy research and development and currently serves as Professor and Chairman of Weill Cornell Medicine's Genetic Medicine Department and Director of the Belfer Gene Therapy Core Facility. Dr. Crystal has sponsored 14 cleared gene therapy IND applications and has published more than 300 papers on gene therapy. He has more than thirty years of experience with AAVs and vector design and expertise in CNS, cardiac, pulmonary and liver-mediated diseases. Our Chief Executive Officer, R. Nolan Townsend, has spent more than a decade working in global biopharmaceutical commercial organizations, including leading Pfizer's \$1.6 billion international rare disease commercial business unit. Mr. Townsend also led Pfizer's U.S. rare disease commercial business unit, where he oversaw the successful U.S. launch of blockbuster rare cardiovascular product Vyndaqel/Vyndamax (tafamidis), now a \$2.4 billion product by revenue. He has overseen other successful rare disease product launches and been involved in business and commercial development efforts for several gene therapy programs. Eric Adler, M.D., our Chief Scientific Officer, is a pioneer in cardiovascular gene therapy, and Professor of Medicine, head of the Heart Failure Section, Director of the Strauss Center for Cardiomyopathy, and the Czarina and Humberto S. Lopez Chancellor's Endowed Chair in Cardiology at UCSD. Our Chief Technical Officer, Paul McCormac, Ph.D., has more than 20 years of experience and a proven track record in the field of gene therapy and biologics chemistry, manufacturing, and controls, or CMC. He previously served as Medicinal Sciences Category Lead for Pfizer Rare Disease, where he led gene therapy CMC and vector supply strategy for Pfizer's rare disease business and research units. Our Chief Legal and Administrative Officer, Jenny R. Robertson, previously served as Chief Counsel to Pfizer's Oncology Business Unit and held other senior legal roles across her 12-year tenure there including the Chief Counsel to Pfizer's Rare Disease Business Unit and its Emerging Markets Business Unit.

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Prior to joining Pfizer, Ms. Robertson spent 10 years in private practice with a large global law firm. Our Chairman, Steven Altschuler, M.D., is currently Managing Director at Ziff Capital Partners and was formerly Chairman of the gene therapy pioneer Spark Therapeutics, Inc., which was responsible for the first FDA-approved gene therapy, voretigene neparvovec-rzyl (Luxturna), and was acquired by Roche Holding AG in 2019 for \$4.3 billion. Our senior leadership is supported by the rest of our management team, which has decades of experience across research, development, manufacturing and commercialization in gene therapy and rare disease both from prominent biotechnology companies and global biopharmaceutical companies that are active in the space.

Since our inception, we have raised \$183.7 million in capital, including from certain funds affiliated with D1 Capital Partners, Eventide Healthcare & Life Sciences Fund, Janus Henderson Investors, Longitude Capital, Lundbeckfonden Ventures, Omega Funds and PBM Capital. Prospective investors should not rely on the investment decisions of our existing investors, as these investors may have different risk tolerances and have received their shares in prior offerings at prices lower than the price offered to the public in this offering. See “Business—Certain Relationships and Related Party Transactions” for more information.

## **Our strategy**

Our company is purpose built to amplify genetic medicine’s potential for empowering individuals by treating the underlying cause of genetic disease. The key elements of our strategy to achieve this vision are to:

- *Focus our AAV-based gene therapy candidates in areas of high unmet need and with substantial potential for societal impact and commercial opportunity, such as genetically defined cardiovascular diseases and APOE4-associated Alzheimer’s disease.* We are focused on genetically defined cardiovascular diseases and APOE4-associated Alzheimer’s disease where there are no currently approved treatments or where we believe our therapies will provide a meaningful improvement relative to existing standards of care. Furthermore, we pursue indications with commercial opportunities beyond those typically associated with gene therapy companies targeting rare monogenic diseases. Among our cardiovascular programs, LX2006 has the potential to address a prevalent population of approximately 5,000 FA cardiomyopathy patients in the United States, and LX2020 has the potential to address approximately 60,000 patients in the United States with PKP2-ACM. We believe that LX1001 has the potential to address up to approximately 900,000 patients in the United States with homozygous APOE4-associated Alzheimer’s disease.
- *Advance a deep and diverse pipeline that includes candidates that are designed to address both larger-rare and more prevalent patient populations, prioritizing conditions most likely to benefit from our therapies.* Our programs are designed to target either the aspect of the disease that is most amenable to gene therapy or the genetic sub-groups that we believe are most likely to respond to gene therapy. For example, in the case of LX2006, we are targeting the cardiac manifestation of the disease because we believe it is more amenable to gene therapy than the neurologic manifestation. For LX2020, we are targeting the PKP2 sub-group that represents approximately 75% of the genetic ACM cases and presents a clinical phenotype amenable to treatment. For LX1001, we are targeting homozygous APOE4-associated Alzheimer’s disease patients, the highest risk population to develop Alzheimer’s disease and the sub-group most likely to demonstrate a treatment effect from the expression of the protective APOE2 protein and where currently approved treatments have demonstrated clinical benefit less favorable compared to other APOE genotypes.
- *Pursue a staged, capital-efficient approach for advancing programs through clinical development and regulatory approval.* We are advancing our pipeline of AAV-based gene therapies for cardiovascular and APOE4-associated Alzheimer’s disease. We expect to report additional data from our Phase 1/2 clinical trial of LX2006 for the treatment of FA cardiomyopathy in mid-2024. We expect to complete enrollment in the ongoing Phase 1/2 trial of LX1001 for the treatment of APOE4-associated Alzheimer’s disease by the end of 2023 and report additional interim data from all cohorts in 2024. We plan to leverage key learnings from our



lead programs in cardiovascular and APOE4-associated Alzheimer's disease to guide the development of our next-generation candidates and follow-on indications. Given that there are several targets in cardiac organelles that are dysregulated in cardiomyopathy, we believe there will be read-through to similar indications following clinical proof-of-concept from our initial FA cardiomyopathy and PKP2-ACM programs. Similarly, we believe that positive clinical data from our APOE4-associated Alzheimer's disease program has the potential to validate our novel approach to treating the APOE4 homozygous sub-group and can help inform the development plan of our next-generation candidates. Furthermore, we plan to leverage biomarkers for each of our development programs, potentially enabling us to rapidly validate proof-of-mechanism and support further development efforts. We believe our strategy could facilitate shorter clinical trial timelines, which, coupled with expedited global regulatory approval pathways we plan to pursue, could potentially accelerate clinical development and reduce overall development costs.

- *Utilize a unified, high-quality manufacturing platform that can quickly respond at scale to high impact opportunities.* We plan to use a unified manufacturing process across all current and future programs to manufacture vector for clinical and commercial use via a proprietary platform suspension baculovirus process using Sf9 cells. This production platform has demonstrated the capability to produce high-quality, high-yield, and high-potency vectors that can accommodate demand for both larger rare and prevalent patient populations. We are currently working with third parties for our manufacturing capabilities; however, we will evaluate building out our own current good manufacturing practices, or cGMP, -compliant manufacturing facility as, and if, we achieve further clinical success or any of our product candidates ultimately receive marketing authorization.
- *Pursue next-generation genetic medicine technologies that can enhance our capabilities and expand our impact on patients.* We have combined our robust expertise in vector design, regulatory and clinical strategy, and disease area knowledge to establish a deep cardiovascular gene therapy pipeline. We have chosen to use AAVrh10 across our initial programs and will continue to evaluate the latest scientific understanding of capsid technology for each of our future programs. We will continue to pursue the development of novel capsids, promoter technologies, routes of delivery and other next-generation capabilities to optimize the potential therapeutic efficacy of our programs through our own efforts and in collaboration with others. In August 2023, we announced a strategic investment from Sarepta Therapeutics, Inc., which we intend to use to support the development of our cardiovascular gene therapies and to explore collaboration opportunities within our preclinical cardiovascular pipeline. We may explore additional opportunities to forge strategic partnerships and collaborations in the future.
- *Leverage and expand upon our partnerships and exclusive licenses with world-class academic institutions.* Our foundational science stems from partnerships and exclusive licenses with leading academic laboratories at Weill Cornell Medicine and UCSD, two preeminent institutions on the cutting edge of gene therapy research. Of note, our Chief Scientific Advisor, Ronald G. Crystal, M.D., has sponsored 14 cleared gene therapy IND applications across multiple disease areas, and researchers at UCSD led the discovery efforts of a cardiovascular gene therapy program that is expected to move into late-stage clinical trials. We will continue to draw on the scientific expertise provided by these partnerships while evaluating new opportunities for complementary research and development with other academic collaborators.
- *Build a fully integrated genetic medicine company and selectively evaluate strategic opportunities to maximize the impact of our pipeline.* We aim to discover, develop, manufacture, and eventually commercialize our gene therapy candidates. Despite the larger populations in most of our target indications, we believe genetically defined patient populations enable us to pursue a rare disease commercialization strategy characterized by targeted patient identification and facilitating an efficient patient journey through the diagnostic process, engagement with patient advocacy groups, the potential for value-based market access efforts, and sales, account management, and field reimbursement teams focused on the small number of centers that typically diagnose and treat genetic diseases. We may seek strategic collaborations where we believe the resources and expertise of third-party pharmaceutical or biotechnology companies could accelerate the clinical development or maximize the market potential of our product candidates, or where such collaborations could expand our internal capabilities and platform technology.

## Our approach

### *Background and successes of gene therapy*

Gene therapy is one of the most important emerging modalities, given its potential, in a single administration, to treat or cure life threatening diseases. Other non-genetic medicine approaches have alleviated certain symptoms and conditions associated with genetic diseases, but they do not directly address the underlying genetic cause of the disease.

Gene therapies are designed to deliver transgenes, which are functional versions of the genes that are mutated or are the cause of deficient proteins that manifest in genetic diseases. These transgenes are utilized by the body's cellular machinery to naturally produce functional proteins that were deficient or non-functional prior to treatment. The production of these functional proteins is intended to provide consistent and durable therapeutic benefit. Gene therapies are typically comprised of three key components: a vector—a vehicle that delivers a transgene to cells in the body; a transgene—a gene intended to produce a functional protein; and a promoter—a specialized DNA sequence that directs cells to initiate transcription. AAV-based gene therapy has been shown to be highly effective in targeting many organ systems and has been studied in more than 3,300 patients worldwide.

Although gene therapies have been studied in human clinical trials for over 30 years, there are few AAV-based gene therapy products approved by the FDA: voretigene neparvovec rzy1 (Luxturna), for the treatment of a rare ocular condition; onasemnogene abeparvovec xioi (Zolgensma), for the treatment of a rare neuromuscular condition; etranacogene dezaparvovec (Hemegenix), for the treatment of adults with Hemophilia B who currently use Factor IX prophylaxis therapy; nadofaragene firadenovect-vncg (Adstiladrin), for an unresponsive non-muscle invasive bladder cancer; valoctocogene roxaparvovec-rvox (Roctavian), for the treatment of adults with severe Hemophilia A; and delandistrogene moxeparvovec-rokl (Elevidys) for the treatment of ambulatory pediatric patients aged four through five years with Duchenne muscular dystrophy. Less than four years after its 2019 FDA approval, Zolgensma generated \$1.4 billion of net product sales in 2022, highlighting the commercial viability of novel gene therapies.

### *Challenges associated with gene therapies*

Although substantial advances have been made in the gene therapy field, numerous challenges remain that are associated with safety, efficacy and manufacturing, including:

- *High doses of systemic gene therapy resulting in toxicity.* Like many other drug modalities, higher doses of gene therapies have been associated with toxicity events. Thus far, systemic gene therapies that are intended to treat larger tissues or organ systems (such as in neuromuscular diseases) have typically required higher doses to demonstrate a therapeutic effect ( $1 \times 10^{14}$  vg/kg and higher). Adverse effects such as liver toxicity and microvascular thrombosis may arise from higher doses of gene therapy, leading to direct injury to hepatocytes and activation of aversive immune responses.
- *Delivery and biodistribution challenges in CNS gene therapy.* Gene therapies for CNS indications may cause dorsal root ganglia pathology due to a preferential expression profile in dorsal root ganglia if administered to the CNS. In addition, gene therapies administered to the CNS must overcome the challenge of insufficient biodistribution to neurons and other cells of the CNS in the case of therapies that target intracellular proteins, diminishing their potential efficacy.
- *Lack of scalable, high-quality manufacturing.* Early-stage manufacture of AAV gene therapy has traditionally relied on the use of HEK adherent and suspension cell culture using plasmid transfection and subsequent ultracentrifugation-based purification. This approach involves the use of expensive plasmids and results in a long production cycle. Additional issues include low yield and quality of the material produced, including incorporation of non-transgene DNA impurities, ratio of empty-to-full capsid and inefficient removal of process residuals. It has been reported that empty capsids and DNA impurities can cause innate and adaptive immune responses to AAV and even inhibit transduction by filled capsids. Furthermore, the HEK adherent and suspension cell culture approach has proven difficult to scale up.

## ***Our gene therapy approach***

Our integrated modular approach enables us to optimize our strategy to pursue larger-rare and prevalent genetically defined indications in specific sub-groups of patients. Our gene therapy candidates utilize the vector construct, dose and route of administration that we believe will result in the most favorable biodistribution profile for each disease. By specifically tailoring our technological approach to each targeted disease, we believe we can optimize treatments to achieve the highest likelihood of having potential therapeutic impact. Our disease area strategy is focused on defined sub-groups within selected cardiovascular diseases and APOE4-associated Alzheimer's disease that we believe are most amenable to gene therapy. Across our portfolio, we are utilizing a scalable baculovirus/Sf9 expression system that has demonstrated the capability to produce high-quality, high-yield, and high-potency vectors that can accommodate demand for both rare and prevalent patient populations. Finally, we continuously seek to bolster our pipeline through relationships with academic institutions, providing us with access to cutting edge genetic medicines research which will include not only AAV gene therapy but also other potential therapeutics payload types and non-viral delivery systems.

## ***Our technology approach***

Our most advanced cardiac and APOE4-associated Alzheimer's disease programs use the AAVrh10 vector due to its high transduction efficiency in both myocardial cells and neurons, higher ratio of cardiac to liver biodistribution, potentially lower toxicity given the ability to utilize lower doses, compared to other well-established AAV serotypes, and lower pre-existing immunity. We believe that our approach to technology has the potential to confer the following advantages over existing gene therapy technologies:

- ***High Transduction Efficiency and Biodistribution.*** The AAVrh10 vector has been shown to be capable of transducing myocardial cells based on preclinical research, and it has been shown to be capable of transducing neurons based on results from preclinical studies and our ongoing clinical trials. We believe these results demonstrate that among currently available, commonly used serotypes, AAVrh10 is an efficient vector for delivery and expression of transgenes for the treatment of the cardiovascular diseases that we are currently targeting and APOE4-associated Alzheimer's disease. We have observed organ-specific biodistribution advantages for our AAVrh10 vector compared to AAV9, a well-known serotype that has been evaluated in several clinical trials, including one cardiovascular clinical trial. For example, we have observed vector distribution of AAVrh10 in cardiac tissue of non-human primates, or NHPs, that is two times greater than for AAV9. Additionally, our preliminary studies in Yucatan minipigs have shown that AAVrh10 has approximately 1.5 times greater biodistribution in the heart than AAV9. In addition, preclinical studies conducted by Weill Cornell Medicine have demonstrated that systemic administration of AAVrh10 promotes a ratio of cardiac-to-liver biodistribution that is more favorable than what is known of other commonly used vector serotypes. Preclinical data from a study using a murine model conducted by other researchers has demonstrated that more AAVrh10 particles transduced a single brain cell than AAV9. Additionally, third party researchers observed higher transduction efficiency of AAVrh10 compared to AAV9 in all brain regions evaluated in a preclinical murine study.
- ***Reduced Toxicity.*** The cardiac tropism of AAVrh10 may allow our gene therapy candidates to be systemically administered at lower doses than many other AAV-based therapies targeting cardiovascular or other systemic diseases. We have selected target indications that we believe will be responsive to AAVrh10-based therapies administered at comparatively lower doses, which will potentially reduce toxicities that have been reported in clinical trials of higher-dose gene therapies. For example, compared to doses used in other systemic gene therapy programs which can exceed  $1 \times 10^{14}$  genome copies per kilogram, we intend to use doses of low  $\times 10^{11}$  to low  $\times 10^{12}$  genome copies per kilogram in our Phase 1/2 clinical trial of LX2006 for the treatment of FA cardiomyopathy. Similarly, early data suggest a lower dorsal root ganglia toxicity profile than other commonly used vectors, making it amenable for treating APOE4-associated Alzheimer's disease at potentially higher doses than other vectors.

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- *Reduced Pre-Existing Neutralizing Antibodies.* Treatments leveraging vector serotypes to which humans have pre-existing immunity tend to be less effective. Among the naturally occurring and commonly used AAV serotypes, AAVrh10 has been shown in preclinical studies to have among the lowest levels of pre-existing neutralizing antibodies.
- *Optimized Expression.* We are collaborating with our academic partners to develop tissue-specific promoters and enhancers, tissue-specific codon optimization and tissue-specific, miRNA-based knockdown which can be utilized to limit transgene expression in non-target organs. We are also exploring additional genetic medicine approaches to increase tissue tropism using novel capsids and developing next generation expression systems to optimize the potential therapeutic efficacy of our product candidates.

### *Our precision medicine focus*

We are focused on disease areas that have seen limited penetration of precision medicines, which we define as medications that treat the underlying molecular mechanism of a disease. The development of precision medicines has transformed treatment paradigms in certain therapeutic areas. For example, the top five precision medicines approved in oncology between 2016 and 2021 have a combined estimated U.S. annual peak sales of approximately \$25 billion. Conversely, relatively few precision medicines have been approved for treating cardiac or central nervous system conditions; this is despite a rapid advancement in the understanding of the genetic underpinning of cardiovascular and neurologic diseases and the improved ability of viral vectors to transduce the heart and brain safely.

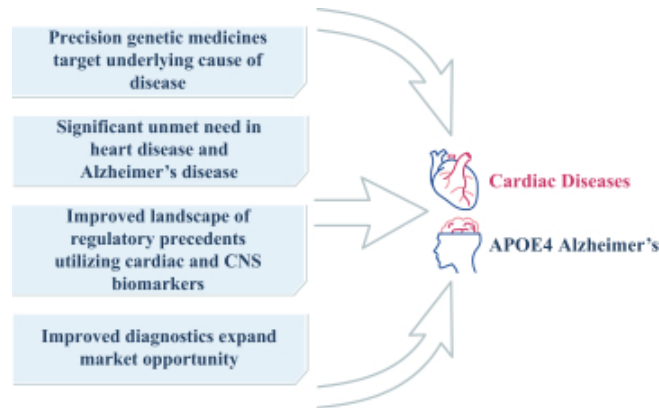
Cardiovascular disease remains the most significant cause of morbidity and mortality in the western world and is rapidly becoming a primary cause of death worldwide. We believe the current lack of precision medicines across the cardiovascular landscape is due to historical regulatory precedents focused on “hard endpoints” and delivery technology that has been insufficiently cardiotropic. However, recent approvals by the FDA suggest a willingness to approve new therapies based on biomarkers and functional endpoints. For example, Rocket Pharmaceuticals, Inc. recently announced FDA alignment on the design of its pivotal study for RP-A501 for the treatment of Danon disease. The 12 patient study will utilize a co-primary endpoint consisting of protein expression and a reduction in left ventricular mass, with troponin noted as a key secondary endpoint, and it will have an external comparator arm. We believe this highlights the potential to utilize similar biomarkers for other genetic cardiomyopathies with high unmet need, subject to regulatory approval.

Furthermore, modern AAV delivery technology generally targets the heart and mediates the delivery of genetic payloads. These developments should foster the introduction of genetic medicines in the cardiovascular treatment landscape, offering one of the most substantial opportunities for the uptake of precision medicines in the global pharmaceutical marketplace. There is significant potential for cardiovascular precision medicine. For example, approximately 30% of cases of dilated cardiomyopathy, a common cause of heart failure, stem from genetic mutations in which more than 50 distinct genes have been implicated. Advancements in genome sequencing have led to increasing identification of these genetic mutations over the last two decades. In the majority of genetic cardiomyopathies, there is no existing disease-modifying therapeutic option. In cases where a disease-modifying treatment option is available, the current standard of care only forestalls disease progression. We believe our cardiovascular precision medicine focus offers the opportunity to treat the underlying root cause of the disease and more effectively reverse disease progression with a single dose.

Precision medicine has been more relevant across CNS disorders, in particular gene therapies for ophthalmologic and neuromuscular degeneration. However, there has been limited advancement in developing precision medicines for Alzheimer’s disease, the most significant commercial opportunity within the CNS landscape. *APOE* is the leading genetic risk factor for Alzheimer’s disease, and, despite differences in treatment effect and safety seen between subpopulations in recent clinical trials, currently-approved, disease-modifying treatments for Alzheimer’s disease utilize a “one-size-fits-all” approach, regardless of *APOE* subpopulation. We believe this highlights the unmet need for precision medicines as the Alzheimer’s disease treatment paradigm continues to shift.

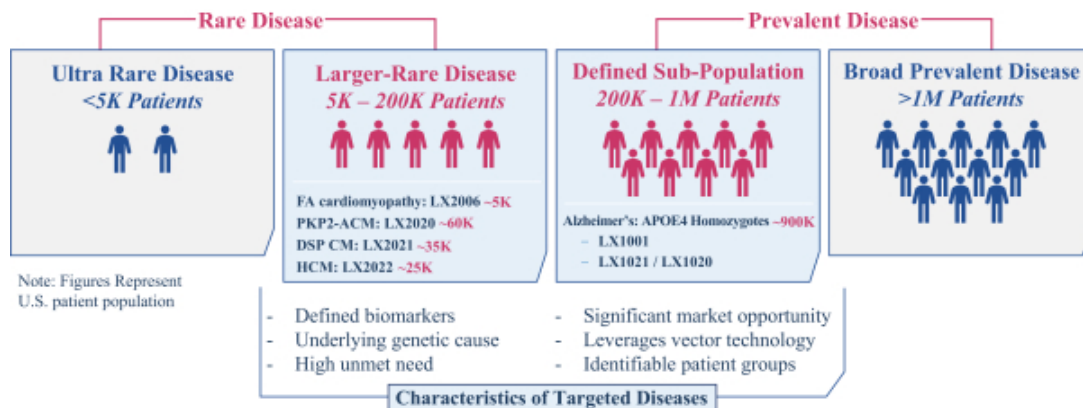
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We believe a precision medicine focus for cardiovascular diseases and APOE4-associated Alzheimer’s disease represents a compelling opportunity and the next frontier in expanding the impact of genetic medicines across therapeutic areas:



- *Precision genetic medicines target the underlying cause of the disease:* next-generation, precision-based genetic medicines offer the opportunity to directly target the mechanisms underlying cardiovascular disease and Alzheimer’s disease.
- *Significant unmet need in cardiovascular disease and APOE4-associated Alzheimer’s disease:* more than 30 million adults have been diagnosed and approximately 655,000 Americans die yearly from heart disease. Additionally, we believe there are approximately 900,000 APOE4 homozygous patients in the United States, and current treatment options are likely to be less effective for this subpopulation of patients.
- *Improved landscape of regulatory precedents utilizing cardiac and CNS biomarkers:* biomarkers can help accelerate development timelines, reduce patient attrition, and reduce the overall cost of drug development by providing an early read on potential efficacy and therapeutic impact.
- *Improved diagnostics expand market opportunity:* implementation of genetic testing has the potential to help identify patients, including those who are asymptomatic or at a higher likelihood of developing the disease being evaluated or who respond less favorably to currently approved treatments.

**Our disease area strategy**



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Our cardiovascular and APOE4-associated gene therapy programs are designed to have the following characteristics:

- *Indications that may be effectively treated by gene therapy.* We select targets that correspond to populations with a specific genetic profile and clearly defined disease phenotype.
- *Indications with the potential to demonstrate early evidence of meaningful clinical benefit.* We pursue clearly defined biomarkers and functional endpoints that can provide early proof-of-mechanism and inform clinical development decisions, including the potential to seek accelerated approval pathways. Early data regarding functional endpoints and biomarkers allows us to pursue an efficient capital allocation strategy. Certain of our clinical trials are designed to provide initial biomarker data as early as three months from the treatment date. In the case of LX2006 targeting FA cardiomyopathy and LX2020 for PKP2-ACM, we are also pursuing functional and histological endpoints that may demonstrate signs of meaningful clinical benefit as early as three months. We expect these early signals will enable us to design late-stage clinical studies with endpoints that best mirror therapeutic effects that may cure the disease. In addition, we believe these endpoints should allow us to perform trials smaller than traditional cardiac trials that can be completed in a reasonable time frame.
- *Present opportunity to address high unmet medical need.* We are focused on genetically defined cardiovascular diseases and APOE4-associated Alzheimer's disease where there are no currently approved treatments or where we believe our therapeutic candidates will have a meaningful improvement relative to existing standards of care.
- *Significant market opportunity.* We pursue indications with significant commercial opportunities beyond those typically associated with gene therapy companies targeting rare monogenic diseases. Our current focus is on targets that impact larger-rare disease populations, ranging from approximately 5,000 U.S. patients, in the case of FA cardiomyopathy, to approximately 60,000 U.S patients, in the case of PKP2-ACM, or prevalent diseases such as homozygous APOE4-associated Alzheimer's disease, which has a patient population of up to approximately 900,000 in the United States.
- *Targets that have established proof-of-concept.* We have leveraged our relationships with academic institutions including Weill Cornell Medicine and UCSD to in-license product candidates with established proof-of-concept in relevant preclinical models that closely resemble the clinical phenotype we are pursuing. We will continue to seek additional similar opportunities via collaborations with academia and the industry.
- *Targeted disease areas best treated by optimal delivery technologies.* Our current gene therapy candidates utilize the AAVrh10 vector due to its tropism for the heart and its observed tolerability in clinical trials for CNS disorders. We will pursue the optimal technology to address the diseases of interest for future indications while ensuring sufficient preclinical or clinical validation for any novel approaches.
- *Readily accessible patients.* Our goal is to accelerate patient recruitment for our clinical trials and increase the likelihood of commercial success of our potential products by focusing on diseases with established patient advocacy groups and university researchers who maintain registries of potentially eligible patients. Where possible, we leverage existing natural history studies to better define target patient phenotypes associated with the disease and may utilize these natural history datasets as a control group in future studies.

### *Our manufacturing approach*

We are developing gene therapy candidates for larger-rare and prevalent disease patient populations that require a high-quality process that can produce vectors in relatively large quantities while utilizing traditional biologics manufacturing infrastructure. We utilize a baculovirus/Sf9 expression system to manufacture our gene therapy candidates. Our manufacturing platform is designed to infect Sf9 cells at high densities in suspension cell culture with both an AAVrh10 and baculovirus containing the transgene. The output is coupled with a chromatography-

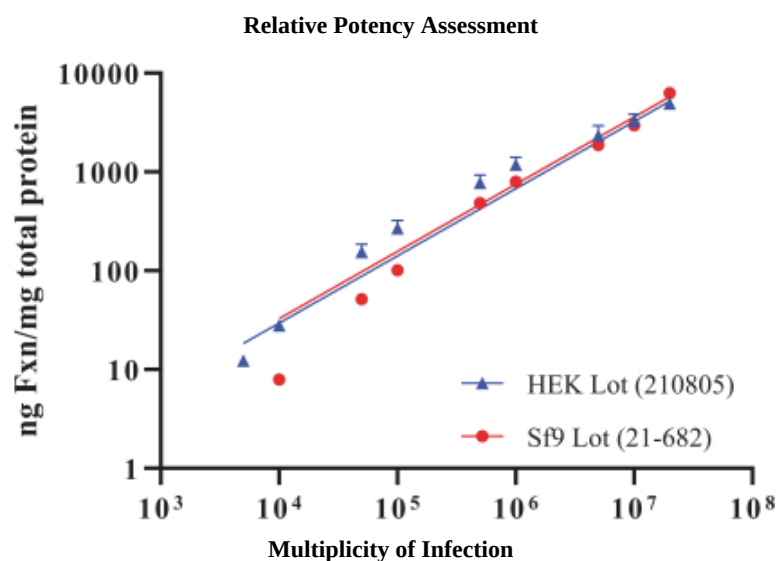
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based purification process which allows for efficient AAV purification, resulting in higher yields and fewer empty AAV capsids than traditional plasmid HEK adherent cell culture approaches.

Traditional adherent HEK manufacturing approaches, which use plasmid transfection to produce viral vectors, are based on mammalian-derived cell lines and cellular components that replicate in mammalian cells. We believe our process has an improved safety profile over these manufacturing approaches for the following reasons: through our sponsored next-generation PacBio and Illumina sequencing analyses performed by one of our contract research organizations, we have observed reduced incorporation of non-transgene DNA plasmid DNA impurities, from 15% observed in the adherent HEK system used by the Belfer Gene Therapy Core Facility to 0.2% in our process; our cellular components are non-replicating in mammalian cells; we have eliminated potentially immunogenic or toxic animal-derived proteins; and our cells are grown under serum-free conditions, leading to reduced risk of contamination from animal-derived products.

We believe our manufacturing process enables us to efficiently pursue our goal of targeting larger-rare and prevalent patient populations. Historically, manufacturing challenges, largely driven by the quantity of vector required to pursue large commercial opportunities have limited the utility of gene therapy for large patient populations. We believe our proprietary SF9 baculovirus process will allow us to produce vectors at the necessary scale to support the patient populations we are targeting at a cost-of-goods profile similar to what the pharmaceutical marketplace has seen with biologics.

First generation SF9 baculovirus platforms have historically been less infectious than traditional HEK systems, which is associated with lower levels of the capsid viral protein 1, or VP1, one of the three viral proteins that make up the AAV capsid. However, we have implemented the Virovek “Bac to AAV” technology which enables wild type levels of VP1 allowing us to achieve potency levels largely in-line with a HEK approach. This is shown in the graphic below from an *in-vitro* potency assessment of two lots of LX2006 comparing HEK and SF9 manufacturing approaches which resulted in an equivalent potency between manufacturing methods.



(Multiplicity of infectivity measures the ratio of AAV per cell in the *in vitro* potency assay)

As a representative example of our process, we achieved purified yield levels of greater than  $1 \times 10^{14}$  vector genomes per liter of cell culture in a 50-liter run manufactured for our LX2020 IND-enabling NHP safety studies with full capsid levels of approximately 70%. In a triple transfection HEK suspension manufacturing process for AAVrh10 produced by a third party contract manufacturing organization, or CMO, publicly available data demonstrated purified yields of approximately  $1 \times 10^{13}$  vector genomes per liter of cell culture, which we believe is a reasonable estimate of industry norms. Our manufacturing results are approximately 10 times more yield efficient than these levels. We believe this demonstrates the feasibility of our process and our ability to provide late-stage clinical and commercial material in a cost-efficient manner.

Based on our approach, we expect that our existing partnerships can supply material for all of our currently ongoing and planned clinical trials as well as potential commercial production of some of our programs. We have secured relationships with Virovek, Inc. for its “Bac-to-AAV” system, Millipore Corporation for its RVN Sf9 cell line, and Fujifilm Diosynth Biotechnologies U.S.A., Inc. for viral vector process development and cGMP manufacture of viral vectors. We will own the intellectual property created by our manufacturing process development activities or have the ability to license it and will maintain the option to transfer the process to other CDMOs in the future and/or to our own potential facility to ensure ongoing redundancy and reliability.

#### *Academic collaborations*

To support our integrated modular approach, we have partnered with leading academic institutions who are on the cutting edge of gene therapy research. Our relationships with Weill Cornell Medicine and UCSD have provided us with access to the latest gene therapy research. Our collaboration efforts with Weill Cornell Medicine currently focus on the discovery of second- and third generation cardiac vector technology and novel cardiac transcriptional promoters, all of which have the potential to be deployed in our early-stage research efforts. Our collaboration with UCSD focuses on preclinical candidate selection and translational research in several larger-rare cardiovascular disease indications. Both institutions are recognized leaders in gene therapy, and the collaborations are designed to best leverage their respective skill sets. We may seek additional academic collaborations where such collaborations could expand our internal capabilities and platform technology.

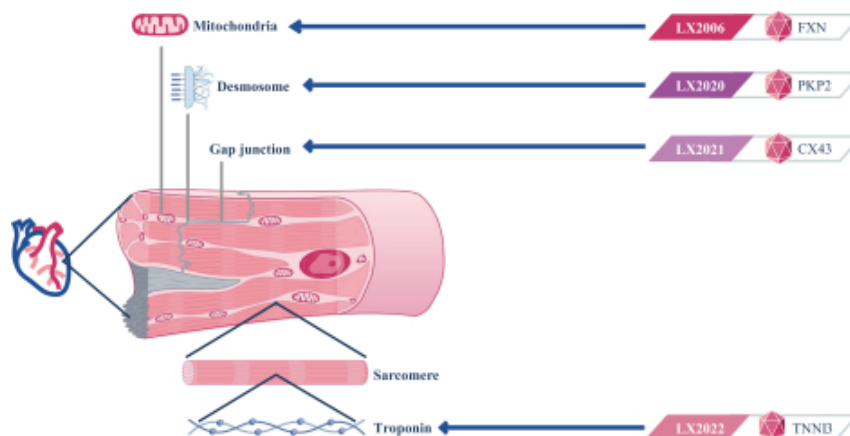
### **Our cardiovascular gene therapy programs**

We have combined our robust expertise in cardiac-targeted vector design, regulatory and clinical strategy, and disease area knowledge to establish a deep cardiovascular gene therapy pipeline. We are developing a number of disease-modifying gene therapy candidates to treat larger-rare cardiovascular diseases that have significant unmet need and no approved disease-modifying treatments. Our most advanced program, LX2006, is an AAVrh10-based gene therapy candidate for the treatment of FA cardiomyopathy caused by mutations in the *FXN* gene. We are also advancing several other AAV-based gene therapy programs to treat additional genetically defined cardiac diseases, including LX2020 to treat ACM caused by mutations in the *PKP2* gene, LX2021 to treat DSP Cardiomyopathy associated with Cx43 deficiency, and LX2022 to treat HCM associated with mutations in the *TNNI3* gene. We plan to leverage our experience and learnings from LX2006 and LX2020 and apply them to our earlier-stage cardiac programs.

As shown in the graphic below, our cardiovascular genetic medicine strategy is focused on initial candidates that target a range of critical organelles that are dysregulated in various genetic cardiomyopathies, including the mitochondria, the desmosome, gap junctions, and the sarcomere. We believe that the learnings from our initial development efforts will provide the basis for us to pursue additional discovery efforts targeting other cardiac indications implicated in these tissues.



**Several targets in cardiac organelles are dysregulated in various cardiomyopathies**



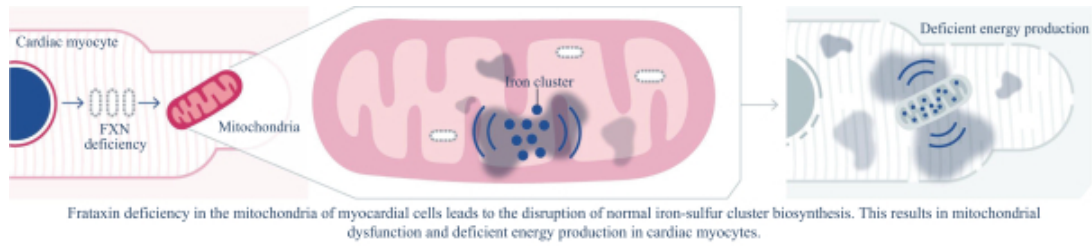
**LX2006 for the treatment of FA cardiomyopathy**

We are developing LX2006, an AAVrh10-based gene therapy candidate for the treatment of FA cardiomyopathy that is designed to deliver functional *FXN* intravenously to promote the expression of frataxin in order to restore normal mitochondrial function in myocardial cells. Cardiomyopathy is the most common cause of mortality in patients with FA. The FDA has granted Rare Pediatric Disease designation and Orphan Drug designation to LX2006 for the treatment of FA cardiomyopathy. LX2006 is currently being evaluated in an open-label, dose-escalation Phase 1/2 clinical trial in patients with FA cardiomyopathy and we have observed an increase in frataxin protein expression in the heart from one patient in the low dose cohort based on a cardiac biopsy utilizing two separate analyses. We expect to report additional interim data from this trial in mid-2024.

*Overview of Friedreich’s ataxia*

Friedreich’s ataxia is a genetic, progressive, and degenerative multi-system disorder with a prevalence of 1:50,000 or approximately 6,600 people in the United States. It is estimated that approximately 80%, or 5,000 of these patients, will develop FA cardiomyopathy. In the European Union, FA affects approximately 9,000 people, with approximately 7,000 of these cases projected to include FA cardiomyopathy. FA is caused by a mutation in the *FXN* gene that disrupts the normal production of the protein frataxin, which is critical to the function of mitochondria in a cell and to the maintenance of cardiac function. The most common FA phenotype presents with significantly reduced frataxin levels compared to healthy individuals. *In vivo* research evaluating frataxin protein levels in non-cardiac tissues, such as buccal cells, peripheral blood mononuclear cells and whole blood, demonstrates that FA heterozygote carriers, who present with no disease symptoms, exhibit an approximately 2.5-fold increase in frataxin compared to FA patients. However, the levels of the protein in the cardiac tissue of heterozygote carriers compared to FA patients has not yet been determined. The frataxin deficiency in the mitochondria of myocardial cells in FA patients causes disruption of normal iron-sulfur cluster biosynthesis leading to mitochondrial dysfunction and deficient energy production, as shown below.

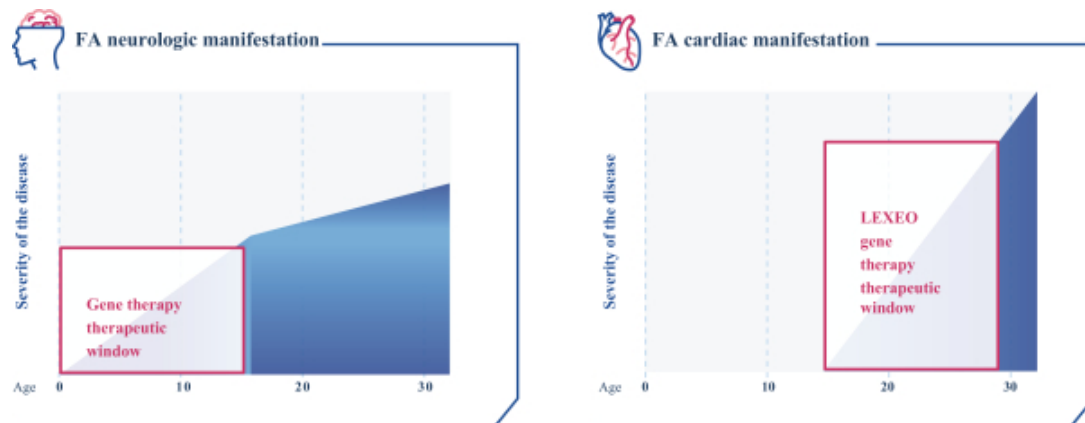
**Overview of FA cardiomyopathy disease mechanism**



The neurologic disease and cardiac disease are two distinct manifestations of FA. The disease is inherited in an autosomal recessive manner, where both inherited genes are abnormal, and symptoms usually begin in childhood. Absence of fully functional frataxin leads to damage to peripheral nerves and the parts of the brain that controls movement and balance, leading to neurological symptoms that include impaired muscle coordination, or ataxia, that worsen over time. Initial symptoms may include unsteady posture, frequent falling, and progressive difficulty in walking due to impaired ability to coordinate voluntary movements. Affected individuals often develop slurred speech, hearing loss, scoliosis, diabetes, characteristic foot deformities, and an irregular curvature of the spine. The typical age of onset of neurological symptoms is five to 15 years old. As the disease progresses, patients typically experience various heart conditions, including thickening of the heart muscle, or hypertrophic cardiomyopathy, and arrhythmias. Hypertrophic cardiomyopathy, fibrosis, heart failure and arrhythmias are the cause of death in approximately two-thirds of FA patients. Typical onset of the cardiac disease is 15 to 30 years old.

By the time the cardiac disease of FA emerges, the neurologic disease is generally significantly advanced and may not be amenable to gene therapy. The optimal patient age for treatment of the neurologic disease is between five and 15 years of age while the optimal patient age for demonstrating treatment effect of the cardiac disease is 15 to 30 years of age. There are currently no approved treatments for the cardiac manifestations of FA. *Skyclarys*, the only approved treatment for FA, is an Nrf2 activator which only targets the CNS component of the disease. As a result, patients with FA have significant unmet need due to cardiovascular complications associated with the disease.

**Neurological disease and cardiac disease are distinct manifestations of Friedreich’s ataxia with different potential therapeutic treatment windows**



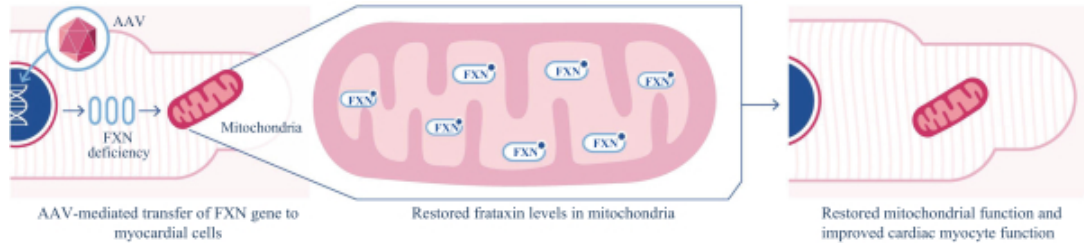
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### *Our solution: LX2006*

We are developing LX2006 as an AAVrh10-based gene therapy delivered intravenously for the treatment of FA cardiomyopathy. LX2006 is designed to deliver the *FXN* gene under the transcriptional control of the CAG promoter, a strong synthetic promoter frequently used in viral vectors. LX2006 utilizes AAVrh10 based on its favorable cardiac affinity and vector distribution profile observed in preclinical studies, as compared to AAV9. In preclinical studies, vector distribution in cardiac tissue with AAVrh10 has been observed to be between 1.5 to 2 times the distribution associated with the use of AAV9.

LX2006 is designed to transfer the *FXN* gene to myocardial cells and increase frataxin levels in the mitochondria. The increase in frataxin levels in the mitochondria restores mitochondrial function and energy production in cardiac myocytes, as shown below.

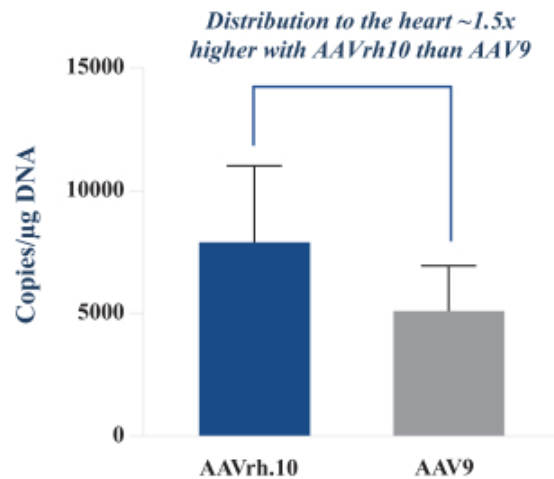
#### **LX2006 is designed to deliver functional frataxin in order to restore normal mitochondrial function**



### *AAVrh10 demonstrates cardiac tropism*

We have conducted preliminary studies in Yucatan minipigs which have shown that AAVrh10 has a greater biodistribution in the heart compared to AAV9 in this model. The porcine heart is very similar in size, anatomy, and function to the human heart, and we believe it represents an excellent animal model to compare biodistribution across vectors in the heart. A reporter protein, green fluorescent protein, or GFP, is the most commonly used tool to evaluate the biodistribution and expression of a vector in a preclinical study and has well established assays to track the protein. By making GFP constructs in AAVrh10 and AAV9, we are able to evaluate the biodistribution and transgene expression throughout the different regions of the heart for each vector serotype. AAVrh10-GFP and AAV9-GFP (approximately  $1 \times 10^{13}$  vg/kg) were intravenously administered to three minipigs per group and evaluated two weeks after injection. Vector biodistribution in various regions of the heart were evaluated with qPCR using GFP-specific primers. As shown in the graphic below, AAVrh10 demonstrated higher distribution to the heart compared to AAV9.

**Biodistribution of AAVrh10 and AAV9 in Yucatan minipigs**



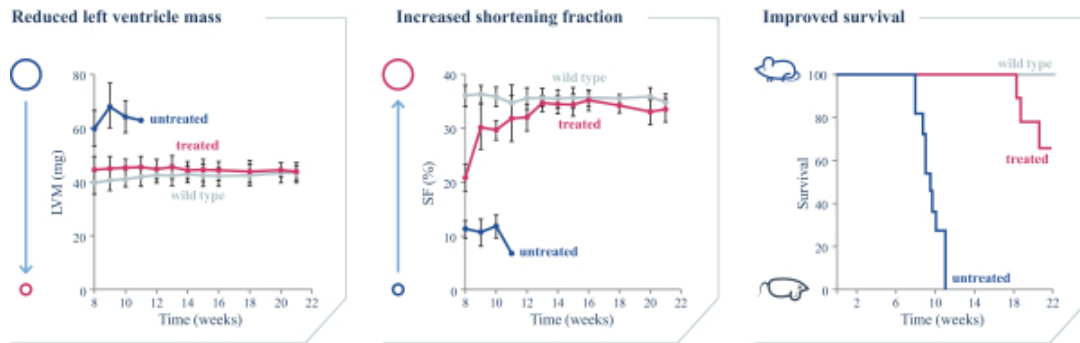
Previous preclinical studies in NHPs conducted by Weill Cornell Medicine demonstrated that biodistribution to the heart was approximately two times higher with AAVrh10 than AAV9. We believe findings from NHP models, the Yucatan minipig model, and murine models conducted by UCSD support our belief that AAVrh10 is a better vector than AAV9 for the cardiovascular diseases we are targeting.

*Preclinical studies in FA mouse models*

LX2006 has demonstrated the ability to significantly reverse the cardiac phenotype in preclinical studies. The ability to restore *FXN* expression levels using an AAVrh10 vector has been established in numerous preclinical studies of FA conducted internally and by third parties. The most frequently used preclinical mouse models for FA are the MCK model which represents the most severe phenotype of FA cardiomyopathy, and the Myosin heavy chain, isoform, or *aMyHC*, model, which represents a milder phenotype.

In the preclinical studies conducted by Weill Cornell Medicine and third-party researchers utilizing the MCK model, LX2006 reduced left ventricle mass, increased shortening fraction, or pumping ability of the heart, and increased survival, as shown in the graphic below. The MCK model completely lacks the myocardial *FXN* protein, and untreated mice have a lifespan of approximately 11 weeks of age due to heart failure. The untreated mice cohort developed left ventricular hypertrophy starting at four to five weeks of age, which is associated with a rapid and progressive geometric remodeling of the heart. This cohort exhibited decreased systolic function at eight weeks of age, which led to a severe decrease in resting cardiac output. When administered to the MCK model at three weeks, LX2006 prevented the onset of the disease. In addition, when administered at seven weeks, LX2006 reduced hypertrophy and normalized heart function, based on shortening fraction, within five weeks, and improved survival, as shown in the graphic below. Based on these results, we believe LX2006 has the potential to improve cardiac function and reverse the disease abnormalities in FA cardiomyopathy patients.

**LX2006 improved cardiac function and survival in severe FXN knockout model**

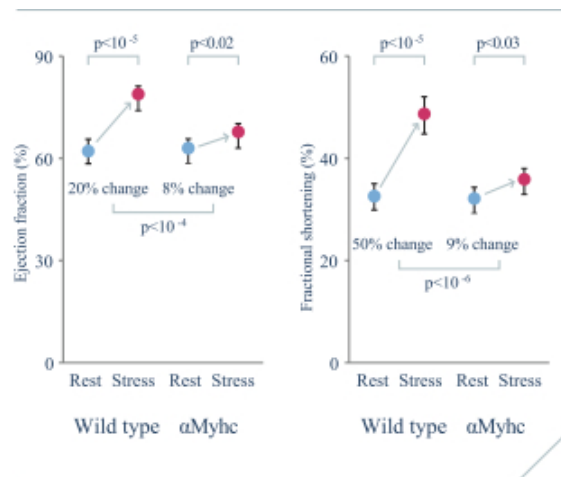


Wild type mice, n=10; untreated MCK mice, n=9; and treated MCK mice, n=9. The treated MCK mice were given a dose of  $5.4 \times 10^{13}$  vg/kg at seven weeks of age.

Additionally, we have completed preclinical studies of LX2006 using an aMyHC mouse model. The aMyHC model has myocardial frataxin protein levels that are less than 50% of normal frataxin expression levels and present with a milder cardiac phenotype. When the mouse is given dobutamine to induce cardiac stress, the cardiac disease becomes apparent, similar to the mild phenotype in FA cardiomyopathy patients at an early stage of their cardiac disease.

The figure below shows that aMyHC mouse models displayed ejection fraction and fractional shortening levels similar to the wild type phenotype when at rest. However, when both wild type and aMyHC animals are stressed by the administration of dobutamine, the model demonstrated that ejection fraction and fractional shortening levels for the aMyHC mice were below wild type levels.

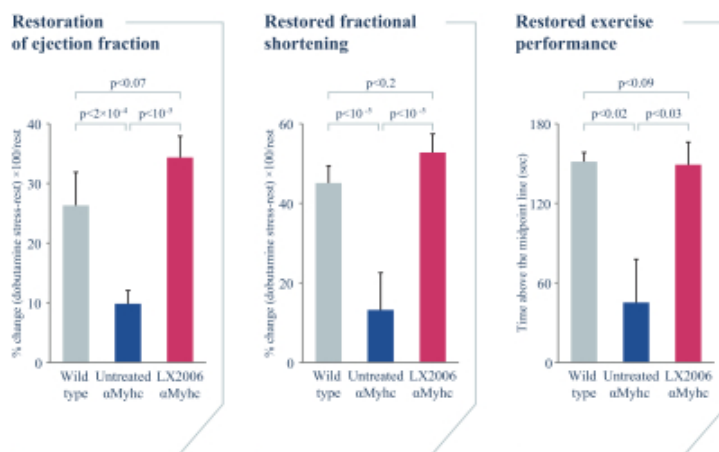
**aMyHC mouse model demonstrated diminished cardiac function in response to induced stress**



In the aMyHC mouse model, as demonstrated in the graphic below, intravenous administration of LX2006 at a dose of  $4 \times 10^{12}$  vg/kg resulted in improvements in the cardiac phenotype as indicated by correction of dobutamine stress-induced ejection fraction and fractional shortening as well as improvement in treadmill performance. These results show that LX2006 improved key cardiac function measures to wild type levels,

helping reverse the pathology of FA cardiomyopathy and suggesting that it could potentially improve cardiac function in FA patients.

**LX2006 reversed aMyHC cardiac phenotype in key cardiac functional measures in preclinical models**



*Preclinical dose range finding study*

Seven-week-old MCK mice were administered increasing doses of  $5.6 \times 10^{10}$  vg/kg,  $1.8 \times 10^{11}$  vg/kg and  $5.6 \times 10^{11}$  vg/kg of LX2006 and evaluated for efficacy as a measure of body weight improvement, survival and cardiac function, and associated myocardial *FXN* expression at one month post dose. MCK mice showed a dose-dependent improvement in efficacy measures with LX2006. In these mice, the dose of  $1.8 \times 10^{11}$  vg/kg resulted in trends of improvement in body weight and survival. The dose of  $5.6 \times 10^{11}$  vg/kg resulted in statistically significant improvements in body weight, cardiac function, and survival, and resulted in an approximately five-fold increase in *FXN* protein compared to the  $1.8 \times 10^{11}$  vg/kg dose, suggesting the relationship between dose and protein expression may not be linear.

Since the myocardial *FXN* expression in response to LX2006 treatment in a FA patient’s stressed heart is expected to be similar to the high level of expression in MCK mice observed upon administration of LX2006, dose selection for first-in-human study was based on the MCK mouse data. The  $1.8 \times 10^{11}$  vg/kg dose was identified as the minimally effective dose, and the  $5.6 \times 10^{11}$  vg/kg dose was identified as the significantly effective dose.

*Preclinical safety studies*

In a safety study of African green monkeys, increasing doses of LX2006  $1.2 \times 10^{12}$  vg/kg and  $3.9 \times 10^{12}$  vg/kg resulted in dose-dependent increases in myocardial frataxin expression three months post dose. Both doses demonstrated favorable safety profiles, including no effects on cardiac pathology, physiology and echocardiography. The liver showed minimal to moderate vacuoles, or membrane-enclosed spaces in cells, not considered clinically significant, with no evidence of liver injury. No dorsal root ganglia toxicity was observed.

The safety of LX2006 was also tested in seven-week-old wild type mice administered  $1.2 \times 10^{12}$ ,  $3.7 \times 10^{12}$ , and  $1.2 \times 10^{13}$  vg/kg for one and three months, and  $5.6 \times 10^{11}$ ,  $1.8 \times 10^{12}$ , and  $5.6 \times 10^{12}$  vg/kg for 10 months. Animals in the one- and three-month cohorts survived to their scheduled terminations, while those in the 10-month cohort had body weight loss at two time periods that necessitated early euthanasia. The first timepoint was approximately six weeks for four of 12 males in the  $5.6 \times 10^{12}$  vg/kg 10-month cohort; the weight loss was attributed to liver toxicity, which

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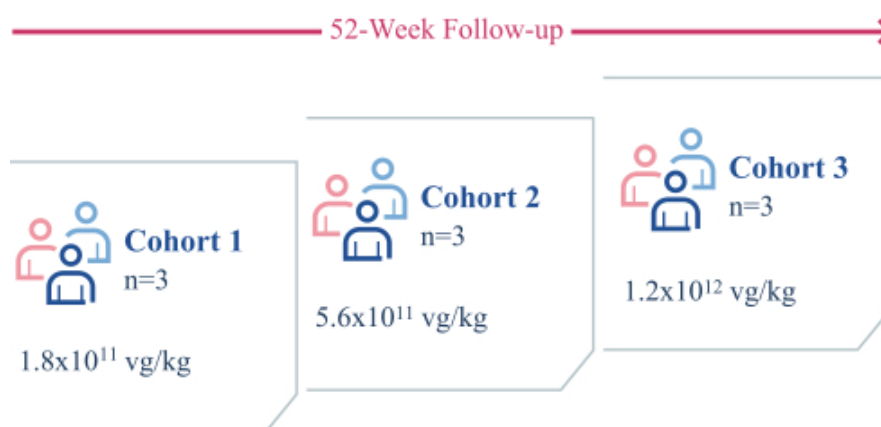
may have been related to high levels of liver hFXN, although hFXN levels were not measured in these mice. No adverse effects occurred in females up to three months post-dose. At 30 weeks post dose, the remaining animals in the high dose ( $5.6 \times 10^{12}$  vg/kg) group and six of 12 female mice in the mid-dose ( $1.8 \times 10^{12}$  vg/kg) group had minimal to moderate hepatic changes and weight loss necessitating early euthanasia. It is possible that both hepatic and possibly cardiac frataxin levels may have contributed to the weight loss. No dorsal root ganglia toxicity was observed at any doses in any animals.

The dose of  $5.6 \times 10^{11}$  vg/kg in the 10-month cohort was generally well tolerated with no treatment-related clinical signs, body weight changes, hematologic or clinical chemistry findings, nor histopathology findings, except for hepatocellular carcinoma, or HCC, which was observed in one of six males at  $5.6 \times 10^{11}$  vg/kg and in three of six males at  $1.8 \times 10^{12}$  vg/kg. While this finding was considered adverse in the context of the study, data reported by the FDA Cellular, Tissue, and Gene Therapies Advisory Committee in September 2021 suggests that HCC observed in mice after AAV treatment is unlikely to translate to risks for humans, as it has not been observed in higher species or humans. The incidence of HCC has been seen in multiple long-term mouse studies with systemic administration of other AAVs.

### *LEXEO-sponsored LX2006 clinical development and trial design*

LX2006 is currently being evaluated in an ongoing Phase 1/2 clinical trial (SUNRISE-FA) in patients with FA cardiomyopathy. SUNRISE-FA is a first-in-human, 52-week, dose-ascending, and open-label trial of LX2006 in patients who have FA cardiomyopathy. LX2006 is administered as a one-time intravenous infusion to patients in three dose-ascending cohorts with prednisone utilized for immune suppression. The trial consists of at least three patients in each cohort, with the potential for cohort expansion. There will be a long-term follow-up for patients who receive LX2006 to monitor ongoing safety for a total of five years, per FDA requirement. We initiated dosing in the second dose cohort in May 2023 and have dosed two patients in this cohort to date.

### Design of Phase 1/2 clinical trial of LX2006



Key patient inclusion criteria for the study include genotyping, left ventricular hypertrophy and echocardiography, or ECHO, changes, and ejection fraction  $\geq 40\%$ . The primary endpoint of the Phase 1/2 trial is to assess the safety and tolerability of one-time administration of LX2006 for the purpose of selecting the appropriate dose for further clinical development. Exploratory endpoints assess biomarkers, including cardiac frataxin expression levels, and preliminary functional efficacy assessments relevant in evaluating the ability of

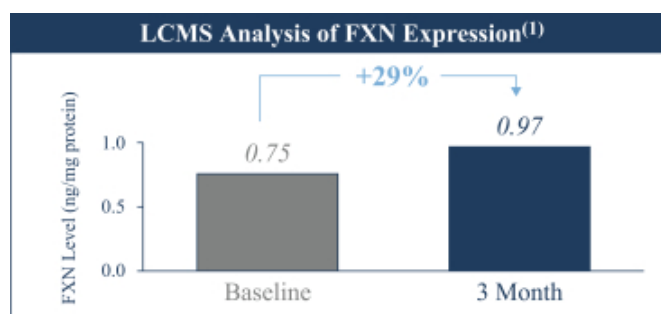
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LX2006 to stop progression and improve FA cardiomyopathy. The following biomarker, functional and imaging efficacy assessments will be conducted:

- *CPET*: Peak VO<sub>2</sub> and other functional measures will be performed at regular intervals.
- *Cardiac MRI*: All patients undergo MRI scans of the heart to measure left ventricular mass index, left ventricular ejection fraction, stroke volume, strain, and fibrosis.
- *Cardiac ECHO*: All patients undergo cardiac ECHO to measure left ventricular mass index, left ventricular ejection fraction and strain.
- *Cardiac biopsy*: Biopsies will measure, among other things, frataxin protein expression.
- *Biomarkers*: Serum cardiac biomarkers, including troponin.

### *Cardiac Biopsy Results from Cohort 1 of SUNRISE-FA Trial*

To precisely evaluate frataxin levels in human cardiac tissue samples, we utilized a novel research grade liquid chromatography mass spectrometry assay. This assay was used to analyze cardiac biopsy samples from one FA patient in the first cohort of the SUNRISE-FA trial before and after treatment with 1.8x10<sup>11</sup> vg/kg of LX2006. Frataxin levels were 29% higher in the cardiac biopsy sample three months post treatment compared to the patient's pre-treatment baseline level. These results are shown in the graphic below.

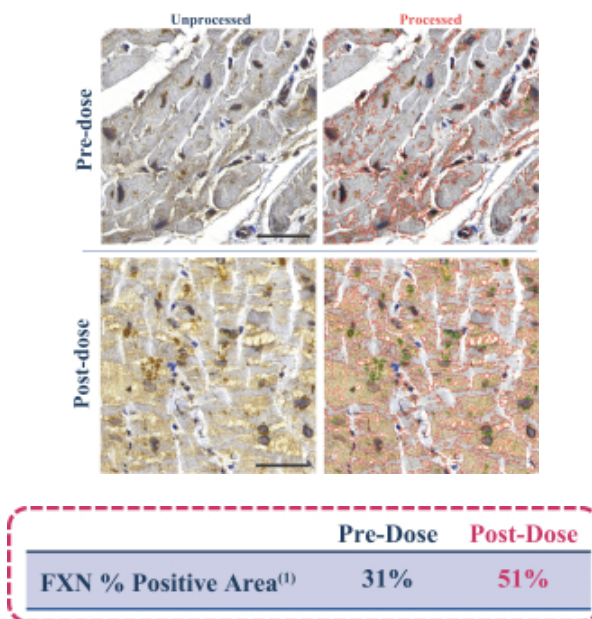


(1) Ultrahigh performance liquid chromatography-multiple reaction monitoring/mass spectrometry, or LCMS.

Additionally, one qualitative and two blinded quantitative immunohistochemistry, or IHC, assessments were performed by three independent labs on biopsy samples taken from the same patient. LCMS is a quantitative assessment of the amount of frataxin within the sample, whereas IHC is an antibody based method in which frataxin protein expression can be visualized and then quantified, measured as a percent of total area stained. All three laboratories observed more FXN signal in the post-treatment sample compared to the pre-treatment sample. Blinded quantitative analysis demonstrated a 65% increase in FXN positive area in the post-treatment sample compared to the pre-treatment sample. The FXN area was calculated as a percentage of total tissue showing FXN expression which are denoted by red and green outline of lightly or darkly positive FXN area, respectively, in the images on the right. These results are shown in the graphics below.



### Quantitative IHC Analysis



(1) Area measurement in square microns, FXN area as a percentage of total tissue / cardiomyocyte area.

Furthermore, histological and transmission electron microscopy (TEM) assessments identified preserved tissue architecture and no adverse safety signals without any evidence of myocarditis.

In summary, we have demonstrated measurable increases in frataxin in the heart of a patient after treatment with LX2006 using two different objective and quantifiable techniques. We believe that LX2006 is the first clinical-stage program for Friedreich’s ataxia to show an increase in frataxin in cardiac tissue. We believe this initial expression data, coupled with cardiac biomarker improvements observed in the Weill Cornell investigator initiated trial described below, demonstrate the potential of LX2006 to impact disease pathology at the lowest dose cohort. Based on the dose-escalation improvement in survival and cardiac functional measures we observed in our preclinical-IND enabling studies in the MCK model, we expect to see a further increase in FXN expression in cohort 2 and cohort 3. To date, we have dosed two patients in cohort 2 and expect to report additional data from SUNRISE-FA in mid-2024.

#### *Additional ongoing clinical trial of AAVrh10.hFXN (LX2006 at LEXEO)*

AAVrh10.hFXN, which we refer to as LX2006, is currently being evaluated in an additional ongoing clinical trial conducted by Weill Cornell Medicine (NCT05302271). This is an investigator-sponsored, single-site study, and our trial (NCT05445323) is a multi-site trial sponsored by us. Both clinical studies use drug product manufactured at Weill Cornell Medicine utilizing the same process with identical doses in each study’s cohort 1 and cohort 2. Safety information is being shared across these clinical studies. Utilizing the combined safety data from patients across both studies, we initiated dosing in the second cohort of our study in May 2023.

In July 2023, researchers at Weill Cornell Medicine shared publicly, at a webinar sponsored by the Friedreich’s Ataxia Research Alliance, preliminary interim data from cohort 1 of its ongoing study evaluating AAVrh10.hFXN in patients with FA cardiomyopathy. The two patients with six-month follow-up data after treatment both demonstrated declines in cardiac hypertrophy as measured by cardiac MRI analyzing left

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ventricular mass index, or LVMI. Increasing LVMI has been reported to be associated with progression and severity of FA cardiomyopathy. As shown in the table below, at the six-month timepoint a 10% decline in LVMI was observed in both patients treated with six-month follow-up data. Importantly, declines in cardiac hypertrophy, measured by decreases in LVMI, have been associated with clinical benefit in other cardiovascular diseases, including treatment for hypertension.

### **LVMI From First Two Patients Treated with 6-Month Data**

<b>LVMI</b>	<b>Baseline (g/m<sup>2</sup>)</b>	<b>6 Month (g/m<sup>2</sup>)</b>	<b>Nominal Change (g/m<sup>2</sup>)</b>	<b>% Change</b>
Subject 1	109	98	-11	-10%
Subject 2	81	73	-8	-10%

Additionally, at the six-month timepoint a 74% and 9% decline in troponin I was demonstrated in the two subjects treated with follow-up data at that timepoint. Troponins are cardiac structural proteins which are released into the circulation following cardiomyocyte injury or necrosis. Troponin I is specific to cardiac tissue and is itself a measure of cardiac injury; thus, a reduction in troponin I suggests a reduction in cardiac injury.

### **High Sensitivity Troponin I From First Two Patients Treated with 6-Month Data**

<b>High Sensitivity Troponin I</b>	<b>Baseline (ng/L)</b>	<b>6 Month (ng/L)</b>	<b>Nominal Change (ng/L)</b>	<b>% Change</b>
Subject 1	148	39	-109	-74%
Subject 2	224	203	-21	-9%

Additionally, one subject was evaluated through the six-month timepoint utilizing cardiopulmonary exercise testing, or CPET, which is an assessment of maximum oxygen consumption, or VO<sub>2</sub> max, and demonstrated an approximately 43% increase in VO<sub>2</sub> max versus baseline. We believe the totality of this interim data demonstrates the potential of LX2006 to halt or reverse disease progression as measured by improvements in LVMI, troponin I levels, and CPET performance in the patients treated in the Weill Cornell Medicine study.

### ***LX2020 for the treatment of ACM caused by PKP2 mutations***

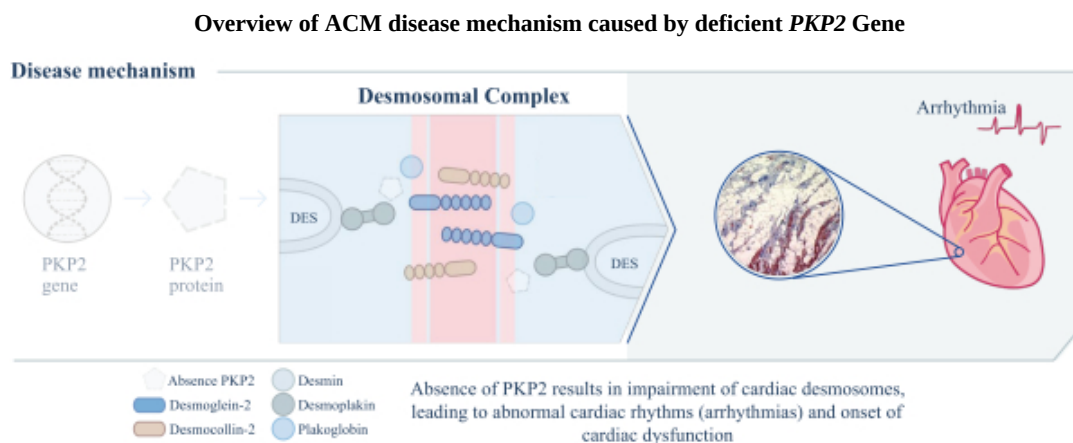
We are developing LX2020 as an AAVrh10-based gene therapy for the treatment of ACM caused by mutations in the *PKP2* gene, or PKP2-ACM. LX2020 is designed to provide a functional *PKP2* gene to increase desmosomal PKP2 protein levels, reassemble desmosomes, and prevent cardiac arrhythmias and prevent or treat cardiac dysfunction.

*PKP2* is the most frequently mutated desmosomal gene, and we believe there are more than 60,000 ACM patients affected by the *PKP2* mutation in the United States. We received IND clearance from the FDA for LX2020 in July 2023 and expect to dose the first patient in the planned Phase 1/2 trial in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024.

Overview of ACM

ACM is a genetic heart disease primarily characterized by myocardial cell loss and the replacement of heart muscle with fibrotic tissue and fatty deposits. ACM can result from mutations in several desmosomal genes. These genetic mutations impair the structure and function of cardiac desmosomes, which are membrane protein complexes engaged in cell-to-cell adhesion and the structural integrity of the ventricular myocardium. Lack of functioning cardiac desmosomes can lead to myocardial cell death and fibrosis, heart dysfunction, rhythm abnormalities, and sudden death. Standard of care may include antiarrhythmics, implantable cardioverter-defibrillators, and ablation procedures; however, none of these therapies address the underlying cause of myocardial dysfunction and ACM.

The figure below shows the role of the PKP2 protein in the formation of the desmosome.



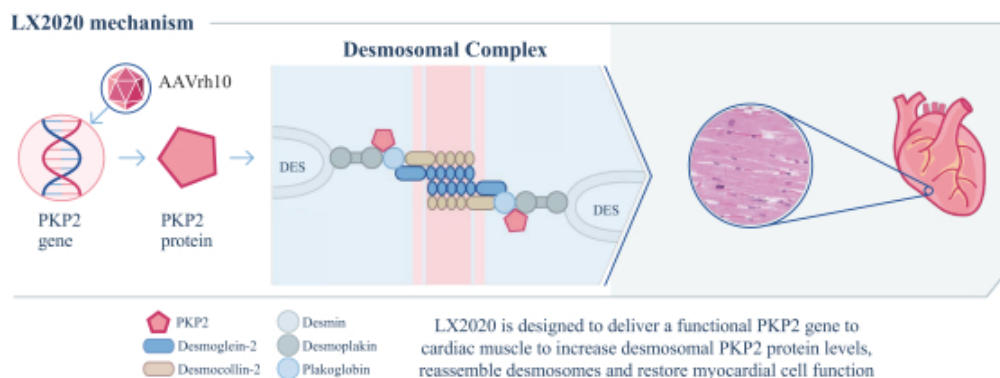
We estimate that ACM has a prevalence of approximately 130,000 patients in the United States and estimate that over half of all ACM patients have a genetic form of the disease with five desmosomal genes accounting for nearly all of the identified genetic causes of ACM. We have initially targeted the *PKP2* gene because mutations in this gene are the most commonly known genetic cause of ACM. We believe that mutations in the *PKP2* gene are associated with approximately 75% of all genetic cases of ACM, resulting in approximately 60,000 and 75,000 ACM patients affected by the *PKP2* mutation in the United States and European Union, respectively. Most familial cases of the disease have an autosomal dominant pattern of inheritance, meaning one copy of an altered gene in each cell is sufficient to cause the disorder. Since having only one functioning copy of the *PKP2* gene is insufficient to produce the wild-type phenotype, this results in a phenomenon in genetics known as haploinsufficiency.

Symptoms of the disease can include palpitations, dizziness, heart failure and sudden death. Abnormal function of the right ventricle, fatty or fibrotic infiltrates in the myocardium, abnormal electrocardiogram, or ECG, arrhythmias, or a family history of ACM can all lead physicians to diagnose the disease. No effective treatments or cures for PKP2-ACM exist.

*Our solution: LX2020*

We are developing LX2020 as an AAVrh10-based gene therapy candidate for the treatment of PKP2-ACM. LX2020 is designed to intravenously deliver a functional *PKP2* gene to cardiac muscle to increase desmosomal PKP2 protein levels and restore myocardial cell function. We believe that by delivering a functional *PKP2* gene, LX2020 has the potential to address the underlying cause of PKP2-ACM for many patients and have a significant effect on lifespan by reassembling the cardiac desmosomes, preventing cardiac arrhythmias and preventing or treating cardiac dysfunction.

### LX2020 is designed to deliver functional PKP2 to restore normal desmosomal function



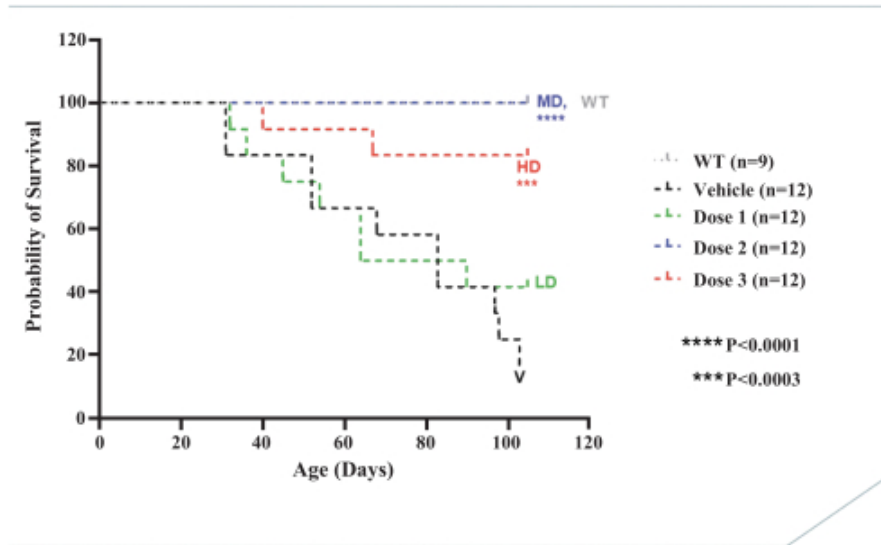
#### Preclinical studies

Our preclinical mice studies have demonstrated that delivery of LX2020 (*AAVrh10-hPKP2*) improves cardiac structure, function, and the survival of mice harboring a pathologic human mutation in *PKP2*. The genetic mouse model we utilize in our preclinical studies is a CRISPR Cas9-edited model constitutively expressing a mutation in the *PKP2* gene found in humans with ACM. *PKP2* RNA splicing and protein levels are impacted in this model, which recapitulates all classic *PKP2*-ACM disease features. We have also demonstrated that LX2020 has a favorable safety profile in a study of non-human primates with no safety signals.

#### Preclinical efficacy studies

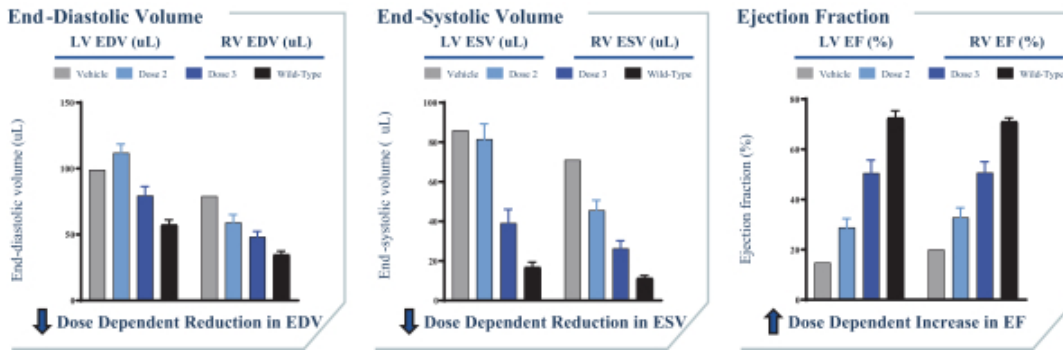
We have completed preclinical studies demonstrating that delivery of LX2020 led to the reassembling of the cardiac desmosome, prevented arrhythmias and cardiac dysfunction, and increased survival in a genetic murine model of ACM harboring *PKP2* patient genetics. Three dose levels were administered to approximately three-week-old homozygous *PKP2* mice (a more severe disease murine model) with necropsy at twelve weeks post LX2020 treatment and eight-week-old *PKP2* heterozygous mice (a less severe murine model) with necropsy at eight weeks post LX2020 treatment. In the *PKP2* homozygous mouse study, 12 mice (six males and six females) in each group were treated with one of three dose cohorts (Dose 1 vg/kg, Dose 2 vg/kg, or Dose 3 vg/kg, which varied by approximately a half-log increase between each dose). As shown in the graphic below, within twelve weeks, approximately 90% of mice that received vehicle and 58% of mice that received Dose 1 vg/kg dose of LX2020 died. Conversely, 100% of mice that received the Dose 2 vg/kg dose and 83% of the mice that received the Dose 3 vg/kg dose survived until the 12-week necropsy time period. No *PKP2* protein expression was found in the mice that died in the Dose 3 vg/kg dose cohort, whereas all mice that survived in this cohort expressed *PKP2*. This and other characteristics of the mice indicate the potential of a technical injection dosing error.

### LX2020 significantly extended survival in severe murine model



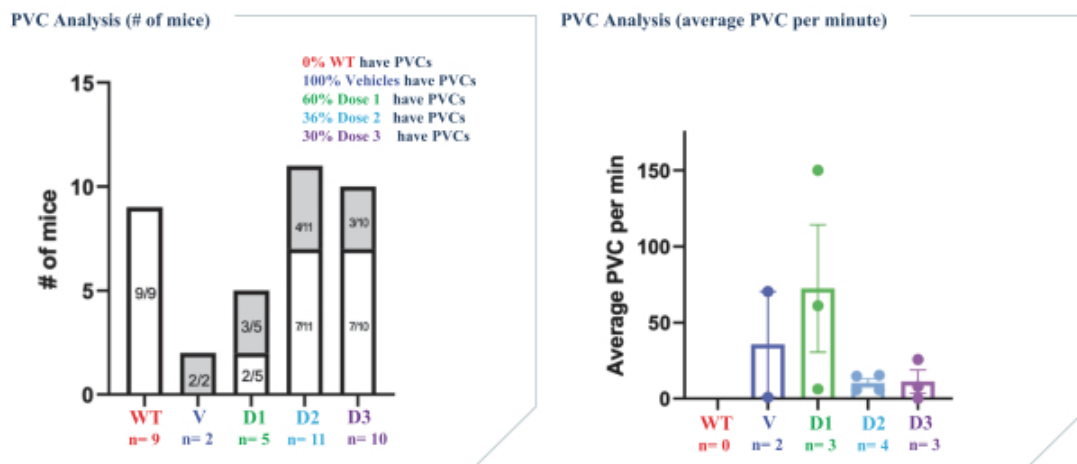
We have also performed quantitative MRI analysis which showed dose-dependent improvement in cardiac function (end-diastolic volume, or EDV, end-systolic volume, or ESV, and ejection fraction, or EF) in *PKP2* homozygous mice, compared to vehicle-treated animals as shown in the graphic below.

### Quantitative MRI analysis showed improvement in cardiac function in homozygous murine model



As shown in the graphic below, we also completed surface ECG analyses which showed a reduction in arrhythmias as measured by premature ventricular contractions in *PKP2* homozygous murine models.

### LX2020 treatment reduced premature ventricular contractions

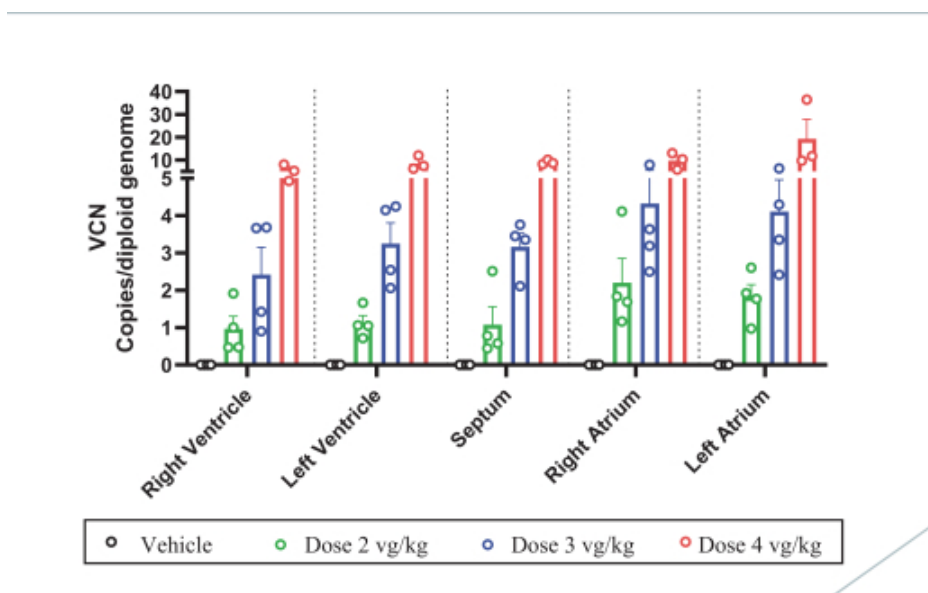


We also observed an 18% reduction in the QRS interval at Dose 3 vg/kg in the PKP2 homozygous mouse model, indicating improvement in centricular depolarization abnormalities. Additional dose-dependent improvements were detected through histological evaluations, revealing decreases in heart size, diminished right ventricular wall thinning, and reduced fibrosis and calcification.

#### Preclinical safety studies

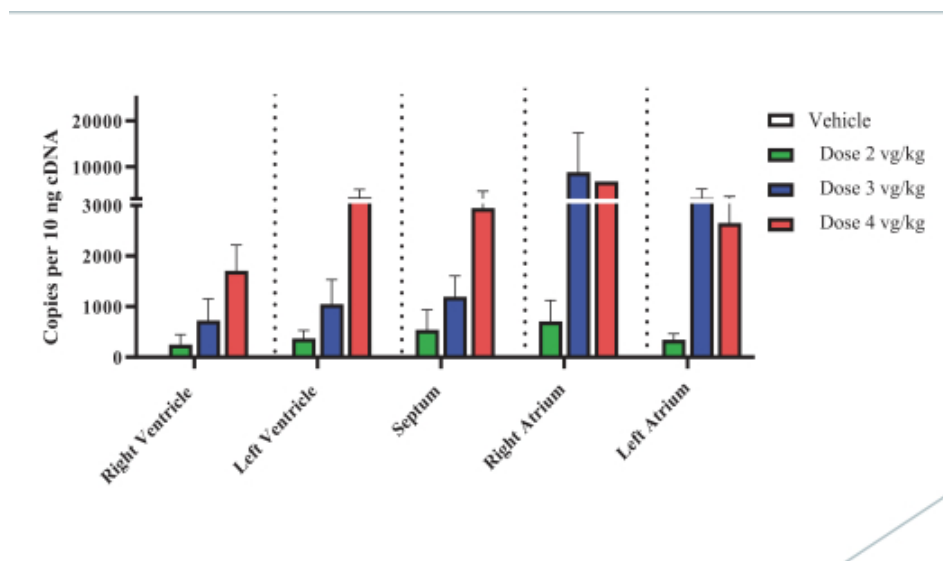
In a twelve week safety study of NHPs, three doses of LX2020 (Dose 2 vg/kg, Dose 3 vg/kg, or Dose 4 vg/kg, which vary by approximately a half-log increase between each dose) were administered to four monkeys per group (two males and two females) and resulted in dose-dependent increases in LX2020 biodistribution (reported as vector copy number, or VCN) in various regions of the heart as shown below. The biodistribution assay utilized qPCR technique with LX2020 transgene-specific primers.

#### VCN in various heart regions in NHPs



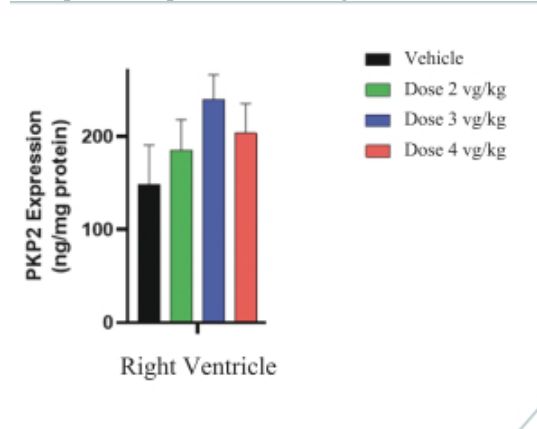
Additionally, in the NHP study, mRNA expression following LX2020 administration was assessed using an RT-qPCR assay with human *PKP2* transgene-specific mRNA primers. Data is reported as copies per nanogram of cDNA input, as shown below, and demonstrates that administration of LX2020 showed a dose-dependent increase of human *PKP2* mRNA in various regions of the heart.

**PKP2 mRNA expression (RT-qPCR) in NHPs**



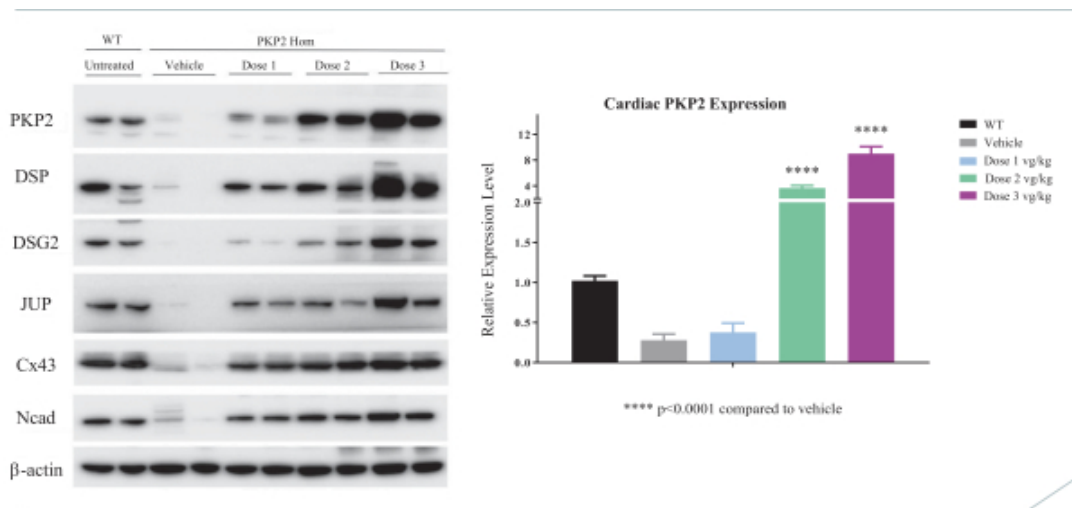
Human *PKP2* protein expression was assessed in the NHP hearts using an electrochemiluminescence, or ECL, immunoassay. Notably, unlike the VCN and mRNA assays shown above, where LX2020-specific primers were synthesized to eliminate the detection of endogenous NHP DNA and mRNA, the commercially available antibodies used to detect human *PKP2* protein expressed by LX2020 also detect endogenous NHP *PKP2*. Given the high level of amino acid sequence similarity between the human and NHP *PKP2* proteins, generating anti-*PKP2* antibodies specific to one of the two species is impossible. Thus, the *PKP2* levels measured by the ECL assay represent the sum of endogenous NHP *PKP2* and exogenous human *PKP2* encoded by LX2020. Data are reported as ng of *PKP2* protein per mg of total protein.

**PKP2 protein expression in the right ventricle in NHPs**



Whereas a dose-response level in DNA and RNA was observed in most heart regions in the NHPs treated with LX2020, protein levels did not correlate directly with dose. However, a dose-dependent increase in human PKP2 protein expression was seen in the *PKP2* homozygous mouse model as shown in the graphic below that translated well to cardiac activity. Three-week-old adult, *PKP2* homozygous mice were administered a single dose of LX2020 (Dose 1 vg/kg, Dose 2 vg/kg, and Dose 3 vg/kg) or formulation buffer (vehicle) intravenously and sacrificed twelve weeks post dose. LX2020 administration resulted in a dose-dependent increase in hPKP2 expression which was sufficient to prevent the cardiac cell-cell junction deficits of the classic proteins that make up the desmosome, including DSP, desmoglein-2, or DSG2, plakoglobin, or JUP, and N-cadherin, or Ncad, that have all been implicated in human ACM along with the gap junction protein connexin 43 (Cx43).

### Cardiac PKP2 expression in homozygous mouse model



Possible explanations for the differences seen in mice and primate models include the following:

- *Inhibited Translation/Intracellular Protein Degradation*: Desmosomal proteins such as PKP2 are tightly regulated within striated muscle to maintain intracellular homeostasis. Therefore, excessive protein levels, such as those in wild-type primates, will likely result in decreased RNA translation and PKP2 protein degradation. This has been observed in previous studies and may explain why this effect was only observed in the wild-type primates but not in the murine model of PKP2 deficiency.
- *Interference from NHP endogenous PKP2 levels*: PKP2 protein is abundant in NHP cardiac muscle and can fluctuate considerably. Furthermore, for the most part, antibodies cannot distinguish between human and primate PKP2. Hence, the different protein levels in primates may be due to fluctuations in basal primate PKP2, not human PKP2 transcribed from LX2020.

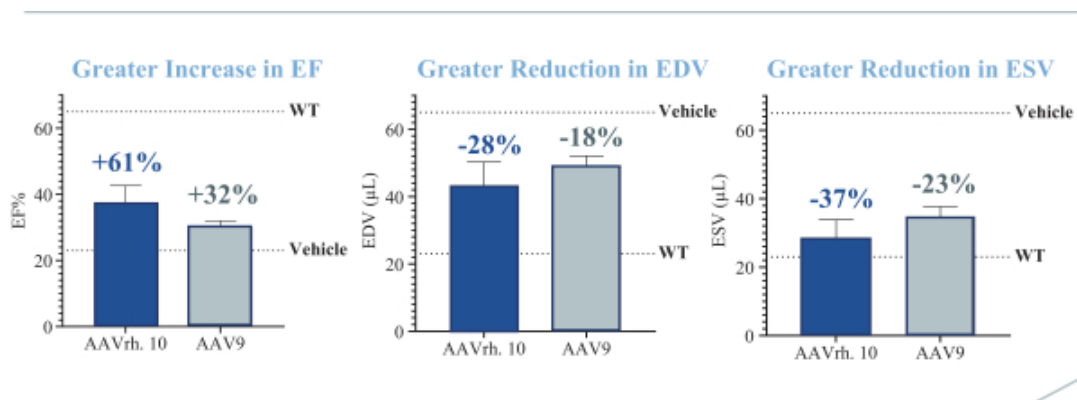
Importantly, in the NHP safety study, all LX2020 doses (Dose 2 vg/kg, Dose 3 vg/kg, and Dose 4 vg/kg) demonstrated favorable safety profiles, including no abnormal effects on clinical signs, body weight, clinical pathology, hematology, histopathology, ECHOs, cardiac biomarkers, or ECG. Collectively these data indicate LX2020 was generally well tolerated during the twelve-week duration of the study in NHPs. The maximum dose of Dose 4 vg/kg is thus recognized as the NOAEL (no observed adverse event level) in NHPs.



### Preclinical Vector Comparability Studies

Additionally, we have completed preclinical studies comparing AAVrh10 and AAV9 in head-to-head studies measuring cardiac function in a *PKP2* homozygous mouse model administered with human *PKP2*. Human *PKP2* was administered before disease onset on day two (neonatal administration) to five mice in each group, and cardiac function was measured by MRI. As shown in the graphic below, AAVrh10 demonstrated a trend of superior results compared to AAV9 as measured by improvements in ejection fraction, end-diastolic volume, and end-systolic volume.

#### AAVrh10 showed greater trends of cardiac function improvement versus AAV9 in *PKP2* mouse models



#### LX2020 clinical development and trial design

We received IND clearance from the FDA for LX2020 in July 2023 for the treatment of PKP2-ACM. We plan to initiate a Phase 1/2 clinical trial (HEROIC-PKP2) in the first half of 2024 and provide an interim data readout from cohort 1 in the second half of 2024. HEROIC-PKP2 is expected to be a first-in-human, 52-week, open-label, dose-ascending multicenter trial to determine the safety and tolerability of LX2020 in patients with PKP2-ACM. We anticipate that preliminary efficacy measures will be myocardial protein expression, biomarkers measuring cardiac structure and function, and arrhythmia burden. Key inclusion criteria includes: patients aged 18-65 years with a confirmed diagnosis of ACM with either 2010 Task Force Criteria or 2020 International Criteria for ACM; documented PKP2 mutation; existing implantable cardioverter defibrillator (ICD) that is MRI compatible; and a minimum threshold of PVCs over a 24 hour period. LX2020 will be administered as a one-time intravenous infusion to patients in at least two ascending-dose cohorts of three patients each, with the potential for cohort expansion. Prednisone and rapamycin will be utilized for immune suppression. The starting dose will be in the low  $\times 10^{13}$  vg/kg range, which was selected based on the dose-response seen in our preclinical studies. There will be a long-term follow-up for patients who receive LX2020 to monitor ongoing safety for a total of five years, per FDA requirement.

#### Additional cardiovascular gene therapy programs: LX2021 and LX2022

We believe there are additional targets in genetically defined cardiac disease that have the potential to be addressed through AAV-based gene therapies. We plan to continue to innovate with novel capsids, promoters, and delivery methods to optimize our early-stage assets.

#### LX2021 for the treatment of DSP Cardiomyopathy

##### Overview

LX2021 is a gene therapy candidate we are developing to intravenously deliver the coding sequence for the functional Cx43 protein for a group of inherited cardiac muscle disorders associated with a high risk of sudden

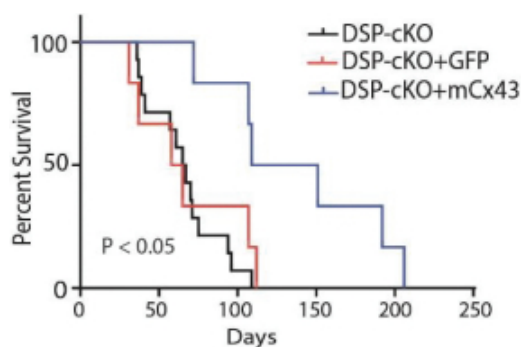
death, including ACM and certain forms of dilated cardiomyopathy, which are typically due to abnormalities or deficits in cardiac desmosomes. Cx43 is an integral protein component of gap junctions, and functionally allows small molecules and ions to flow directly between cells to allow for electrical synchronization of muscle contraction. In patients with heart disease, including heart failure, Cx43 is often relocalized in the lateral walls of myocardial cells. As a result, it is significantly reduced at cardiac muscle cell junctions, especially in ACM populations. Restoring Cx43 protein to cardiac muscle cell-cell junctions can potentially treat multiple genetic causes of ACM because the cardiac loss of Cx43 is a molecular deficit generally observed in all ACM patient populations. Desmoplakin, or DSP, is a structural protein critical for force transmission in heart muscle. Mutations in DSP cause a distinct form of ACM and a certain form of dilated cardiomyopathy (aka DSP cardiomyopathy). Unlike many forms of ACM that predominantly affect the right side of the heart, DSP cardiomyopathy frequently affects the left side of the heart. The prevalence of DSP cardiomyopathy is unknown but may be as high as 4% of all inherited dilated cardiomyopathies and 4% of ACM, impacting up to 35,000 individuals in the U.S. Given the role of Cx43 in other forms of heart failure, we are also evaluating LX 2021 for the treatment of additional indications beyond DSP cardiomyopathy.

We have conducted a preclinical study in a cardiac-specific DSP loss-of-function mouse model, or DSP-cKO mice, which is a genetic model of ACM. DSP-cKO mice develop molecular, histological and physiological features of ACM and ultimately die prematurely from heart failure. In this study, we observed that severely diseased mice treated with AAV-based gene therapy expressing Cx43 display fewer arrhythmias, have improved cardiac mechanical function, and experience an almost two-fold increase in lifespan when compared to untreated DSP-cKO adult mice. We plan to initiate IND-enabling studies for LX2021 in 2024.

*Preclinical studies*

Our preclinical studies have demonstrated that mice harboring DSP cardiomyopathy experience a nearly two-fold increase in lifespan when treated with an AAV-based gene therapy candidate expressing Cx43 compared to controls. A single dose of an AAV-based gene therapy candidate representing Cx43 was administered intravenously to the cardiac-specific DSP-cKO mice, at four to six weeks of age. DSP-cKO mice are a genetic model of ACM harboring severe structural disease and loss of Cx43. RNA analysis of the treated mice revealed that cardiac-specific Cx43 gene delivery increased Cx43 RNA levels. Additionally, the Cx43-treated DSP-cKO mice showed a re-expression of mechanical junction proteins in their hearts compared to controls. Essential basement membrane proteins, including N-cadherin, as well as desmosomal proteins, PKP2 and junction plakoglobin, were also restored to cell-cell junctions in Cx43-treated DSP-cKO hearts compared to end-stage untreated DSP-cKO hearts, which had limited localization of junctional proteins at cell-cell junctions. These findings further validate the ability of Cx43 to resurrect the cardiac mechanical muscle junction complex in diseased hearts.

**Administration of AAV-based therapy expressing Cx43 improved survival in severe ACM mouse model**



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These findings demonstrate that restoration of Cx43 has the potential to positively impact cardiomyocyte physiology and lifespan in the DSP-cKO mice and provide direction for our ongoing development efforts, including the evaluation of other vector serotypes. We plan to initiate IND-enabling studies for LX2021 in 2024.

### *LX2022 for the treatment of HCM caused by TNNI3 mutations*

#### *Overview*

LX2022 is a gene therapy candidate we are developing to intravenously deliver a functional *TNNI3* gene to myocardial cells to treat a distinct form of HCM due to mutations in the *TNNI3* gene. With an estimated prevalence of 1 in 500 people in the United States, HCM is one of the most common forms of genetic cardiomyopathy caused by mutations that affect the cardiac sarcomere in approximately 75% of cases. It is estimated that as many as 25,000 patients in the United States and 34,000 patients in the European Union are affected by HCM caused by mutations in the gene *TNNI3*. The *TNNI3* gene encodes troponin I, an essential protein in the thin filament of the sarcomere, which is involved in cardiac contraction and relaxation.

#### *Mutations*

Mutations in the gene often result in left ventricular hypertrophy and restrictive cardiomyopathy, leading to arrhythmias and heart failure. We plan to complete candidate selection for LX2022 in 2024.

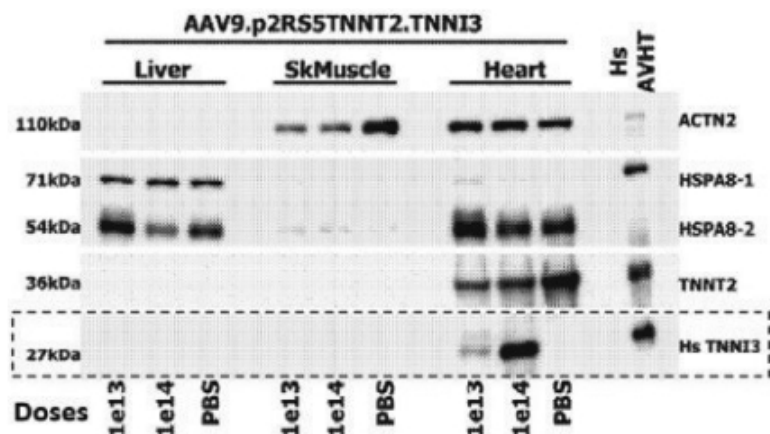
#### *Overview of HCM caused by TNNI3 Mutations*

HCM is a genetic disorder characterized by left ventricular hypertrophy and one of the most common forms of genetic cardiomyopathy. Mutations in over a dozen genes encoding the thick and thin filaments of the cardiac sarcomere have been linked to HCM. *TNNI3*, a critical component of the thin filament of the sarcomere, accounts for approximately 5% of all HCM cases. Genetic mutations may affect any portion of the sarcomere, including thin and thick filaments, ultimately leading to cardiac muscle dysfunction. While thick filament mutations are the most common and best characterized, thin filament mutations remain clinically relevant. Some evidence suggests thin filament mutations are associated with more arrhythmias and earlier progression to advanced heart failure due to a disease mechanism distinct from other forms of inherited cardiomyopathy. In addition, *TNNI3* mutations are less likely to cause cardiac obstruction and hence less likely to benefit from surgical (myectomy) and medical interventions (myosin inhibitors) targeting obstruction.

#### *Preclinical Studies*

Our preclinical data from an A157V *TNNI3* murine model, a model which results in cardiac dysfunction, was generated to validate the delivery of an AAV-based therapy candidate expressing human *TNNI3* regulated by a cardiac-specific promoter. At four weeks post injection, the level and specificity of *TNNI3* gene expression were evaluated in the liver, skeletal muscle, and heart tissue. Endogenous TNNT2 protein expression indicates cardiomyocyte-specific tissue, whereas ACTN2 indicates expression in only myocytes. HSPA8-1 and HSPA8-2 were blotted as housekeeping gene controls. As *TNNI3* was regulated by a cardiac-specific promoter, expression of *TNNI3* was only detected in the heart tissue, as shown in the figure below.

**TNNI3 Expression in Liver, Skeletal Muscle, and Heart Tissue in A157V Mouse Model**



Additionally, retro-orbital injection of AAV9-hTNNI3 expressing A157V mutation was performed on three-month-old mice euthanized four weeks later. The hearts were dissected and immunostained. Immunostaining revealed robust expression of human *TNNI3* in the cardiomyocyte after treatment with AAV-based *TNNI3*.

Additionally, high magnification imaging demonstrated the incorporation of *TNNI3* within the cardiac sarcomere. These preclinical findings demonstrate that AAV-based therapy expressing *TNNI3* can be administered to achieve transgene expression in heart tissue and guide our ongoing development efforts, including evaluation of other vector serotypes. We have also developed a novel CRISPR CAS9-edited novel porcine model of HCM that resembles the human phenotype. This model will allow us to perform preclinical testing in a system to resemble the human condition and perform physiological assays to evaluate efficacy.

**APOE4-associated Alzheimer’s disease programs**

Alzheimer’s disease is a progressive neurodegenerative disorder that is the leading cause of cognitive decline in late adult life. The Alzheimer’s Association estimates that there were 6.2 million patients living in the United States with Alzheimer’s disease in 2021, with costs to the nation exceeding \$350 billion. Aging of the population is expected to significantly increase the socioeconomic burden of this disease in the coming decades, and the Alzheimer’s Association further estimates that as many as 12.4 million patients in the United States could have the disease by 2050.

**Our Alzheimer’s disease franchise**

In a similar theme to the cardiovascular treatment landscape, we see an opportunity of a comparable magnitude in precision therapies treating Alzheimer’s disease. There is only one fully approved drug (lecanemab) that has demonstrated slowing of disease progression in patients with early Alzheimer’s disease. However, within the prevalent population of 6.2 million patients in the United States suffering from Alzheimer’s disease, there are number of subpopulations: importantly, *APOE4* patients who comprise approximately 2-3% of the U.S. population but comprise approximately 15% of Alzheimer’s disease patients. We believe they represent a unique subpopulation within the broader disease space. In clinical trials of lecanemab and donanemab, a different side effect profile (a higher incidence of amyloid-related imaging abnormalities, or ARIA) was observed for *APOE4* homozygous patients compared to other patient genotypes. In fact, the lecanemab label has a warning for ARIA and states that the risk is higher in *APOE4* homozygous patients. Additionally, in both clinical trials, *APOE4* homozygous patients demonstrated lower efficacy results compared to heterozygotes and noncarriers in terms of a reduction in clinical dementia rating. We believe this points to the unmet need within the *APOE4* population

and also raises questions of whether there is a unique disease pathology that *APOE4* genetics confer to Alzheimer's disease patients. Because of this differentiated treatment effect, we believe precision therapies, particularly those focused on the underlying genetics of Alzheimer's disease, may have a substantial impact on this treatment landscape.

We are building a portfolio of approaches aimed at treating the genetics underlying Alzheimer's disease. In our lead Alzheimer's disease program, LX1001, we are initially targeting homozygous *APOE4*-associated Alzheimer's disease patients by administering AAVrh10 containing the *APOE2* gene. Our approach to treating Alzheimer's disease is predicated on the belief that expressing the protective *APOE2* in the CNS of *APOE4* homozygous patients will halt or slow the progression of Alzheimer's disease. We believe these patients represent an ideal target for gene therapy because the *APOE4* homozygous profile is the most common genetic driver of Alzheimer's disease. We believe LX1001 is the only clinical-stage gene therapy candidate designed to treat this genetic cause of Alzheimer's disease. We plan to leverage biomarkers for LX1001 to potentially enable us to rapidly validate proof-of-mechanism and support further development efforts. We believe that positive clinical data from our ongoing Phase 1/2 trial has the potential to validate our novel approach to treating the *APOE4* sub-group and can help inform the development plan of our next generation candidates LX1021 and LX1020 which we believe could demonstrate an even more dramatic effect to slow or halt the progression of Alzheimer's disease. Importantly, we believe gene therapy allows for a unique approach to treating the genetics of Alzheimer's disease by delivering a therapeutic which acts upstream of both the amyloid- $\beta$  and tau-driven pathology of Alzheimer's disease. This treatment strategy is designed to impact multiple pathways, as opposed to most other treatments in development which target a single mechanism of Alzheimer's disease.

Our current gene therapy programs under development for the treatment of Alzheimer's disease are:

- *LX1001*: an AAVrh10-based gene therapy candidate that is designed to express the protective *APOE2* protein in the CNS of *APOE4* homozygous patients. In our ongoing Phase 1/2 clinical trial of LX1001, three patients from the first dose cohort have demonstrated a consistent trend towards improvement in CSF tau biomarkers at the 12-month visit. We have also observed expression of the protective *APOE2* protein in all patients in the first dose cohort with follow-up data.
- *LX1021*: an AAVrh10-based gene therapy candidate that is designed to express the Christchurch-modified *APOE2* protein in the CNS of *APOE4* homozygous patients. The Christchurch mutation has been observed to protect patients against Alzheimer's disease even in the presence of significant amyloid pathology.
- *LX1020*: an AAVrh10-based gene therapy candidate that is designed to express the protective *APOE2* protein in the CNS of *APOE4* homozygous patients, while concurrently delivering miRNA to suppress the expression of the *APOE4* protein.

We are developing LX1001 to target homozygous *APOE4*-associated Alzheimer's disease patients, the highest risk population to develop Alzheimer's disease and the sub-group we believe will be the most likely to demonstrate a potential treatment effect from *APOE2*-based gene therapy. We expect to complete enrollment in the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 trial in 2024.

#### *Background of Alzheimer's disease*

Alzheimer's disease is characterized by a complex underlying pathology in the CNS, including accumulation of A $\beta$  plaques, abnormal phosphorylation of tau, development of tau tangles, inflammation, and progressive loss of neurons, all of which combine to precipitate a progressive decline in cognitive function. *APOE*, a lipid transport protein, is the major transporter of cholesterol in the brain and is involved in synaptic integrity and plasticity, glucose metabolism, and cerebrovascular function.

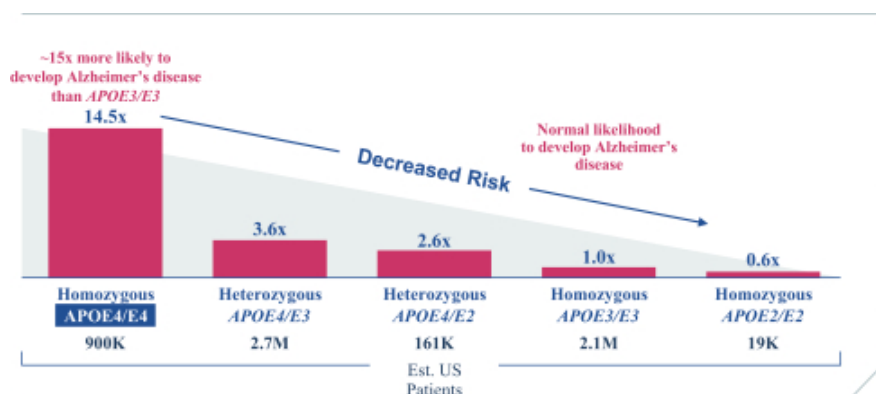
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Extracellular amyloid beta plaques and tau neurofibrillary tangles are the principle pathological hallmarks of Alzheimer's disease. Therapeutics that modulate plaques and tangles historically have been the focus of substantial research and development efforts; however, there is currently no treatment for Alzheimer's disease that is approved as disease modifying. The FDA granted accelerated approval to the anti-amyloid antibody intravenous infusion therapies aducanumab (Aduhelm) and lecanemab (Leqembi), for the treatment of patients with either the mild cognitive impairment or mild dementia stage of Alzheimer's disease. These recent approvals demonstrate that the FDA has utilized an accelerated approval pathway for Alzheimer's disease therapies.

### Background on homozygous APOE4-associated Alzheimer's disease

Presence of APOE4 is the most common genetic risk factor for Alzheimer's disease. The prevalent APOE alleles are APOE4, APOE3 and APOE2, with the E4 allele increasing risk and reducing the age of onset and the E2 allele decreasing risk and markedly delaying the age of onset. APOE4 homozygous patients, individuals who have two copies of the E4 allele, are at the highest risk and are approximately fifteen times more likely to develop Alzheimer's disease than the general population. It is estimated that approximately 60% of Alzheimer's disease patients carry at least one APOE4 allele as compared with approximately 25% of age-matched and healthy controls. The APOE3 allele is believed to have a neutral impact on disease progression.

Alzheimer's disease risk by APOE genotype (by odds ratio)



Third-party genetic epidemiology data from humans suggest that APOE4 and APOE2 are co-dominant, or both expressed, such that APOE2/E4 heterozygous individuals have a substantially reduced risk of developing the disease as compared to APOE4/E4 homozygous individuals. Therefore, the expression of APOE2 appears to significantly offset the deleterious effects of the APOE4 allele.

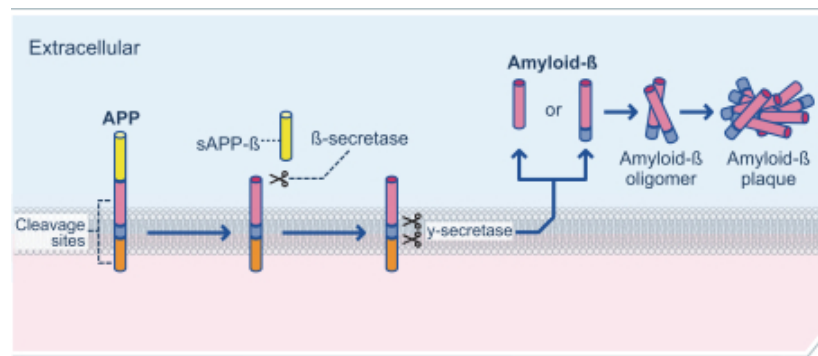
We believe that administering the APOE2 gene to APOE4 homozygous patients is a promising approach because it has the potential to address several pathways that are involved in the progression of the disease.

### Role of amyloid in pathogenesis of Alzheimer's disease and APP processing

APOE4 is associated with decreased clearance of Ab and increased b-amyloid (Ab) production and plaque aggregation. Amyloid-b (Ab) is produced through the sequential cleavage of the amyloid-b precursor protein (APP) by the b-secretase beta-site APP cleaving enzyme 1 (BACE1) and g-secretase in neurons and other cell types.

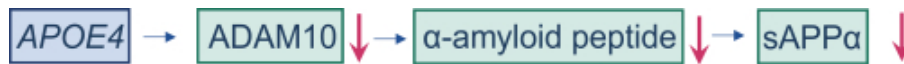
As illustrated in graphic below, cleavage of APP via this pathway results in production of Ab42 and Ab40, and Ab peptides undergo oligomerization and subsequent aggregation into insoluble plaques.

**APP cleavage resulting in amyloid beta production**



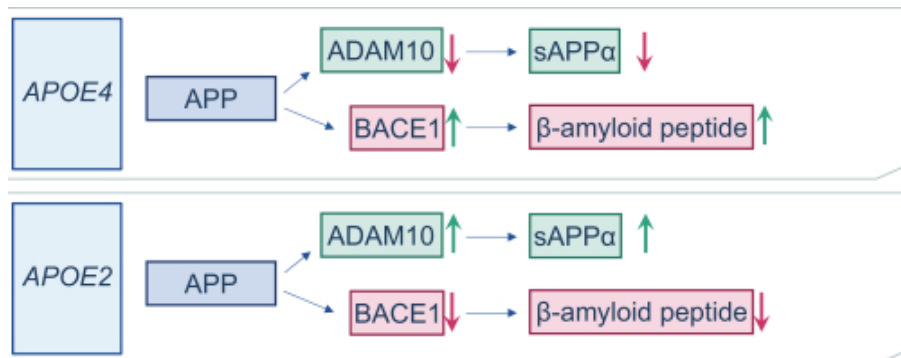
**Note: Nature. 2018.**

As an alternative to cleavage by BACE1, APP can also be cleaved by α-secretases such as A Disintegrin and Metalloproteinase Domain-containing Protein 10 (ADAM10). Cleavage of APP by ADAM10 results in the formation of soluble sAPPα (sAPPα), which has been demonstrated to improve synaptic function and promote neurite growth.



The α-secretase pathway results in neurotropic sAPPα, whereas the β-secretase pathway results in AD-associated Ab peptides. We believe APOE4-associated reduced ADAM10 activity and increased BACE1 activity would result in decreased sAPPα and elevated Ab levels; whereas presence of APOE2 would result in the opposite effect.

**APOE and APP processing**



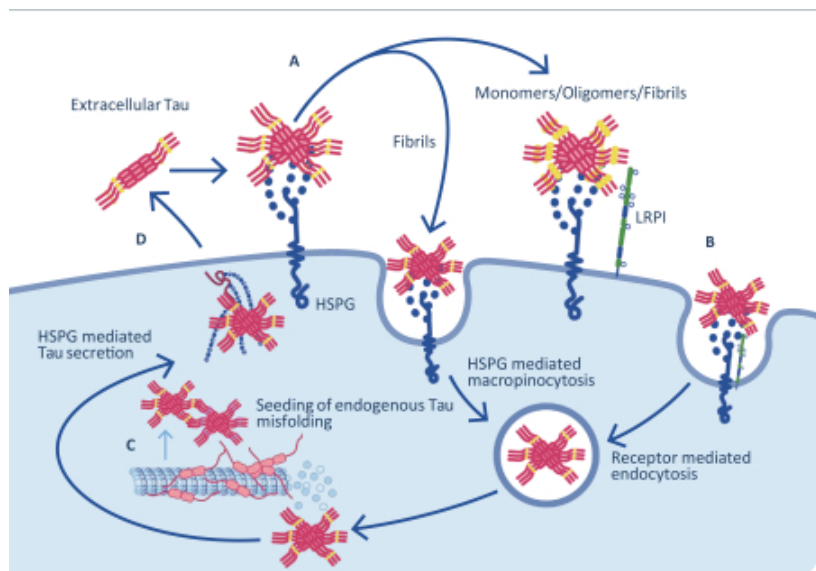
**Role of Tau in Pathogenesis of Alzheimer’s Disease**

Tau proteins are abundant in neurons and maintain the stability of microtubules in axons. However, excessive/abnormal phosphorylation of tau results in microtubular destabilization and transformation of monomers into

paired-helical-filament, or PHF, tau and neurofibrillary tangles, or NFTs. This buildup of tau lesions throughout the brain increases with time, correlating with neurodegeneration and Alzheimer's disease symptomatology. APOE4 effects tau indirectly via its effect on amyloid and the downstream effect of the amyloid pathway on tau. APOE4 also directly affects tau pathology as it is associated with increased tau phosphorylation and the accumulation and aggregation of neurofibrillary tangles. Importantly, we believe therapeutic intervention at the symptomatic stage could slow progression of tau pathology and neurodegeneration.

Heparin sulfate proteoglycans, or HSPGs, have been extensively characterized as a major mediator of tau uptake and have been shown to mediate transcellular tau propagation. HSPGs bind to tau and colocalize with tau-based lesions in Alzheimer's disease as shown in the figure below.

### Role of HSPGs in tau pathology

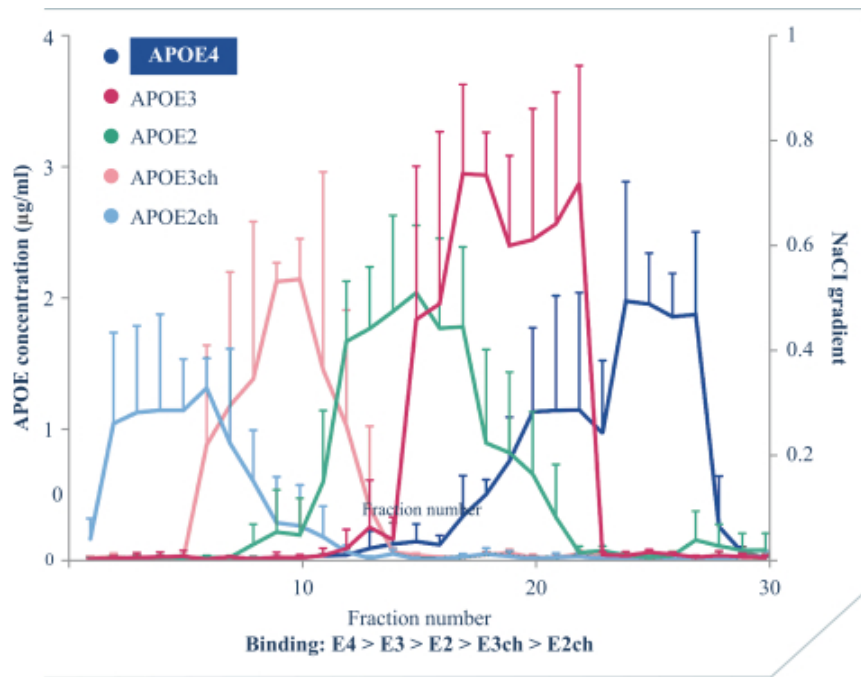


An *in vitro* study using heparinase III, which removes polysaccharides on the cell surface, has demonstrated the ability to impair HSPGs. In that study, heparinase treatment led to a 50% impairment of tau oligomer uptake in general and reversed the increased accumulation of tau oligomers caused by APOE4. We believe this data demonstrates that HSPGs can mediate increased accumulation of tau observed under the APOE4 condition.

Additionally, Cornell, through our sponsored research agreement with them, has generated *in vitro* data showing APOE isoforms differ in their HSPG binding characteristics, with APOE4 binding strongly to HSPGs and APOE2 with a lower binding affinity. As illustrated in the figure below, the APOE Christchurch mutation has the lowest HSPG binding affinity and is associated with protection against the development of tau pathology and Alzheimer's disease. We believe these data demonstrate that the low HSPG binding affinity of APOE2 is associated with protective effect on tau pathology and neurodegeneration.



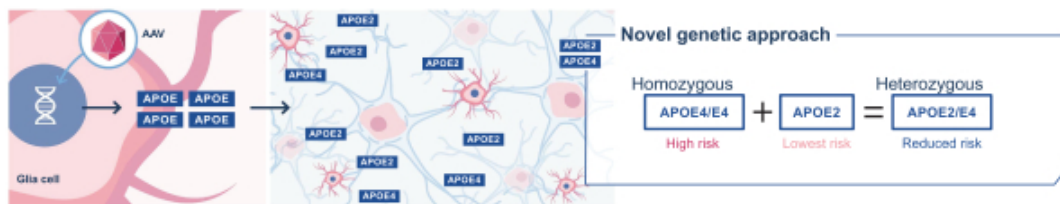
**APOE isoforms had differential effects on heparin binding**



Our solution: LX1001

LX1001 is an AAVrh10-based gene therapy candidate for the treatment of *APOE4* homozygous patients. It is designed to deliver the human *APOE2* gene into the CSF to halt or slow the progression of Alzheimer’s disease.

**LX1001 is designed to address the genetic driver of Alzheimer’s disease by delivering *APOE2* gene into CNS of *APOE4* homozygous patients**



Based on what is known regarding gene therapies delivered to the CNS, we believe LX1001 will only require a single dose because neurons are post-mitotic, or incapable of further cell division, so there will be no dilution of extra-chromosomal LX1001 caused by cell division. APOE is a secreted protein; thus, only a fraction of neurons needs to be transduced with LX1001 to secrete what we anticipate to be potentially efficacious levels of the protective isoform. We have designed LX1001 so that the protective isoform has the potential to be widely available to cells in the brain and able to compensate for non-transduced cells.

The FDA granted Fast Track designation to LX1001 for the treatment of *APOE4* homozygous patients with Alzheimer’s disease to slow disease progression. We plan to seek other regulatory designations and consider

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accelerated clinical development pathways based on biomarker data that may establish early proof-of-mechanism and is expected to predict clinical benefit.

### Preclinical studies

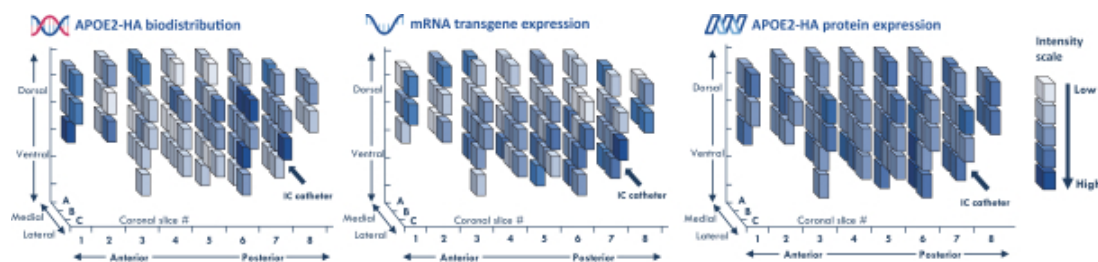
Weill Cornell Medicine, independently and through our sponsored research agreement with them, has conducted preclinical studies in large and small animals that have demonstrated the potential for LX1001 to induce APOE2 expression levels that we believe will be sufficient to halt or slow the progression of Alzheimer's disease in APOE4 homozygous patients. The preclinical results discussed below are from those preclinical studies unless otherwise noted.

Preclinical murine studies of LX1001 were conducted in a widely used model of brain amyloidosis (PDAPP mice) as well as a mouse model that develops APOE4-dependent amyloid deposition (APP.PS1/TRE4 mice). APP.PS1/TRE4 triple transgenic mice develop early and robust A $\beta$  and amyloid deposition, which is dramatically reduced in the absence of APOE4. Intracerebral delivery of LX1001 led to the widespread brain expression of APOE2. Studies in the APP.PS1/TRE4 model showed an approximately 80% reduction in insoluble A $\beta$ 1-42 in the hippocampus eight weeks following intrahippocampal administration of LX1001.

An additional preclinical study in NHPs was conducted to determine the most active and well-tolerated route of administration for LX1001 while achieving broad CNS biodistribution and therapeutic levels of the APOE2 proteins. In these studies, we utilized an intracisternal delivery route to deliver the gene therapy vector to the CSF in order to achieve widespread biodistribution of LX1001. The intracisternal route has been shown in multiple studies in large animals to result in transgene expression throughout the CNS and involves a minimally invasive procedure to infuse into the CSF.

To evaluate this route of delivery, at eight weeks following intracisternal administration of total vector dose of  $5 \times 10^{13}$  vg/ml CSF of LX1001, with the APOE transgene tagged with the common antibody epitope tag hemagglutinin, or APOE-HA, three NHP brains in one study were evaluated for the extent of vector APOE2-HA biodistribution, mRNA transgene expression, and APOE2-HA protein expression. To visualize the extent of vector biodistribution and transgene and protein expression, a 3D representation of one-centimeter cubes of the brain was used, as shown below in the example of one NHP. As expected for a secreted protein like APOE2, diffuse expression was observed throughout the brain. Greater-than-baseline levels of all three targets were observed in most cubes throughout the CNS, as well as in the hippocampal regions, the area of the brain most relevant in Alzheimer's disease.

### Biodistribution of APOE2-HA vector genomic copies, transgene mRNA, and protein levels in brain of an NHP following intracisternal administration of LX1001



The results from this study demonstrate that LX1001 was consistently expressed through the brain and achieved broad distribution in the CNS of the NHPs. In addition, administration of the HA tagged version of LX1001 directly to the CNS of NHPs exhibited a favorable safety profile.

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### Clinical development

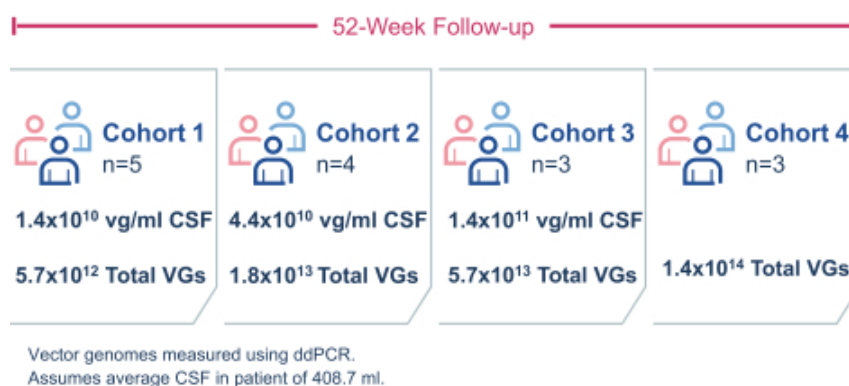
#### Trial design

We are evaluating LX1001 in an open-label, dose-ranging Phase 1/2 clinical trial in patients who are *APOE4* homozygous patients with clinical diagnoses ranging from mild cognitive impairment to mild or moderate dementia due to Alzheimer's disease. All patients have evidence of amyloid plaque by PET scan and/or CSF biomarkers consistent with Alzheimer's disease.

The primary objective of the trial is to evaluate the safety of LX1001 administered to the CNS via injection between cervical vertebrae 1 and 2, or intracisternal injection, and to establish the maximum tolerated dose. The trial is also designed to evaluate the conversion of the CSF from the *APOE4* homozygous profile to an *APOE4/E2* profile. Additional secondary endpoints include CSF biomarkers, including A $\beta$ 42, total tau, and phosphorylated tau, amyloid PET scan, structural MRI imaging and cognitive tests.

As shown below, the clinical trial is a dose-ranging trial of LX1001 in four ascending dose cohorts (1.4 x10<sup>10</sup>vg/ml, 4.4 x10<sup>10</sup>vg/ml, 1.4 x10<sup>11</sup>vg/ml and 1.4x10<sup>14</sup> total genomes), with the dose for each patient in the first three cohorts determined based on CSF volume measured by MRI and patients in the fourth cohort receiving a fixed dose. Each dose cohort will consist of approximately three to five patients for a total of approximately 15 patients in the trial. Key patient enrollment criteria include *APOE4* homozygous genetic profile, patient age of 50 years or older, positive amyloid PET scan (for cohorts 1-3), evidence of CSF biomarkers consistent with Alzheimer's disease, and diagnosis that ranges from mild cognitive impairment to mild or moderate dementia due to Alzheimer's disease. Corticosteroids are utilized for immune suppression. There will be a long-term follow-up for patients who receive LX1001 to monitor ongoing safety for a total of five years, per FDA requirement.

#### Design of Phase 1/2 clinical trial of LX1001



#### Preliminary trial results

Preliminary data from cohort 1, which was presented at the 2022 Clinical Trials on Alzheimer's Disease conference, showed an increase in CSF APOE2 levels, in all patients with follow-up data at three months or longer and such levels remained generally stable through the 12-month visit. These results, shown below, demonstrate that the *APOE2* transgene is being expressed in the CNS in all patients treated with LX1001 and signal the potential for treatment to convert the *APOE4* homozygous profile to a combined *APOE2/APOE4* profile.

**Interim APOE2 CSF expression levels (fmol/mL)<sup>(1)</sup>**

	Patient No.	Dose (Total gc) <sup>(2)</sup>	Month 0	Month 3	Month 6	Month 12
Cohort 1	101-1001	6.7E+12	0.0	0.3	0.4	0.4
	101-1002	7.9E+12	0.0	--	--	0.1
	101-1004	5.0E+12	0.0	0.8	--	--
	101-1005	6.8E+12	0.0	0.3	0.3	0.3

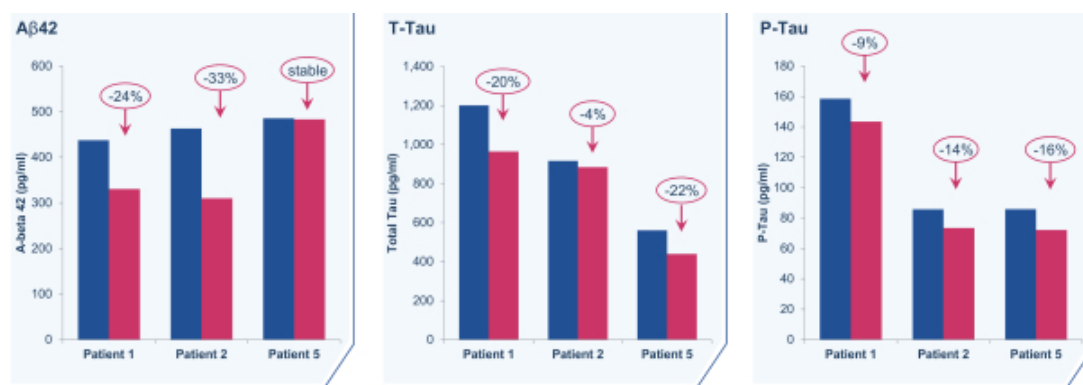
(1) APOE2 quantified by liquid chromatography mass spectroscopy. Research grade assay; preliminary results represent the average of all runs for each sample (1-5 runs / sample).

(2) Cohort 1 patient doses were administered using a nominal LX 1001 titer based on qPCR. Values represent actual total dose administered using LX1001 titer by ddPCR

Note: Patient 101-1003 transitioned to a long-term care-facility prior to Month 3 and unlikely to have follow-up efficacy data. Patient 101-1004 was unable to travel to the study site for the month 6 and 12 visits.

Additionally, in the three patients from cohort 1 with data available at 12-months post treatment, we have seen consistent trends towards improvement (reduction) in the core CSF biomarkers T-tau and P-tau that are associated with neurodegeneration and Alzheimer’s disease specifically and we have also seen declines or stabilization of Ab42, the beta-amyloid peptide associated with Alzheimer’s disease as shown below. We believe this interim data reflects evidence of proof-of-mechanism and supports our unique approach to treating the genetics of Alzheimer’s disease by delivering a therapeutic which acts upstream of both the amyloid-b and tau-driven pathology of Alzheimer’s disease.

**Interim CSF core biomarker data in Cohort 1 patients with 12-month data**



If 2 pre-therapy values were done, the average was used to calculate the change at 12 months

Note: Patient 3 transitioned to a long-term care-facility prior to Month 3 and unlikely to have follow-up efficacy data. Patient 4 was unable to travel to the study site for the month 6 and 12 visits.

Natural history data for T-tau and P-tau would suggest that on average these biomarkers should increase over the course of the year, versus the decline that we have seen following treatment. Among all patients, treatment with LX1001 has been well-tolerated with no serious related adverse events reported as of July 2023. In July 2023, the DSMB meeting identified no safety concerns and recommended the study proceed to cohort 4 which is currently enrolling patients. We expect to complete enrollment in the trial by the end of 2023 and report additional interim data from all cohorts in the Phase 1/2 trial in the second half of 2024.

**Next-generation gene therapy solutions for Alzheimer’s disease: LX1021 and LX1020**

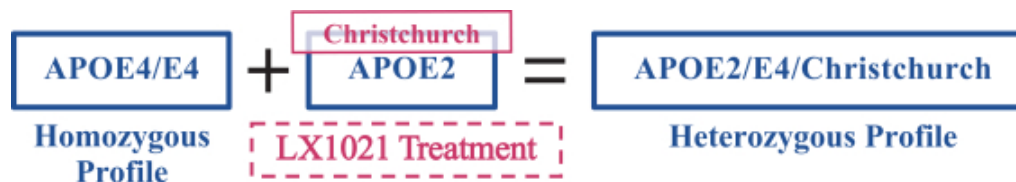
We believe that positive clinical data from our ongoing Phase 1/2 clinical trial of LX1001 has the potential to validate our novel approach to treating the APOE4 sub-group and can help inform the development plan of our next-generation candidates, LX1021 and LX1020.

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### *LX1021 for the treatment of APOE4 homozygotes*

*LX1021*: We are designing LX1021 to treat APOE4 homozygous patients by adding a Christchurch mutation-modified APOE2 to the CNS. The Christchurch mutation has been recognized to protect individuals against Alzheimer's disease even in the presence of significant amyloid pathology. The mechanism of this protection may relate to the fact that APOE, in the presence of the Christchurch mutation, binds poorly to heparan sulfate proteoglycans (HSPGs), molecules found on the surface of neurons, which may inhibit the spread of tau pathology between cells. We believe this approach has the potential to enhance the protective effect of APOE2 in homozygous APOE4-associated Alzheimer's disease. We plan to hold a pre-IND meeting with the FDA in 2024 to provide direction for our ongoing development efforts.

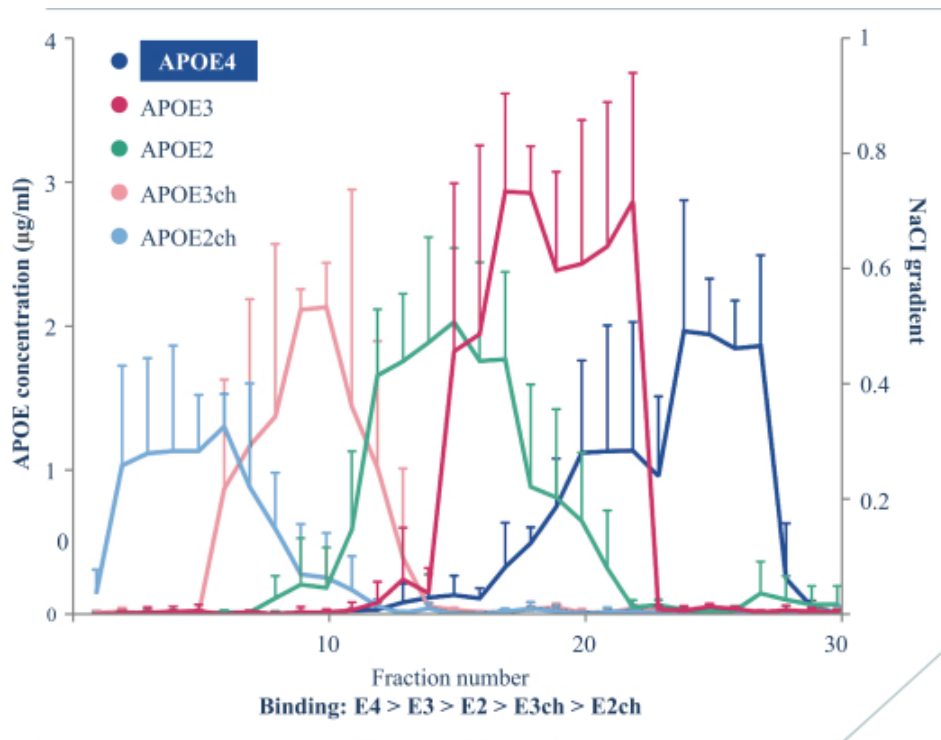
**LX1021 is designed to add a Christchurch mutation-modified APOE2 gene to the CNS of APOE4 homozygous patients**



### *Preclinical Studies*

*In vitro* experiments conducted by other researchers and replicated at Weill Cornell Medicine have demonstrated that Christchurch mutation-modified APOE3 behaves similarly to the APOE2 allele in that both isoforms bind poorly to heparin sulfate proteoglycans, or HSPGs. As shown in the figure below, differences in one to two amino acids drive the major physiological differences between the three APOE isoforms, including differences in protein structure and regulation of amyloid- $\beta$  aggregation, in addition to binding affinities to HSPGs. This increased binding to HSPGs is implicated in the propagation of tau tangles and uptake of toxic forms of tau and amyloid- $\beta$  aggregation.

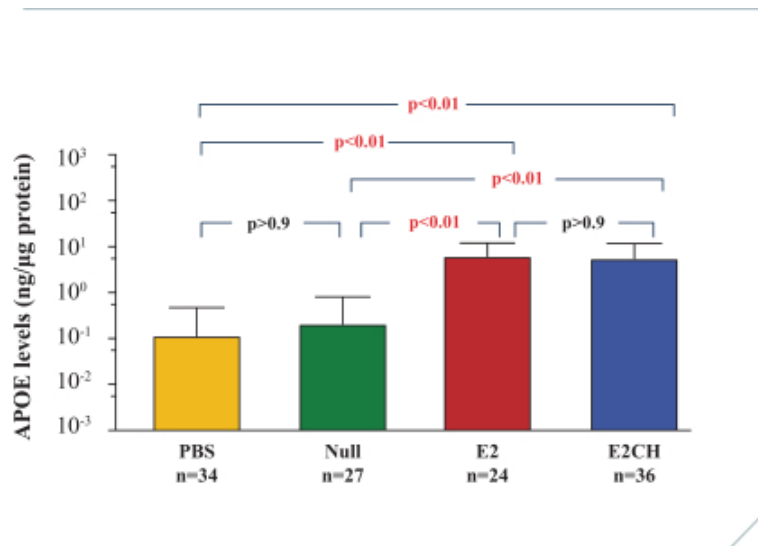
**Binding affinity of different APOE alleles and Christchurch mutation-modified APOE3 and APOE2**



Interim data from preclinical studies have demonstrated that APOE4-driven amyloid and tau pathology can be suppressed by AAV-mediated delivery of Christchurch-modified APOE2 to the CNS in well-established murine Alzheimer's disease models (amyloid mice, APP.PS1/TRE4 and tau mice, P301S/TRE4). In both mouse models,  $2 \times 10^{10}$  total genomes were administered directly into the hippocampus.

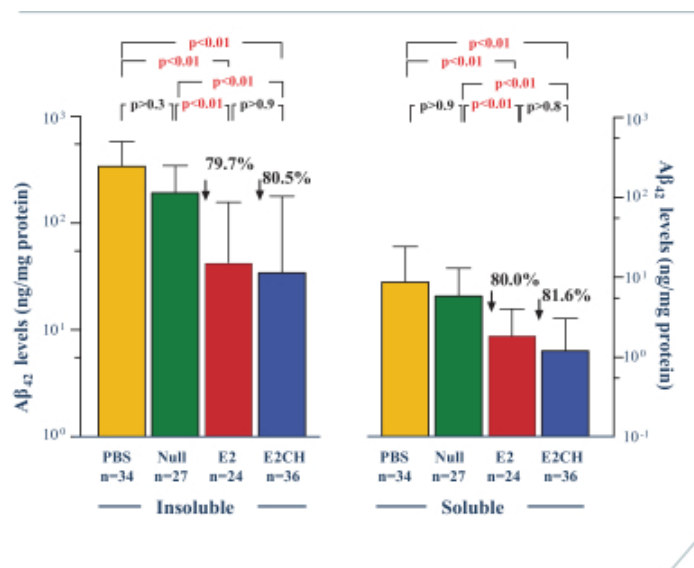
In the APP.PSEN1/TR4 model AAVrh.10hAPOE2 (LX1001) and AAVrh.10hAPOE2Ch (LX1021) were administered to 2.5-month old mice and resulted in significant production of APOE2 mRNA and protein expression over phosphate buffered saline, or PBS, and null-treated animals, with no significant differences between the two constructs.

**APOE protein Levels (Amyloid Mice)**



Both constructs resulted in significant reductions in insoluble and soluble Aβ<sub>42</sub> and Aβ<sub>40</sub> levels, with no significant differences between the two constructs. Additionally, both constructs demonstrated improvement in various behavioral tests compared to PBS or null-treated animals, with no significant differences between the two constructs. These results demonstrate that LX1021 may have similar therapeutic potential as LX1001 as both treatments suppress the amyloid pathology in the APP.PSEN1/TRE4 mice.

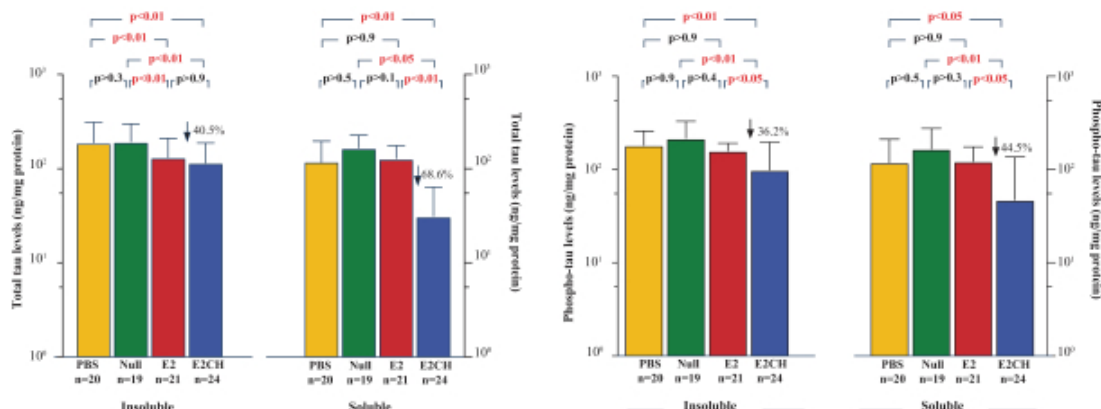
**Insoluble and Soluble Aβ<sub>42</sub> Levels (Amyloid Mice)**



In the P301S/TRE4 model, both LX1001 and LX1021 were administered to 5.5-month old mice and resulted in significant production of APOE2 mRNA and protein expression over PBS and null-treated animals, with no

significant differences between the two constructs, a similar finding to the amyloid mouse model. However, when evaluating total tau and p-tau, pathological markers of Alzheimer’s disease that are impacted in the P301S/TRE4 model, we observed significant improvement in the LX1021 treated mice compared to the LX1001 treated mice.

**Tau Mice, Total Tau Levels (Left) and Phosphorylated Tau Levels (Right)**



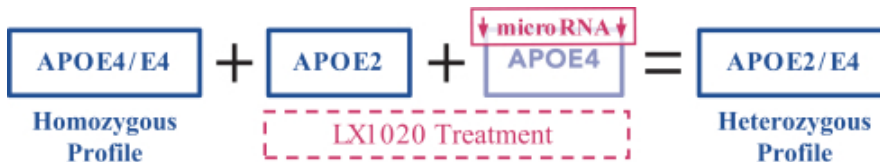
Behavioral tests, including Y maze, Barnes Test, and novel object recognition showed LX1001 treatment demonstrated some behavioral improvement compared to PBS-treated animals but no significant behavioral improvement compared to null-treated animals. However, LX1021 treatment resulted in significant behavioral improvement on all assessments compared to PBS and null-treated animals, as well as significant behavioral improvement on all assessments compared to LX1001.

We believe the data generated to date from two mouse models demonstrate that LX1021 has the potential to impact both amyloid and tau pathology, the core pathological features of Alzheimer’s disease, potentially providing for enhanced treatment effect compared to the wild-type E2 transgene. We plan to continue preclinical development efforts and hold a pre-IND meeting with the FDA in 2024 to provide direction for our ongoing development efforts.

*LX1020 for the treatment of APOE4 homozygotes*

*LX1020*: We are designing LX1020 to treat APOE4 homozygous patients by delivering both the protective APOE2 allele and miRNA to suppress APOE4. We believe delivery of APOE2 with concurrent suppression of APOE4 will achieve a higher degree of conversion to the APOE4/E2 heterozygous profile, which should lead to greater therapeutic effect. We plan to complete candidate selection for LX1020 in 2023.

**LX1020 is designed to add APOE2 gene while suppressing APOE4**





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### *Preclinical Studies*

In preclinical studies, AAV9 vectors expressing APOE-targeting miRNAs (AAV-mirAPOE) was administered to the hippocampus of TRE4 mice, a mouse model with murine *APOE* gene deleted and replaced with human *APOE4*. When compared with an AAV9-mCherry (a control vehicle), the AAV-mirAPOE downregulated hippocampal *APOE4* mRNA levels by 2.8-fold, suggesting that an AAV-mediated gene therapy incorporating APOE-targeting miRNA into the expression cassette may potentially reduce human *APOE4* in the CNS. These findings demonstrate that AAV-based delivery of APOE-targeting miRNA may be able to serve as part of a therapeutic approach for treating *APOE4* homozygous Alzheimer's patients and provide direction for our ongoing development efforts.

We plan to complete candidate selection for LX1020 in 2024.

## **Additional Program Outside of Core Focus Area**

### ***LX1004 for the treatment of CLN2 Batten disease***

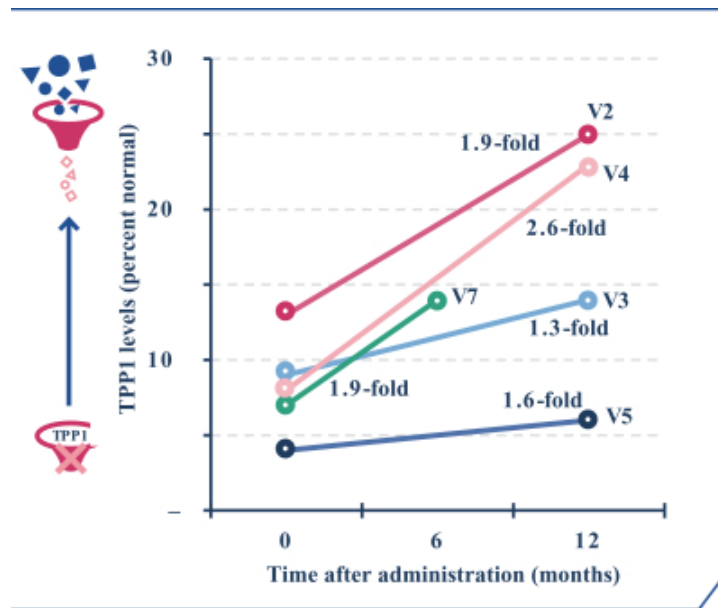
LX1004 is an AAVrh10-based gene therapy candidate designed to deliver a functional *CLN2* gene to the CNS via intracisternal injection in order to restore TPP1, the secreted protein that is deficient in CLN2 Batten disease. Batten disease is the common name for a broad class of rare, fatal, inherited disorders of the nervous system also known as neuronal ceroid lipofuscinoses. CLN2 Batten disease is caused by a defect in the *CLN2* gene found on chromosome 11 and, based on our calculations, we believe CLN2 Batten disease affects up to approximately 900 patients in the United States and European Union. The FDA has granted Rare Pediatric Disease designation and Orphan Drug designation to LX1004 for the treatment of CLN2 disease.

In a Phase 1/2 trial that was conducted by Weill Cornell Medicine under an IND that was subsequently transferred to us, LX1004 demonstrated an increase in TPP1 levels leading to a slower decline of motor and language function in treated patients compared to natural history controls, at 18 months post treatment. In November 2022, we held a Type C meeting with the FDA to align on the development path for LX1004 and are currently evaluating strategic alternatives to find the appropriate partner to take the program forward.

### *Phase 1/2 clinical trial results*

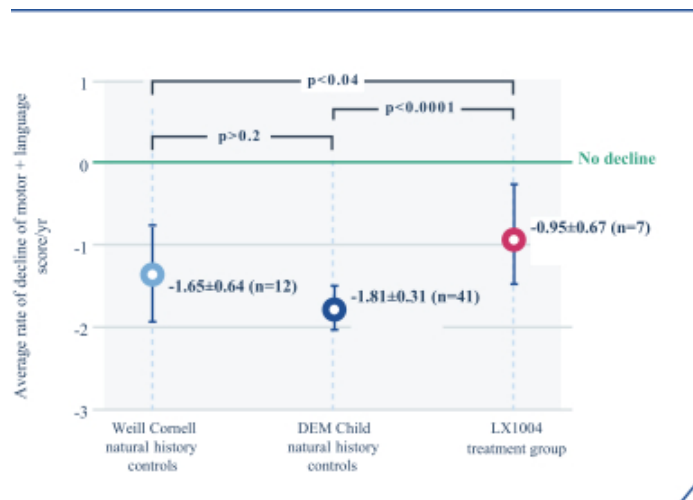
LX1004 was administered intraparenchymally to the CNS of eight children with CLN2 Batten disease. Seven children had follow-up visits during the 18-month duration of the study, and of these, five children had CSF samples pre and post treatment. All five of those patients had increased TPP1 levels in their CSF up to 12 months, indicating substantial expression of the protein and durability of the therapy.

**LX1004 demonstrated increases in TPP1 expression levels up to 12 months**



Additionally, as demonstrated in the below graphic, the treated patients had a statistically significant reduction in the rate of disease progression compared to natural history controls. The trial used the established CLN2 Clinical Rating Scale to assess efficacy. This scale was developed to assess the loss of function in CLN2 Batten disease patients that occurs over the course of the disease. It is a four-part assessment of language, motor function, visual function, and seizures. The rate of decline in the motor + language subscores of the treatment group was compared to two historical control groups of untreated patients: the Weill Cornell Medicine natural history cohort and the European DEM Child natural history cohort. The annual rate of decline was similar in the two control groups. In contrast, the rate of decline in the treated patients was slower than that in both control groups.

**LX1004 demonstrated a slower rate of decline relative to natural history controls**



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Furthermore, patients in the trial reported six acute serious adverse events within two weeks of dosing and 15 chronic serious adverse events after two weeks of dosing that were deemed to be related to the study drug or its administration. The six acute serious adverse events consisted of one patient with seizures, two patients with episodes of increased abnormal movements, one patient with emesis, one patient with hematoma, and one patient with pneumocephalus. The 15 chronic serious adverse events consisted of six patients with seizures, one patient with dystonia, one patient with emesis, one patient with hematoma, one patient with hygroma, one patient with bronchospasm, one patient with aspiration, one patient with pneumonia, and two patients with elevated hepatic enzymes.

## Competition

The biotechnology and pharmaceutical industries are characterized by rapidly changing technologies, significant competition and a strong emphasis on intellectual property. This is also true for the development and commercialization of treatments for cardiovascular and neurodegenerative diseases such as Friedreich's ataxia, PKP2-ACM, Alzheimer's disease, CLN2 Batten disease and broadly across gene therapies. While we believe that our management and scientific team's deep expertise in gene therapy provides us with competitive advantages, we face competition from several sources, including large and small biopharmaceutical companies, government agencies and academic and private research institutions. Not only must we compete with other companies that are focused on gene therapy technology, but any product candidates that we successfully develop and commercialize will compete with existing therapies, to the extent applicable, and new therapies that may become available in the future.

Drug development, particularly in the gene therapy field, is highly competitive and subject to rapid and significant technological advancements. A significant unmet medical need exists in each of the indications that we are targeting, and it is likely that additional drugs will become available in the future for the treatment of these diseases.

We are aware that our competitors are developing product candidates for the treatment of diseases that our product candidates will target. With respect to LX2006, we are aware of preclinical gene therapy programs in development at Novartis, PTC Therapeutics, Inc., Aavanti Bio, Inc., Lacerta Therapeutics, Inc. and those being developed in collaborations between Voyager Therapeutics, Inc. and Neurocrine Biosciences, Inc. and between Takeda Pharmaceutical Company Limited and StrideBio, Inc. Among other treatment modalities for FA, we are aware that Larimar Therapeutics, Inc. is developing a clinical stage product candidate, CTI-1601, Design Therapeutics, Inc. is developing a clinical stage product candidate, DT-216, and that Reata Pharmaceuticals, Inc.'s omaveloxolone (Skyclarys) was recently approved by the FDA. Additionally, on July 28, 2023, Biogen Inc. and Reata Pharmaceuticals, Inc. announced that Biogen has agreed to acquire Reata Pharmaceuticals for approximately \$7.3 billion.

With respect to LX2020, both Rocket Pharmaceuticals Inc. and Tenaya Therapeutics Inc. are developing an AAV-based gene therapy candidate designed to deliver a functional *PKP2* gene to patients with PKP2-ACM.

With respect to our portfolio of gene therapy programs for the treatment of homozygous APOE4-associated Alzheimer's disease, we are aware that uniQure, N.V. is pursuing AMT-240, a preclinical gene therapy candidate for autosomal dominant Alzheimer's disease intended to silence the toxic variant while expressing the protective variant and Novartis has a gene therapy candidate for Alzheimer's disease which is in the early preclinical stages of development. Many large and small pharmaceutical companies and academic institutions are developing potential treatments for the condition given the significant unmet need and the large population suffering from Alzheimer's disease. There are multiple FDA-approved treatments for Alzheimer's disease, including donepezil

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(Aricept), memantine (Namenda), and aducanumab (Aduhelm), the latter of which was recently approved under accelerated approval and will require confirmatory data to verify clinical benefit. In July of 2023, lecanemab was approved by the FDA for the treatment of Alzheimer's disease based on the observed reduction of amyloid beta plaque. In addition, Eli Lilly and Company's product candidate for the treatment of Alzheimer's disease, donanemab, is currently in Phase 3 development. Finally, we are aware that Voyager Therapeutics, Inc. has ongoing early-stage discovery efforts targeting Alzheimer's disease.

Many of our existing or potential competitors have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of product candidates, as well as in obtaining regulatory approvals of those product candidates in the United States and in foreign countries.

These competitors also compete with us in recruiting and retaining qualified scientific 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. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies.

We will face competition from other drugs or from other non-drug products and treatments currently approved or that will be approved in the future in the cardiovascular and neurology field, including for the treatment of diseases and diseases in the therapeutic categories we intend to target. Therefore, our ability to compete successfully will depend largely on our ability to:

- develop, manufacture and commercialize drugs that are superior to other products in the market;
- demonstrate through our clinical trials that our product candidates are differentiated from existing and future therapies;
- attract qualified scientific, product development and commercial personnel;
- obtain patent or other proprietary protection for our medicines;
- obtain required regulatory approvals;
- obtain coverage and adequate reimbursement from, and negotiate competitive pricing with, third-party payors; and
- successfully collaborate with pharmaceutical companies in the discovery, development and commercialization of new medicines.

The availability of our competitors' products could limit the demand, and the price we are able to charge, for any product candidate we develop. The inability to compete with existing or subsequently introduced drugs would have an adverse impact on our business, financial condition and prospects. In addition, the reimbursement structure of currently approved or future gene therapies by other companies could impact the anticipated reimbursement structure of our gene therapies, if approved, and our business, financial condition, results of operations and prospects.

Established pharmaceutical companies may invest heavily to accelerate discovery and development of novel compounds or to in-license novel compounds that could make our product candidates less competitive. In addition, any new product that competes *with* an approved product must demonstrate compelling advantages in efficacy, convenience, tolerability and safety in order to overcome price competition and to be commercially successful. Accordingly, our competitors may succeed in obtaining patent protection, discovering, developing, receiving regulatory and marketing approval for, or commercializing, drugs before we do, which would have an adverse impact on our business and results of operations.

## Intellectual property

We actively seek to protect our proprietary technology, inventions, and other intellectual property that is commercially important to the development of our business by a variety of means, such as seeking, maintaining, and defending patent rights, whether developed internally or licensed from third parties. We also may rely on trade secrets and know-how relating to our proprietary technology platform, on continuing technological innovation and on in-licensing opportunities to develop, strengthen and maintain the strength of our position in the field of gene therapy that may be important for the development of our business. We also intend to seek patent protection or rely upon trade secret rights to protect other technologies that may be used to discover and validate targets, and that may be used to manufacture and develop novel gene therapy products. We are a party to license agreements that give us rights to use specific technologies in our gene therapy candidates and in manufacturing our products. Additional regulatory protection may also be afforded through data exclusivity, market exclusivity and patent term extensions where available.

As of September 19, 2023, we in-licensed two U.S. patents, nine pending U.S. non-provisional patent applications, two pending U.S. provisional applications, three pending PCT applications, four foreign patents and 44 pending foreign applications.

In regard to our LX2006 product candidate, we in-license from Cornell University and Adverum Biotechnologies, Inc. two U.S. patents, two pending U.S. non-provisional patent applications, four foreign patents granted in India, Mexico, South Africa, and New Zealand and eight pending foreign applications pending in such jurisdictions as Australia, Brazil, Canada, Eurasia, Europe, Israel, Mexico and South Africa. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, these patents, if granted, will expire in 2033. These patents and pending patent applications disclose and/or contain composition-of-matter claims to an AAV vector encoding *FXN*, or a fragment thereof, and disclose and/or contain claims to methods of producing and methods of treatment using the AAV *FXN* vector. Cornell University co-owns these patents and patent applications with Institut National de la Santé et de la Recherche Médicale (INSERM), Centre National de la Recherche Scientifique (CNRS), Université de Strasbourg, Université Paris-Saclay and Assistance Publique-Hôpitaux de Paris (APHP).

We have rights to one pending PCT application that relates to our LX2006 cardiac FA program. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, patent applications claiming benefit of this PCT application, will expire in 2043. The PCT application discloses and/or contains composition-of-matter claims to a pharmaceutical dosage form of viral vectors encoding *FXN*, and discloses and/or contains claims to methods of producing and methods of treatment using the pharmaceutical dosage form.

In regard to our LX2020 product candidate, we in-license from The Regents of the University of California one pending PCT application. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, patent applications claiming the benefit of this PCT application, will expire in 2042. This PCT application discloses and/or contains composition-of-matter claims to a vector encoding human plakophilin-2 (*PKP2*), and discloses and/or contains claims to methods of producing and methods of treatment using the PKP2 vector.

In regard to our LX2021 product candidate, we in-license from The Regents of the University of California two pending U.S. non-provisional patent application and six pending foreign applications pending in Australia, Canada, China, Europe, Israel, and Japan. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, these patent applications will expire in 2038. These pending patent applications disclose and/or contain composition-of-matter claims to a vector encoding a human connexin 43 (CX43) polypeptide, and disclose and/or contain claims to methods of producing and methods of treatment using the CX43 vector.

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In regard to our LX2022 product candidate, we in-license from The Regents of the University of California one pending U.S. non-provisional patent application. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, patent applications claiming the priority to this patent application, will expire in 2040. This pending U.S. non-provisional patent application discloses and/or contains composition-of-matter claims to a vector encoding a human *TNNI3* gene, and discloses and/or contains claims to methods of producing and methods of treatment using the *TNNI3* vector.

In regard to our LX1020 product candidate, we in-license from Cornell University one pending U.S. non-provisional application and 13 pending foreign applications pending in Australia, Brazil, Canada, China, Colombia, Europe, Hong Kong, Israel, Japan, Korea, Mexico, New Zealand, Singapore and South Africa. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, these patent applications will expire in 2040. The pending patent applications disclose and/or contain composition-of-matter claims to a vector encoding human APOE2 protein and encoding one or more RNAi nucleic acid sequences for inhibition of APOE4 mRNA, and disclose and/or contain claims to methods of producing and methods of treatment using the APOE2+/APOE4- vector.

In regard to our LX1021 product candidate, we in-license from Cornell University one pending U.S. non-provisional application and 13 pending foreign applications pending in Australia, Brazil, Canada, China, Europe, Hong Kong, Israel, Japan, Korea, Mexico, New Zealand, Singapore and South Africa. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, this patent application will expire in 2040. The pending patent applications disclose and/or contain composition-of-matter claims to a vector encoding a mutated human apolipoprotein E protein, and disclose and/or contain claims to methods of producing and methods of treatment using the mutated human apolipoprotein E vector.

In regard to our LX1001 product candidate, we co-own with Cornell University two pending U.S. provisional applications and one pending PCT application. Not accounting for any patent term adjustment and assuming that all annuity and/or maintenance fees are paid timely, if granted, patent applications claiming the benefit of this PCT application will expire in 2043. This pending patent application discloses and/or contains composition-of-matter claims to a pharmaceutical dosage form of viral vectors encoding human APOE2, and discloses and/or contains claims to methods of producing and methods of treatment using the pharmaceutical dosage form.

### ***License, research collaboration and sponsored research agreements***

#### *First license agreement with Cornell University*

In May 2020, we entered into a license agreement with Cornell University, or the Cornell First License Agreement, pursuant to which we obtained a sublicensable, worldwide license under certain patents to make, use, and sell products that are covered by a valid claim of a licensed patent, are based on the transferred IND from Cornell University, use any licensed materials, or are produced using a licensed method, and to practice certain licensed technology, in all cases, for all human and non-human prophylactic and therapeutic uses. In July 2022, we entered into Amendment No. 1 to the Cornell First License Agreement that updated fees and royalties payable by us under the Cornell First License Agreement. In September 2022, we entered into Amendment No. 2 to the Cornell First License Agreement that clarified patent prosecution and maintenance obligations and added certain inventions and patents to the list of inventions and patent rights covered under the Cornell First License Agreement. The technology under the license includes portfolios for APOE, Alzheimer's disease, and Anti-Tau, although our license is not restricted by such indications. The license is exclusive with respect to certain patents and non-exclusive with respect to other patents. Additionally, under the Cornell First License Agreement, Cornell University assigned to us an IND for the use of AAVrh10.hAPOE2 vector to treat *APOE4* homozygous patients

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who are at risk of having or have Alzheimer's disease. Cornell University reserved the rights to publish and disseminate information about inventions included in the licensed technology and licensed patents, and to use, and allow other nonprofit institutions to use, the patents and technology for educational and research purposes.

We are obligated to diligently proceed with the development, manufacture, and sale of licensed products, to raise certain amounts within specified time frames, to achieve certain development milestones within specified time frames, to meet agreed minimum-spend requirements, and to meet other diligence obligations. If we fail to perform these obligations, Cornell University could terminate the Cornell First License Agreement in full or in part in specified circumstances, subject to certain rights for us to extend these time frames.

Under the Cornell First License Agreement, we paid Cornell University an upfront payment of approximately \$0.15 million and entered into a purchase agreement for approximately \$0.6 million of convertible preferred securities. We are obligated to pay Cornell University an annual license maintenance fee ranging from the low four digits to the mid five digits, increasing annually until such time that we are commercially selling a Product. Under the Cornell First License Agreement, we are obligated to pay Cornell University up to \$8.4 million for each portfolio upon the achievement of specific clinical and regulatory milestones. We are obligated to pay Cornell University a flat royalty in the mid-single-digits based on net sales of a licensed product in a country, which royalty rate increases by one percent if the licensed product is an orphan drug, subject to a reduction upon the expiration of valid claims in licensed patents and certain reductions for third-party licenses. In addition, in certain specific instances where sales are made by a sublicensee, the royalty rate increases by an amount in the low to mid-single digits. If the royalties are below certain agreed amounts, we are required to pay Cornell University minimum annual royalties ranging from low-six digits to low-seven digits. The royalty term continues for each licensed product on a country-by-country basis beginning on the first commercial sale of such licensed product and ending on the latest of (a) expiration or invalidation of the last valid claim in the licensed patent, (b) the expiration of regulatory exclusivity, and (c) the month of the first commercial launch of a generic equivalent in such country. We are also obligated to pay Cornell University a percentage of sublicensing fees in the low-double digits to mid-double digits.

We may terminate the Cornell First License Agreement or any portfolio thereunder at any time upon ninety (90) days' advance written notice to Cornell University. Cornell University may terminate the Cornell First License Agreement if we commit a material breach and fail to cure such breach within a specified cure period after written notice or if we challenge the validity of a licensed patent. Upon expiration of the royalty term of a given licensed product in a country, the license becomes non-exclusive and royalty-free. Upon termination of the Cornell First License Agreement, all licenses and rights granted by either party will terminate, although we will have a period of time to sell off any remaining licensed product.

### *Second license agreement with Cornell University*

In May 2020, we entered into a second license agreement with Cornell University, or the Cornell Second License Agreement, pursuant to which we obtained a sublicensable, worldwide license under certain patents to make, use, and sell products that are covered by a valid claim of a licensed patent, are based on the transferred IND from Cornell University, use any licensed materials, or are produced using a licensed method, and to practice certain licensed technology, in all cases, for all human and non-human prophylactic and therapeutic uses. In January 2022, we entered into Amendment No. 1 to the Cornell Second License Agreement, whereby we paid Cornell a material transfer fee and a license fee totaling \$30,000, and Cornell added certain materials to the list of original materials subject to the Cornell Second License Agreement. In July 2022, we entered into Amendment No. 2 to the Cornell Second License Agreement that updated fees and royalties payable by us under the Cornell Second License Agreement. The technology under the license includes portfolios for CLN2 (Batten disease) and FA, although our license is not restricted by such indications. The license is exclusive with respect to certain patents and non-exclusive with respect to other patents. Additionally, under the Cornell Second License Agreement,

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Cornell University assigned to us an IND for the use of AAVrh.10cUhCLN2 to treat children with infantile neuronal ceroid lipofuscinosis (also called CLN2 or Batten disease). Cornell University reserved the rights to publish and disseminate information about inventions included in the licensed technology and licensed patents, and to use, and allow other nonprofit institutions to use, the patents and technology for educational and research purposes.

We are obligated to diligently proceed with the development, manufacture, and sale of licensed products, to raise certain amounts within specified time frames, to achieve certain development milestones within specified time frames, to meet agreed minimum-spend requirements, and to meet other diligence obligations. If we fail to perform these obligations, Cornell University could terminate the Cornell Second License Agreement in full or in part in specified circumstances, subject to certain rights for us to extend these time frames.

Under the Cornell Second License Agreement, we paid Cornell University an upfront payment of approximately \$0.15 million and entered into a purchase agreement for approximately \$0.6 million of convertible preferred securities. We are obligated to pay Cornell University an annual license maintenance fee ranging from the low four digits to the mid five digits, increasing annually until such time that we are commercially selling a licensed product. Under the Cornell Second License Agreement, we are obligated to pay Cornell University up to \$4.3 million for two portfolios and up to \$0.6 million for a third portfolio upon the achievement of specific clinical and regulatory milestones. Upon submitting our IND application for LX2006 to the FDA in the first quarter of 2022, we achieved the first clinical milestone under the Cornell Second License Agreement, and we paid \$0.1 million to Cornell University in the second quarter of 2022 in connection with this milestone. We are obligated to pay Cornell University a flat royalty in the mid-single-digits based on net sales of a licensed product in a country, which royalty rate increases by one percent if the licensed product is an orphan drug, subject to a reduction upon the expiration of valid claims in licensed patents and certain reductions for third-party licenses. In addition, in certain specific instances where sales are made by a sublicensee, the royalty rate increases by an amount in the low to mid-single digits. If the royalties are below certain agreed amounts, we are required to pay Cornell University minimum annual royalties ranging from low six digits to low seven digits. The royalty term continues for each licensed product on a country-by-country basis beginning on the first commercial sale of such licensed product and ending on the latest of (a) expiration or invalidation of the last valid claim in the licensed patent, (b) the expiration of regulatory exclusivity, and (c) the month of the first commercial launch of a generic equivalent in such country. We are also obligated to pay Cornell University a percentage of sublicensing fees ranging in the low double digits.

We may terminate the Cornell Second License Agreement or any portfolio thereunder at any time upon ninety (90) days' advance written notice to Cornell University. Cornell University may terminate the Cornell Second License Agreement if we commit a material breach and fail to cure such breach within a specified cure period after written notice or if we challenge the validity of a licensed patent. Upon expiration of the royalty term of a given licensed product in a country, the license becomes non-exclusive and royalty-free. Upon termination of the Cornell Second License Agreement, all licenses and rights granted by either party will terminate, although we will have a period of time to sell off any remaining licensed product.

### *Research collaboration agreement with Weill Cornell Medicine*

In February 2021, we entered into a Research Collaboration Agreement with Cornell University on behalf of Joan & Sanford I. Weill Medical College, or Weill Cornell Medicine, or the Cornell Collaboration Agreement, in connection with the Cornell First License Agreement and the Cornell Second License Agreement entered into in May 2020, collectively, the Cornell License Agreements. In February 2022, we entered into Amendment No. 1 to the Research Collaboration Agreement. The Cornell Collaboration Agreement, as amended, is referred to as the Amended Cornell Collaboration Agreement. Under the Amended Cornell Collaboration Agreement, we



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committed to fund scientific research at Weill Cornell Medicine related to the technology licensed to us pursuant to the Cornell License Agreements. Cornell University reserved the rights to publish and disseminate information about the results, excluding any inventions, generated from Cornell University's investigator's conduct of the research.

Under the Cornell License Agreements, we committed to provide funding for research projects at Cornell University for a three-year period during the term of the last to expire of the Cornell License Agreements, with a minimum annual funding commitment of \$1.0 million. As such, under the terms of the Amended Cornell Collaboration Agreement, we will pay Weill Cornell Medicine at least \$3.0 million over the course of three years. With respect to each Weill Cornell Medicine invention and joint invention and related joint results that is either an improvement to, or is dominated by, the patent rights under the Cornell License Agreements or is specifically designed for a licensed product under the Cornell License Agreements, or Improvement, and for which we have made an election to obtain such inventions, the Cornell License Agreements will be amended to include license grants to such Improvements following payment of the relevant amendment fee in the low five digits. With respect to each Weill Cornell Medicine invention and joint invention, and related joint results that are not Improvements, we have the first option to negotiate for a royalty-bearing, worldwide license under such intellectual property to develop, make, have made, use, offer for sale, sell, have sold and import products on commercially reasonable terms.

The Amended Cornell Collaboration Agreement will expire, unless earlier terminated, on the expiration of the agreed upon three-year term. Cornell University may terminate the Amended Cornell Collaboration Agreement if we commit a material breach and fail to cure such breach within a specified cure period after written notice. In addition, the Amended Cornell Collaboration Agreement may be terminated by us in the event that the Weill Cornell Medicine Principal Investigator, currently designated as Dr. Crystal, ceases to supervise the research and Weill Cornell Medicine is unable to or declines to find a substitute.

### *License agreement with Adverum*

In January 2021, we entered into a license agreement with Adverum Biotechnologies, Inc., or Adverum, which we amended in February 2022 pursuant to the First Amendment to the Adverum Agreement, such agreement as amended, the Amended Adverum Agreement. Pursuant to the Amended Adverum Agreement, we obtained an exclusive, sublicensable, worldwide license under certain patents, know-how, and other intellectual property relating to viral vector technology for gene therapy applications for the treatment of FA cardiomyopathy.

We are responsible for the development, manufacture, and commercialization of gene therapy products that consist of a specific nucleic acid sequence that is delivered by a specific gene therapy, or the Products. We are obligated to use commercially reasonable efforts to develop, obtain regulatory approval for, and commercialize the Products.

Under the Amended Adverum Agreement, we paid Adverum a \$7.5 million upfront payment. We are obligated to pay Adverum up to \$17.5 million upon the achievement of specified development and regulatory milestones, including a \$3.5 million development milestone that was achieved in the first quarter of 2023, and up to \$49 million in commercialization and sales milestones for the Products. We are obligated to pay Adverum tiered royalties ranging from high single-digits to sub teens based on annual aggregate worldwide net sales of Products, subject to reductions upon the expiration of valid claims in licensed patents and third-party licenses. The royalty term continues for each Product on a country-by-country basis beginning on the first commercial sale of such Product and ending on the latest of (a) expiration of the last valid claim in the licensed patent that covers the manufacture, use, or sale of the Product in such country, (b) the expiration of all regulatory and data exclusivity in such country, and (c) ten years after the first commercial sale of such Product in such country.

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The Amended Adverum Agreement will expire, unless earlier terminated, on the expiration of the last royalty term for a Product in a particular country. We have the right to terminate the Amended Adverum Agreement at any time upon one-hundred twenty days' advance written notice to Adverum. In addition, subject to certain conditions, either we or Adverum may terminate the Amended Adverum Agreement upon the insolvency of the other or if the other party commits a material breach of the agreement and fails to cure such breach within a specified cure period after written notice is provided. Additionally, Adverum may terminate the Amended Adverum Agreement if we challenge the validity of any licensed patents. Upon expiration of the Amended Adverum Agreement, the license becomes royalty-free, irrevocable and perpetual. Upon termination of the Amended Adverum Agreement, all licenses, sublicenses, and rights granted by either party will terminate.

### *First license agreement with the Regents of University of California, San Diego*

Stelios, which we acquired in August 2021, is successor-in-interest to ARVC Therapeutics, Inc., or ARVC Therapeutics, under a worldwide license agreement entered into by ARVC Therapeutics and The Regents of The University of California on April 23, 2020, or the UCSD First License Agreement, pursuant to which they obtained a license to certain intellectual property related to gene therapies for ARVC. The UCSD First License Agreement relates to our development efforts for our LX2021 program. Pursuant to the UCSD First License Agreement, we obtained an exclusive, sublicensable, worldwide license under certain patents to make, use, sell, offer for sale and import services, methods, composition and products that incorporate or are developed using any licensed invention or licensed methods, or is covered by a valid claim of a licensed patent, or a Product, in all cases for all diagnostic and therapeutic uses. UCSD reserved the right to practice the relevant invention and licensed patents for educational and research purposes, to publish and disseminate information about the relevant invention and licensed patents, and to allow other nonprofit institutions to use, publish, or disseminate information about the relevant inventions and licensed patents for educational and research purposes.

Under the UCSD First License Agreement, we are obligated to achieve certain development milestones within specified time frames, to use commercially reasonable efforts to diligently develop, manufacture, and sell Products, and to meet agreed minimum-spend requirements. If we fail to perform any of these obligations, UCSD could either terminate the UCSD First License Agreement or convert the exclusive license to a nonexclusive license, subject to certain rights for us to extend these time frames.

The UCSD First License Agreement required Stelios to pay one-time up-front non-refundable cash fees of \$20,000. We are obligated to pay annual license maintenance fees in the mid-four digits to low-five digits, increasing until such time that we are commercially selling a Product. We are also obligated to pay up to \$4.75 million upon the achievement of specific development and commercialization milestones for the first Product and low- to mid-single digit royalties based on aggregate net sales, subject to certain reductions for third-party licenses. The royalty term continues until the expiration of the UCSD First License Agreement. Under the UCSD First License Agreement, if the royalties are below certain agreed amounts, we are required to pay UCSD minimum annual royalties ranging from low- to mid-five digits. We are also obligated to pay UCSD a percentage of sublicensing fees ranging in the low double digits. In the event that we assign the UCSD First License Agreement, we will be obligated to pay an assignment fee that will be determined based on certain aspects of the assignment.

The UCSD First License Agreement will expire, unless earlier terminated, on the expiration of the last claim of any licensed patent or patent applications in a particular country. We have the right to terminate the UCSD First License Agreement at any time upon sixty days' written notice to UCSD. UCSD may terminate the UCSD First License Agreement if we commit a material breach, if we fail to meet certain specified milestones within the prescribed time periods, if we are delinquent on any report or payment or provide an intentionally misleading report, if we fail to diligently develop and commercialize the licensed products, or if we challenge the validity of

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a licensed patent, in each case only if we fail to cure such problem within a specified cure period after written notice. Upon termination of the UCSD First License Agreement, all licenses and rights granted by UCSD to us will terminate.

### *Second license agreement with the Regents of University of California, San Diego*

Stelios, which we acquired in August 2021, entered into a worldwide license agreement in August 2020 with The Regents of The University of California, or the UCSD Second License Agreement, pursuant to which they obtained a license to certain intellectual property and materials related to gene therapies for HCM. The UCSD Second License Agreement relates to our development efforts for our LX2022 programs. Pursuant to the UCSD Second License Agreement, we obtained an exclusive, sublicensable, worldwide license under certain patents to make, use, sell, offer for sale and import services, methods, composition and products that incorporate or are developed using any licensed invention or licensed methods or is covered by a valid claim of a licensed patent, or a Product, and a non-exclusive license to use nonpublic technical information, or Technology, in all cases for all diagnostic and therapeutic uses. UCSD reserved the rights to practice the relevant invention, Technology and licensed patents for educational and research purposes, to publish and disseminate information about the relevant invention, Technology and licensed patents, and to allow other nonprofit institutions to use, publish, or disseminate information about the relevant invention, Technology and licensed patents for educational and research purposes.

Under the UCSD Second License Agreement, we are obligated to achieve certain development milestones within specified time frames and to use commercially reasonable efforts to diligently develop, manufacture, and sell Products. If we fail to perform any of these obligations, UCSD could either terminate the UCSD Second License Agreement or convert the exclusive license to a nonexclusive license subject to certain rights for us to extend these time frames.

The UCSD Second License Agreement required Stelios to pay one-time up-front non-refundable cash fees of \$20,000. We are obligated to pay annual license maintenance fees in the mid-four digits to low-five digits, increasing until such time that we are commercially selling a Product. We are also obligated to pay up to \$2.4 million upon the achievement of certain development and commercialization milestones for the first Product and low-single digit royalties based on aggregate net sales, subject to certain reductions for third-party licenses. The royalty term continues until the expiration of the UCSD Second License Agreement. We are also obligated to pay UCSD a percentage of sublicensing fees ranging in the low double digits.

The UCSD Second License Agreement will expire, unless earlier terminated, on the expiration of the last claim of any licensed patent or patent applications in a particular country. We have the right to terminate the UCSD Second License Agreement at any time upon sixty days' written notice to UCSD. UCSD may terminate the UCSD Second License Agreement if we commit a breach, if we fail to meet certain specified milestones within the prescribed time periods, if we are delinquent on any report or payment, if we are not diligently developing or commercializing Products in accordance with our diligence obligations, if we provide any intentionally false report, or if we challenge the validity of a licensed patent, in each case only if we fail to cure such problem within a specified cure period after written notice. In the event that we assign the UCSD Second License Agreement, we will be obligated to pay an assignment fee that will be determined based on the acquisition price. Upon termination of the UCSD Second License Agreement, all licenses and rights granted by UCSD to us will terminate.

### *Third license agreement with the Regents of University of California, San Diego*

In October 2021, we entered into a worldwide license agreement with UCSD, or the UCSD Third License Agreement, and collectively with the UCSD First License Agreement and the UCSD Second License Agreement,

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The UCSD License Agreements, pursuant to which we obtained a license to materials and intellectual property related to a gene therapy for ARVC. The UCSD Third License Agreement relates to our development efforts for our LX2020 program. Pursuant to the Third UCSD Agreement, we obtained an exclusive, sublicensable, worldwide license under certain patents to make, use, and sell, offer for sale and import services, methods, composition and products that incorporate or are developed using any licensed invention or licensed methods, or is covered by a valid claim of a licensed patent, or a Product, and an exclusive license to use nonpublic technical information, or Technology, in all cases for all diagnostic and therapeutic uses. UCSD reserved the rights to practice the relevant invention, Technology and licensed patents for educational and research purposes, to publish and disseminate information about the relevant invention, Technology and licensed patents, and to allow other nonprofit institutions to use, publish, or disseminate information about the relevant invention, Technology and licensed patents for educational and research purposes.

Under the UCSD Third License Agreement, we are obligated to achieve certain development milestones within specified time frames, to use commercially reasonable efforts to diligently develop, manufacture, and sell licensed products, and to meet agreed minimum-spend requirements. If we fail to perform any of these obligations, UCSD could either terminate the UCSD Third License Agreement or convert the exclusive license to a nonexclusive license subject to certain rights for us to extend these time frames.

The UCSD Third License Agreement required us to pay a one-time up-front non-refundable cash fee of \$20,000. We are obligated to pay annual license maintenance fees in the mid-four digits to low-five digits, increasing until such time that we are commercially selling a Product. We are also obligated to pay up to \$4.0 million upon the achievement of specified development and commercialization milestones for the first Product and low- to mid-single digit royalties based on aggregate net sales, subject to certain reductions for third-party licenses. The royalty term continues until the expiration of the UCSD Third License Agreement. If the royalties are below certain agreed amounts, we are required to pay UCSD minimum annual royalties ranging from low- to mid-five digits. We are also obligated to pay UCSD a percentage of sublicensing fees ranging in the low double digits.

The UCSD Third License Agreement will expire, unless earlier terminated, on the expiration of the last claim of any licensed patent or patent applications in a particular country. We have the right to terminate the UCSD Third License Agreement at any time upon sixty days' written notice to the UCSD. UCSD may terminate the UCSD Third License Agreement if we commit a material breach, if we fail to meet certain specified milestones within the prescribed time periods, if we are delinquent on any report or payment, if we are not diligently developing or commercializing Products in accordance with our diligence obligations, if we provide any intentionally false report, or if we challenge the validity of a licensed patent, in each case only if we fail to cure such problem within a specified cure period after written notice. In the event that we assign the UCSD Third License Agreement or we undergo a change of control, we will be obligated to pay a flat low-six digit fee or a fee that will be determined based on the acquisition price. Upon termination of the UCSD Third License Agreement, all licenses and rights granted by UCSD to us will terminate.

### *Sponsored research agreements with the Regents of University of California, San Diego*

In connection with the UCSD Agreements, on December 3, 2021, we entered into a sponsored research agreement with the Regents of UCSD for our LX2020 and LX2021 programs, which was subsequently amended on April 5, 2023, and another sponsored research agreement with the Regents of UCSD for our LX2022 program, which was subsequently amended on April 19, 2023. We refer to these agreements, as amended, as the Amended UCSD SRAs. UCSD reserved the rights to publish and disseminate information about the results generated from UCSD's investigator's conduct of the research. The total costs to be invoiced to us under the terms of the Amended UCSD SRAs are approximately \$5.0 million. Under the terms of the Amended UCSD SRAs, which have two-year terms, we have the first rights to obtain non-exclusive or exclusive, sublicensable, royalty-bearing,

perpetual and transferable worldwide licenses to any inventions generated by UCSD or UCSD's interest in any inventions generated jointly by UCSD and us, and we retain the rights to any inventions generated solely by us.

The Amended UCSD SRAs will expire, unless earlier terminated, on the expiration of the two-year term. We have the right to terminate the Amended UCSD SRAs at any time upon the giving of thirty (30) days' written notice to UCSD.

## **Government regulation**

Government authorities in the United States at federal, state and local levels, as well as in foreign countries, extensively regulate, among other things, the research, development, testing, manufacture, quality control, import, export, safety, effectiveness, labeling, packaging, storage, distribution, record keeping, approval, advertising, promotion, marketing, post-approval monitoring and post-approval reporting of biologics, including gene therapies, such as those we are developing. Generally, before a new biologic can be marketed, considerable data demonstrating its quality, safety and efficacy must be obtained, organized into a format specific for each regulatory authority, submitted for review and approved, authorized, or cleared by the applicable regulatory authority. We, along with third-party contractors, will be required to navigate the various preclinical, clinical and commercial approval requirements of the governing regulatory agencies of the countries in which we wish to conduct studies or seek approval or licensure of our product candidates.

### ***U.S. biologics regulation***

In the United States, biological products are subject to regulation under the U.S. Federal Food, Drug, and Cosmetic Act, or FDCA, and the Public Health Service Act, or PHSA, and their implementing regulations and other federal, state, local and foreign statutes and regulations. Failure to comply with the applicable United States requirements at any time during the product development process, approval process or following approval may subject an applicant to administrative actions or judicial sanctions. These actions and sanctions could include, among other actions, the FDA's refusal to approve pending applications, withdrawal of an approval, license revocation, a clinical hold, untitled or warning letters, voluntary or mandatory product recalls or market withdrawals, product seizures, total or partial suspension of production or distribution, injunctions, fines, refusals of government contracts, restitution, disgorgement and civil or criminal fines or penalties.

Our product candidates must be approved by the FDA through the Biologics License Application, or BLA, the process which is required by the FDA before biological product candidates may be marketed in the United States and generally involves the following:

- completion of extensive preclinical laboratory tests and animal studies performed in accordance with applicable regulations, including the GLP regulations;
- submission to the FDA of an IND application, which must become effective before human clinical trials may begin;
- approval by an IRB or ethics committee at each clinical site before the trial is commenced;
- performance of adequate and well-controlled human clinical trials in accordance with applicable IND regulations, cGCPs and other clinical trial-related regulations to establish the safety, purity and potency of the proposed biological product candidate for its intended purpose;
- preparation of and submission to the FDA of a BLA that contains sufficient data to demonstrate substantial evidence of effectiveness;
- a determination by the FDA within 60 days of its receipt of a BLA to file the application for review;

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- payment of user fees for FDA review of the BLA;
- satisfactory completion of an FDA pre-license inspection of the manufacturing facility or facilities at which the proposed product will be produced to assess compliance with cGMPs and to assure that the facilities, methods and controls are adequate to ensure and preserve the biological product's identity, strength, quality and purity, and of selected clinical investigation sites to assess compliance with the cGCPs;
- satisfactory completion of an FDA Advisory Committee review, if applicable;
- FDA review and approval, or licensure, of a BLA to permit commercial marketing of the product for particular indications for use in the United States.

### ***Preclinical and clinical development***

Prior to beginning the first clinical trial with a product candidate, the product candidate must undergo rigorous preclinical testing. Preclinical studies include laboratory evaluation of product chemistry and formulation, as well as *in vitro* and animal studies to assess safety and in some cases to establish a rationale for therapeutic use. The conduct of preclinical studies is subject to federal and state regulations and requirements, including GLP regulations for safety/toxicology studies.

An IND sponsor must submit the results of the preclinical tests, together with manufacturing information, analytical data, any available clinical data or literature and plans for clinical trials, among other things, to the FDA as part of an IND application to the FDA. An IND application is a request for authorization from the FDA to administer an investigational new drug product to humans. The central focus of an IND submission is on the general investigational plan and the protocol or protocols for preclinical studies and clinical trials. The IND application also includes results of animal and *in vitro* studies assessing the toxicology, pharmacokinetics, pharmacology and pharmacodynamic characteristics of the product, chemistry, manufacturing and controls information, and any available human data or literature to support the use of the investigational product. An IND application must become effective before human clinical trials may begin. The IND application automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day period, raises concerns or questions about the proposed clinical trial. In such a case, the IND application may be placed on clinical hold and the IND sponsor and the FDA must resolve any outstanding concerns or questions before the clinical trial can begin. Submission of an IND application therefore may or may not result in FDA authorization to begin a clinical trial. Additionally, the review of information in an IND submission may prompt FDA to, among other things, scrutinize existing INDs and could generate requests for information or clinical holds on other product candidates or programs.

Clinical trials involve the administration of the investigational product to human subjects under the supervision of qualified investigators, generally physicians not employed by or under the sponsor's control, in accordance with cGCPs, which include the requirement that all research subjects provide their informed consent for their participation in any clinical study. Clinical trials are conducted under protocols detailing, among other things, the objectives of the trial, dosing procedures, subject selection and exclusion criteria and the parameters to be used in monitoring safety and the effectiveness criteria to be evaluated. A separate submission to the existing IND application must be made for each successive clinical protocol conducted during product development and for any subsequent protocol amendments. Furthermore, an independent IRB for each site proposing to conduct the clinical trial must review and approve the plan for any clinical trial and its informed consent form before the clinical trial begins at that site, and must monitor the study until completed to ensure that the risks to individuals participating in the clinical trial are minimized and are reasonable in relation to anticipated benefits.

A sponsor who wishes to conduct a clinical trial outside of the United States may, but need not, obtain FDA authorization to conduct the clinical trial under an IND application. If a foreign clinical trial is not conducted

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under an IND application, the sponsor may submit data from the clinical trial to the FDA in support of a BLA. The FDA will accept a well-designed and well-conducted foreign clinical trial not conducted under an IND application if the foreign data are applicable to the United States population and medical practice, the trial was performed by clinical investigators of recognized competence, the trial was conducted in accordance with cGCP requirements, and the data may be considered valid without the need for an on-site inspection by the FDA or the FDA is able to validate the data through an onsite inspection if deemed necessary.

For purposes of BLA approval of a product candidate, human clinical trials are typically conducted in three sequential phases that may overlap or be combined:

- *Phase 1.* For gene therapies in general, the investigational product is initially introduced into patients with the target disease or condition. These studies are designed to test the safety, dosage tolerance, absorption, metabolism and distribution of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness.
- *Phase 2.* The investigational product is administered to a limited patient population to evaluate the preliminary efficacy, optimal dosages and dosing schedule and to identify possible adverse side effects and safety risks.
- *Phase 3.* The investigational product is administered to an expanded patient population to further evaluate dosage, to provide statistically significant evidence of clinical efficacy and to further test for safety, generally at multiple geographically dispersed clinical trial sites. These clinical trials are intended to establish the overall risk/benefit ratio of the investigational product and to provide an adequate basis for product approval.

When these phases overlap or are combined, the trials may be referred to as Phase 1/2 or Phase 2/3.

In some cases, the FDA may require, or companies may voluntarily pursue, additional clinical trials after a product is approved to gain more information about the product. These so-called Phase 4 studies may be made a condition to approval of the BLA. Concurrent with clinical trials, companies may complete additional animal studies and develop additional information about the characteristics of the product candidate, and must finalize a process for manufacturing the product in commercial quantities in accordance with cGMP requirements. The manufacturing process must be capable of consistently producing quality batches of the product candidate and, among other things, must develop methods for testing the identity, strength, potency, quality and purity of the final product. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the product candidate does not undergo unacceptable deterioration over its shelf life.

During all phases of clinical development, regulatory agencies require extensive monitoring and auditing of all clinical activities, clinical data and clinical study investigators. Written IND safety reports must be promptly submitted to the FDA and the investigators for serious, unexpected and suspected adverse events, any findings from other studies, 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, and unexpected 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 may suspend a clinical study at any time on various grounds, including a finding that the research patients 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. Some studies also include oversight by an independent group of qualified experts organized by the clinical study sponsor, known as a data safety monitoring board, which provides authorization for whether or not a study may move forward at designated

checkpoints based on access to certain data from the study and may recommend halting the clinical trial if it determines that there is an unacceptable safety risk for subjects or other grounds, such as no demonstration of efficacy. 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).

### ***BLA submission and review***

Assuming successful completion of all required testing in accordance with all applicable regulatory requirements, the results of product development, preclinical studies and clinical trials are submitted to the FDA as part of a BLA requesting approval to market the product for one or more indications. FDA approval of a BLA must be obtained before a biologic may be marketed in the United States. The BLA must include all relevant data available from pertinent preclinical studies and clinical trials, including negative or ambiguous results as well as positive findings, together with detailed information relating to the product's chemistry, manufacturing, controls and proposed labeling, among other things. The submission of a BLA requires payment of a substantial application user fee to the FDA, unless a waiver or exemption applies. No user fees are assessed on BLAs for products designated as orphan drugs, unless the product also includes a non-orphan indication. The FDA reviews all submitted BLAs before it accepts them for filing, and may request additional information rather than accepting the BLA for filing. The FDA has sixty days from the applicant's submission of a BLA to either issue a refusal to file letter or accept the BLA for filing, indicating that it is sufficiently complete to permit substantive review.

Once a BLA has been accepted for filing, the FDA's goal is to review standard applications within ten months after it accepts the application for filing, or, if the application qualifies for priority review, six months after the FDA accepts the application for filing. In both standard and priority reviews, the review process can be significantly extended by FDA requests for additional information or clarification. The FDA reviews a BLA to determine, among other things, whether a product is safe, pure and potent for its intended use, and whether the facility in which it is manufactured, processed, packed or held meets standards designed to ensure and preserve the product's identity, safety, strength, quality, potency and purity. The FDA may convene an advisory committee, typically a panel that includes clinicians and other experts, to provide clinical insight on applications for novel products or products which present difficult questions of safety or efficacy. The advisory committee will provide a recommendation as to whether the application should be approved and under what conditions, if any. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations when making decisions on approval. Before approving a BLA, the FDA will typically inspect the facility or facilities where the product is manufactured. The FDA will not approve an application unless it determines that the manufacturing processes and facilities are in compliance with cGMP 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 compliance with cGCPs. If the FDA determines that the application, manufacturing process or manufacturing facilities are not acceptable, it will outline the deficiencies in the submission and often will request additional testing or information. Notwithstanding the submission of any requested additional information, the FDA ultimately may decide that the application does not satisfy the regulatory criteria for approval.

After the FDA evaluates a BLA and conducts inspections of manufacturing facilities where the investigational product and/or its drug substance will be manufactured, the FDA may issue an approval letter or a Complete Response Letter. An approval letter authorizes commercial marketing of the product with specific prescribing information for specific indications. A Complete Response Letter indicates that the review cycle of the application is complete, and the application will not be approved in its present form. A Complete Response



Letter will usually describe all of the deficiencies that the FDA has identified in the BLA, except that where the FDA determines that the data supporting the application are inadequate to support approval, the FDA may issue the Complete Response Letter without first conducting required inspections, testing submitted product lots and/or reviewing proposed labeling. In issuing the Complete Response Letter, the FDA may recommend actions that the applicant might take to place the BLA in condition for approval, including requests for additional information or clarification, which may include the potential requirement for additional preclinical studies or clinical trials or additional manufacturing activities. 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 or request an opportunity for a hearing. The FDA may delay or refuse approval of a BLA if applicable regulatory criteria are not satisfied, require additional testing or information and/or require post-marketing testing and surveillance to monitor the safety or efficacy of a product.

If regulatory approval of a product is granted, such approval will be granted for particular indications and may entail limitations on the indicated uses for which such product may be marketed. For example, the FDA may approve the BLA with a Risk Evaluation and Mitigation Strategy, or REMS, to ensure the benefits of the product outweigh its risks. A REMS is a safety strategy to manage a known or potential serious risk associated with a product and to enable patients to have continued access to such medicines by managing their safe use, and could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA also may condition approval on, among other things, changes to proposed labeling or the development of adequate controls and specifications. Once approved, the FDA may withdraw the product approval if compliance with pre- and post-marketing requirements is not maintained or if problems occur after the product reaches the marketplace. The FDA may require one or more Phase 4 post-market studies and surveillance to further assess and monitor the product's safety and effectiveness after commercialization, and may limit further marketing of the product based on the results of these post-marketing studies.

### ***Expedited development and review programs***

The FDA offers a number of expedited development and reviews programs for qualifying product candidates. The Fast Track program is intended to expedite or facilitate the process for developing 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 designated product candidate has opportunities for frequent interactions with the FDA review team during product development and, once a BLA is submitted, the product candidate may be eligible for priority review. A Fast Track designated product candidate may also be eligible for rolling review, where the FDA may consider for review sections of the 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 BLA, the FDA agrees to accept sections of the BLA and determines that the schedule is acceptable, and the sponsor pays any required user fees upon submission of the first section of the BLA. The sponsor can request the FDA to designate the product candidate for Fast Track status any time before receiving BLA approval, but ideally no later than the pre-BLA meeting.

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 candidate may receive Breakthrough Therapy designation if preliminary clinical evidence indicates that the product candidate, alone or in combination with one or more other drugs or biologics, may demonstrate substantial improvement over available 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.

As part of the 21st Century Cures Act, Congress amended the FDCA to facilitate an efficient development program for, and expedite review of regenerative medicine therapies, which include cell therapies, therapeutic tissue engineering products, human cell and tissue products, and combination products using any such therapies or products. Gene therapies, including genetically modified cells that lead to a durable modification of cells or tissues may meet the definition of a “regenerative medicine therapy.” A product candidate may be eligible for regenerative medicine therapy, or RMAT, designation if it meets the following criteria: (1) it is a regenerative medicine therapy; (2) it is intended to treat, modify, reverse, or cure a serious or life-threatening disease or condition; and (3) preliminary clinical evidence indicates that it has the potential to address unmet medical needs for such a disease or condition. A sponsor may request that the FDA designate a product candidate as an RMAT concurrently with or at any time after the submission of an IND. A BLA for a product candidate that has received RMAT designation may be eligible for priority review or accelerated approval through (1) surrogate or intermediate endpoints reasonably likely to predict long-term clinical benefit or (2) reliance upon data obtained from a meaningful number of sites. Benefits of such designation also include early interactions with FDA to discuss any potential surrogate or intermediate endpoint to be used to support accelerated approval. A product candidate with RMAT designation that is granted accelerated approval and is subject to post-approval requirements may fulfill such requirements through the submission of clinical evidence, clinical studies, patient registries, or other sources of real world evidence, such as electronic health records; the collection of larger confirmatory data sets; or post-approval monitoring of all patients treated with such therapy prior to its approval.

Any marketing application for a biologic submitted to the FDA for approval, including a product 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. A product is eligible for priority review if it is designed to treat a serious or life threatening disease or condition and, if approved, would provide a significant improvement in safety and effectiveness compared to available therapies. For 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.

Additionally, a product candidate may be eligible for accelerated approval if it is designed to treat a serious or life-threatening disease or condition and demonstrates 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 with due diligence to verify and describe the anticipated effect on irreversible morbidity or mortality or other clinical benefit. The FDA may withdraw approval of a product or indication approved under accelerated approval if, for example, the confirmatory trial fails to verify the predicted clinical benefit of the product. In addition, for products being considered for accelerated approval, the FDA generally requires, unless otherwise informed by the agency, pre-approval of all advertising and promotional materials intended for dissemination or publication, which could adversely impact the timing of the commercial launch of the product.

Fast Track designation, Breakthrough Therapy designation, RMAT designation, and priority review 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.

### ***Orphan Drug designation***

Under the Orphan Drug Act, the FDA may grant Orphan Drug designation to a product candidate intended to treat a rare disease or condition, which is generally a disease or condition that affects fewer than 200,000 individuals in the United States, or 200,000 or more 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 product candidate. Orphan Drug designation must be requested before submitting a BLA. After the FDA grants Orphan Drug designation, the 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 or condition 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 BLA, to market the same product 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 by means of greater effectiveness, greater safety or providing a major contribution to patient care or if the holder of the orphan drug exclusivity cannot assure the availability of sufficient quantities of the orphan drug to meet the needs of patients with the disease or condition for which the product was designated. Orphan drug exclusivity does not prevent the 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 BLA application 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 Drug 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.

### ***Rare Pediatric Disease designation and priority review vouchers***

Under the FDCA, as amended, the FDA incentivizes the development of product candidates that meet the definition of a “rare pediatric disease,” defined to mean a serious or life-threatening disease in which the serious or life-threatening manifestations primarily affect individuals aged from birth to 18 years and the disease affects fewer than 200,000 individuals in the United States or affects 200,000 or more in the United States and for which there is no reasonable expectation that the cost of developing and making in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. The sponsor of a product candidate for a rare pediatric disease may be eligible for a voucher that can be used to obtain a priority review for a subsequent human drug or biologic application after the date of approval of the rare pediatric disease drug product. A sponsor may request Rare Pediatric Disease designation from the FDA prior to the submission of its BLA. A Rare Pediatric Disease designation does not guarantee that a sponsor will receive a priority review voucher, or PRV, upon approval of its BLA. Moreover, a sponsor who chooses not to submit a Rare Pediatric Disease designation request may nonetheless receive a PRV upon approval of their marketing application if they request such a voucher in their original marketing application and meet all of the eligibility criteria. If a PRV is received, it may be sold or transferred an unlimited number of times. Congress has extended the PRV program until September 30, 2024, with the potential for PRVs to be granted until September 30, 2026.

***Pediatric information and pediatric exclusivity***

Under the Pediatric Research Equity Act, or PREA, certain BLAs and certain supplements to a BLA must contain data to assess the safety and efficacy of the product 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 FDA may grant deferrals for the submission of pediatric data or full or partial waivers. The Food and Drug Administration Safety and Innovation Act, or FDASIA, amended the FDCA to require that a sponsor who is planning to submit a marketing application for a 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 60 days of an end-of-Phase 2 meeting or, if there is no such meeting, as early as practicable before the initiation of the Phase 3 or Phase 2/3 study. The initial PSP must include an outline of the pediatric study or studies that the sponsor plans to conduct, including study objectives and design, age groups, relevant endpoints and statistical approach, or a justification for not including such detailed information, and any request for a deferral of pediatric assessments or a full or partial waiver of the requirement to provide data from pediatric studies along with supporting information. The FDA and the sponsor must reach an agreement on the PSP. A sponsor can submit amendments to an agreed-upon initial PSP at any time if changes to the pediatric plan need to be considered based on data collected from preclinical studies, early phase clinical trials and/or other clinical development programs. A biological product can also obtain pediatric market exclusivity in the United States. Pediatric exclusivity, if granted, adds six months to existing exclusivity periods. This six-month exclusivity, which runs from the end of other exclusivity protection, may be granted based on the voluntary completion of a pediatric study in accordance with an FDA-issued “Written Request” for such a study.

***Post-approval requirements***

Any products manufactured or distributed by us pursuant to FDA approvals 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. As part of the manufacturing process, the manufacturer is required to perform certain tests on each lot of the product before it is released for distribution. After a BLA is approved for a biological product, the product also may be subject to official lot release. If the product is subject to official release by the FDA, the manufacturer submits samples of each lot of product to the FDA together with a release protocol showing a summary of the history of manufacture of the lot and the results of all of the manufacturer’s tests performed on the lot. The FDA also may perform certain confirmatory tests on lots of some products before releasing the lots for distribution by the manufacturer. In addition, the FDA conducts laboratory research related to the regulatory standards on the safety, purity, potency and effectiveness of biologics. 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 user fee requirements, under which the FDA assesses an annual program fee for each product identified in an approved BLA. 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 cGMPs, which impose certain procedural and documentation requirements upon us and our third-party manufacturers. 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 cGMPs and impose reporting requirements upon us and any third-party manufacturers that we may decide to use. Manufacturers and other parties involved in the drug supply chain for prescription drug products must also comply with product tracking and tracing requirements and for notifying the FDA of counterfeit, diverted, stolen and intentionally adulterated products or products that are otherwise unfit for distribution in the United States. Accordingly, manufacturers must continue to expend time, money and effort in the area of production and quality control to maintain compliance with cGMPs and other aspects of regulatory compliance.

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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 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 or untitled 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. However, companies may share truthful and not misleading information that is otherwise consistent with a product's FDA-approved labeling. 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 reference product exclusivity***

The ACA includes a subtitle called the Biologics Price Competition and Innovation Act, or BPCIA, which created an abbreviated approval pathway for biologics that are biosimilar to or interchangeable with an FDA-approved reference biological product. To date, a number of biosimilars have been licensed under the BPCIA, and numerous biosimilars have been approved in Europe. 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, can be 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

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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. Complexities associated with the larger, and often more complex, structures of biologics, as well as the processes by which such products are manufactured, pose significant hurdles to the 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.

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 and implementation of the BPCIA are subject to significant uncertainty.

### ***Regulation of companion diagnostics***

If the safe and effective use of a therapeutic depends on an *in vitro* diagnostic, then the FDA generally will require approval or clearance of that diagnostic, known as a companion diagnostic, at the same time that the FDA approves the therapeutic product. In August 2014, the FDA issued final guidance clarifying the requirements that will apply to approval of therapeutic products and *in vitro* companion diagnostics. According to the guidance, for novel candidates, a companion diagnostic device and its corresponding therapeutic should be approved or cleared contemporaneously by the FDA for the use indicated in the therapeutic product's labeling. Once cleared or approved, the companion diagnostic must adhere to post-marketing requirements including the requirements of FDA's quality system regulation, medical device reporting, recalls and corrections along with product marketing requirements and limitations. Companion diagnostic manufacturers are subject to unannounced FDA inspections at any time during which the FDA will conduct an audit of the product(s) and the company's facilities for compliance with its authorities.

### ***Foreign regulation***

In order to market any product outside of the United States, we would need to comply with numerous and varying regulatory requirements of other countries and jurisdictions regarding quality, safety, and efficacy and governing, among other things, clinical trials, marketing authorization, commercial sales and distribution of our products. Whether or not we obtain FDA approval for a product, we would need to obtain the necessary approvals by the comparable foreign regulatory authorities before we can commence clinical trials or marketing of the product in foreign countries and jurisdictions. Although many of the issues discussed above with respect to the United States apply similarly in the context of the European Union, the approval process varies between countries and jurisdictions and can involve additional product testing and additional administrative review periods. The time required to obtain approval in other countries and jurisdictions might differ from and be longer than that required to obtain FDA approval. Regulatory approval in one country or jurisdiction does not ensure regulatory approval in another, but a failure or delay in obtaining regulatory approval in one country or jurisdiction may negatively impact the regulatory process in others.

***Other healthcare laws and compliance requirements***

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, particularly once they have a commercialized product that is reimbursable by third-party payor programs. Such laws include, without limitation: the U.S. federal Anti-Kickback Statute, the civil False Claims Act, the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, and similar foreign, federal and state fraud and abuse, transparency and privacy laws.

- The U.S. federal Anti-Kickback Statute prohibits, among other things, persons and entities from knowingly and willfully soliciting, receiving, offering or paying remuneration, to induce, or in return for, either the referral of an individual, or the purchase or recommendation of an item or service for which payment may be made under any federal healthcare program. The term remuneration has been interpreted broadly to include anything of value, including stock options. There are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution, but they are drawn narrowly, and practices that involve remuneration, such as consulting agreements, that may be alleged to be intended to induce prescribing, purchasing or recommending may be subject to scrutiny if they do not qualify for an exception or safe harbor. Our practices may not in all cases meet all of the criteria for protection under a statutory exception or regulatory safe harbor. 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. Violations are subject to civil and criminal fines and penalties for each violation, plus up to three times the remuneration involved, imprisonment, and exclusion from government healthcare programs. In addition, a claim including items or services resulting from a violation of the U.S. federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the civil False Claims Act.
- Civil and criminal false claims laws, and civil monetary penalty laws, including the civil False Claims Act, which can be enforced through civil whistleblower or qui tam actions, prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment to the federal government, including federal healthcare programs, that are false or fraudulent. For example, the civil False Claims Act prohibits any person or entity from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, using or causing to be made or used a false record or statement material to a false or fraudulent claim to the federal government.
- HIPAA created additional federal civil and criminal liability for, among other things, knowingly and willfully executing 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 can be found guilty of violating HIPAA without actual knowledge of the statute or specific intent to violate it.
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH, and their respective implementing regulations, impose certain requirements on HIPAA covered entities, which include certain healthcare providers, healthcare clearing houses and health plans, and individuals and entities that provide services on their behalf that involve individually identifiable health information, known as business associates, relating to the privacy, security and transmission of individually identifiable health information, as well as their covered subcontractors. HITECH also created new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates, and gave state attorneys general new authority to file civil actions for damages or injunctions in

federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions.

- The U.S. federal Physician Payments Sunshine Act requires certain manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program, with specific exceptions, to annually report to the Centers for Medicare and Medicaid Services, or CMS, information related to payments or other transfers of value made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain other licensed healthcare professionals (such as physician assistants and nurse practitioners), and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members.

We may also be subject to additional similar U.S. state and foreign law equivalents of each of the above federal laws, such as anti-kickback and false claims laws which may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers, or that apply regardless of payor, state laws which require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government, state and local laws which require pharmaceutical companies to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures, state laws which require the reporting of information related to product pricing, state and local laws requiring the registration of pharmaceutical sales representatives, and state and foreign laws governing the privacy and security of health information which, in some cases, differ from each other in significant ways, and may not have the same effect, thus complicating compliance efforts. If our operations are found to be in violation of any of such laws or any other governmental regulations that apply, we may be subject to penalties, including, without limitation, significant 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.

### ***Coverage and reimbursement***

Significant uncertainty exists as to the coverage and reimbursement status of any pharmaceutical or biological product for which we obtain regulatory approval in the future. Sales of any product, if approved, 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, if any, for such product by third-party payors. Decisions regarding whether to cover any of our product candidates, if approved, the extent of coverage and amount of reimbursement to be provided are made on a plan-by-plan basis. Further, no uniform policy for coverage and reimbursement exists in the United States, and coverage and reimbursement can differ significantly from payor to payor.

Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement rates, but also have their own methods and approval process apart from Medicare determinations. 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. For example, the FDA recently approved a monoclonal antibody treatment for Alzheimer's disease, aducanumab (Aduhelm), which is the first Alzheimer's disease drug to be approved in nearly 20 years. On April 7, 2022, CMS released a national coverage determination for FDA-approved monoclonal antibodies directed against amyloid for the treatment of Alzheimer's disease, including aducanumab (Aduhelm). Further, on January 6, 2023, CMS



announced that this coverage determination also applies to lecanemab (Leqembi). Nevertheless, it is possible that CMS may not approve Medicare coverage and reimbursement for any of our product candidates for treatment of Alzheimer’s disease, once approved.

Furthermore, it is possible that one or more of our product candidates may not be considered medically necessary or cost effective. A decision by a third-party payor not to cover any product candidates we may develop could reduce physician utilization of such product candidates once approved and have a material adverse effect on our sales, results of operations and financial condition.

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.

In addition, the U.S. government, state legislatures and foreign governments have continued implementing cost-containment programs, including price controls, restrictions on coverage and reimbursement and requirements for substitution of generic products. Third-party payors are increasingly challenging the prices charged for medical products and services, examining the medical necessity and reviewing the cost-effectiveness of pharmaceutical or biologics, medical devices and medical services, in addition to questioning safety and efficacy. 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 that receives approval. Decreases in third-party reimbursement for any product or a decision by a third party not to cover a product could reduce physician usage and patient demand for the product. In addition, companion diagnostic tests require coverage and reimbursement separate and apart from the coverage and reimbursement for their companion pharmaceutical or biological products. Similar challenges to obtaining coverage and reimbursement, applicable to pharmaceutical or biological products, will apply to companion diagnostics.

Outside the United States, ensuring adequate coverage and payment for any biological candidates we may develop will face challenges. Pricing of prescription pharmaceuticals is subject to governmental control in many countries. Pricing negotiations with governmental authorities can extend well beyond the receipt of regulatory marketing approval for a product and may require us to conduct a clinical trial that compares the cost effectiveness of any product candidates we may develop to other available therapies. The conduct of such a clinical trial could be expensive and result in delays in our commercialization efforts. In the European Union, pricing and reimbursement schemes vary widely from country to country. Some countries provide that products may be marketed only after a reimbursement price has been agreed. Some countries may require the completion of additional studies that compare the cost-effectiveness of a particular product candidate to currently available therapies (so called health technology assessments) in order to obtain reimbursement or pricing approval. For example, the European Union provides options for its member states to restrict the range of products for which their national health insurance systems provide reimbursement and to control the prices of medicinal products for human use. European Union member states may approve a specific price for a product or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the product on the market. Other member states allow companies to fix their own prices for products but monitor and control prescription volumes and issue guidance to physicians to limit prescriptions. Recently, many countries in the European Union have increased the amount of discounts required on pharmaceuticals and these efforts could continue as countries attempt to manage healthcare expenditures, especially in light of the severe fiscal and debt crises experienced by many countries in the European Union. The downward pressure on healthcare costs in general, particularly prescription products, has become intense. As a result, increasingly high barriers are being erected to the entry of new products. Political, economic and regulatory developments may further complicate pricing negotiations, and pricing negotiations may continue after reimbursement has been obtained. Reference pricing used by various European Union member states, and parallel trade (arbitrage between low-priced and high-priced member states),

can further reduce prices. There can be no assurance that any country that has price controls or reimbursement limitations for pharmaceutical products will allow favorable reimbursement and pricing arrangements for any of our products, if approved in those countries.

## **Healthcare reform**

The United States and some foreign jurisdictions are considering or have enacted a number of reform proposals to change the healthcare system. There is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality or expanding access. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by federal and state legislative initiatives, including those designed to limit the pricing, coverage and reimbursement of pharmaceutical and biopharmaceutical products, especially under government-funded healthcare programs, and increased governmental control of drug pricing.

The ACA, which was enacted in 2010, substantially changed the way healthcare is financed by both governmental and private insurers in the United States, and significantly affected the pharmaceutical industry. In addition, other legislative and regulatory changes have been proposed and adopted in the United States since the ACA was enacted:

- The Budget Control Act of 2011 and subsequent legislation, among other things, created measures for spending reductions by Congress that include aggregate reductions of Medicare payments to providers of 2% per fiscal year, which remain in effect through 2032. Due to the Statutory Pay-As-You-Go Act of 2010, estimated budget deficit increases resulting from the American Rescue Plan Act of 2021, and subsequent legislation, Medicare payments to providers will be further reduced starting in 2025 absent further legislation. The U.S. American Taxpayer Relief Act of 2012 further reduced Medicare payments to several types of providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.
- On April 13, 2017, CMS published a final rule that gives states greater flexibility in setting benchmarks for insurers in the individual and small group marketplaces, which may have the effect of relaxing the essential health benefits required under the ACA for plans sold through such marketplaces.
- On May 23, 2019, CMS published a final rule to allow Medicare Advantage Plans the option of using step therapy for Part B drugs beginning January 1, 2020.

Additionally, 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. presidential executive orders, 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. The IRA includes several provisions that may impact our business to varying degrees, including provisions that reduce the out-of-pocket spending cap for Medicare Part D beneficiaries from \$7,050 to \$2,000 starting in 2025, thereby effectively eliminating the coverage gap; impose new manufacturer financial liability on certain drugs under Medicare Part D, allow the U.S. government to negotiate Medicare Part B and Part D price caps for certain high-cost drugs and biologics without generic or biosimilar competition; require companies to pay rebates to Medicare for certain drug prices that increase faster than inflation; and delay until January 1, 2032 the implementation of the HHS rebate rule that would have limited the fees that pharmacy benefit managers can charge. The IRA permits HHS to implement many of these provisions through guidance, as opposed to regulation, for the initial years. These provisions will take effect progressively starting in fiscal year 2023, although they may be subject to legal challenges. HHS has and will continue to issue and update guidance as these programs are implemented. Further, under the IRA, orphan drugs

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are exempted from the Medicare drug price negotiation program, but only if they have one rare disease designation and for which the only approved indication is for that disease or condition. If a product receives multiple rare disease designations or has multiple approved indications, it may not qualify for the orphan drug exemption. It is currently unclear how the IRA will be implemented but is likely to have a significant impact on the pharmaceutical industry.

In addition, in response to the Biden administration's October 2022 executive order, on February 14, 2023, HHS released a report outlining three new models for testing by the Center for Medicare and Medicaid Innovation which will be evaluated on their ability to lower the cost of drugs, promote accessibility, and improve quality of care. It is unclear whether the models will be utilized in any health reform measures in the future. Although a number of these and other proposed measures may require authorization through additional legislation to become effective, and the Biden administration may reverse or otherwise change these measures, both the Biden administration and Congress have indicated that they will continue to seek new legislative measures to control drug costs.

At the state level, legislatures have increasingly passed legislation and implemented 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.

### **Facilities**

In January 2022, we entered into a lease agreement for our New York headquarters located at 345 Park Avenue South, 6th Floor, New York, NY 10010, pursuant to which we lease a total of approximately 15,839 square feet of office and laboratory space used for our research and development, general and administrative, and other activities. This lease agreement began in April 2022 and expires in July 2029 with an additional five-year option to extend at the then prevailing effective market rental rate. We believe that our new facilities are sufficient to meet our current needs and that suitable additional space will be available as and when needed.

### **Employees and human capital resources**

As of September 19, 2023, we had 53 full-time employees. Of our 53 full-time employees, 41 are engaged in research and development activities. None of our employees are represented by labor unions or covered by collective bargaining agreements. 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, medical professionals, engineers and laboratory technicians, with technical expertise in operations, scientific knowledge, engineering skills and quality management experience in order to operate our business successfully.

Our compensation program is designed to retain, motivate and, as needed, attract highly qualified employees. Accordingly, we use a mix of competitive base salary, performance-based equity compensation awards and other employee benefits.

### **Legal proceedings**

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not currently subject to any material legal proceedings.

# Management

## Executive officers and directors

The following table provides information regarding our current executive officers and directors, including their ages as of June 30, 2023:

Name	Age	Position(s)
<b>Executive Officers</b>		
R. Nolan Townsend	43	Chief Executive Officer and Director
Eric Adler, M.D.	50	Chief Scientific Officer
Paul McCormac, Ph.D.	53	Chief Technical Officer
Jenny R. Robertson	49	Chief Legal and Administrative Officer
<b>Non-Employee Directors</b>		
Steven Altschuler, M.D.	69	Chairman of the Board of Directors
Mette Kirstine Agger	58	Director
Paula HJ Cholmondeley	76	Director
Brenda Cooperstone, M.D.	59	Director
Bernard Davitian	63	Director
Reinaldo Diaz	69	Director

## Executive officers

**R. Nolan Townsend** has served as our Chief Executive Officer and as a member of our board of directors since January 2020. Before joining Lexeo, Mr. Townsend was at Pfizer Inc., a global pharmaceutical company, from 2008 to December 2019, where he held several roles of increasing responsibility. Most recently, he served as President, Pfizer Rare Disease for the North America region. In that role, Mr. Townsend was responsible for overseeing the division's overall strategy, cross functional organization and operating budget. Mr. Townsend received a B.A. in Economics from the University of Pennsylvania and an M.B.A. from the Harvard Business School. Our board of directors believes Mr. Townsend is qualified to serve as a director because of his role as our Chief Executive Officer and his experience as an executive in the biopharmaceutical industry.

**Eric Adler, M.D.** has served as our Chief Scientific Officer since August 2022. Before joining Lexeo and since July 2011, Dr. Adler has worked at the University of California, San Diego, or UCSD, where he now serves as Professor and Section Head of Heart Failure. He is also the Director of the Strauss Center for Cardiomyopathy and Czarina M. and Humberto S. Lopez Endowed Chair in Cardiology at UCSD. His work has led to the development of a novel investigational gene therapy for Danon disease, which is currently in Phase 1 clinical development. Dr. Adler's research is focused on the study and treatment of cardiomyopathy and he has published over 100 papers in peer-reviewed journals on the topic. He is currently an associate editor of *Circulation Heart Failure*, and he has served on leadership, grant review, and guideline committees for the American Heart Association, the Heart Failure Society of America, the International Society of Heart and Lung Transplant, and the National Institute of Health. Dr. Adler also performs clinical research on heart failure and has been a principal investigator in numerous cardiovascular clinical trials. Dr. Adler received a B.A. in English from Northwestern University and an M.D. from the Boston University School of Medicine.

**Paul McCormac, Ph.D.** has served as our Chief Technical Officer since December 2021, prior to this he served as our Senior Vice President of Technical Operations since March 2021. Before joining Lexeo, Dr. McCormac was an Executive Director, Medicinal Sciences Category Lead for Pfizer Rare Disease, a unit of Pfizer, Inc., a global pharmaceutical company, from October 2016 until March 2021. In that role, he managed chemistry,

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manufacturing, and controls, or CMC, for product development with a focus on Pfizer's gene therapy CMC strategy. Prior to this, he served as Director/Team Leader for Pfizer's Bio-Manufacturing Sciences group from November 2008 until October 2016. Dr. McCormac received a B.S. in Analytical Science and a Ph.D. in Organic Chemistry from Dublin City University and completed a post-doctoral fellowship at Queen's University Belfast.

**Jenny R. Robertson, J.D.**, has served as our Chief Legal and Administrative Officer since July 2023. She previously served as our General Counsel and Company Secretary from March 2022 through December 2022 and as Senior Vice President, General Counsel and Head of People from January 2023 through June 2023. Before joining Lexeo, from April 2010 to March 2022, Ms. Robertson served in various senior legal roles at Pfizer Inc., a global pharmaceutical company, most recently as Vice President and Chief Counsel to Pfizer's Oncology Business Unit. Prior to that role, Ms. Robertson served as Chief Counsel for Pfizer's Rare Disease Business Unit from April 2016 to September 2020. From 2000 to 2010, Ms. Robertson was in private practice with Hogan & Hartson LLP. Ms. Robertson received a B.A. in Political Science from Southern Illinois University and a J.D. from the Georgetown University Law Center.

### **Non-employee directors**

**Steven Altschuler, M.D.**, has served as the Chairman of our board of directors since January 2021. Dr. Altschuler has served as a Managing Director, Healthcare Ventures, of Ziff Capital Partners, a private investment firm, since May 2018. He previously served as a consultant to the University of Miami Health Care System from September 2017 through December 2017, the Chief Executive Officer of the University of Miami Health Care System and Executive Vice President for Healthcare at the University of Miami from January 2016 to September 2017, and the Chief Executive Officer of The Children's Hospital of Philadelphia, or CHOP, from April 2000 until June 2015. Prior to assuming the role of Chief Executive Officer, Dr. Altschuler held several positions at CHOP and the Perelman School of Medicine at the University of Pennsylvania, including Physician-in-Chief/Chair of Pediatrics and chief of the Division of Gastroenterology, Hepatology and Nutrition. Dr. Altschuler has served as a director of WW International, Inc. since September 2012, as a director of Orchard Therapeutics plc since January 2020 and as a director of 89bio, Inc. since March 2020. He previously served as Chair of the board of directors of Spark Therapeutics, Inc. from March 2013 to December 2019 and as a director of Adtalem Global Education Inc. from May 2018 to May 2020. Dr. Altschuler received a B.A. in Mathematics and an M.D. from Case Western Reserve University. Our board of directors believes Dr. Altschuler is qualified to serve on our board of directors based on his experience holding senior leadership positions within biotechnology companies and his role on public and private boards of directors, as well as his experience investing in healthcare companies.

**Mette Kirstine Agger** has served as a member of our board of directors since November 2020. Ms. Agger has served as Chief Executive Officer and Strategic Advisor of Ersum Biotech since March 2022. From 2009 to 2022, Ms. Agger served as a Senior Advisor and Managing Partner of Lundbeckfonden Biocapital (formerly Lundbeckfonden Ventures), a life sciences venture capital fund. Prior to joining Lundbeckfonden Biocapital, Ms. Agger co-founded 7TM A/S, a biotech company engaged in therapeutic drug discovery and development, in 2000, and served as its Chief Executive Officer from founding to 2009. Ms. Agger served on the board of Trevi Therapeutics, Inc., a public life sciences company, from July 2017 to June 2019 and Veloxis Pharmaceuticals A/S, a public pharmaceutical company from April 2010 to December 2019, and has served on the board of directors of Imara Inc., a public biopharmaceutical company from January 2016 to June 2020 and scPharmaceuticals Inc., a public pharmaceutical company, since March 2014. Ms. Agger received her M.Sc. in Biology from the University of Copenhagen and received her M.B.A. from Henley Business School at the University of Reading. Our board of directors believe Ms. Agger is qualified to serve on our board of directors based on her experience holding senior leadership positions within biotechnology companies and her role on public and private boards of directors, as well as her experience investing in healthcare companies.

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**Paula HJ Cholmondeley** has served as a member of our board of directors since November 2021. Ms. Cholmondeley has been the Chief Executive Officer of the Sorrel Group, a management consulting firm, since January 2004 and has been a part time faculty member of the National Association of Corporate Directors, or NACD, a corporate governance association, since June 2008. Ms. Cholmondeley is a NACD Certified Director and has been elected to the NACD Directorship 100. She is a former Chief Financial Officer and Certified Public Accountant. She has also held profit and loss roles as a Divisional President. Ms. Cholmondeley has served on the boards of directors of the Bank OZK, a regional bank headquartered in Little Rock, Arkansas, since May 2016, of Terex Corporation, a manufacturing company since 2004, and of Nationwide Mutual Funds, an investment firm, from 2002 to 2022. Ms. Cholmondeley holds an M.S. and a B.S. in Accounting from the Wharton School of the University of Pennsylvania. Our board of directors believes Ms. Cholmondeley is qualified to serve on our board of directors because of her financial leadership experience and her leadership on public boards of directors.

**Brenda Cooperstone, M.D.** has served as a member of our board of directors since August 2023. Dr. Cooperstone has held various leadership positions at Pfizer, Inc. (NYSE: PFE), a public biopharmaceutical company, including as Senior Vice President since May 2017, Chief Development Officer for Rare Disease in Global Product Development from May 2016 to December 2022, and Head of Development for Rare Disease in Global Product Development from November 2015 to May 2016. Dr. Cooperstone has served as a member of the board of directors of Senti Biosciences, Inc. since October 2019. Dr. Cooperstone started her career in the pharmaceutical industry at Wyeth Pharmaceuticals Inc. in 1999 and joined Pfizer, Inc., when it acquired Wyeth Pharmaceuticals, Inc., in 2009. Dr. Cooperstone earned her M.D. from McGill University, and completed her residency in pediatrics at the Montreal Children's Hospital, her clinical fellowship in pediatric nephrology at Children's Hospital of Philadelphia and a research fellowship at the University of Pennsylvania's Renal Electrolyte division. Our board of directors believes Dr. Cooperstone is qualified to serve on our board of directors because of her extensive experience in the pharmaceutical industry and experience in public company board leadership.

**Bernard Davitian** has served as a member of our board of directors since November 2020. Mr. Davitian has been a Partner at Omega Funds, a life sciences-focused investment fund, since January 2020. Prior to that, Mr. Davitian served as Senior Vice President and Managing Director at Sanofi Ventures, the venture capital arm of Sanofi S.A., or Sanofi, for seven years from June 2012 to October 2019. Previously, he served as the Deputy of the Global Head of Business Development at Sanofi for two years. Prior to Sanofi, Mr. Davitian was Chief Financial Officer at Fovea Pharmaceuticals SA, a French biopharmaceutical R&D company specializing in ophthalmology (which was acquired by Sanofi in 2009), Chief Executive Officer at Neurotech Pharmaceuticals, Inc., a biotechnology company developing sight saving therapies for retinal diseases, and Chief Financial Officer at Transgene SA, a biopharmaceutical company. Previously, he served in various capacities at Institut Mérieux, including that of Corporate Chief Financial Officer. Prior to that, he was a senior auditor at Arthur Andersen LLP. Mr. Davitian has extensive experience in the life sciences and biotech industry, marked by a number of successful transactions involving financings, public offerings and acquisitions. A Certified Public Accountant in France, Mr. Davitian holds an M.Sc. in Management (M.B.A. equivalent) from the EM Lyon Business School (France) and an A.M.P. from the Wharton School of Business at the University of Pennsylvania. Our board of directors believes Mr. Davitian is qualified to serve as a director because of his experience and leadership in healthcare venture capital investing.

**Reinaldo Diaz** has served as a member of our board of directors since February 2022. Mr. Diaz has served as a Venture Partner at Longitude Capital, a healthcare venture capital firm since 2015, and he currently serves as the Chief Business Officer of Opna-Immuno Oncology, SA, a Longitude Capital portfolio company. Mr. Diaz has also served as a Managing Director of DA Advisors, LLC since 2005, providing strategic and financial advice primarily to life science companies. From 2008 to 2018, Mr. Diaz served as a managing director at Auen Therapeutics, a private equity firm focusing on life science companies. From 1996 to 2005, Mr. Diaz served as

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a managing member and co-founder of Diaz & Altschul Capital Management, LLC, an asset management firm focusing on healthcare companies. Prior to that, Mr. Diaz served as a managing director and head of the healthcare group at Schroder Wertheim & Co., Inc., and in various roles at PaineWebber Development Corporation, including as president. Mr. Diaz currently serves on the board of directors of the public pharmaceutical company, Inozyme Pharma, Inc. Mr. Diaz received a B.A. in General Studies from Harvard University and an M.B.A. from Harvard Business School. Our board of directors believes Mr. Diaz is qualified to serve as a director because of his experience in the life sciences industry and in public company board leadership.

### **Board composition**

Our business and affairs are managed under the direction of our board of directors, which currently consists of seven members. Our directors were elected to, and currently serve on, the board pursuant to a voting agreement among us and all of our stockholders and voting rights granted by our current amended and restated certificate of incorporation. The voting agreement will terminate upon the closing of this offering, after which there will be no further contractual obligations regarding the election of our directors.

In accordance with our amended and restated certificate of incorporation that will be in effect upon the closing of this offering, our board of directors will be divided into three classes, each of which will consist, as nearly as possible, of one-third of the total number of directors constituting our entire board and which will serve 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. Our directors will be divided among the three classes as follows:

- Class I, which will consist of Bernard Davitian and Mette Kirstine Agger, and their terms will expire at our first annual meeting of stockholders to be held after the closing of this offering;
- Class II, which will consist of Steven Altschuler and Reinaldo Diaz, and their terms will expire at our second annual meeting of stockholders to be held after the closing of this offering; and
- Class III, which will consist of Brenda Cooperstone, R. Nolan Townsend and Paula HJ Cholmondeley, and their terms will expire at our third annual meeting of stockholders to be held after the closing of this offering.

Our amended and restated bylaws, which will become effective upon the closing of this offering, will provide that the authorized number of directors may be changed only by resolution approved by a majority of our 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 of control.

### **Director independence**

Applicable Nasdaq rules, or the Nasdaq Listing Rules, require a majority of a listed company's board of directors to be comprised of independent directors within one year of listing. In addition, the Nasdaq Listing Rules require that, subject to specified exceptions, each member of a listed company's audit, compensation and nominating and corporate governance committees be independent and that audit committee members also satisfy independence criteria set forth in Rule 10A-3 under the Exchange Act of 1934, as amended, or the Exchange Act. The Nasdaq independence definition includes a series of objective tests, such as that the director is not, and has not been for at least three years, one of our employees, that neither the director nor any of his family members has engaged in various types of business dealings with us and that the director is not associated with the holders of more than 5%

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of our common stock. In addition, under applicable Nasdaq rules, a director will only qualify as an “independent director” if, in the opinion of the listed company’s board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Our board of directors has determined that all of our directors other than R. Nolan Townsend, representing six of our seven directors, are “independent directors” as defined under applicable Nasdaq rules. In making such determination, our board of directors considered the current and prior relationships that each such director has with our company and all other facts and circumstances that our board of directors deemed relevant in determining his or her independence, including the beneficial ownership of our capital stock by each director and the transactions described in the section titled “Certain Relationships and Related Party Transactions.”

There are no family relationships among any of our directors or executive officers.

### **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 the 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. Following the completion of this offering, we intend for our audit committee to have 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. The audit committee will also monitor compliance with legal and regulatory requirements.

### **Board committees**

Our board of directors has established an audit committee, compensation committee and a nominating and corporate governance committee, each of which operate pursuant to a committee charter. Our board of directors may establish other committees to facilitate the management of our business. The composition and functions of each committee are described below.

#### ***Audit committee***

Upon the completion of this offering, our audit committee will consist of Paula HJ Cholmondeley, Mette Kirstine Agger and Steven Altschuler, with Ms. Cholmondeley serving as chair of the audit committee. Our board of directors has determined that each of these individuals meets the independence requirements of Rule 10A-3 under the Securities Exchange Act of 1934, or the Exchange Act, and the applicable listing standards of Nasdaq. Each member of our audit committee can read and understand fundamental financial statements in accordance with Nasdaq audit committee requirements. Our board of directors has also determined that Ms. Cholmondeley qualifies as an audit committee financial expert within the meaning of SEC regulations and meets the financial sophistication requirements of the Nasdaq Listing Rules. In arriving at these determinations, the board has examined each audit committee member’s scope of experience and the nature of their prior and/or current employment.

The functions of this committee include, among other things:

- helping our board of directors oversee our corporate accounting and financial reporting processes;
- managing the selection, engagement, qualifications, independence and performance of a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;



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- discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing, with management and the independent accountants, our interim and year-end operating results;
- developing procedures for employees to submit concerns anonymously about questionable accounting or audit matters;
- reviewing related person transactions;
- obtaining and reviewing a report by the independent registered public accounting firm at least annually that describes our internal quality control procedures, any material issues with such procedures and any steps taken to deal with such issues when required by applicable law;
- approving or, as permitted, pre-approving, audit and permissible non-audit services to be performed by the independent registered public accounting firm;
- reviewing and evaluating on an annual basis the performance of the audit committee and the audit committee charter; and
- any other responsibility delegated to it by the board of directors from time to time.

We believe that the composition and functioning of our audit committee will comply with all applicable SEC and Nasdaq rules and regulations. We intend to comply with future requirements to the extent they become applicable to us.

### ***Compensation committee***

Upon the completion of this offering, our compensation committee will consist of Brenda Cooperstone, Steven Altschuler and Paula HJ Cholmondeley, with Dr. Cooperstone serving as chair of the compensation committee. Each of these individuals is a non-employee director, as defined in Rule 16b-3 promulgated under the Exchange Act and is an “outside director,” as defined pursuant to Section 162(m) of the Internal Revenue Code of 1986, as amended, or the Code. Our board of directors has determined that each of these individuals is “independent” as defined under the applicable listing standards of Nasdaq, including the standards specific to members of a compensation committee. The functions of this committee include, among other things:

- reviewing, modifying and approving (or if it deems appropriate, making recommendations to the full board of directors regarding) our overall compensation strategy and policies;
- making recommendations to the full board of directors regarding the compensation and other terms of employment of our executive officers;
- reviewing and making recommendations to the full board of directors regarding performance goals and objectives relevant to the compensation of our executive officers and assessing their performance against these goals and objectives;
- reviewing and approving (or if it deems it appropriate, making recommendations to the full board of directors regarding) the equity incentive plans, compensation plans and similar programs advisable for us, as well as modifying, amending or terminating existing plans and programs;
- evaluating risks associated with our compensation policies and practices and assessing whether risks arising from our compensation policies and practices for our employees are reasonably likely to have a material adverse effect on us;

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- reviewing and making recommendations to the full board of directors regarding the type and amount of compensation to be paid or awarded to our non-employee board members;
- establishing policies with respect to votes by our stockholders to approve executive compensation to the extent required by Section 14A of the Exchange Act and, if applicable, determining our recommendations regarding the frequency of advisory votes on executive compensation;
- reviewing and assessing the independence of compensation consultants, legal counsel and other advisors as required by Section 10C of the Exchange Act;
- administering our equity incentive plans;
- establishing policies with respect to equity compensation arrangements;
- reviewing the competitiveness of our executive compensation programs and evaluating the effectiveness of our compensation policy and strategy in achieving expected benefits to us;
- reviewing and making recommendations to the full board of directors regarding the terms of any employment agreements, severance arrangements, change in control protections, any “clawback” policy and any other compensatory arrangements for our executive officers;
- reviewing with management and approving our disclosures under the caption “Compensation Discussion and Analysis” in our periodic reports or proxy statements to be filed with the SEC, to the extent such caption is included in any such report or proxy statement;
- preparing the report that the SEC requires in our annual proxy statement;
- reviewing and evaluating on an annual basis the performance of the compensation committee and the compensation committee charter; and
- any other responsibility delegated to it by the board of directors from time to time.

We believe that the composition and functioning of our compensation committee will comply with all applicable SEC and Nasdaq rules and regulations. We intend to comply with future requirements to the extent they become applicable to us.

### ***Nominating and corporate governance committee***

Upon the completion of this offering, our nominating and corporate governance committee will consist of Mette Kirstine Agger, Reinaldo Diaz and Brenda Cooperstone, with Ms. Agger serving as chair of the nominating and corporate governance committee. Our board of directors has determined that each of these individuals is “independent” as defined under the applicable listing standards of Nasdaq and SEC rules and regulations. The functions of this committee include, among other things:

- identifying, reviewing and evaluating candidates to serve on our board of directors;
- determining the minimum qualifications for service on our board of directors;
- evaluating director performance on the board and applicable committees of the board and determining whether continued service on our board is appropriate;
- evaluating, nominating and recommending individuals for membership on our board of directors;
- evaluating nominations by stockholders of candidates for election to our board of directors;

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- considering and assessing the independence of members of our board of directors;
- developing a set of corporate governance policies and principles and recommending to our board of directors any changes to such policies and principles;
- reviewing and making recommendations to the board of directors with respect to management succession planning;
- considering questions of possible conflicts of interest of directors as such questions arise;
- reviewing and evaluating on an annual basis the performance of the nominating and corporate governance committee and the nominating and corporate governance committee charter; and
- any other responsibility delegated to it by the board of directors from time to time.

We believe that the composition and functioning of our nominating and corporate governance committee will comply with all applicable SEC and Nasdaq rules and regulations. We intend to comply with future requirements to the extent they become applicable to us.

### **Compensation committee interlocks and insider participation**

None of our directors who serve as a member of our compensation committee is, or has at any time during the past year been, one of our officers or employees. None of our executive officers currently serves, or in the past year has served, as a member of the board of directors or compensation committee of any other entity that has one or more executive officers serving on our board of directors or compensation committee.

### **Compensation recovery**

Under the Sarbanes-Oxley Act, in the event of misconduct that results in a financial restatement that would have reduced a previously paid incentive amount, we can recoup those improper payments from our Chief Executive Officer and Chief Financial Officer. The SEC also recently adopted rules which direct national stock exchanges to require listed companies to implement policies intended to recoup bonuses paid to executives if the company is found to have misstated its financial results. We plan to implement a clawback policy in the future, once required, although we have not yet implemented such policy.

### **Code of business conduct and ethics**

Effective upon the closing of this offering, we will adopt a Code of Business Conduct and Ethics, or the Code of Conduct, applicable to all of our employees, executive officers and directors. This includes our principal executive officer, principal financial officer and principal accounting officer or controller, or persons performing similar functions. Following the closing of this offering, the full text of the Code of Conduct will be available on our website at [www.lexeotx.com](http://www.lexeotx.com). We intend to post on our website all disclosures that are required by law or the listing standards of the Nasdaq Stock Market concerning any amendments to, or waivers from, any provision of the Code of Conduct. Information contained on, or that can be accessed through, our website is not incorporated by reference into this prospectus, and you should not consider information on our website to be part of this prospectus.

### **Non-employee director compensation**

The following table shows information concerning the compensation that our non-employee directors earned during the last completed fiscal year ended December 31, 2022. A director who is also our employee receives no additional compensation for his or her services as a director.

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Name	Fees Earned or Paid in Cash (\$) <sup>(1)</sup>	Option Awards (\$) <sup>(2)(3)</sup>	Total (\$)
Sandip Agarwala <sup>(4)</sup>	—	—	—
Mette Kirstine Agger	—	—	—
Steven Altschuler, M.D.	\$ 150,000	—	\$ 150,000
Paula HJ Cholmondeley	\$ 37,000	—	\$ 37,000
Bernard Davitian	—	—	—
Reinaldo Diaz <sup>(5)</sup>	—	—	—

(1) Represents actual fees paid in fiscal year 2022. For Dr. Altschuler and Ms. Cholmondeley, this includes fees paid for board services. Mr. Agarwala, Ms. Agger, Mr. Davitian and Mr. Diaz did not receive cash compensation for their service to us as non-employee directors in fiscal year 2022.

(2) Option awards in this column are reported at the aggregate grant date fair value in accordance with FASB ASC Topic 718. Option awards under this column are discussed in greater detail below.

(3) As of December 31, 2022, our then non-employee directors held the following option awards:

Name	Grant Date	Option Awards		Exercise Price (\$)	Expiration Date
		Unexercisable	Exercisable		
Sandip Agarwala	—	—	—	—	—
Mette Kirstine Agger	—	—	—	—	—
Steven Altschuler, M.D.	2/16/21	—	1,189,097	0.22	02/15/2031
Paula HJ Cholmondeley	—	—	—	—	—
Bernard Davitian	—	—	—	—	—
Reinaldo Diaz	—	—	—	—	—

(4) Sandip Agarwala resigned from our board of directors effective January 28, 2022.

(5) Reinaldo Diaz was appointed to our board of directors effective February 2, 2022.

### Stock option awards

On February 16, 2021, Steven Altschuler, M.D. received a grant of 1,189,097 stock options, with a vesting start date of January 5, 2021, and on November 15, 2021, Paula Cholmondeley received a grant of 165,565 stock options. The stock options granted to Dr. Altschuler and Ms. Cholmondeley were exercisable on the date of grant and vest with respect to 25% of the underlying shares on the first anniversary of the vesting start date and thereafter in equal monthly installments over three years. Ms. Cholmondeley exercised all of her options prior to December 31, 2022.

### 2023 non-employee director compensation policy

Our board of directors adopted a non-employee director compensation policy, or the Director Compensation Policy, in September 2023 that will become effective upon the execution and delivery of the underwriting agreement related to this offering and will be applicable to all of our non-employee directors at such time. The Director Compensation Policy provides that each such non-employee director will receive the following compensation for service on our board of directors:

- an annual cash retainer of \$40,000;
- an additional annual cash retainer of \_\_\_\_\_ for service as non-executive chair of the board of directors;
- an additional annual cash retainer of \$7,500, \$6,000 and \$6,000 for service as a member of the audit committee, compensation committee and the nominating and corporate governance committee, respectively;
- an additional annual cash retainer of \$15,000, \$12,000 and \$12,000 for service as chair of the audit committee, chair of the compensation committee and chair of the nominating and corporate governance committee, respectively (in lieu of the committee member retainer above);

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- an initial option grant to purchase                      shares of our common stock, vesting in 3 equal annual installments; and
- an annual option grant to purchase                      shares of our common stock, vesting in full on the first anniversary of the date of grant. The annual grants will be made on the date of each of our annual stockholder meetings.

The vesting of each non-employee director’s option awards is subject to such director’s continuous service with us as of the applicable vesting dates. Any awards granted under the Director Compensation Policy that are unvested as of the occurrence of a change in control (as defined in the 2023 Plan) will automatically vest upon such change in control for each director who remains in continuous service with us through such change in control. Pursuant to the Director Compensation Policy, the compensation described above will be subject to the limits on non-employee director compensation set forth in the 2023 Plan. Each of the option awards described above will be granted under our 2023 Plan, the terms of which are described in more detail below under “Executive compensation and director compensation—Equity benefit plans—2023 Equity incentive plan.” We will continue to reimburse all of our non-employee directors for their reasonable out of pocket expenses incurred in attending board of directors and committee meetings.

## Executive compensation

Our named executive officers for the period ended December 31, 2022, consisting of our principal executive officer and the next two most highly compensated executive officers, were:

- R. Nolan Townsend, who currently serves as our Chief Executive Officer and as a member of our board of directors;
- Jenny R. Robertson, J.D., who currently serves as our Chief Legal and Administrative Officer; and
- Paul McCormac, Ph.D., who currently serves as our Chief Technical Officer.

### Summary compensation table

The following table sets forth information regarding compensation awarded to, earned by and paid to our named executive officers with respect to the period ended December 31, 2022.

Name and Principal Position	Year	Salary (\$)	Option Awards (\$) <sup>(1)</sup>	Non-Equity Incentive Plan Compensation (\$) <sup>(2)</sup>	All Other Compensation (\$)	Total (\$)
R. Nolan Townsend	2022	465,000	—	186,000	54,432	705,432
<i>Chief Executive Officer and Director</i>	2021	410,833	1,925,893	267,375	4,847	2,608,948
Jenny R. Robertson, J.D. <sup>(3)</sup>	2022	257,813	690,997	113,850	2,588	1,065,247
<i>Chief Legal and Administrative Officer</i>	2021	—	—	—	—	—
Paul McCormac	2022	350,000	—	105,000	16,729	471,728
<i>Chief Technical Officer</i>	2021	256,944	464,199	97,625	17,120	835,888

(1) Option awards in this column are reported at the aggregate grant date fair value in accordance with FASB ASC Topic 718 for awards granted to the named executive officer under the Existing Plan. Assumptions used in the calculation of these amounts are included in Note 10 to our audited financial statements included elsewhere in this prospectus.

(2) Non-equity incentive plan compensation amounts represent actual amounts earned during 2021 but paid in 2022, and actual amounts earned during 2022 but paid in 2023, respectively. The amount paid to each named executive officer is equal to a percentage of the executive's target annual bonus pursuant to the applicable employment agreement.

(3) Ms. Robertson joined our company on March 21, 2022, and thus she was not a named executive officer for fiscal year 2021.

### Outstanding equity awards at December 31, 2022

The following table sets forth certain information about outstanding equity awards granted to our named executive officers that were outstanding as of December 31, 2022.

Name	Grant Date	Vesting Commencement Date	Number of Securities Underlying Unexercised Options Exercisable	Option Exercise Price (\$) <sup>(1)</sup>	Option Expiration Date
R. Nolan Townsend	2/16/21	11/21/20	1,627,848 <sup>(2)</sup>	\$ 0.22	2/15/31
<i>Chief Executive Officer</i>	11/15/21	8/11/21	5,500,000 <sup>(3)</sup>	\$ 0.46	11/14/31
Jenny R. Robertson, J.D.	5/6/22	3/21/22	729,680 <sup>(4)</sup>	\$ 1.43	5/5/32
<i>Chief Legal and Administrative Officer</i>					
Paul McCormac, Ph.D.	3/22/21	3/22/21	487,350 <sup>(5)</sup>	\$ 0.22	3/21/31
<i>Chief Technical Officer</i>	11/15/21	8/11/2021	1,186,844 <sup>(6)</sup>	\$ 0.46	11/14/31

(1) All of the option awards were granted under the Existing Plan. All of the option awards were granted with a per share exercise price equal to the fair market value of one share of our common stock on the date of grant.

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- (2) All of the 2,170,463 shares originally subject to this option were exercisable as of the date of grant, and 542,615 shares were exercised on May 14, 2021. Of the total shares subject to this option, 25% vested one year after the vesting commencement date, and the remaining shares vest in 36 equal monthly installments thereafter, subject to continuous service through each applicable vesting date. All unvested shares will vest immediately prior to the consummation of a change in control of the Company. As of December 31, 2022, 1,130,449 shares subject to this option have vested, of which 542,615 shares have been exercised and 587,834 vested shares remain unexercised.
- (3) All of the shares subject to these options were exercisable as of the date of grant. Of the total shares subject to these options, 25% vested one year after the vesting commencement date, and the remaining shares vest in 36 equal monthly installments thereafter, subject to continuous service through each applicable vesting date. All unvested shares will vest immediately prior to the consummation of a change in control of the Company. As of December 31, 2022, 1,833,333 shares subject to these options have vested, and all vested shares remain unexercised.
- (4) All of the shares subject to this option were exercisable as of the date of grant. Of the total shares subject to this option, 25% will vest one year after the vesting commencement date, and the remaining shares vest in 36 equal monthly installments thereafter, subject to continuous service through each applicable vesting date. All unvested shares will vest immediately prior to the consummation of a change in control of the Company. As of December 31, 2022, zero shares subject to these options have vested.
- (5) All of the shares subject to these options were exercisable as of the date of grant. Of the total shares subject to these options, 25% vested one year after the vesting commencement date, and the remaining shares vest in 36 equal monthly installments thereafter, subject to continuous service through each applicable vesting date. All unvested shares will vest immediately prior to the consummation of a change in control of the Company. As of December 31, 2022, 213,215 shares subject to these options have vested, and all vested shares remain unexercised.
- (6) All of the shares subject to these options were exercisable as of the date of grant. Of the total shares subject to these options, 25% vested one year after the vesting commencement date, and the remaining shares vest in 36 equal monthly installments thereafter, subject to continuous service through each applicable vesting date. All unvested shares will vest immediately prior to the consummation of a change in control of the Company. As of December 31, 2022, 445,614 shares subject to these options have vested, of which 150,000 shares were exercised.

## **Agreements with our named executive officers**

In connection with this offering, we intend to enter into amended and restated employment agreements with each of our named executive officers.

We have entered into employment arrangements with each of our named executive officers. The arrangements generally provide for at-will employment without any specific term and set forth the named executive officer's initial base salary, bonus potential, eligibility for employee benefits and severance benefits upon a qualifying termination of employment, subject to such employee executing a separation agreement with us.

### ***R. Nolan Townsend***

In September 2023, we entered into a new employment agreement with Mr. Townsend, our Chief Executive Officer, which superseded his prior agreement from January 2020. The employment agreement has no specific term and provides for at-will employment. Mr. Townsend's annual base salary is \$575,000 and Mr. Townsend is currently eligible for a target annual discretionary cash bonus of up to 55% of his annual base salary, based on individual and corporate performance goals.

Under Mr. Townsend's employment agreement, if he resigns for "good reason" or we terminate his employment without "cause" (each as defined in his employment agreement), then Mr. Townsend will be eligible to receive the following severance benefits (less applicable withholdings): (1) severance pay equal to 100% of Mr. Townsend's then-current base salary for a period of fifteen months, payable in a single lump sum sixty days following Mr. Townsend's last day of employment; and (2) reimbursement of COBRA premiums for him and his eligible dependents from his last day of employment until the earlier of: (i) fifteen months, (ii) the time Mr. Townsend accepts employment with another employer that provides comparable benefits, or (iii) the date Mr. Townsend ceases to be eligible for COBRA continuation coverage for any reason, including plan termination.

Further, if Mr. Townsend resigns for good reason or his employment is terminated without cause by us or a successor, in either case within three months prior to or within twelve months following a "change in control" (as defined in his employment agreement), Mr. Townsend will be eligible to receive the following severance benefits: (1) severance pay equal to 100% of Mr. Townsend's then-current base salary for a period of eighteen months, payable in a single lump sum sixty days following Mr. Townsend's last day of employment; (2) a bonus

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calculated at 150% of the target annual discretionary cash bonus, payable in a single lump sum within thirty days following Mr. Townsend's last day of employment; and (3) reimbursement of COBRA premiums for him and his eligible dependents from his last day of employment until the earlier of: (i) eighteen months, (ii) the time Mr. Townsend accepts employment with another employer that provides comparable benefits, or (iii) the date Mr. Townsend ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In addition, 100% of the shares subject to the options granted to Mr. Townsend will vest and become exercisable.

As a condition to receiving the severance benefits above, Mr. Townsend must sign and not revoke a general release agreement in a form reasonably acceptable to us within the time period set forth in his employment agreement and continue to comply with his obligations related to confidentiality and competitive activity.

### ***Paul McCormac, Ph.D.***

In September 2023, we entered into a new employment agreement with Dr. McCormac, our Chief Technology Officer, which superseded his prior agreement from February 2021. The employment agreement has no specific term and provides for at-will employment. Dr. McCormac's annual base salary is \$425,000 and Dr. McCormac is currently eligible for a target annual discretionary cash bonus of up to 40% of his annual base salary, based on individual and corporate performance goals.

Under Dr. McCormac's employment agreement, if he resigns for "good reason" or we terminate his employment without "cause" (each as defined in his employment agreement), then Dr. McCormac will be eligible to receive the following severance benefits (less applicable withholdings): (1) severance pay equal to 100% of Dr. McCormac's then-current base salary for a period of twelve months, payable in a single lump sum sixty days following Dr. McCormac's last day of employment; and (2) reimbursement of COBRA premiums for him and his eligible dependents from his last day of employment until the earlier of: (i) twelve months, (ii) the time Dr. McCormac accepts employment with another employer that provides comparable benefits, or (iii) the date Dr. McCormac ceases to be eligible for COBRA continuation coverage for any reason, including plan termination.

Further, if Dr. McCormac resigns for good reason or his employment is terminated without cause by us or a successor, in either case within three months prior to or within twelve months following a "change in control" (as defined in his employment agreement), Dr. McCormac will be eligible to receive the following severance benefits: (1) severance pay equal to 100% of Dr. McCormac then-current base salary for a period of twelve months, payable in a single lump sum sixty days following Dr. McCormac's last day of employment; (2) a bonus calculated at 100% of the target annual discretionary cash bonus, payable in a single lump sum within thirty days following Dr. McCormac's last day of employment; and (3) reimbursement of COBRA premiums for him and his eligible dependents from his last day of employment until the earlier of: (i) twelve months, (ii) the time Dr. McCormac accepts employment with another employer that provides comparable benefits, or (iii) the date Dr. McCormac ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In addition, 100% of the shares subject to the options granted to Dr. McCormac will vest and become exercisable.

As a condition to receiving the severance benefits above, Dr. McCormac must sign and not revoke a general release agreement in a form reasonably acceptable to us within the time period set forth in his employment agreement and continue to comply with his obligations related to confidentiality and competitive activity.

### ***Jenny R. Robertson, J.D.***

In September 2023, we entered into a new employment agreement with Ms. Robertson, our Chief Legal and Administrative Officer, which superseded her prior agreement from February 2022. The employment agreement



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has no specific term and provides for at-will employment. Ms. Robertson's annual base salary is \$425,000 and Ms. Robertson is currently eligible for a target annual discretionary cash bonus of up to 40% of her annual base salary, based on individual and corporate performance goals.

Under Ms. Robertson's employment agreement, if she resigns for "good reason" or we terminate her employment without "cause" (each as defined in her employment agreement), then Ms. Robertson will be eligible to receive the following severance benefits (less applicable withholdings):

(1) severance pay equal to 100% of Ms. Robertson's then-current base salary for a period of twelve months, payable in a single lump sum sixty days following Ms. Robertson's last day of employment; (2) a bonus calculated at 100% of the target annual discretionary cash bonus, payable in a single lump sum sixty days following Ms. Robertson's last day of employment; and (3) reimbursement of COBRA premiums for her and her eligible dependents from her last day of employment until the earlier of: (i) twelve months, (ii) the time Ms. Robertson accepts employment with another employer that provides comparable benefits, or (iii) the date Ms. Robertson ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In addition, vesting for the shares subject to the option granted to Ms. Robertson on May 6, 2022, will be accelerated and vest by an additional four months and immediately become exercisable.

Further, if Ms. Robertson resigns for good reason or her employment is terminated without cause by us or a successor, in either case within three months prior to or within twelve months following a "change in control" (as defined in her employment agreement), Ms. Robertson will be eligible to receive the following severance benefits: (1) severance pay equal to 100% of Ms. Robertson's then-current base salary for a period of twelve months, payable in a single lump sum sixty days following Ms. Robertson's last day of employment; (2) a bonus calculated at 100% of the target annual discretionary cash bonus, payable in a single lump sum within thirty days following Ms. Robertson's last day of employment; and (3) reimbursement of COBRA premiums for her and her eligible dependents from her last day of employment until the earlier of: (i) twelve months, (ii) the time Ms. Robertson accepts employment with another employer that provides comparable benefits, or (iii) the date Ms. Robertson ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In addition, 100% of the shares subject to the options granted to Ms. Robertson will vest and become exercisable.

As a condition to receiving the severance benefits above, Ms. Robertson must sign and not revoke a general release agreement in a form reasonably acceptable to us within the time period set forth in her employment agreement and continue to comply with her obligations related to confidentiality and competitive activity.

### **Potential payments upon termination or change in control**

As noted above, in connection with this offering, we intend to enter into amended and restated employment agreements with each of our named executive officers. It is expected that those employment agreements will contain provisions with respect to severance upon certain terminations of employment.

### **Other compensation and benefits**

We maintain broad-based employee benefit plans and programs for the benefit of our employees, in which our named executive officers are entitled to participate. All of our current named executive officers are eligible to participate in our employee benefit plans, including our medical, dental, vision, and accidental death and dismemberment insurance plans, in each case on the same basis as all of our other employees.

We currently maintain a 401(k) retirement savings plan for our employees, including our named executive officers, who satisfy certain eligibility requirements. The 401(k) plan is intended to qualify as a tax-qualified plan under the Internal Revenue Code. Our named executive officers are eligible to participate in the 401(k) plan on

the same basis as our other employees. The Internal Revenue Code allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the 401(k) plan. Currently, we provide matching contributions of 50% on the first 6% of each participating employee's deferral up to the contribution limit permitted under the Internal Revenue Code.

## Equity incentive plans

### *2023 equity incentive plan*

Our board of directors adopted the 2023 Equity Incentive Plan, or 2023 Plan, in 2023, and our stockholders approved the 2023 Plan in 2023. The 2023 Plan will become effective upon the execution of the underwriting agreement for this offering. Once the 2023 Plan becomes effective, no further grants will be made under the 2021 Equity Incentive Plan, or the Existing Plan.

*Types of Awards.* Our 2023 Plan provides for the grant of incentive stock options, or ISOs, nonstatutory stock options, or NSOs, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance-based awards, and other awards, or collectively, awards. ISOs may be granted only to our employees, including our officers, and the employees of our affiliates. All other awards may be granted to our employees, including our officers, our non-employee directors, consultants, and the employees and consultants of our affiliates.

*Authorized Shares.* The maximum number of shares of common stock that may be issued under our 2023 Plan is \_\_\_\_\_ shares, which is the sum of (i) \_\_\_\_\_ new shares, plus (ii) the Existing Plan's available reserve, plus (iii) the number of returning shares, if any, as such shares become available from time to time. In addition, the number of shares of common stock reserved for issuance under our 2023 Plan will automatically increase on January 1 of each year, beginning on January 1, 2024, and continuing through and including January 1, 2033, by \_\_\_\_\_ % of the total number of shares of common stock outstanding on December 31 of the immediately preceding calendar year, or a lesser number of shares determined by our board of directors prior to the applicable January 1. The maximum number of shares that may be issued upon the exercise of ISOs under our 2023 Plan is \_\_\_\_\_ shares.

Shares issued under our 2023 Plan will be authorized but unissued or reacquired shares of common stock. Shares subject to awards granted under our 2023 Plan that expire or terminate without being exercised in full, or that are paid out in cash rather than in shares, will not reduce the number of shares available for issuance under our 2023 Plan. Additionally, shares issued pursuant to awards under our 2023 Plan that we repurchase or that are forfeited, as well as shares used to pay the exercise price of an award or to satisfy the tax withholding obligations to an award, will become available for future grant under our 2023 Plan.

The maximum number of shares of common stock subject to stock awards granted under the 2023 Plan or otherwise during any calendar year beginning in 2024 to any non-employee director, taken together with any cash fees paid by us to such non-employee director during such calendar year for service on the board of directors, will not exceed \$ \_\_\_\_\_ in total value (calculating the value of any such stock awards based on the grant date fair value of such stock awards for financial reporting purposes), or, with respect to the calendar year in which a non-employee director is first appointed or elected to our board of directors, \$ \_\_\_\_\_.

*Plan administration.* Our board of directors, or a duly authorized committee of our board, may administer our 2023 Plan. We expect that our board of directors will delegate concurrent authority to administer our 2023 Plan to the compensation committee under the terms of the compensation committee's charter. We sometimes refer to the board of directors, or the applicable committee with the power to administer our equity incentive plans, as the administrator. The administrator may also delegate to one or more of our officers the authority to (1) designate employees (other than officers) to receive specified awards, and (2) determine the number of shares subject to such awards.

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The administrator has the authority to determine the terms of awards, including recipients, the exercise, purchase or strike price of awards, if any, the number of shares subject to each award, the fair market value of a share of common stock, the vesting schedule applicable to the awards, together with any vesting acceleration, and the form of consideration, if any, payable upon exercise or settlement of the award and the terms of the award agreements for use under our 2023 Plan.

In addition, subject to the terms of the 2023 Plan, the administrator also has the power to modify outstanding awards under our 2023 Plan, including the authority to reprice any outstanding option or stock appreciation right, cancel and re-grant any outstanding option or stock appreciation right in exchange for new stock awards, cash or other consideration, or take any other action that is treated as a repricing under generally accepted accounting principles, with the consent of any materially adversely affected participant.

*Stock options.* ISOs and NSOs are granted pursuant to stock option agreements adopted by the administrator. The administrator determines the exercise price for a stock option, within the terms and conditions of the 2023 Plan, provided that the exercise price of a stock option generally cannot be less than 100% of the fair market value of our common stock on the date of grant. Options granted under the 2023 Plan vest at the rate specified in the stock option agreement as specified in the stock option agreement by the administrator.

The administrator determines the term of stock options granted under the 2023 Plan, up to a maximum of ten years. Unless the terms of an optionholder's stock option agreement provide otherwise, if an optionholder's service relationship with us, or any of our affiliates, ceases for any reason other than disability, death, or cause, the optionholder may generally exercise any vested options for a period of three months following the cessation of service. The option term may be extended in the event that either an exercise of the option or an immediate sale of shares acquired upon exercise of the option following such a termination of service is prohibited by applicable securities laws or our insider trading policy. If an optionholder's service relationship with us or any of our affiliates ceases due to disability or death, or an optionholder dies within a certain period following cessation of service, the optionholder or a beneficiary may generally exercise any vested options for a period of 12 months in the event of disability and 18 months in the event of death. In the event of a termination for cause, options generally terminate immediately upon the termination of the individual for cause. In no event may an option be exercised beyond the expiration of its term.

Acceptable consideration for the purchase of common stock issued upon the exercise of a stock option will be determined by the administrator and may include (1) cash, check, bank draft, or money order, (2) a broker-assisted cashless exercise, (3) the tender of shares of common stock previously owned by the optionholder, (4) a net exercise of the option if it is an NSO, and (5) other legal consideration approved by the administrator.

Options may not be transferred to third-party financial institutions for value. Unless the administrator provides otherwise, options generally are not transferable except by will, the laws of descent and distribution or pursuant to a domestic relations order. An optionholder may designate a beneficiary, however, who may exercise the option following the optionholder's death.

*Tax limitations on ISOs.* The aggregate fair market value, determined at the time of grant, of common stock with respect to ISOs that are exercisable for the first time by an option holder during any calendar year under all of our stock plans may not exceed \$100,000. Options or portions thereof that exceed such limit will be treated as NSOs. No ISOs may be granted to any person who, at the time of the grant, owns or is deemed to own stock possessing more than 10% of our total combined voting power or that of any of our parent or subsidiary corporations, unless (1) the option exercise price is at least 110% of the fair market value of the stock subject to the option on the date of grant and (2) the term of the ISO does not exceed five years from the date of grant.

*Restricted stock awards.* Restricted stock awards are granted pursuant to restricted stock award agreements adopted by the administrator. Restricted stock awards may be granted in consideration for cash, check, bank draft

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or money order, services rendered to us, or our affiliates or any other form of legal consideration. Common stock acquired under a restricted stock award may, but need not, be subject to a share repurchase option in our favor in accordance with a vesting schedule to be determined by the administrator. A restricted stock award may be transferred only upon such terms and conditions as set by the administrator. Except as otherwise provided in the applicable award agreement, restricted stock awards that have not vested may be forfeited or repurchased by us upon the participant's cessation of continuous service for any reason.

*Restricted stock unit awards.* Restricted stock unit awards are granted pursuant to restricted stock unit award agreements adopted by the administrator. Restricted stock unit awards may be granted in consideration for any form of legal consideration. A restricted stock unit award may be settled by cash, delivery of stock, a combination of cash and stock as deemed appropriate by the administrator, or in any other form of consideration set forth in the restricted stock unit award agreement. Additionally, dividend equivalents may be credited in respect of shares covered by a restricted stock unit award. Except as otherwise provided in the applicable award agreement, restricted stock units that have not vested will be forfeited upon the participant's cessation of continuous service for any reason.

*Stock appreciation rights.* Stock appreciation rights are granted pursuant to stock appreciation right grant agreements adopted by the administrator. The administrator determines the strike price for a stock appreciation right, which generally cannot be less than 100% of the fair market value of common stock on the date of grant. Upon the exercise of a stock appreciation right, we will pay the participant an amount equal to the product of (1) the excess of the per share fair market value of common stock on the date of exercise over the strike price, multiplied by (2) the number of shares of common stock with respect to which the stock appreciation right is exercised. A stock appreciation right granted under the 2023 Plan vests at the rate specified in the stock appreciation right agreement as determined by the administrator.

The administrator determines the term of stock appreciation rights granted under the 2023 Plan, up to a maximum of ten years. Unless the terms of a participant's stock appreciation right agreement provide otherwise, if a participant's service relationship with us or any of our affiliates ceases for any reason other than cause, disability, or death, the participant may generally exercise any vested stock appreciation right for a period of three months following the cessation of service. The stock appreciation right term may be further extended in the event that exercise of the stock appreciation right following such a termination of service is prohibited by applicable securities laws. If a participant's service relationship with us, or any of our affiliates, ceases due to disability or death, or a participant dies within a certain period following cessation of service, the participant or a beneficiary may generally exercise any vested stock appreciation right for a period of 12 months in the event of disability and 18 months in the event of death. In the event of a termination for cause, stock appreciation rights generally terminate immediately upon the occurrence of the event giving rise to the termination of the individual for cause. In no event may a stock appreciation right be exercised beyond the expiration of its term.

*Performance awards.* Our 2023 Plan permits the grant of performance-based stock and cash awards. The administrator can structure such awards so that the stock or cash will be issued or paid pursuant to such award only following the achievement of certain pre-established performance goals during a designated performance period. Performance awards that are settled in cash or other property are not required to be valued in whole or in part by reference to, or otherwise based on, the common stock.

The performance goals may be based on any measure of performance selected by the board of directors. The administrator may establish performance goals on a company-wide basis, with respect to one or more business units, divisions, affiliates, or business segments, and in either absolute terms or relative to the performance of one or more comparable companies or the performance of one or more relevant indices. Unless specified otherwise (i) in the award agreement at the time the award is granted or (ii) in such other document setting forth the performance goals at the time the goals are established, the administrator will appropriately make adjustments in

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the method of calculating the attainment of the performance goals as follows: (1) to exclude restructuring and/or other nonrecurring charges; (2) to exclude exchange rate effects; (3) to exclude the effects of changes to generally accepted accounting principles; (4) to exclude the effects of any statutory adjustments to corporate tax rates; (5) to exclude the effects of items that are “unusual” in nature or occur “infrequently” as determined under generally accepted accounting principles; (6) to exclude the dilutive effects of acquisitions or joint ventures; (7) to assume that any business divested by us achieved performance objectives at targeted levels during the balance of a performance period following such divestiture; (8) to exclude the effect of any change in the outstanding shares of common stock by reason of any stock dividend or split, stock repurchase, reorganization, recapitalization, merger, consolidation, spin-off, combination or exchange of shares or other similar corporate change, or any distributions to common stockholders other than regular cash dividends; (9) to exclude the effects of stock-based compensation and the award of bonuses under our bonus plans; (10) to exclude costs incurred in connection with potential acquisitions or divestitures that are required to be expensed under generally accepted accounting principles; and (11) to exclude the goodwill and intangible asset impairment charges that are required to be recorded under generally accepted accounting principles.

*Other awards.* The administrator may grant other awards based in whole or in part by reference to common stock. The administrator will set the number of shares under the award and all other terms and conditions of such awards.

*Changes to capital structure.* In the event there is a specified type of change in our capital structure, such as a stock split, reverse stock split, or recapitalization, appropriate adjustments will be made to (1) the class and maximum number of shares reserved for issuance under the 2023 Plan; (2) the class and maximum number of shares by which the share reserve may increase automatically each year; (3) the class and maximum number of shares that may be issued upon the exercise of ISOs; and (4) the class and number of shares and exercise price, strike price, or purchase price, if applicable, of all outstanding awards.

*Corporate transactions.* The following applies to stock awards under the 2023 Plan in the event of a corporate transaction, unless otherwise provided in a participant’s stock award agreement or other written agreement with us or one of our affiliates or unless otherwise expressly provided by the administrator at the time of grant. Under the 2023 Plan, a corporate transaction is generally the consummation of (1) a sale or other disposition of all or substantially all of our assets, (2) a sale or other disposition of at least 50% of our outstanding securities, (3) a merger, consolidation or similar transaction following which we are not the surviving corporation, or (4) a merger, consolidation, or similar transaction following which we are the surviving corporation but the shares of common stock outstanding immediately prior to such transaction are converted or exchanged into other property by virtue of the transaction.

In the event of a corporate transaction, any stock awards outstanding under the 2023 Plan may be assumed, continued or substituted for by any surviving or acquiring corporation (or its parent company), and any reacquisition or repurchase rights held by us with respect to the stock award may be assigned to the successor (or its parent company). If the surviving or acquiring corporation (or its parent company) does not assume, continue, or substitute for such stock awards, then (i) with respect to any such stock awards that are held by participants whose continuous service has not terminated prior to the effective time of the corporate transaction, or current participants, the vesting (and exercisability, if applicable) of such stock awards will be accelerated in full to a date prior to the effective time of the corporate transaction (contingent upon the effectiveness of the corporate transaction), and such stock awards will terminate if not exercised (if applicable) at or prior to the effective time of the corporate transaction, and any reacquisition or repurchase rights held by us with respect to such stock awards will lapse (contingent upon the effectiveness of the corporate transaction), and (ii) any such stock awards that are held by persons other than current participants will terminate if not exercised (if applicable) prior to the effective time of the corporate transaction, except that any reacquisition or repurchase rights held by us with respect to such stock awards will not terminate and may continue to be exercised notwithstanding the corporate

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transaction. In addition, the plan administrator may also provide, in its sole discretion, that the holder of a stock award that will terminate upon the occurrence of a corporate transaction if not previously exercised will receive a payment, if any, equal to the excess of the value of the property the participant would have received upon exercise of the stock award over the exercise price otherwise payable in connection with the stock award.

A stock award may be subject to additional acceleration of vesting and exercisability upon or after a change in control as may be provided in an applicable award agreement or other written agreement, but in the absence of such provision, no such acceleration will occur.

*Transferability.* A participant may not transfer awards under our 2023 Plan other than by will, the laws of descent and distribution, or as otherwise provided under our 2023 Plan.

*Plan amendment or termination.* Our board has the authority to amend, suspend, or terminate our 2023 Plan, provided that such action does not materially impair the existing rights of any participant without such participant's written consent. Certain material amendments also require the approval of our stockholders. No ISOs may be granted after the tenth anniversary of the date our board adopted our 2023 Plan. No awards may be granted under our 2023 Plan while it is suspended or after it is terminated.

### **2023 employee stock purchase plan**

Our board of directors adopted the 2023 ESPP on \_\_\_\_\_, 2023, and our stockholders adopted the 2023 ESPP on \_\_\_\_\_, 2023. The 2023 ESPP will become effective upon the execution of the underwriting agreement for this offering. The purpose of the 2023 ESPP is to secure the services of new employees, to retain the services of existing employees and to provide incentives for such individuals to exert maximum efforts toward our success and that of our affiliates. The 2023 ESPP includes two components. One component is designed to allow our eligible U.S. employees to purchase common stock in a manner that may qualify for favorable tax treatment under Section 423 of the Code. In addition, purchase rights may be granted under a component that does not qualify for such favorable tax treatment when necessary or appropriate to permit participation by our eligible employees who are foreign nationals or employed outside of the United States while complying with applicable foreign laws.

*Authorized shares.* The maximum aggregate number of shares of common stock that may be issued under our 2023 ESPP is \_\_\_\_\_ shares. The number of shares of common stock reserved for issuance under our 2023 ESPP will automatically increase on January 1 of each calendar year, beginning on January 1, 2024 and continuing through and including January 1, 2033, by the lesser of (1) \_\_\_\_\_ % of the total number of shares of capital stock outstanding on December 31 of the preceding calendar year, (2) \_\_\_\_\_ shares and (3) a number of shares determined by our board. Shares subject to purchase rights granted under our 2023 ESPP that terminate without having been exercised in full will not reduce the number of shares available for issuance under our 2023 ESPP.

*Plan administration.* Our board, or a duly authorized committee thereof, will administer our 2023 ESPP. We anticipate that our board will delegate concurrent authority to administer our 2023 ESPP to the compensation committee under the terms of the compensation committee's charter. The 2023 ESPP is implemented through a series of offerings with specific terms approved by the administrator and under which eligible employees are granted purchase rights to purchase shares of common stock on specified dates during such offerings. Under the 2023 ESPP, we may specify offerings with durations of not more than 27 months and may specify shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of common stock will be purchased for our eligible employees participating in the offering. An offering under the 2023 ESPP may be terminated under certain circumstances.

*Payroll deductions.* Generally, all regular employees, including executive officers, employed by us or by any of our designated affiliates, may participate in the 2023 ESPP and may contribute, normally through payroll

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deductions, with a maximum dollar amount as designated by the board. Unless otherwise determined by the administrator, common stock will be purchased for the accounts of employees participating in the 2023 ESPP at a price per share equal to the lower of (a) 85% of the fair market value of a share of common stock on the first date of an offering or (b) 85% of the fair market value of a share of common stock on the date of purchase. For the initial offering, which we expect will commence upon the execution and delivery of the underwriting agreement relating to this offering, the fair market value on the first day of the initial offering will be the price at which shares are first sold to the public.

*Limitations.* Our employees, including executive officers, or any of our designated affiliates may have to satisfy one or more of the following service requirements before participating in our 2023 ESPP, as determined by the administrator: (1) customary employment with us or one of our affiliates for more than 20 hours per week and more than five months per calendar year, or (2) continuous employment with us or one of our affiliates for a minimum period of time, not to exceed two years, prior to the first date of an offering. An employee may not be granted rights to purchase stock under our 2023 ESPP if such employee (1) immediately after the grant would own stock possessing 5% or more of the total combined voting power or value of common stock, or (2) holds rights to purchase stock under our 2023 ESPP that would accrue at a rate that exceeds \$25,000 worth of our stock for each calendar year that the rights remain outstanding.

*Changes to capital structure.* In the event that there occurs a change in our capital structure through such actions as a stock split, merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or similar transaction, the board of directors will make appropriate adjustments to (1) the number of shares reserved under the 2023 ESPP, (2) the maximum number of shares by which the share reserve may increase automatically each year, (3) the number of shares and purchase price of all outstanding purchase rights, and (4) the number of shares that are subject to purchase limits under ongoing offerings.

*Corporate transactions.* In the event of certain corporate transactions, including: (1) a sale of all or substantially all of our assets, (2) the sale or disposition of 50% of our outstanding securities, (3) the consummation of a merger or consolidation where we do not survive the transaction, and (4) the consummation of a merger or consolidation where we do survive the transaction but the shares of our common stock outstanding immediately before such transaction are converted or exchanged into other property by virtue of the transaction, any then-outstanding rights to purchase our stock under the 2023 ESPP may be assumed, continued or substituted for by any surviving or acquiring entity (or its parent company). If the surviving or acquiring entity (or its parent company) elects not to assume, continue, or substitute for such purchase rights, then the participants' accumulated payroll contributions will be used to purchase shares of common stock within 10 business days (or such other period specified by the board) prior to such corporate transaction and such purchase rights will terminate immediately.

Under the 2023 ESPP, a corporate transaction is generally the consummation of: (1) a sale of all or substantially all of our assets, (2) the sale or disposition of more than 50% of our outstanding securities, (3) a merger or consolidation where we do not survive the transaction, and (4) a merger or consolidation where we do survive the transaction but the shares of our common stock outstanding immediately before such transaction are converted or exchanged into other property by virtue of the transaction.

*2023 ESPP amendment or termination.* The administrator has the authority to amend or terminate our 2023 ESPP, provided that except in certain circumstances such amendment or termination may not materially impair any outstanding purchase rights without the holder's consent. We will obtain stockholder approval of any amendment to our 2023 ESPP as required by applicable law or listing requirements.

### **2021 equity incentive plan**

Our board of directors adopted the Existing Plan in February 2021, and our stockholders approved the Existing Plan in September 2021.

*Stock awards.* The Existing Plan provides for the grant of ISOs, NSOs, and restricted stock awards, or collectively, stock awards. ISOs may be granted only to our employees and the employees of any parent corporation or subsidiary corporation. All other awards may be granted to our service providers. We have granted ISOs and NSOs under the Existing Plan. As of June 30, 2023, options to purchase 19,844,251 shares of our common stock were outstanding with a weighted average exercise price of \$0.75 per share, and 11,015,364 shares of our common stock remained available for future awards under the Existing Plan.

*Share reserve.* Subject to certain capitalization adjustments, the aggregate number of shares of our common stock that has been reserved for issuance pursuant to stock awards under the Existing Plan is 32,326,544 shares.

Shares subject to stock awards granted under our Existing Plan that expire or are forfeited or become unexercisable without having been exercised in full, or are surrendered pursuant to an exchange program shall continue to be available under the Existing Plan for issuance pursuant to future awards. If any shares of common stock issued pursuant to a stock award are forfeited back to or repurchased by us for at the original purchase price, the shares that are forfeited or repurchased or reacquired will revert to and again become available for issuance under the Existing Plan. Any shares retained in satisfaction of tax withholding obligations or as consideration for the exercise or purchase price of a stock award will again become available for issuance under the Existing Plan.

*Plan administration.* Our board of directors administers and interprets the provisions of the Existing Plan. The board of directors may delegate its authority to a committee, or committees, of the board, referred to as the “administrator.” The administrator may additionally delegate limited authority to specified directors or executive officers. Under our Existing Plan, the administrator has the authority to, among other things, approve award recipients, determine the numbers and types of stock awards to be granted, determine the applicable fair market value and the provisions of each stock award, including the period of their exercisability and the vesting schedule applicable to a stock award, construe and interpret the Existing Plan and awards granted thereunder, and prescribe, amend, modify, and rescind or terminate rules and regulations for the administration of the Existing Plan.

*Stock options.* ISOs and NSOs are granted under stock option agreements in such form and containing such provisions as approved by the administrator. The administrator determines the exercise price for stock options, within the terms and conditions of the Existing Plan, provided that the exercise price of a stock option generally will not be less than 100% of the fair market value of our common stock on the date of grant (or 110% of the fair market value for 10% stockholders as required by the Code). Stock options granted under the Existing Plan vest at the rate specified in the stock option agreements and option rules as determined by the administrator.

The administrator determines the term of stock options granted under the Existing Plan, up to a maximum of 10 years (or five years for 10% stockholders as required by the Code). If an optionholder’s service relationship with us or any of our affiliates ceases for any reason other than disability, death, or cause the optionholder may generally exercise any vested options for a period of up to three months following the cessation of service, or such other period of time set forth in the option agreement. If an optionholder’s service relationship with us or any of our affiliates ceases due to death or disability (or the participant dies within three months after a termination other than for cause), then options vested as of the termination date may generally be exercised within 12 months following the date of termination, or such other period of time set forth in the option agreement. In no event may an option be exercised beyond the expiration of its term. If an optionholder’s service



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relationship with us or any of our affiliates ceases due to termination for cause, the optionholder's vested options shall expire on the optionholder's termination date, or such later time as determined by the administrator.

The exercise price for shares issued under the Existing Plan are generally payable in cash, check, promissory note, surrender of previously owned shares, consideration received through a broker-assisted (or other) cashless exercise program (whether through a broker or otherwise) implemented by us, net exercise, or other forms of consideration determined by the administrator (or any combination thereof).

Unless the administrator provides otherwise, options generally are not transferable except by will, the laws of descent and distribution, or, with respect to NSOs for participants in the United States, by gift to a family member.

*Restricted stock.* The administrator determines to whom an offer of restricted stock will be made, the number of shares the person may purchase, the purchase price, the restrictions to which the shares will be subject, and other terms and conditions. If a participant's service relationship with us ends for any reason, we may receive any or all of the shares of common stock held by the participant that have not vested as of the date the participant terminates service with us through, but not limited to, a repurchase right.

*Changes to capital structure.* In the event of any stock split, reverse stock split, stock dividend, combination, consolidation, recapitalization (including a recapitalization through a large nonrecurring cash dividend) or reclassification of the shares, subdivision of the shares, a rights offering, a reorganization, merger, spin-off, split-up, repurchase, or exchange of our common stock or other securities of ours or other significant corporate transaction, or other change affecting our common stock, then in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Existing Plan, the administrator will adjust the number, kind and class of securities that may be delivered under the Existing Plan and/or the number, class, kind and price of securities covered by each outstanding award.

*Change in control.* In the event of Change in Control under the Existing Plan shall be subject to the agreement evidencing the acquisition or other combination, which need not treat all outstanding awards in an identical manner. Such agreement, without the participant's consent, shall provide for one or more of the following with respect to all outstanding awards:

- the continuation of such outstanding awards;
- the assumption of such outstanding awards by the surviving corporation or its parent;
- the substitution by the surviving corporation or its parent of new options or other equity awards for such awards;
- the cancellation of such awards in exchange for a payment to the participants equal to the excess, if any, of (1) the fair market value of the shares subject to such awards as of the closing date of such Change in Control over (2) the exercise or purchase price paid or to be paid for the shares subject to the awards; provided that at the discretion of the administrator, such payment may be subject to the same conditions that apply to the consideration that will be paid to holders of shares in connection with the transaction; or
- the opportunity for participants to exercise the options prior to the occurrence of the Change in Control and the termination (for no consideration) upon the consummation of such Change in Control of any options not exercised prior thereto.

Under the Existing Plan, a Change in Control is generally defined as (i) the consummation of a merger or consolidation of the company with or into another entity or any other corporate reorganization, if the company's stockholders immediately prior to such merger, consolidation or reorganization cease to directly or indirectly own immediately after such merger, consolidation or reorganization at least a majority of the combined voting

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power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or reorganization; (ii) the consummation of the sale, transfer or other disposition of all or substantially all of the company's assets; (iii) a change in the effective control of the company; or (iv) the consummation of any transaction as a result of which any Person (as defined below) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the company representing at least fifty percent (50%) of the total voting power represented by the company's then outstanding voting securities. For purposes of this Section 2(h), the term "Person" shall have the same meaning as when used in Sections 13(d) and 14(d) of the Exchange Act but shall exclude:

- a trustee or other fiduciary holding securities under an employee benefit plan of the company or an affiliate of the company;
- a corporation or other entity owned directly or indirectly by the stockholders of the company in substantially the same proportions as their ownership of our common stock;
- the company; and
- a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the company.

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the company's securities immediately before such transactions. In addition, if any Person (as defined above) is considered to be in effective control of the company, the acquisition of additional control of the company by the same Person will not be considered to cause a Change in Control. If required for compliance with Section 409A of the Code, in no event will a Change in Control be deemed to have occurred if such transaction is not also a "change in the ownership or effective control of" the company or "a change in the ownership of a substantial portion of the assets of" the company as determined under Treasury Regulation Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder).

*Plan Amendment or Termination.* The board may at any time terminate, amend or suspend the Existing Plan and all outstanding options or restricted stock awards upon a dissolution or liquidation of us.

### **Limitations on liability and indemnification matters**

Upon the closing of this offering, our amended and restated certificate of incorporation will contain provisions that limit the liability of our current and former directors for monetary damages to the fullest extent permitted by Delaware law. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director's duty of loyalty to the corporation or its stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not apply to liabilities arising under federal securities laws and does not affect the availability of equitable remedies such as injunctive relief or rescission.

Our amended and restated certificate of incorporation and our amended and restated bylaws that will be in effect upon the closing of this offering will provide that we are required to indemnify our directors to the fullest extent

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permitted by Delaware law. Our amended and restated bylaws will also provide that, upon satisfaction of certain conditions, we are required to advance expenses incurred by a director in advance of the final disposition of any action or proceeding, and permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. Our amended and restated bylaws will also provide our board of directors with discretion to indemnify our officers and employees when determined appropriate by the board.

We have entered into indemnification agreements with each of our directors, and we expect to enter into amended and restated indemnification agreements with each of our directors and enter into indemnification agreements with each of our executive officers prior to the closing of this offering. With certain exceptions, these agreements provide for indemnification for related expenses including, among other things, attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. We believe that these bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and executive officers. We also maintain customary directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against our directors for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought and we are not aware of any threatened litigation that may result in claims for indemnification.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted for our directors, executive officers or persons controlling us, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

### **Rule 10b5-1 sales plans**

Our directors and executive officers may adopt written plans, known as Rule 10b5-1 plans, in which they will contract with a broker to buy or sell shares of our common stock on a periodic basis. Under a Rule 10b5-1 plan, a broker executes trades pursuant to parameters established by the director or officer when entering into the plan, without further direction from them. The director or officer may amend a Rule 10b5-1 plan in some circumstances and may terminate a plan at any time. Our directors and executive officers also may buy or sell additional shares outside of a Rule 10b5-1 plan when they are not in possession of material nonpublic information subject to compliance with the terms of our insider trading policy. Prior to 180 days after the date of this offering, subject to early termination, the sale of any shares under such plans would be prohibited by the lock-up agreement that the director or officer has entered into with the underwriters for this offering.

### **Other policies**

After we become a public company, if we are required to restate our financial results due to our material noncompliance with any financial reporting requirements under the federal securities laws as a result of misconduct, our Chief Executive Officer and Chief Financial Officer may be legally required to reimburse our Company for any bonus or other incentive-based or equity-based compensation they receive in accordance with the provisions of Section 304 of the Sarbanes-Oxley Act of 2002.

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Additionally, we adopted a formal clawback policy that complies with regulations mandated under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to be effective when the applicable rules adopted by the SEC in October 2022 become effective.

## **Certain relationships and related party transactions**

The following is a description of transactions since January 1, 2020 to which we have been a participant in which the amount involved exceeded or will exceed \$120,000, and in which any of our directors, executive officers or holders of more than 5% of our voting securities, or any members of their immediate family, had or will have a direct or indirect material interest, other than compensation arrangements which are described under “Executive Compensation.”

### **Agreements with Ronald G. Crystal, M.D.**

#### ***Consulting agreement***

In October 2020, we entered into a consulting agreement, or the Crystal Consulting Agreement, with Ronald G. Crystal, M.D., our founder and Chief Scientific Advisor and a holder of more than 5% of our voting securities. Under the Crystal Consulting Agreement, in consideration for an annual consulting fee of \$250,000, Dr. Crystal will provide us with consulting services in relation to his extensive expertise in gene therapy technologies, including (a) consulting and advisory services with respect to matters related to gene therapies for diseases; (b) participation in corporate and research and development strategy sessions; and (c) advising on recruiting and interviewing, or the Services. The Crystal Consulting Agreement shall continue for five years and, unless sooner terminated in accordance with its terms, is renewable annually for one-year periods after the initial term of five years. The Crystal Consulting Agreement is terminable by either party with proper notice or by us for cause.

#### ***Stock option award agreement***

In March 2021, we granted Dr. Crystal an option to purchase 1,791,822 shares of our common stock at an exercise price per share of \$0.22 and entered into our standard Stock Option Award Agreement with Dr. Crystal, or the Crystal Option Agreement. Of the shares subject to the option, 25% vested on the one-year anniversary of June 30, 2021 and the remainder of the shares subject to the option vest monthly on the thirtieth day of the month, or if there is no such date, the last day of the month, subject in each case to Dr. Crystal continuing to provide services to us. All of the shares subject to the option were exercisable immediately upon grant, and any then-unvested shares subject to the option will become fully vested as of immediately prior to a change of control of Lexeo.

### **Agreements with Eric Adler, M.D.**

#### ***Consulting agreement***

In July 2021, in connection with the execution of the Stock Purchase Agreement with Stelios Therapeutics, Inc., or Stelios, we entered into a consulting agreement with Eric Adler, M.D., effective July 16, 2021, or the Adler Consulting Agreement, pursuant to which Dr. Adler agreed, among other things, to serve as a member of our advisory board and to advise us on TNNI3-associated hypertrophic cardiomyopathy, ARVC and other, to-be-determined cardiomyopathies. Dr. Adler agreed to provide consulting services of no more than six hours per week. In connection with the Adler Consulting Agreement, Dr. Adler received a cash payment of \$50,000, and we agreed to grant, subject to the approval of our board of directors, an option to purchase an aggregate of 505,366 shares to Dr. Adler. Dr. Adler provided consulting services until his appointment as the Company’s Chief Scientific Officer in August 2022.

#### ***Consultant stock option award agreements***

In November 2021, we granted Dr. Adler options to purchase 416,184 shares of common stock at an exercise price of \$0.46 per share stock, and entered into the Stock Option Award Agreement, dated November 4, 2021, or

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the Adler Consulting Stock Option Agreement. Commencing July 16, 2021, the shares subject to the Adler Consulting Stock Option Agreement vest in 48 equal monthly installments on the first day of each month, subject to Dr. Adler's continuing to provide services to us.

Additionally, in November 2021, we granted Dr. Adler options to purchase 282,949 shares of common stock at an exercise price of \$0.46 per share, and entered into the Stock Option Award Agreement, dated November 9, 2021, or the Adler Performance Stock Option Agreement. All of the shares subject to the Adler Performance Stock Option Agreement vested upon our completion of the first milestone of an HCM- or ARVC-sponsored research program in June 2022.

All of the shares subject to the above options were exercisable immediately upon grant, and any then-unvested shares subject to the above options will become fully vested immediately prior to a change of control of the Company. In December 2022, our board of directors approved an amendment to Dr. Adler's Stock Option Award Agreements to extend the length of the post-termination exercise period from three months to 10 years.

### ***Employment stock option award agreement***

In March 2023, in connection with our employment agreement with Dr. Adler, dated December 21, 2022, we granted Dr. Adler an option to purchase 1,920,210 shares of our common stock at an exercise price per share of \$1.66 and entered into the Stock Option Award Agreement, dated March 14, 2023, or the Adler Employment Stock Option Award Agreement. Of the shares subject to the option, 25% will vest on the one-year anniversary of March 14, 2023 and the remainder of the shares subject to the option vest monthly on the 14th day of each month, subject in each case to Dr. Adler's continuing to provide services to us. All of the shares subject to the option were exercisable immediately upon grant, and any then-unvested shares subject to the option will become fully vested as of immediately prior to a change of control of the Company.

### **Stelios Therapeutics Inc. acquisition**

On July 16, 2021, we purchased all of the issued and outstanding capital stock of Stelios for initial cash consideration of \$7.0 million, with payments of up to an additional \$20.5 million due to the selling shareholders upon the achievement of the following milestones when and if we achieve them: clinical candidate selection for either the ARVC or the TNNI3-associated programs; first patient dosed in a Phase 1 clinical trial for any product in our CX43 program; first patient dosed in a Phase 1 clinical trial for any product in our PKP2 program; or first patient dosed in a Phase 1 clinical trial for any candidate in our TNNI3 program. In the third quarter of 2022, a development milestone associated with a clinical candidate selection was achieved resulting in an aggregate payment of \$2.0 million to the selling shareholders of Stelios. Dr. Eric Adler, our Chief Scientific Officer, was a co-founder of Stelios and a selling shareholder. Of the initial \$7.0 million cash consideration, Dr. Adler received approximately \$1.2 million, and of the \$2.0 million milestone payment, Dr. Adler received approximately \$0.4 million. On December 15, 2022, Stelios was merged into Lexeo Therapeutics, Inc. and ceased to exist. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" for additional information related to our acquisition of Stelios.

### **Private placements of our securities**

#### ***Series A convertible preferred stock financing***

In November 2020, we entered into a preferred stock purchase agreement with certain investors, including beneficial owners of greater than 5% of our capital stock and affiliates of members of our board of directors. In connection with the initial closing of our Series A convertible preferred stock, we sold an aggregate of 34,495,725 shares of our Series A convertible preferred stock at a purchase price of \$1.00 (including

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approximately \$4 million in principal and accrued interest on outstanding convertible promissory notes issued to certain investors, the conversion of which resulted in issuance of 4,495,729 shares of our Series A convertible preferred stock) for aggregate gross proceeds of approximately \$34 million. In July 2021, we sold an aggregate of 50,999,997 shares of our Series A convertible preferred stock at a purchase price of \$1.00 for aggregate gross proceeds of approximately \$51 million.

The table below sets forth the aggregate number of shares of Series A convertible preferred stock issued to our related parties in this financing:

<b>Name</b>	<b>Series A Convertible Preferred Stock (#)</b>	<b>Aggregate Purchase Price (\$)</b>
Entities affiliated with Janus Henderson Investors <sup>(1)</sup>	10,000,000	10,000,000
Longitude Venture Partners IV, L.P. <sup>(2)</sup>	18,999,999	18,999,999
Lundbeckfond Invest A/S <sup>(3)</sup>	13,999,999	13,999,999
Omega Fund VI, L.P. <sup>(4)</sup>	14,999,999	14,999,999
PBM LEX Holdings, LLC <sup>(5)</sup>	11,999,999	11,999,999

(1) Entities affiliated with Janus Henderson Investors hold more than 5% of our voting securities. Consists of (i) 3,643,715 shares of Series A preferred stock purchased by Janus Henderson Global Life Sciences Fund, (ii) 3,466,664 shares of Series A preferred stock purchased by Janus Henderson Biotech Innovation Master Fund Limited, (iii) 2,660,459 shares of Series A preferred stock purchased by Janus Henderson Capital Funds PLC on behalf of its Series Janus Henderson Global Life Sciences Fund and (iv) 229,162 shares of Series A preferred stock purchased by Janus Henderson Horizon Fund—Biotechnology Fund.

(2) Longitude Venture Partners IV, L.P., or LVP IV, holds more than 5% of our capital stock prior to this offering. Longitude Capital Partners IV, LLC is the general partner of LVP IV. Reinaldo Diaz was designated to serve as a member of our board of directors by LVP IV.

(3) Lundbeckfond Invest A/S, which is wholly owned by the Lundbeck Foundation, holds more than 5% of our capital stock prior to this offering. Mette Kirstine Agger is the former Managing Partner of Lundbeckfonden BioCapital, a department within Lundbeckfond Invest A/S, and was designated to serve as a member of our board of directors by Lundbeckfond Invest A/S.

(4) Omega Fund VI, L.P., or Omega Fund, holds more than 5% of our capital stock prior to this offering. Omega Fund VI GP, L.P., or Omega GP, is the sole general partner of Omega Fund, and Omega Fund VI GP Manager, Ltd. is the sole general partner of Omega GP. Bernard Davitian was designated to serve as a member of our board of directors by Omega Fund.

(5) PBM LEX Holdings, LLC, or PBM LEX, holds more than 5% of our capital stock prior to this offering.

### ***Series B convertible preferred stock financing***

In August 2021, we entered into a preferred stock purchase agreement with certain investors, including beneficial owners of greater than 5% of our capital stock, affiliates of members of our board of directors and certain of our executive officers, pursuant to which we issued and sold to such investors an aggregate of 58,157,823 shares of our Series B convertible preferred stock at a purchase price of \$1.72049 per share for aggregate gross proceeds of approximately \$100 million.

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The table below sets forth the aggregate number of shares of Series B convertible preferred stock issued to our related parties in this financing:

<b>Name</b>	<b>Series B Convertible Preferred Stock (#)</b>	<b>Aggregate Purchase Price (\$)</b>
D1 Master Holdco I LLC <sup>(1)</sup>	20,343,041	34,999,999
Entities affiliated with Janus Henderson Investors <sup>(2)</sup>	2,324,918	3,999,998
Longitude Venture Partners IV, L.P. <sup>(3)</sup>	2,906,148	4,999,999
Lundbeckfond Invest A/S <sup>(4)</sup>	2,615,533	4,499,998
Mutual Fund Series Trust, On Behalf Of Eventide Healthcare & Life Sciences Fund <sup>(5)</sup>	8,718,446	14,999,999
Omega Fund VI, L.P. <sup>(6)</sup>	2,615,533	4,499,998
Paul McCormac, Ph.D. <sup>(7)</sup>	29,061	49,999

- (1) D1 Master Holdco I LLC, or Holdco I, holds more than 5% of our capital stock prior to this offering. Holdco I is a wholly owned subsidiary of D1 Capital Partners Master LP. D1 Capital Partners L.P. is a registered investment adviser and serves as the investment manager of private investment vehicles and accounts, including D1 Capital Partners Master LP, and may be deemed to beneficially own the shares held by Holdco I. Daniel Sundheim indirectly controls D1 Capital Partners L.P., and may be deemed to beneficially own the shares held by Holdco I. Paula HJ Cholmondeley was designated to serve as a member of our board of directors by Holdco I.
- (2) Consists of (i) 883,469 shares of Series B preferred stock purchased by Janus Henderson Global Life Sciences Fund and (ii) 1,441,449 shares of Series B preferred stock purchased by Janus Henderson Capital Funds PLC on behalf of its Series Janus Henderson Global Life Sciences Fund. Entities affiliated with Janus Henderson Investors hold more than 5% of our voting securities.
- (3) Longitude Venture Partners IV, L.P., or LVP IV, holds more than 5% of our capital stock prior to this offering. Longitude Capital Partners IV, LLC is the general partner of LVP IV. Reinaldo Diaz was designated to serve as a member of our board of directors by LVP IV.
- (4) Lundbeckfond Invest A/S holds more than 5% of our capital stock prior to this offering. Mette Kirstine Agger is the former Managing Partner of Lundbeckfonden BioCapital, a department within Lundbeckfond Invest A/S, and was designated to serve as a member of our board of directors by Lundbeckfond Invest A/S.
- (5) Mutual Fund Series Trust, on behalf of Eventide Healthcare & Life Sciences Fund, holds more than 5% of our capital stock prior to this offering.
- (6) Omega Fund VI, L.P., or Omega Fund, holds more than 5% of our capital stock prior to this offering. Omega Fund VI GP, L.P., or Omega GP, is the sole general partner of Omega Fund, and Omega Fund VI GP Manager, Ltd. is the sole general partner of Omega GP. Bernard Davitian was designated to serve as a member of our board of directors by Omega Fund.
- (7) All shares are held by Paul McCormac, Ph.D., our Chief Technical Officer.

## **Investors' rights, voting and right of first refusal agreements**

In connection with the sales of convertible preferred stock described above, we entered into an amended and restated investors' rights agreement, an amended and restated voting agreement and an amended and restated right of first refusal and co-sale agreement containing registration rights, information rights, voting rights and rights of first refusal, among other things, with the holders of our convertible preferred stock, including funds affiliated with D1 Capital Partners, Eventide Healthcare & Life Sciences Fund, Janus Henderson Investors, Longitude Capital, Lundbeckfond Invest A/S, Omega Funds and PBM Capital. These agreements will terminate upon the closing of this offering, except for the registration rights granted under our amended and restated investors' rights agreement, as more fully described in the section of this prospectus titled "Description of Capital Stock—Registration Rights."

## **Employment arrangements**

We have entered into employment agreements or offer letter agreements with certain of our executive officers. For more information regarding such employment agreements, see "Executive Compensation—Employment Agreements with our Named Executive Officers."

## **Indemnification agreements**

Our amended and restated certificate of incorporation that will be in effect upon the closing of this offering will contain provisions limiting the liability of directors, and our amended and restated bylaws will provide that we



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will indemnify each of our directors to the fullest extent permitted under Delaware law. Our amended and restated certificate of incorporation and amended and restated bylaws will also provide our board of directors with discretion to indemnify our officers and employees when determined appropriate by the board.

In addition, we have entered into indemnification agreements with each of our directors, and we expect to enter into amended and restated indemnification agreements with each of our directors and enter into indemnification agreements with each of our executive officers prior to the closing of this offering. For more information regarding these agreements, see “Executive Compensation—Limitations on Liability and Indemnification Matters.”

### **Related person transaction policy**

Prior to this offering, we have not had a formal policy regarding approval of transactions with related parties. In connection with this offering, we have adopted a related person transaction policy that sets forth our procedures for the identification, review, consideration and approval or ratification of related person transactions, which policy will become effective immediately upon the execution of the underwriting agreement for this offering. For purposes of our policy only, a related person transaction will be a transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships, in which we and any related person are, were, or will be participants and in which the amount involved exceeds \$120,000. Transactions involving compensation for services provided to us as an employee or director will not be covered by this policy. A related person will be any executive officer, director or beneficial owner of more than 5% of any class of our voting securities, including any of their immediate family members and any entity owned or controlled by such persons.

Under the policy, if a transaction has been identified as a related person transaction, including any transaction that was not a related person transaction when originally consummated or any transaction that was not initially identified as a related person transaction prior to consummation, our management must present information regarding the related person transaction to our audit committee, or, if audit committee approval would be inappropriate, to another independent body of our board of directors, for review, consideration and approval or ratification. The presentation must include a description of, among other things, the material facts, the interests, direct and indirect, of the related persons, the benefits to us of the transaction and whether the transaction is on terms that are comparable to the terms available to or from, as the case may be, an unrelated third party or to or from employees generally. Under the policy, we will collect information that we deem reasonably necessary from each director, executive officer and, to the extent feasible, significant stockholder to enable us to identify any existing or potential related-person transactions and to effectuate the terms of the policy. In addition, under our Code of Conduct that we expect to adopt prior to the closing of this offering, our employees and directors will have an affirmative responsibility to disclose any transaction or relationship that reasonably could be expected to give rise to a conflict of interest. In considering related person transactions, our audit committee, or other independent body of our board of directors, will take into account the relevant available facts and circumstances including:

- the risks, costs and benefits to us;
- the impact on a director’s independence in the event that the related person is a director, immediate family member of a director or an entity with which a director is affiliated;
- the availability of other sources for comparable services or products; and
- the terms available to or from, as the case may be, unrelated third parties or to or from employees generally.

The policy will require that, in determining whether to approve, ratify or reject a related person transaction, our audit committee, or other independent body of our board of directors, must consider, in light of known

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circumstances, whether the transaction is in, or is not inconsistent with, our best interests and those of our stockholders, as our audit committee, or other independent body of our board of directors, determines in the good faith exercise of its discretion.

All of the transactions described in this section were entered into prior to the adoption of this policy. Although we have not had a written policy for the review and approval of transactions with related persons, our board of directors has historically reviewed and approved any transaction where a director or officer had a financial interest, including the transactions described above. Prior to approving such a transaction, the material facts as to a director's or officer's relationship or interest in the agreement or transaction were disclosed to our board of directors. Our board of directors took this information into account when evaluating the transaction and in determining whether such transaction was fair to us and in the best interest of all our stockholders.

## Principal stockholders

The following table sets forth information regarding beneficial ownership of our capital stock by:

- each person, or group of affiliated persons, known by us to beneficially own more than 5% of our common stock;
- each of our directors;
- our named executive officers; and
- all of our current executive officers and directors as a group.

We have determined beneficial ownership in accordance with the rules of the SEC. Under these rules, beneficial ownership includes any shares of common stock as to which the individual or entity has sole or shared voting power or investment power. Applicable percentage ownership is based on shares of common stock outstanding as of September 19, 2023, after giving effect to the conversion of all of our preferred 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 held by such person that are currently exercisable or will become exercisable within 60 days of September 19, 2023 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 c/o Lexeo Therapeutics, Inc., 345 Park Avenue South, Floor 6, New York, New York 10010.

Except as indicated by the footnotes below, we believe, based on information furnished to us, that 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	Number of Shares Beneficially Owned	Percentage of Shares Beneficially Owned	
		Before Offering	After Offering
<b>Greater than 5% stockholders</b>			
D1 Master Holdco I LLC <sup>(1)</sup>		%	%
PBM LEX Holdings, LLC <sup>(2)</sup>			
Entities affiliated with Janus Henderson Investors <sup>(3)</sup>			
Longitude Venture Partners IV, L.P. <sup>(4)</sup>			
Lundbeckfond Invest A/S <sup>(5)</sup>			
Mutual Fund Series Trust, on Behalf of Eventide Healthcare & Life Sciences Fund <sup>(6)</sup>			
Omega Fund VI, L.P. <sup>(7)</sup>			
Ronald G. Crystal, M.D., and affiliates <sup>(8)</sup>			
<b>Named Executive Officers and Directors</b>			
R. Nolan Townsend <sup>(9)</sup>			
Jenny R. Robertson <sup>(10)</sup>			
Paul McCormac, Ph.D. <sup>(11)</sup>			
Mette Kirstine Agger			
Steven Altschuler, M.D. <sup>(12)</sup>			
Paula HJ Cholmondeley <sup>(13)</sup>			
Brenda Cooperstone, M.D. <sup>(14)</sup>			
Bernard Davitian			
Reinaldo Diaz			
All current executive officers and directors as a group (10 persons) <sup>(15)</sup>		%	%

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\* Represents beneficial ownership of less than one percent.

- (1) All of the shares are held by D1 Master Holdco I LLC, or Holdco I. Consists of \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock. Holdco I is a wholly owned subsidiary of D1 Capital Partners Master LP. D1 Capital Partners L.P. is a registered investment adviser and serves as the investment manager of private investment vehicles and accounts, including D1 Capital Partners Master LP, and may be deemed to beneficially own the shares of common stock held by Holdco I. Daniel Sundheim indirectly controls D1 Capital Partners L.P. and may be deemed to beneficially own the shares of common stock held by Holdco I. The business address of each of D1 Master Holdco I LLC, D1 Capital Partners L.P. and Daniel Sundheim is 9 West 57th Street, 36th Floor, New York, New York 10019.
- (2) Consists of \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock held by PBM LEX Holdings, LLC. PBM LEX Holdings, LLC is majority owned by PBM Capital Investments II, LLC, which is managed by PBM Capital Group, LLC. Paul B. Manning is the Chief Executive Officer of PBM Capital Group, LLC, and has sole voting and investment power with respect to the shares held by PBM LEX Holdings, LLC. The business address for each person and entity named in this footnote is 200 Garrett Street, Suite S, Charlottesville, Virginia 22902.
- (3) Consists of (i) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock held by Janus Henderson Biotech Innovation Master Fund Limited, (ii) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock held by Janus Henderson Horizon Fund – Biotechnology Fund, (iii) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock held by Janus Henderson Capital Funds PLC On Behalf Of Its Series Janus Henderson Global Life Sciences Fund, (iv) \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock held by Janus Henderson Capital Funds PLC On Behalf Of Its Series Janus Henderson Global Life Sciences Fund, (v) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock held by Janus Henderson Global Life Sciences Fund and (vi) \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock held by Janus Henderson Global Life Sciences Fund. Such shares owned by the funds may be deemed to be beneficially owned by Janus Henderson Investors US LLC, or Janus, an investment adviser registered under the Investment Advisers Act of 1940, who acts as investment adviser for the funds set forth above and has the ability to make decisions with respect to the voting and disposition of the shares subject to the oversight of the board of trustees (or similar entity) of each fund. Under the terms of its management contract with each fund, Janus has overall responsibility for directing the investments of the fund in accordance with the fund's investment objective, policies and limitations. Each fund has one or more portfolio managers appointed by and serving at the pleasure of Janus who makes decisions with respect to the disposition of the Shares. The address for Janus and each of the foregoing entities is 151 Detroit Street, Denver, Colorado 80206.
- (4) All of the shares are held by Longitude Venture Partners IV, L.P. (LVP IV). Consists of (i) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock and (ii) \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock. Longitude Capital Partners IV, LLC (LCP IV), is the general partner of LVP IV and may be deemed to have voting and investment power over the shares held by LVP IV. Patrick Enright and Juliet Tammenoms Bakker are managing members of LCP IV and may be deemed to share voting and investment power over the shares held by LVP IV. Each of LCP IV, Ms. Tammenoms Bakker and Mr. Enright disclaims beneficial ownership of such shares except to the extent of their respective pecuniary interests therein. The address for this entity is 2740 Sand Hill Road, 2nd Floor, Menlo Park, California 94025.
- (5) All of the shares are held by Lundbeckfond Invest A/S. Consists of (i) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock and (ii) \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock. Lundbeckfond Invest A/S is wholly-owned by the Lundbeck Foundation, and the board of directors of the Lundbeckfond Foundation consists of Steffen Kragh, Lars Holmqvist, Susanne Krüger Kjær, Michael Kjær, Peter Schütze, Gunhild Waldemar, Svend Andersen, Ludovic Tranholm Otterbein, Vagn Flink Møller Pedersen and Kristian Funding Andersen. The board of directors of the Lundbeck Foundation also serve as the board members of Lundbeckfond Invest A/S. No individual member of the Lundbeckfond Invest A/S board of directors is deemed to hold any beneficial ownership or reportable pecuniary interest in the shares held by Lundbeckfond Invest A/S. The board of directors of Lundbeckfond Invest A/S makes decisions with respect to investments made by Lundbeckfond Invest A/S, and the board of directors of Lundbeckfond Invest A/S and Lene Skole, the chief executive officer of Lundbeckfond Invest A/S, may be deemed to share voting and investment authority over the shares held by Lundbeckfond Invest A/S. The address of Lundbeckfond Invest A/S is Scherfigsvej 7 DK-2100, Copenhagen Ø, Denmark.
- (6) All of the shares are held by Mutual Fund Series Trust, On Behalf of Eventide Healthcare & Life Sciences Fund. Consists of \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock. Eventide Healthcare & Life Sciences Fund is a registered investment company for which Eventide Asset Management, LLC acts as investment advisor. Eventide Asset Management, LLC has voting and investment power with respect to the shares. The address for this entity is c/o Eventide Asset Management, LLC, One International Place, Suite 4210, Boston, Massachusetts 02110.
- (7) All of the shares are held by Omega Fund VI, L.P., or Omega Fund. Consists of (i) \_\_\_\_\_ shares of common stock issuable upon conversion of Series A convertible preferred stock and (ii) \_\_\_\_\_ shares of common stock issuable upon conversion of Series B convertible preferred stock. Omega Fund VI GP Manager, Ltd., or Omega Ltd., is the sole general partner of Omega Fund VI GP, L.P., or Omega GP, which is the sole general partner of Omega Fund; and each of Omega Ltd. and Omega GP may be deemed to own beneficially the shares held by Omega Fund. Claudio Nessi, Otello Stampacchia and Anne-Mari Paster are the directors of Omega Ltd. and, as a result, may be deemed to share voting and investment power over the shares held directly by Omega Fund. Each of Dr. Stampacchia, Dr. Nessi, and Ms. Paster, and Omega Ltd. and Omega GP disclaims beneficial ownership of the shares held by Omega Fund except to the extent of their pecuniary interest therein. The address for this entity is 888 Boylston Street, Suite 1111, Boston, Massachusetts 02199.
- (8) Consists of (i) 10,627,068 shares of common stock held by Ronald G. Crystal, M.D., (ii) 3,542,356 shares of common stock held by the Ronald G. Crystal 2021 Grantor Retained Annuity Trust over which Dr. Crystal retains sole voting and dispositive power and (iii) \_\_\_\_\_ shares of common stock issuable upon exercise of options held by Dr. Crystal, \_\_\_\_\_ of which will be unvested but exercisable within 60 days of September 19, 2023.
- (9) Consists of (i) 1,344,894 shares of common stock and (ii) \_\_\_\_\_ shares of common stock issuable upon exercise of options, \_\_\_\_\_ of which will be unvested but exercisable within 60 days of September 19, 2023.
- (10) Includes \_\_\_\_\_ shares of common stock issuable upon exercise of options, \_\_\_\_\_ of which will be unvested but subject to options that are exercisable within 60 days of September 19, 2023.

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- (11) Includes        shares of common stock issuable upon exercise of options,        of which will be unvested but exercisable within 60 days of September 19, 2023.
- (12) Includes        shares of common stock issuable upon exercise of options,        of which will be unvested but exercisable within 60 days of September 19, 2023.
- (13) Consists of (i) 165,565 shares of common stock and (ii)        shares of common stock issuable upon exercise of options,        of which will be unvested but exercisable within 60 days of September 19, 2023.
- (14) Includes        shares of common stock issuable upon exercise of options,        of which will be unvested but exercisable within 60 days of September 19, 2023.
- (15) Consists of (i)        shares of common stock and (ii)        shares of common stock issuable upon exercise of options,        of which will be unvested but exercisable within 60 days of September 19, 2023.

## Description of capital stock

*The following description of our capital stock, certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as each will be in effect following the completion of this offering, and certain provisions of Delaware law are summaries. You should also refer to the amended and restated certificate of incorporation and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus is part.*

### General

Upon the completion of this offering, our amended and restated certificate of incorporation will authorize us to issue up to \_\_\_\_\_ shares of common stock, \$0.0001 par value per share, and \_\_\_\_\_ shares of preferred stock, \$0.0001 par value per share, all of which shares of preferred stock will be undesignated. Our board of directors may establish the rights and preferences of the preferred stock from time to time. As of June 30, 2023, there were 85,495,722 shares of Series A convertible preferred stock outstanding and 58,157,823 shares of Series B convertible preferred stock outstanding, held by 44 stockholders of record. All currently outstanding shares of convertible preferred stock will be converted into an aggregate of \_\_\_\_\_ shares of common stock upon the closing of this offering.

### Common stock

#### *Voting rights*

Each holder of our common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. The affirmative vote of holders of at least 66-2/3% of the voting power of all of the then-outstanding shares of capital stock, voting as a single class, will be required to amend certain provisions of our amended and restated certificate of incorporation, including provisions relating to amending our amended and restated bylaws, the classified board, the size of our board, removal of directors, director liability, vacancies on our board, special meetings, stockholder notices, actions by written consent and exclusive forum.

#### *Dividends*

Subject to preferences that may be applicable to any then-outstanding preferred stock, holders of common stock are entitled to receive ratably those dividends, if any, as may be declared from time to time by the board of directors out of legally available funds.

#### *Liquidation*

In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock.

#### *Rights and preferences*

Holders of common stock have no preemptive, conversion or subscription rights and there are no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the right of the holders of shares of any series of preferred stock that we may designate in the future.

## **Preferred stock**

Following the closing of this offering, our board of directors will have the authority under our amended and restated certificate of incorporation, without further action by our stockholders, to issue up to \_\_\_\_\_ shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each such series, to fix the rights, preferences and privileges of the shares of each wholly unissued series and any qualifications, limitations or restrictions thereon, and to increase or decrease the number of shares of any such series, but not below the number of shares of such series then outstanding.

Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of our common 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 and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in control of us and may adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. It is not possible to state the actual effect of the issuance of any shares of preferred stock on the rights of holders of common stock until the board of directors determines the specific rights attached to that preferred stock.

We have no present plans to issue any shares of preferred stock following completion of this offering.

## **Options and restricted stock awards**

As of June 30, 2023, there were options to purchase \_\_\_\_\_ shares of common stock outstanding and no shares of common stock had been issued pursuant to restricted stock awards. For additional information regarding the terms of the Existing Plan, see “Executive Compensation—Equity Incentive Plans.”

## **Registration rights**

We, the holders of our existing convertible preferred stock and certain holders of our existing common stock have entered into an amended and restated investors’ rights agreement. The registration rights provisions of this agreement provide those holders with demand, piggyback and Form S-3 registration rights with respect to the shares of common stock currently held by them and issuable to them upon conversion of our convertible preferred stock in connection with our initial public offering. These shares are collectively referred to herein as registrable securities.

### ***Demand registration rights***

At any time beginning 180 days following the effective date of the registration statement of which this prospectus is a part, the holders of a majority of registrable securities then outstanding have the right to demand that we file a Form S-1 registration statement covering registrable securities then outstanding having an aggregate offering price in excess of \$10 million. These registration rights are subject to specified conditions and limitations, including the right of the underwriters, if any, to limit the number of shares included in any such registration under specified circumstances. Upon such a request, we are required to effect a Form S-1 registration statement as soon as practicable, but in any event no later than 60 days after the date such request is given by the initiating holders. An aggregate of \_\_\_\_\_ shares of common stock will be entitled to these demand registration rights.

### ***Piggyback registration rights***

If we propose to register any of our securities under the Securities Act either for our own account or for the account of other stockholders, the holders of registrable securities will each be entitled to notice of the

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registration and will be entitled to include their shares of common stock in the registration statement. These piggyback registration rights are subject to specified conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under specified circumstances. An aggregate of \_\_\_\_\_ shares of common stock will be entitled to these piggyback registration rights.

### ***Registration on Form S-3***

At any time after we become eligible to file a registration statement on Form S-3, the holders of at least 10% of registrable securities then outstanding will be entitled to request to have such shares registered by us on a Form S-3 registration statement. These Form S-3 registration rights are subject to other specified conditions and limitations, including the condition that the anticipated aggregate offering price, net of certain selling expenses, is at least \$1 million. Upon receipt of this request, the holders of registrable securities will each be entitled to participate in this registration. An aggregate of \_\_\_\_\_ shares of common stock will be entitled to these Form S-3 registration rights.

### ***Expenses of registration***

We are required to pay all expenses, including reasonable fees and expenses of one counsel to represent the selling stockholders, relating to any demand, piggyback or Form S-3 registration, other than underwriting discounts and commissions, stock transfer taxes and any additional fees of counsel for the selling stockholders, subject to specified conditions and limitations. We are not required to pay registration expenses if a demand registration request is withdrawn at the request of a majority of holders of registrable securities to be registered, unless holders of a majority of the registrable securities agree to forfeit their right to one demand registration.

The amended and restated investors' rights agreement contains customary cross-indemnification provisions, pursuant to which we are obligated to indemnify the selling stockholders in the event of material misstatements or omissions in the applicable registration statement attributable to us, and the selling stockholders are obligated to indemnify us for material misstatements or omissions in the registration statement attributable to them, subject to certain limitations.

### ***Termination of registration rights***

The registration rights granted under the investors' rights agreement will terminate with respect to any particular stockholder upon the earlier of (a) the closing of a deemed liquidation event, as defined in our certificate of incorporation, (b) with respect to each stockholder, at such time such stockholder is able to sell all of its shares pursuant to Rule 144 or another similar exemption under the Securities Act during a three-month period without registration and (c) the fifth anniversary of the closing of this offering or such later date that is 180 days following the expiration of all deferrals of our obligations with respect to any registration rights exercised by holders of registrable securities as of such fifth anniversary.

## **Anti-takeover provisions**

### ***Section 203 of the Delaware General Corporation Law***

We are subject to Section 203 of the Delaware General Corporation Law, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;



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- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66-2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines a “business combination” to include the following:

- any merger or consolidation involving the corporation or any direct or indirect majority-owned subsidiary of the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder (in one transaction or a series of transactions);
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder;
- any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines an “interested stockholder” as an entity or person who, together with the person’s affiliates and associates, beneficially owns, or within three years prior to the time of determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

### ***Amended and restated certificate of incorporation and amended and restated bylaws***

Our amended and restated certificate of incorporation to be in effect upon the completion of this offering, or our restated certificate, will provide for our board of directors to be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Because our stockholders do not have cumulative voting rights, stockholders holding a majority of the shares of common stock outstanding will be able to elect all of our directors. Our restated certificate and our amended and restated bylaws to be effective upon the completion of this offering, or our restated bylaws, will also provide that directors may be removed by the stockholders only for cause upon the vote of 66-2/3% or more of our outstanding common stock. Furthermore, the authorized number of directors may be changed only by resolution of the board of directors, and vacancies and newly created directorships on the board of directors may, except as otherwise required by law or determined by the board, only be filled by a majority vote of the directors then serving on the board, even though less than a quorum.

Under our restated certificate of incorporation and amended and restated bylaws our stockholders will not have cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose.

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Our restated certificate and restated bylaws will also provide that all stockholder actions must be effected at a duly called meeting of stockholders and will eliminate the right of stockholders to act by written consent without a meeting. Our restated bylaws will also provide that only our Chairman of the board, Chief Executive Officer or the board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors may call a special meeting of stockholders.

Our restated bylaws will also provide that stockholders seeking to present proposals before a meeting of stockholders to nominate candidates for election as directors at a meeting of stockholders must provide timely advance notice in writing, and will specify requirements as to the form and content of a stockholder's notice.

Our restated certificate and restated bylaws will provide that the stockholders cannot amend many of the provisions described above except by a vote of 66-2/3% or more of our outstanding common stock.

As described in "—Preferred Stock" above, our restated certificate will give our board of directors the authority, without further action by our stockholders, to issue up to \_\_\_\_\_ shares of preferred stock in one or more series, with any rights, preferences and privileges as they may designate, including the right to approve an acquisition or other change in control.

The combination of these provisions will make it more difficult for our existing stockholders to replace our board of directors as well as for another party to obtain control of us by replacing our board of directors. Since our board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management. In addition, the authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change our control.

These provisions are intended to enhance the likelihood of continued stability in the composition of our board of directors and its policies and to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to reduce our vulnerability to hostile takeovers and to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and may have the effect of delaying changes in our control or management. As a consequence, these provisions may also inhibit fluctuations in the market price of our stock that could result from actual or rumored takeover attempts. We believe that the benefits of these provisions, including increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure our company, outweigh the disadvantages of discouraging takeover proposals, because negotiation of takeover proposals could result in an improvement of their terms.

### **Choice of forum**

Our amended and restated certificate of incorporation will provide that the Court of Chancery of the state of Delaware will be the exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action asserting a breach of fiduciary duty;
- any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our restated certificate, or our amended and restated bylaws; or
- any action asserting a claim against us that is governed by the internal affairs doctrine.

The provision would not apply to suits brought to enforce a duty or liability created by the Exchange Act. Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all

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such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated certificate of incorporation will also provide that unless we consent in writing to the selection of an alternative 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.

While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our restated certificate of incorporation. This may require significant additional costs associated with resolving such action in other jurisdictions and there can be no assurance that the provisions will be enforced by a court in those other jurisdictions.

These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find either exclusive-forum provision in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur further significant additional costs associated with resolving the dispute in other jurisdictions, all of which could seriously harm our business.

Our amended and restated certificate of incorporation will further provide that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, subject to and contingent upon a final adjudication in the State of Delaware of the enforceability of such exclusive forum provision.

### **Transfer agent and registrar**

The transfer agent and registrar for our common stock is Equiniti Trust Company, LLC. The transfer agent's address is 6201 15th Avenue, Brooklyn, New York 11219.

### **Listing**

We have applied to list our common stock on the Nasdaq Global Market under the trading symbol "LXEO."

## Shares eligible for future sale

Prior to this offering, no public market existed for our common stock. Future sales of our common stock in the public market, or the availability of such shares for sale in the public market, could adversely affect market prices prevailing from time to time. As described below, only a limited number of shares will be available for sale shortly after this offering due to contractual and legal restrictions on resale. Nevertheless, sales of our common stock in the public market after such restrictions lapse, or the perception that those sales may occur, could adversely affect the prevailing market price at such time and our ability to raise equity capital in the future.

Based on the number of shares outstanding as of June 30, 2023, upon the closing of this offering and assuming no exercise of the underwriters' option to purchase additional shares, \_\_\_\_\_ shares of common stock will be outstanding, assuming no outstanding options are exercised. All of the shares of common stock sold in this offering will be freely tradable without restrictions or further registration under the Securities Act, except for any shares sold to our "affiliates," as that term is defined under Rule 144 under the Securities Act. The remaining \_\_\_\_\_ shares of common stock held by existing stockholders are "restricted securities," as that term is defined in Rule 144 under the Securities Act. Restricted securities may be sold in the public market only if registered or if their resale qualifies for exemption from registration described below under Rule 144 promulgated under the Securities Act or another available exemption.

As a result of the lock-up agreements described below and the provisions of Rules 144 and 701 under the Securities Act, the shares of common stock that will be deemed restricted securities after this offering will be available for sale in the public market as follows:

- none of the existing shares will be eligible for immediate sale upon the completion of this offering; and
- \_\_\_\_\_ shares will be eligible for sale in the public market upon expiration of lock-up agreements 180 days after the date of this prospectus, subject in certain circumstances to the volume, manner of sale and other limitations under Rule 144 and Rule 701 under the Securities Act, which are summarized below.

### Rule 144

In general, non-affiliate persons who have beneficially owned restricted shares of our common stock for at least six months, and any affiliate of the company who owns either restricted or unrestricted shares of our common stock, are entitled to sell their securities without registration with the SEC under an exemption from registration provided by Rule 144 under the Securities Act.

#### *Non-affiliates*

Any person who is not deemed to have been one of our affiliates at the time of, or at any time during the three months preceding, a sale may sell an unlimited number of restricted securities under Rule 144 if:

- the restricted securities have been held for at least six months, including the holding period of any prior owner other than one of our affiliates (subject to certain exceptions);
- we have been subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale; and
- we are current in our Exchange Act reporting at the time of sale.

Any person who is not deemed to have been an affiliate of ours at the time of, or at any time during the three months preceding, a sale and has held the restricted securities for at least one year, including the holding period

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of any prior owner other than one of our affiliates, will be entitled to sell an unlimited number of restricted securities without regard to the length of time we have been subject to Exchange Act periodic reporting or whether we are current in our Exchange Act reporting. Non-affiliate resales are not subject to the manner of sale, volume limitation or notice filing provisions of Rule 144.

### ***Affiliates***

Persons seeking to sell restricted securities who are our affiliates at the time of, or any time during the three months preceding, a sale, would be subject to the restrictions described above. They are also subject to additional restrictions, by which such person would be required to comply with the manner of sale and notice provisions of Rule 144 and would be entitled to sell within any three-month period only that number of securities that does not exceed the greater of either of the following:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately \_\_\_\_\_ shares immediately after the completion of this offering based on the number of shares outstanding as of June 30, 2023; or
- the average weekly trading volume of our common stock on the stock exchange on which our shares are listed during the four calendar weeks preceding the filing of a notice on Form 144 with respect to the sale.

Additionally, persons who are our affiliates at the time of, or any time during the three months preceding, a sale may sell unrestricted securities under the requirements of Rule 144 described above, without regard to the six-month holding period of Rule 144, which does not apply to sales of unrestricted securities.

### **Rule 701**

Rule 701 under the Securities Act, as in effect on the date of this prospectus, permits resales of shares in reliance upon Rule 144 but without compliance with certain restrictions of Rule 144, including the holding period requirement. Most of our employees, executive officers or directors who purchased shares under a written compensatory plan or contract may be entitled to rely on the resale provisions of Rule 701, but all holders of Rule 701 shares are required to wait until 90 days after the date of this prospectus before selling their shares. However, substantially all Rule 701 shares are subject to lock-up agreements as described below and in the section titled “Underwriting” and will become eligible for sale upon the expiration of the restrictions set forth in those agreements.

### **Form S-8 registration statements**

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 equity plans. We expect to file the registration statement covering shares offered pursuant to our stock plans as soon as practicable after the closing of this offering, 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 and expiration or release from the terms of the lock-up agreements described above.

### **Lock-up agreements**

We, our executive officers and directors and substantially all of the holders of our common stock outstanding on the date of this prospectus have entered into lock-up agreements with the underwriters or otherwise agreed, subject to limited exceptions, that we and they will not, offer, pledge, announce the intention to sell, sell, contract

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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 dispose of, directly or indirectly, or enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of our common stock, or any securities convertible into, or exchangeable for or that represent the right to receive shares of our common stock, without the prior written consent of J.P. Morgan Securities LLC and Leerink Partners LLC for a period of 180 days from the date of this prospectus. See “Underwriting” for additional information on these lock-up agreements.

In addition to the restrictions contained in the lock-up agreements described above, we have entered into an agreement with the holders of our preferred stock that contains market stand-off provisions imposing restrictions on the ability of such security holders to sell or otherwise transfer or dispose of any registrable securities for a period of 180 days following the date of this prospectus.

### **Registration rights**

Upon the closing of this offering, the holders of \_\_\_\_\_ shares of our common stock, including common stock issuable upon the conversion of our preferred stock, or their transferees, will be entitled to specified rights with respect to the registration of their registrable shares under the Securities Act, subject to certain limitations and the expiration, waiver or termination of the lock-up agreements. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act immediately upon effectiveness of the registration. See “Description of Capital Stock—Registration Rights” for additional information.

## Material U.S. federal income tax consequences to non-U.S. holders

The following is a summary of 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 offered pursuant to this prospectus. This discussion is not a complete analysis of all potential U.S. federal income tax consequences relating thereto, does not address the potential application of the Medicare contribution tax on net investment income, the alternative minimum tax, or the special tax accounting rules under Section 451(b) of the Code, and does not address any U.S. federal non-income tax consequences such as estate or gift tax consequences or any tax consequences arising under any state, local, or non-U.S. tax laws. This discussion is based on the Code and applicable Treasury Regulations promulgated thereunder, judicial decisions and published rulings, and administrative pronouncements of the Internal Revenue Service, or the IRS, all as in effect as of the date hereof. These authorities are subject to differing interpretations and may change, possibly retroactively, resulting in U.S. federal income tax consequences different from those discussed below. We have not requested, and do not intend to request, a ruling from the IRS with respect to the U.S. federal income tax consequences discussed below, and there can be no assurance that the IRS or a court will agree with such tax consequences.

This discussion is further 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 also does not address all U.S. federal income tax consequences that may be relevant to a particular non-U.S. holder in light of such non-U.S. holder’s particular circumstances. Finally, this discussion does not address any specific facts or circumstances that may be relevant to non-U.S. holders subject to special rules under U.S. federal income tax laws, including:

- certain former citizens or long-term residents of the United States;
- partnerships, S corporations, or other entities or arrangements treated as partnerships, pass-through entities, or disregarded entities (including hybrid entities) for U.S. federal income tax purposes (and investors therein);
- “controlled foreign corporations” within the meaning of Section 957(a) of the Code;
- “passive foreign investment companies” within the meaning of Section 1297(a) of the Code;
- corporations that accumulate earnings to avoid U.S. federal income tax;
- banks or other financial institutions;
- real estate investment trusts or regulated investment companies;
- insurance companies;
- brokers or dealers in securities;
- persons that have elected to mark securities to market;
- tax-exempt organizations (including private foundations), governmental organizations, or international organizations;
- tax-qualified retirement plans;
- persons that acquired our common stock through the exercise of employee stock options or otherwise as compensation;

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- persons that acquired our common stock through the exercise of warrants or conversion rights under convertible instruments;
- persons that hold our common stock as “qualified small business stock” under Section 1202 of the Code or “Section 1244 stock” under Section 1244 of the Code;
- persons that acquired our common stock in a transaction subject to the gain rollover provisions of the Code (including Section 1045 of the Code);
- persons that own, or have owned, actually or constructively, more than 5% of our common stock;
- “qualified foreign pension funds” within the meaning of Section 897(l)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds; and
- persons that hold our common stock as part of a hedging or conversion transaction, straddle, a constructive sale, or any other risk reduction strategy or integrated investment.

If a partnership (or an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes) holds our common stock, the U.S. federal income tax treatment of a partner in such partnership will generally depend on the status of the partner and the activities of the partnership. Partnerships that hold our common stock and the partners in such partnerships are urged to consult their tax advisors about the particular U.S. federal income tax consequences to them of holding and disposing of our common stock.

**THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE PARTICULAR U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF ACQUIRING, OWNING, AND DISPOSING OF OUR COMMON STOCK, AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL, OR NON-U.S. TAX LAWS AND ANY U.S. FEDERAL NON-INCOME TAX LAWS, OR UNDER ANY APPLICABLE INCOME TAX TREATY.**

### **Definition of non-U.S. holder**

For purposes of this discussion, a non-U.S. holder is any beneficial owner of our common stock that is not a “United States person” or a partnership (including any entity or arrangement 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 (or any entity treated as a corporation for U.S. federal income tax purposes) 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 (1) whose administration is subject to the primary supervision of a U.S. court and which has one or more “United States persons” within the meaning of Section 7701(a)(30) of the Code who have the authority to control all substantial decisions of the trust or (2) that has a valid election in effect under applicable Treasury Regulations to be treated as a United States person.

### **Distributions on our common stock**

As described in the section titled “Dividend Policy” above, we have not paid and do not anticipate paying dividends in the foreseeable future. However, if we make cash or other property distributions on our common



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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. Any portion of a distribution that exceeds our current and accumulated earnings and profits will constitute a return of capital and first be applied against and reduce the non-U.S. holder's tax basis in our common stock, but not below zero. Any amount distributed in excess of tax basis will be treated as gain realized on the sale or other disposition of our common stock and, therefore, treated as described in the section titled "—Gain on Disposition of Our Common Stock" below.

Subject to the discussions below regarding effectively connected income, backup withholding, and Sections 1471 through 1474 of the Code, commonly referred to as the Foreign Account Tax Compliance Act (FATCA), dividends paid to a non-U.S. holder generally will be subject to U.S. federal withholding tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) of the gross amount of the dividends. To receive the benefit of a lower treaty rate, a non-U.S. holder must furnish the applicable withholding agent with a valid IRS Form W-8BEN or IRS Form W-8BEN-E (or applicable successor form) certifying such non-U.S. holder's qualification for such rate. This certification must be provided to the applicable withholding agent before the payment of dividends and updated periodically. If the non-U.S. holder holds our common stock through a financial institution or other agent acting on the non-U.S. holder's behalf, the non-U.S. holder will be required to provide appropriate documentation to the financial institution or agent, which then will be required to provide certification to the applicable withholding agent, either directly or through other intermediaries.

Non-U.S. holders that do not provide the required certification on a timely basis, but that qualify 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.

If a non-U.S. holder holds our common stock in connection with the conduct of a trade or business in the United States, and dividends paid on our common stock are effectively connected with such non-U.S. holder's U.S. trade or business (and are attributable to such non-U.S. holder's permanent establishment in the United States, if required by an applicable tax treaty), the non-U.S. holder generally will be exempt from U.S. federal withholding tax. To claim the exemption, the non-U.S. holder must generally furnish a valid IRS Form W-8ECI (or applicable successor form) to the applicable withholding agent.

However, any such effectively connected dividends paid on our common stock generally will be subject to U.S. federal income tax on a net income basis at regular U.S. federal income tax rates in the same manner as if the non-U.S. holder were a resident of the United States. A non-U.S. holder that is a foreign corporation also may be subject to an additional branch profits tax equal to 30% (or such lower rate specified by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items. Non-U.S. holders are urged to consult their tax advisors about any applicable income tax treaties that may provide for different rules.

### **Gain on disposition of our common stock**

Subject to the discussions below regarding backup withholding and FATCA, a non-U.S. holder generally will not be subject to U.S. federal income tax on any gain realized on the sale or other disposition of our common stock, unless:

- the gain is effectively connected with the non-U.S. holder's conduct of a trade or business in the United States and, if required by an applicable income tax treaty, is attributable to the non-U.S. holder's permanent establishment in the United States;
- 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 sale or other disposition, and certain other requirements are met; or

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- our common stock constitutes a “United States real property interest” by reason of our status as a United States real property holding corporation, or USRPHC, for U.S. federal income tax purposes at any time within the shorter of the five-year period preceding the sale or other disposition or the non-U.S. holder’s holding period for our common stock, and our common stock is not regularly traded on an established securities market as defined by applicable Treasury Regulations.

Determining whether we are a USRPHC depends on the fair market value of our U.S. real property interests relative to the fair market value of our other trade or business assets and our foreign real property interests. We do not believe that we are, or have been, and do not anticipate becoming, a USRPHC for U.S. federal income tax purposes, although there can be no assurance that we will not in the future become a USRPHC. Even if we are or were to become a USRPHC, gain arising from the sale or other disposition by a non-U.S. holder of our common stock may 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.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at regular U.S. federal income tax rates in the same manner as if the non-U.S. holder were a resident of the United States. A non-U.S. holder that is a foreign corporation also may be subject to an additional branch profits tax equal to 30% (or such lower rate specified by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, 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 flat 30% rate (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 certain U.S.-source capital losses (even though the individual is not considered a resident of the United States), provided that the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses. If we are or become a USRPHC during the period described in the third bullet point above and our common stock is not regularly traded for purposes of the relevant rules, gain arising from the sale or other taxable disposition of our common stock by a non-U.S. holder will generally be subject to U.S. federal income tax in the same manner as gain that is effectively connected with the conduct of a U.S. trade or business, except that the branch profits tax generally will not apply. Non-U.S. holders are urged to consult their tax advisors about any applicable income tax treaties that may provide for different rules.

### **Information reporting and backup withholding**

Annual reports are required to be filed with the IRS and provided to each non-U.S. holder indicating the amount of distributions on our common stock paid to such non-U.S. holder and the amount of any tax withheld with respect to those distributions. These information reporting requirements apply even if no withholding was required (because the distributions were effectively connected with the non-U.S. holder’s conduct of a U.S. trade or business, or withholding was reduced or eliminated by an applicable income tax treaty) and regardless of whether such distributions constitute dividends. This information also may be made available under a specific treaty or agreement with the tax authorities in the country in which the non-U.S. holder resides or is established. Backup withholding, currently at a 24% rate, generally will not apply to payments to a non-U.S. holder of dividends on or the gross proceeds of a sale or other disposition of our common stock provided that the non-U.S. holder furnishes the required certification for its non-U.S. status, such as by providing a valid IRS Form W-8BEN, IRS Form W-8BEN-E, or IRS Form W-8ECI, or certain other requirements are met. Backup withholding may apply if the payor has actual knowledge, or reason to know, that the non-U.S. holder is a United States person who is not an exempt recipient.

Backup withholding is not an additional tax. If any amount is withheld under the backup withholding rules, non-U.S. holders are urged to consult their tax advisors about the possibility of and procedure for obtaining a refund or a credit against the non-U.S. holder’s U.S. federal income tax liability, if any.

## **Foreign account tax compliance act**

FATCA imposes a U.S. federal withholding tax of 30% on certain payments made to a “foreign financial institution” (as specially defined under the FATCA rules) unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding certain U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or an exemption applies. FATCA also generally will impose a U.S. federal withholding tax of 30% on certain payments made to a non-financial foreign entity unless such entity provides the withholding agent a certification identifying certain direct and indirect U.S. owners of the entity or an exemption applies. An intergovernmental agreement between the United States and an applicable non-U.S. country may modify these requirements. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. FATCA applies to dividends paid on our common stock and, subject to the proposed Treasury Regulations described below, also applies to gross proceeds from sales or other dispositions of our common stock. The U.S. Treasury Department released proposed Treasury Regulations which, if finalized in their present form, would eliminate the U.S. federal withholding tax of 30% applicable to the gross proceeds of a sale or other disposition of our common stock. In its preamble to such proposed Treasury Regulations, the U.S. Treasury Department stated that taxpayers may generally rely on the proposed Treasury Regulations until final regulations are issued.

Prospective investors are urged to consult with their tax advisors about the possible implications of FATCA on their investment in our common stock.

## Underwriting

We are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC, Leerink Partners LLC, Stifel, Nicolaus & Company, Incorporated and RBC Capital Markets, LLC are acting as joint book-running managers of the offering and as representatives of the underwriters. We have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
Leerink Partners LLC	
Stifel, Nicolaus & Company, Incorporated	
RBC Capital Markets, LLC	
Chardan Capital Markets, LLC	
Total	

The underwriters are committed to purchase all the common stock offered by us if they purchase any shares. 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 propose to offer the common stock directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of \$ \_\_\_\_\_ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to \$ \_\_\_\_\_ per share from the initial public offering price. After the initial offering of the shares to the public, if all of the common stock is not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms. Sales of any shares made outside of the United States may be made by affiliates of the underwriters.

The underwriters have an option to buy up to \_\_\_\_\_ additional shares of common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us per share of common stock. The underwriting fee is \$ \_\_\_\_\_ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without Option to Purchase Additional Shares Exercise	With Full Option to Purchase Additional Shares Exercise
Per Share	\$	\$
Total	\$	\$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately \$ \_\_\_\_\_.

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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 have agreed that we will not (i) 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, or submit to, or file with, the Securities and Exchange Commission a registration statement under the Securities Act relating to, any shares of our common stock or securities convertible into or exercisable or exchangeable for any shares of our common stock, or publicly disclose the intention to make any offer, sale, pledge, loan, disposition or filing, or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any shares of common stock or any such other securities (regardless of whether any of these transactions are to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise), in each case without the prior written consent of J.P. Morgan Securities LLC and Leerink Partners LLC for a period of 180 days after the date of this prospectus, other than the shares of our common stock to be sold in this offering.

The restrictions on our actions, as described above, do not apply to: (i) the issuance of shares of common stock or securities convertible into or exercisable for shares of our common stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the settlement of RSUs (including net settlement), in each case outstanding on the date of the underwriting agreement and described in this prospectus; (ii) grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of our common stock or securities convertible into or exercisable or exchangeable for shares of our common stock (whether upon the exercise of stock options or otherwise) to our employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the closing of this offering and described in this prospectus, provided that such recipients enter into a lock-up agreement with the underwriters; (iii) the issuance of up to 5% of the outstanding shares of our common stock, or securities convertible into, exercisable for, or which are otherwise exchangeable for, our common stock, immediately following the closing of this offering, in acquisitions or other similar strategic transactions, provided that such recipients enter into a lock-up agreement with the underwriters; or (iv) our filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of the underwriting agreement and described in this prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction.

Our directors and executive officers, and substantially all of our shareholders (such persons, the “lock-up parties”) have entered into lock up agreements with the underwriters prior to the commencement of this offering pursuant to which each lock-up party, with limited exceptions, for a period of 180 days after the date of this prospectus (such period, the “restricted period”), may not (and may not cause any of their direct or indirect affiliates to), without the prior written consent of J.P. Morgan Securities LLC and Leerink Partners LLC, (1) 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 our common stock (including, without limitation, common stock or such other securities which may be deemed to be beneficially owned by such lock-up parties in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant (collectively with the common stock, the “lock-up securities”)), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the lock-up securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of lock-up securities, in cash or

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otherwise, (3) make any demand for, or exercise any right with respect to, the registration of any lock-up securities, or (4) publicly disclose the intention to do any of the foregoing. Such persons or entities have further acknowledged that these undertakings preclude them from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (by any person or entity, whether or not a signatory to such agreement) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any lock-up securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of lock-up securities, in cash or otherwise.

The restrictions described in the immediately preceding paragraph and contained in the lock-up agreements between the underwriters and the lock-up parties do not apply, subject in certain cases to various conditions, to certain transactions, including (a) transfers of lock-up securities: (i) as bona fide gifts, or for bona fide estate planning purposes; (ii) by will or intestacy; (iii) to any trust for the direct or indirect benefit of the lock-up party or any immediate family member, or if the lock-up party is a trust, to a trustor, trustee (or co-trustee) or beneficiary of the trust or to the estate of a beneficiary of the trust; (iv) to a partnership, limited liability company or other entity of which the lock-up party and its immediate family members are the legal and beneficial owner of all of the outstanding equity securities or similar interests; (v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iv); (vi) in the case of a corporation, partnership, limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate of the lock-up party, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the lock-up party or its affiliates or (B) as part of a distribution, transfer or disposition to stockholders, partners, members, beneficiaries or other equity holders of the lock-up party; (vii) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree, or separation agreement; (viii) to us from an employee upon death, disability or termination of employment of such employee; (ix) as part of a sale of lock-up securities acquired in this offering or in open market transactions after the completion of this offering; (x) to us in connection with the vesting, settlement or exercise of restricted stock units, options, warrants or other rights to purchase shares of our common stock (including “net” or “cashless” exercise), including for the payment of exercise price and tax and remittance payments; (xi) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction approved by our board of directors and made to all shareholders involving a change in control, provided that if such transaction is not completed, all such lock-up securities would remain subject to the restrictions in the immediately preceding paragraph; or (xii) to an immediate family member of the lock-up party; (b) exercise of the options, settlement of RSUs or other equity awards, or the exercise of warrants granted pursuant to plans described in this prospectus, provided that any lock-up securities received upon such exercise, vesting or settlement would be subject to restrictions similar to those in the immediately preceding paragraph; (c) the conversion of outstanding preferred stock, warrants to acquire preferred stock, or convertible securities into shares of our common stock or warrants to acquire shares of our common stock, provided that any common stock or warrant received upon such conversion would be subject to restrictions similar to those in the immediately preceding paragraph; and (d) the establishment by lock-up parties of trading plans under Rule 10b5-1 under the Exchange Act, provided that (1) such plan does not provide for the transfer of lock-up securities during the restricted period and (2) any required public disclosure of such plan includes the restrictions set forth in the immediately preceding paragraph.

J.P. Morgan Securities LLC and Leerink Partners LLC, in their sole discretion, may release the securities subject to any of the lock-up agreements with the underwriters described above, in whole or in part at any time.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act.

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We have applied to list our common stock on the Nasdaq Global Market under the symbol “LXEO”.

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be “covered” shorts, which are short positions in an amount not greater than the underwriters’ option to purchase additional shares referred to above, or may be “naked” shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. 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 that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the Nasdaq Stock Market, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our common stock, or that the shares will trade in the public market at or above the initial public offering price.

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.

### **Notice to prospective investors in the European Economic Area**

In relation to each Member State of the European Economic Area, each a Relevant State, no shares of our common stock have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the shares of our common stock which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that offers of Shares may be made to the public in that Relevant State other than at any time under the following exemptions under the Prospectus Regulation:

- (a) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), subject to obtaining the prior consent of the underwriters for any such offer; or
- (c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares of common stock shall require us or any underwriter to publish a prospectus pursuant to Article 3 the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation and each person who initially acquires any shares of common stock or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the underwriters and us that it is a “qualified investor” within the meaning of Article 2(e) of the Prospectus Regulation.

In the case of any shares of common stock being offered to a financial intermediary as that term is used in the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares of common stock acquired by it in the offer have not been acquired on a non-discretionary 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 of common stock to the public other than their offer or resale in a Relevant State to qualified investors as so defined or in circumstances in which the prior consent of the underwriters has been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an “offer to the public” in relation to any shares of common stock in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any Shares to be offered so as to enable an investor to decide to purchase or subscribe for any Shares, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

### **Notice to prospective investors in the United Kingdom**

No Shares have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the shares of our common stock which either (i) has been



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approved by the Financial Conduct Authority or (ii) is to be treated as if it had been approved by the Financial Conduct Authority in accordance with the transitional provisions in Article 74 (transitional provisions) of the Prospectus (Amendment etc.) (EU Exit) Regulations 2019/1234, except that the share of our common stock may be offered to the public in the United Kingdom at any time:

- (a) to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of representatives for any such offer; or
- (c) in any other circumstances falling within Section 86 of the FSMA,

provided that no such offer of the share of our common stock shall require us or any representative to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the shares of our common stock in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any shares of our common stock to be offered so as to enable an investor to decide to purchase or subscribe for any shares of our common stock and the expression “UK Prospectus Regulation” means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are “qualified investors” (as defined in the Prospectus Regulation) (i) who have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended, or the Order, and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “relevant persons”) or otherwise in circumstances which have not resulted and will not result in an offer to the public of the Shares in the United Kingdom within the meaning of the Financial Services and Markets Act 2000.

Any person in the United Kingdom that is not a relevant person should not act or rely on the information included in this document or use it as basis for taking any action. In the United Kingdom, any investment or investment activity that this document relates to may be made or taken exclusively by relevant persons.

### **Notice to prospective investors in Canada**

The shares of common stock may be sold 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 shares of common stock must be made in accordance with an exemption from, 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, or 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.

### **Notice to prospective investors in Switzerland**

The shares of common stock may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or the SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document does not constitute a prospectus within the meaning of, and has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares of common stock or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, us, or the shares of common stock have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares of common stock will not be supervised by, the Swiss Financial Market Supervisory Authority, or FINMA, and the offer of shares of common stock has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares of common stock.

### **Notice to prospective investors in Hong Kong**

The shares of common stock have not been offered or sold, and will not be offered or sold, in Hong Kong, by means of any document, other than (a) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571 of the laws of Hong Kong), or the SFO, and any rules made thereunder; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, or the CO, or which do not constitute an offer to the public within the meaning of the CO. No advertisement, invitation or document relating to the shares of common stock has been or may be issued or has been or may be in the possession of any person for the purposes of issue, 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 of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares of common stock which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the SFO and any rules made thereunder.

### **Notice to prospective investors in Singapore**

Each representative has acknowledged that this prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each representative has represented and agreed that it has not offered or sold any shares of common stock or caused the shares of common stock to be made the subject of an invitation for subscription or purchase and will not offer or sell any shares of common stock or cause the shares of common stock to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares of common stock, whether directly or indirectly, to any person in Singapore other than:

- (a) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time, or the SFA) pursuant to Section 274 of the SFA;

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- (b) 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
- (c) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares of common stock are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) 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; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor, securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares of common stock pursuant to an offer made under Section 275 of the SFA except:
  - (i) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i) (B) of the SFA;
  - (ii) where no consideration is or will be given for the transfer;
  - (iii) where the transfer is by operation of law;
  - (iv) as specified in Section 276(7) of the SFA; or
  - (v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Singapore SFA Product Classification—In connection with Section 309B of the SFA and the CMP Regulations 2018, unless otherwise specified before an offer of the shares of common stock, we have determined, and hereby notify all relevant persons (as defined in Section 309A(1) of the SFA), that the shares of common stock are “prescribed capital markets products” (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

### **Notice to prospective investors in Japan**

The shares of common stock have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Act. Accordingly, none of the shares of common stock nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any “resident” of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to or for the benefit of a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan in effect at the relevant time.

### **Notice to prospective investors in the United Arab Emirates**

The shares of common stock have not been, and are not being, publicly offered, sold, promoted or advertised in the United Arab Emirates (including the Dubai International Financial Centre, or the DIFC) other than in

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compliance with the laws of the United Arab Emirates (and the DIFC) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the DIFC) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority or the Dubai Financial Services Authority, or the DFSA.

### **Notice to prospective investors in Israel**

This prospectus does not constitute a prospectus under the Israeli Securities Law, 5728—1968, or the Israeli Securities Law, and has not been filed with or approved by the Israel Securities Authority. In Israel, this prospectus is being distributed only to, and is directed only at, and any offer of the shares of common stock is directed only at, (i) a limited number of persons in accordance with the Israeli Securities Law and (ii) investors listed in the first addendum, or the Addendum, to the Israeli Securities Law, consisting primarily of joint investment in trust funds, provident funds, insurance companies, banks, portfolio managers, investment advisors, members of the Tel Aviv Stock Exchange, underwriters, venture capital funds, entities with equity in excess of NIS 50 million and “qualified individuals,” each as defined in the Addendum (as it may be amended from time to time), or, collectively referred to as qualified investors (in each case, purchasing for their own account or, where permitted under the Addendum, for the accounts of their clients who are investors listed in the Addendum). Qualified investors are required to submit written confirmation that they fall within the scope of the Addendum, are aware of the meaning of same and agree to it.

### **Notice to prospective investors in Australia**

This prospectus:

- (a) does not constitute a disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth), or the Corporations Act;
- (b) has not been, and will not be, lodged with the Australian Securities and Investments Commission, or ASIC, as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document for the purposes of the Corporations Act; and
- (c) may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, or Exempt Investors, available under section 708 of the Corporations Act.

The shares of common stock may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares of common stock may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any shares of common stock may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares of common stock, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares of common stock under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares of common stock you undertake to us that you will not, for a period of 12 months from the date of issue of the shares of common stock, offer, transfer, assign or otherwise alienate those shares of common stock to investors in Australia except in circumstances

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where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

### **Notice to prospective investors in China**

This prospectus will not be circulated or distributed in the PRC and the shares of common stock will not be offered or sold, and will not be offered or sold to any person for re-offering or resale directly or indirectly to any residents of the PRC except pursuant to any applicable laws and regulations of the PRC. Neither this prospectus nor any advertisement or other offering material may be distributed or published in the PRC, except under circumstances that will result in compliance with applicable laws and regulations.

### **Notice to prospective investors in Korea**

The shares of common stock have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder, or the FSCMA, and the shares of common stock have been and will be offered in Korea as a private placement under the FSCMA. None of the shares of common stock may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder, or FETL. Furthermore, the purchaser of the shares of common stock shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares of common stock. By the purchase of the shares of common stock, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares of common stock pursuant to the applicable laws and regulations of Korea.

### **Notice to prospective investors in Saudi Arabia**

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market Authority, or CMA, pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended, or the CMA Regulations. The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorized financial adviser.

### **Notice to prospective investors in the Dubai International Financial Centre**

This document relates to an Exempt Offer in accordance with the Markets Rules 2012 of the DFSA. This document is intended for distribution only to persons of a type specified in the Markets Rules 2012 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 supplement nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this 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 document, you should consult an authorized financial adviser.

In relation to its use in the DIFC, this document is strictly private and confidential and is being distributed to a limited number of investors and must not be provided to any person other than the original recipient, and may not

be reproduced or used for any other purpose. The interests in the securities may not be offered or sold directly or indirectly to the public in the DIFC.

### **Notice to prospective investors in Bermuda**

Shares of common stock may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

### **Notice to prospective investors in the British Virgin Islands**

The shares of common stock are not being, and may not be offered, to the public or to any person in the British Virgin Islands for purchase or subscription by or on behalf of the Company. The shares of common stock may be offered to companies incorporated under the BVI Business Companies Act, 2004 (British Virgin Islands), or the BVI Companies, but only where the offer will be made to, and received by, the relevant BVI Company entirely outside of the British Virgin Islands.

### **Notice to prospective investors in Malaysia**

No prospectus or other offering material or document in connection with the offer and sale of the shares of common stock has been or will be registered with the Securities Commission of Malaysia, or the Commission, for the Commission's approval pursuant to the Capital Markets and Services Act 2007. 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 of common stock may not be circulated or distributed, nor may the shares of common stock be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than (i) a closed end fund approved by the Commission, (ii) a holder of a Capital Markets Services Licence, (iii) a person who acquires the shares of common stock, as principal, if the offer is on terms that the shares of common stock may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction, (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual, (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding twelve months, (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding twelve months, (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts, (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies), (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010, (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010, and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding categories (i) to (xi), the distribution of the shares of common stock is made by a holder of a Capital Markets Services Licence who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

### **Notice to prospective investors in Taiwan**

The shares of common stock have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorized to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the shares of common stock in Taiwan.

### **Notice to prospective investors in South Africa**

Due to restrictions under the securities laws of South Africa, the shares of common stock are not offered, and the offer shall not be transferred, sold, renounced or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions applies:

Section 96(1)(a): the offer, transfer, sale, renunciation or delivery is to:

- (a) persons whose ordinary business, or part of whose ordinary business, is to deal in securities, as principal or agent;
- (b) the South African Public Investment Corporation;
- (c) persons or entities regulated by the Reserve Bank of South Africa;
- (d) authorised financial service providers under South African law;
- (e) financial institutions recognised as such under South African law;
- (f) a wholly-owned subsidiary of any person or entity contemplated in (iii), (iv) or (v), acting as agent in the capacity of an authorized portfolio manager for a pension fund, or as manager for a collective investment scheme (in each case duly registered as such under South African law); or
- (g) any combination of the persons in (i) to (vi); or

Section 96(1)(b): the total contemplated acquisition cost of the securities, for a single addressee acting as principal is equal to or greater than ZAR1,000,000 or such higher amount as may be promulgated by notice in the Government Gazette of South Africa pursuant to section 96(2)(a) of the South African Companies Act.

Information made available in this prospectus should not be considered as “advice” as defined in the South African Financial Advisory and Intermediary Services Act, 2002.

### **Other Relationships**

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.

## Legal matters

The validity of the shares of common stock offered hereby will be passed upon for us by Cooley LLP, New York, New York. Certain legal matters will be passed upon for the underwriters by Paul Hastings LLP, New York, New York.

## Experts

The financial statements of Lexeo Therapeutics, Inc. as of December 31, 2022 and 2021, and for the years then ended have been included herein in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

## Where you can find additional information

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock being offered by this prospectus. This prospectus, which constitutes part of the registration statement, does not contain all of the information in the registration statement and its exhibits. For further information with respect to our company and the common stock offered by this prospectus, we refer you to the registration statement and its exhibits. Statements contained in this prospectus as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

You can read our SEC filings, including the registration statement, over the internet at the SEC's website at [www.sec.gov](http://www.sec.gov). Upon 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 at [www.sec.gov](http://www.sec.gov).

We also maintain a website at [www.lexeotx.com](http://www.lexeotx.com), at which you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. The information contained in, or that can be accessed through, our website is not part of, and is not incorporated into, this prospectus, and the inclusion of our website address in this prospectus is only as an inactive textual reference.



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KPMG LLP  
345 Park Avenue  
New York, NY 10154-0102

## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors  
Lexeo Therapeutics, Inc.:

### *Opinion on the Consolidated Financial Statements*

We have audited the accompanying consolidated balance sheets of Lexeo Therapeutics, Inc. and subsidiary (the Company) as of December 31, 2022 and 2021, the related consolidated statements of operations and comprehensive loss, convertible preferred stock and stockholders' deficit, and cash flows for the years then ended, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

### *Change in Accounting Principle*

As discussed in Note 2 to the consolidated financial statements, the Company has changed its method of accounting for leases as of January 1, 2022, due to the adoption of Accounting Standards Codification Topic 842, Leases.

### *Basis for Opinion*

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated 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 and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated 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 consolidated 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 consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

**KPMG LLP**

We have served as the Company's auditor since 2021.

New York, New York  
March 31, 2023

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

# Lexeo Therapeutics, Inc.

## Consolidated Balance Sheets

(In thousands, except share and per share amounts)

	December 31,	
	2022	2021
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 77,335	\$135,860
Prepaid expenses	2,342	128
Other current assets	371	696
Total current assets	80,048	136,684
Security deposits	—	2
Restricted cash	3,253	—
Property and equipment, net	998	174
Lease right-of-use assets—finance, net	2,069	—
Lease right-of-use assets—operating	10,708	—
Total assets	\$ 97,076	\$136,860
<b>Liabilities, Convertible Preferred Stock and Stockholders' Deficit</b>		
Current liabilities:		
Accounts payable	\$ 2,678	\$ 3,061
Taxes payable	506	528
Deferred income	—	46
Accrued expenses and other current liabilities	6,420	2,883
Accrued bonuses	1,911	931
Current portion of lease liabilities—finance	547	—
Current portion of lease liabilities—operating	2,287	—
Total current liabilities	14,349	7,449
Non-current liabilities		
Non-current portion of lease liabilities—finance	1,648	—
Non-current portion of lease liabilities—operating	9,000	—
Total liabilities	24,997	7,449
Commitments and contingencies (Note 12)		
Series A convertible preferred stock, \$0.0001 par value; 85,495,722 shares authorized, issued, and outstanding as of December 31, 2022 and December 31, 2021; aggregate liquidation value of \$85,496 as of December 31, 2022 and December 31, 2021	85,268	85,248
Series B convertible preferred stock, \$0.0001 par value; 58,157,824 shares authorized as of December 31, 2022 and December 31, 2022; 58,157,823 shares issued and outstanding as of December 31, 2022 and December 31, 2021; aggregate liquidation value of \$100,060 as of December 31, 2022 and December 31, 2021	99,765	99,765
Stockholders' and members' deficit:		
Common stock, \$0.0001 par value, 192,020,973 shares authorized as of December 31, 2022 and December 31, 2021; 17,467,148 shares issued and 17,026,915 shares outstanding as of December 31, 2022; 16,745,827 shares issued and outstanding as of December 31, 2021	2	2
Additional paid-in capital	2,490	565
Accumulated deficit	(115,446)	(56,169)
Total stockholders' deficit	(112,954)	(55,602)
Total liabilities, convertible preferred stock, stockholders' deficit	\$ 97,076	\$136,860

The accompanying notes are an integral part of these consolidated financial statements.

## Lexeo Therapeutics, Inc.

### Consolidated Statements of Operations and Comprehensive Loss

(In thousands, except share and per share amounts)

	Years ended December 31,	
	2022	2021
Revenue		
Grant revenue	\$ 654	\$ 1,657
Total revenue	654	1,657
Operating expenses		
Research and development	49,162	45,121
General and administrative	12,001	7,173
Total operating expenses	61,163	52,294
Operating loss	(60,509)	(50,637)
Other income and expense		
Other expense, net	2	—
Interest expense	91	—
Interest income	1,325	15
Total other income and expense	1,232	15
Loss from operations before income taxes	(59,277)	(50,622)
Income taxes	—	—
Net loss and comprehensive loss	\$ (59,277)	\$ (50,622)
Net loss per common share, basic and diluted	\$ (3.43)	\$ (3.08)
Weighted average number of shares outstanding used in computation of net loss per common share, basic and diluted	17,272,352	16,449,814

The accompanying notes are an integral part of these consolidated financial statements.

## Lexeo Therapeutics, Inc.

### Consolidated Statements of Convertible Preferred Stock and Stockholders' Deficit

(In thousands, except share amounts)

	Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount			
Balances at January 1, 2021	34,495,725	\$ 31,238	16,040,884	\$ 2	\$ 9	\$ (5,547)	\$ (5,536)
Stock-based compensation expense	—	—	—	—	—	—	—
Tranche Obligation Settlement	—	3,010	—	—	—	—	—
Issuance of Series A convertible preferred stock, 1st milestone and 2nd milestone	50,999,997	51,000	—	—	—	—	—
Issuance of Series B convertible preferred stock, net of issuance costs of \$295	58,157,823	99,765	—	—	—	—	—
Exercise of stock options	—	—	704,943	—	170	—	170
Stock-based compensation expense	—	—	—	—	386	—	386
Net loss	—	—	—	—	—	(50,622)	(50,622)
Balances at December 31, 2021	143,653,545	\$ 185,013	16,745,827	\$ 2	\$ 565	\$ (56,169)	\$ (55,602)
Proceeds from issuance of series A convertible preferred stock	—	20	—	—	—	—	—
Exercise of stock options	—	—	721,321	—	332	—	332
Proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities	—	—	(440,233)	—	(188)	—	(188)
Stock-based compensation expense	—	—	—	—	1,781	—	1,781
Net loss	—	—	—	—	—	(59,277)	(59,277)
Balances at December 31, 2022	143,653,545	\$ 185,033	17,026,915	\$ 2	\$ 2,490	\$ (115,446)	\$ (112,954)

The accompanying notes are an integral part of these financial statements.

# Lexeo Therapeutics, Inc.

## Consolidated Statements of Cash Flows

(In thousands)

	Years ended December 31,	
	2022	2021
<b>Cash flows from operating activities:</b>		
Net loss	\$ (59,277)	\$ (50,622)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Amortization of right-of-use asset, operating	877	—
Amortization of right-of-use assets, finance	148	—
Stock based compensation expense	1,781	386
Depreciation and amortization expense	120	13
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(1,889)	(543)
Security deposits	2	—
Accounts payable	(426)	3,015
Issuance costs payable	—	(223)
Change in deferred income	(46)	(93)
Accrued expenses and other current liabilities	4,476	3,395
Tax payable	(22)	490
Lease liability, operating	(298)	—
Lease liabilities, finance	(6)	—
Net cash used in operating activities	(54,560)	(44,182)
<b>Cash flows from investing activities:</b>		
Purchase of internal use software	(229)	—
Purchase of property and equipment	(672)	(188)
Net cash used in investing activities	(901)	(188)
<b>Cash flows from financing activities:</b>		
Proceeds from issuance of series A/B convertible preferred stock	20	151,060
Series B convertible preferred stock issuance costs	—	(295)
Payment of costs related to initial public offering	—	(78)
Proceeds from exercise of stock options	332	170
Payments on finance leases	(163)	—
Net cash provided by financing activities	189	150,857
<b>Net change in cash, cash equivalents and restricted cash</b>	(55,272)	106,487
Total cash, cash equivalents and restricted cash at beginning of period	135,860	29,373
Total cash, cash equivalents and restricted cash at end of period	\$ 80,588	\$ 135,860
Cash and cash equivalents at beginning of period	135,860	29,373
Restricted cash included in long-term assets at beginning of period	—	—
Total cash, cash equivalents and restricted cash at beginning of period	135,860	29,373
Cash and cash equivalents at end of period	77,335	135,860
Restricted cash included in long-term assets at end of period	3,253	—
Total cash, cash equivalents and restricted cash at end of period	\$ 80,588	\$ 135,860
<b>Supplemental disclosures of cash flow information</b>		
Interest paid	\$ 77	\$ —
Income taxes paid	\$ —	\$ —
<b>Supplemental disclosure of non-cash investing and financing activities</b>		
Deferred offering costs included in accounts payable and accrued expenses	\$ —	\$ 169
Purchase of property and equipment included in accounts payable and accrued expenses	\$ 43	\$ —
Operating lease right-of-use assets and operating lease liabilities recognized	\$ 11,585	\$ —
Finance lease right-of use assets and finance lease liabilities recognized	\$ 2,364	\$ —
Proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities	\$ 188	\$ —

The accompanying notes are an integral part of these consolidated financial statements.

# Lexeo Therapeutics, Inc.

## Notes to consolidated financial statements

### 1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

**Description of Business**—Lexeo Therapeutics, Inc. (“Lexeo” or the “Company”), together with its consolidated subsidiary, Stelios Therapeutics Inc., until such subsidiary was merged into the Company on December 15, 2022 and ceased to exist, is a clinical stage gene therapy biotechnology company with a focus on hereditary and acquired diseases of high unmet need. The Company’s investigational therapies have the potential to offer gene therapy-based treatments to address many diseases that have eluded today’s existing drug delivery platforms. Lexeo utilizes adeno-associated viruses (“AAV”) that have been engineered to transfer genes to patients. The Company’s therapeutic investigational treatments include gene therapies primarily in the early clinical and late pre-clinical stages of research and development.

The Company is located in New York, NY and was first formed on February 17, 2017, as an LLC under the laws of the State of Delaware under the legal name Lexeo Therapeutics, LLC. The Company filed and executed a certificate of conversion to corporation on November 20, 2020, to convert the LLC to Lexeo Therapeutics, Inc, a Delaware corporation. All of the Company’s tangible assets are held in the United States (“U.S.”).

**Basis of Presentation and Principles of Consolidation**—The accompanying consolidated financial statements reflect the operations of the Company and its wholly-owned subsidiary that have been prepared in conformity with generally accepted accounting principles 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 Updates (“ASU”) of the Financial Accounting Standards Board (“FASB”). The accounts of the wholly owned subsidiary are included in these consolidated financial statements. All intercompany balances and transactions have been eliminated in consolidation.

**Need for Additional Capital**—Since inception, the Company has incurred net losses and negative cash flows from operations, including net losses of \$59.3 million and \$50.6 million during the years ended December 31, 2022 and 2021, respectively. As of December 31, 2022 and December 31, 2021, the Company had an accumulated deficit of \$115.4 million and \$56.2 million, respectively, and expects to incur substantial operating losses and negative cash flows from operations for the foreseeable future. The Company had \$77.3 million and \$135.9 million of cash and cash equivalents at December 31, 2022 and December 31, 2021, respectively. During the year ended December 31, 2021 the Company raised \$51.0 million and \$100.1 million of gross proceeds in connection with the issuance of its Series A convertible preferred stock and Series B convertible preferred stock (see Note 6), respectively, and which management believes is sufficient to fund its operating expenses and capital expenditure requirements for at least 12 months from the issuance date of these financial statements. The future viability of the Company beyond that point is dependent on its ability to raise additional capital to finance operations. The Company is seeking to complete an initial public offering (“IPO”) of its common stock. In the event the Company does not complete an IPO, the Company expects to seek additional funding through private equity financings, debt financings or other capital sources, including collaborations with other companies or other strategic transactions. The Company may not be able to obtain financing on acceptable terms, or at all. The terms of any financing may adversely affect the holdings or the rights of the Company’s stockholders.

If the Company is unable to obtain funding, the Company will be forced to delay, reduce or eliminate some or all of its research and development programs which could adversely affect its business prospects, or the Company may be unable to continue operations. Although management continues to pursue these plans, there is no assurance that the Company will be successful in obtaining sufficient funding on terms acceptable to the Company to fund continuing operations, if at all.

**Risks and Uncertainties**—The Company is subject to risks and uncertainties common to early-stage companies in the biopharmaceutical industry, including, but not limited to, successful discovery and development of its product candidates, development by competitors of new technological innovations, dependence on key personnel, the ability to attract and retain qualified employees, protection of proprietary technology, compliance with governmental regulations, the ability to secure additional capital to fund operations, and commercial success of its product candidates. Any of the Company’s current product candidates and future product candidates that it may develop will require extensive nonclinical and clinical testing and regulatory approval prior to commercialization. These efforts require significant amounts of additional capital, adequate personnel, infrastructure and extensive compliance-reporting capabilities. Even if the Company’s product development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Use of Estimates**—The preparation of the financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of income and expense during the reporting period. The most significant estimates relate to the accruals of research and development costs, accruals of research contract costs, assumptions used to estimate the fair value of its stock option awards, and determination of fair value of the Company’s common stock. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, and makes adjustments when facts and circumstances dictate. These estimates are based on information available as of the date of the financial statements; therefore, actual results could differ from those estimates.

**Cash and Cash Equivalents and Restricted Cash**—The Company considers all highly liquid investments with a remaining maturity when purchased of three months or less to be cash equivalents. Cash equivalents are reported at carrying values, which approximated their fair values and are based on quoted prices in active markets for identical securities. At December 31, 2022 and December 31, 2021, the Company’s cash equivalents are in money market funds. As of December 31, 2022, and 2021, cash consists of cash on deposit with U.S. banks denominated in U.S. dollars, and restricted cash consists of cash on deposit with U.S. banks denominated in U.S. dollars for which its use is restricted and is classified as non-current in the Company’s consolidated balance sheet according to the timing of maturity, and is associated with collateral for letters of credit issued in connection with its operating lease right-of-use and finance lease right-of-use assets and corresponding lease liabilities. Cash is stated at its historical carrying amount, which approximates fair value due to its short-term nature. Restricted cash is stated at its historical carrying amount, which approximates fair value. The Company regularly maintains cash and cash equivalents and restricted cash balances with financial institutions that exceed Federal Deposit Insurance Corporation (“FDIC”) insurance limits.

**Net Loss per Share**—The Company follows the two-class method when computing net income (loss) per common share as the Company has issued shares that meet the definition of participating securities. The two-class method determines net income (loss) per common 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 (loss) 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. The Company considers its convertible preferred stock to be participating securities as, in the event a dividend is paid on common stock, the holders of these securities would be entitled to receive dividends on a basis consistent with the common stockholders. The Company also considers the shares issued upon the early exercise of stock options that are subject to repurchase to be participating securities.



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because holders of such shares have non-forfeitable dividend rights in the event a dividend is paid on common stock. There is no allocation required under the two-class method during periods of loss since the participating securities do not have a contractual obligation to share in the losses of the Company.

Basic net income (loss) per common share is computed by dividing the net income (loss) per common share by the weighted-average number of common shares outstanding for the period. Diluted net income (loss) per common share is computed by adjusting net income (loss) to reallocate undistributed earnings based on the potential impact of dilutive securities. Diluted net loss per common share is computed by dividing the diluted net loss by the weighted-average number of common shares outstanding for the period, including potential dilutive common shares. For purpose of this calculation, convertible preferred stock are considered potential dilutive common shares.

In periods in which the Company reported a net loss, diluted net loss per common share was the same as basic net loss per common share, since dilutive common shares were not assumed to have been issued if their effect was anti-dilutive. During the years ended December 31, 2022 and 2021, the Company excluded 85,495,722 potential common shares related to the conversion of Series A convertible preferred stock and 58,157,823 potential common shares related to the conversion of Series B convertible preferred stock, and during the years ended December 31, 2022 and 2021 excluded 20,300,861, and 19,922,318 potential common shares, respectively, related to the exercise of stock options outstanding, from the computation of diluted net loss per common share because including them would have had an anti-dilutive effect and the Company reported net losses for those years.

**Deferred Offering Costs**—The Company capitalizes certain legal, accounting and other third-party fees that are directly associated with in-process equity financings as deferred offering costs until such financings are consummated. After consummation of the equity financing, these costs are recorded as a reduction of the proceeds from the offering, either as a reduction of the carrying value of preferred stock or in stockholders' deficit as a reduction of additional paid-in capital generated as a result of the offering. Should the in-process equity financing be abandoned, the deferred offering costs would be expensed immediately as a charge to operating expenses in the consolidated statement of operations and comprehensive loss. The Company had no deferred offering costs recorded as of December 31, 2022. As of December 31, 2021, the Company had deferred offering costs totaling \$0.2 million in other current assets in its consolidated balance sheet, which were charged to general and administrative expenses during the year ended December 31, 2022.

**Accounts Receivable and Allowance for Doubtful Accounts**—Accounts receivable are recorded net of allowances for doubtful accounts. The Company does not have any accounts receivable but in certain cases had a grant receivable balance. For the Company to be in a receivable position related to grants, the cumulative total spend on grants would have to exceed the cumulative cash receipts in the event there remains additional award money to be collected.

**Classification of Convertible Preferred Stock**—The holders of the series A and series B convertible preferred stock have certain liquidation rights in the event of a deemed liquidation that, in certain situations, are not solely within the control of the Company and would call for the redemption of the then outstanding series A convertible preferred stock. Therefore, the series A convertible preferred stock are classified outside of the stockholders' deficit on the Company's consolidated balance sheets. The carrying value of the convertible preferred stock is not subsequently remeasured to the redemption value until the contingent redemption events are considered to be probable of occurring.

**Revenue Recognition**—On January 1, 2020, the Company adopted ASU 2014-09, *Revenue from Contracts with Customers* ("Topic 606"), on a modified retrospective basis. Topic 606 establishes a principle for recognizing revenue upon the transfer of promised goods or services to customers, in an amount that reflects the expected consideration received in exchange for those goods or services. The standard also provides guidance on the recognition of costs related to obtaining and fulfilling customer contracts. Additionally, the standard requires

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disclosures regarding the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with customers. To determine revenue recognition for arrangements that the Company determines are within the scope of Topic 606, the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the Company satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that it will collect the consideration it is entitled to in exchange for the goods and services it transfers to the customer. At contract inception, the Company assesses the goods or services promised within each contract that falls under the scope of Topic 606, determines those that are performance obligations and assesses whether each promised good or service is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied. As of December 31, 2022, and December 31, 2021, there is no revenue from contracts with customers.

**Grant Revenue**—Grants received are recognized as grant revenue in the statements of operations as and when they are earned for the specific research and development projects for which these grants are designated. Grant payments received in excess of grant revenue earned are recognized as deferred grant revenue on the balance sheet and grant revenue earned in excess of grant payments received is recognized as grant receivable on the balance sheets.

**Research and Development**—Research and development costs are expensed as incurred. Research and development expenses consist of costs incurred to discover, research, and develop drug candidates, including personnel expenses, allocated facility-related and depreciation expenses and third-party license fees in connection with nonclinical and preclinical studies. Costs incurred in obtaining technology licenses are charged immediately to research and development expense if the technology licensed has not reached technological feasibility and has no alternative future use.

**General and Administrative**—General and administrative expenses consist primarily of the cost of employees to engage in corporate functions, such as finance and accounting, information technology, human resources, legal and executive management. General and administrative expense also includes rent occupancy costs, office expenses, recruiting expenses, entertainment allocations, depreciation and amortization, other general overhead costs, insurance premiums, professional service fees, and cost related to regulatory and litigation matters.

**Acquisitions**—The Company evaluates acquisitions under the accounting framework in Accounting Standards Codification (“ASC”) Topic 805, Business Combinations, to determine whether the transaction is a business combination or an asset acquisition. In determining whether an acquisition should be accounted for as a business combination or an asset acquisition, the Company first performs a screen test to determine whether substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or a group of similar identifiable assets. If this is the case, the acquired set is not deemed to be a business and is instead accounted for as an asset acquisition. If this is not the case, the Company then further evaluates whether the acquired set includes, at a minimum, an input and a substantive process that together significantly contribute to the ability to create outputs. If so, the Company concludes that the acquired set is a business.

**Stock Based Compensation Expense**—The Company accounts for stock-based payment awards granted to employees and non-employees as stock-based compensation expense at fair value. The Company’s stock-based payments include stock options and grants of common stock, including common stock subject to vesting. The measurement date for employee awards is the date of grant, and stock-based compensation costs are recognized as expense over the employees’ requisite service period, which is the vesting period, on a straight-line basis. 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

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straight-line basis. Stock-based compensation expense is classified in the accompanying statement of operations based on the function to which the related services are provided. As the Company is permitted to repurchase shares legally issued for unvested stock options exercised at their exercise price, (i) cash received for unvested stock options exercised is recorded as a deposit liability as a reclassification from additional paid-in capital in the Company's consolidated balance sheet, which is relieved to additional paid-in capital as such awards vest, (ii) stock based compensation expense is recognized over the requisite service period for each such award, and (iii) the amount and number of shares of common stock outstanding in the Company's consolidated balance sheet and consolidated statement of convertible preferred stock and stockholders' deficit are reduced until such awards vest. The Company recognizes stock-based compensation expense for the portion of awards that have vested. Forfeitures are recorded as they occur.

The fair value of each stock option grant is estimated on the date of grant using the Black-Scholes option-pricing model. The Company has historically been a private company and lacks company-specific historical and implied volatility information. Therefore, it estimates its expected stock volatility based on the historical volatility of a publicly traded set of peer companies and expects to continue to do so until such time as it has adequate historical data regarding the volatility of its own traded stock price. The expected term of the Company's stock options has been determined utilizing the "simplified" method for awards that qualify as "plain-vanilla" options. The risk-free interest rate is determined by reference to the U.S. Treasury yield curve in effect at the time of grant of the award for time periods approximately equal to the expected term of the award. The expected dividend yield is zero as the Company has never paid cash dividends on its common stock and does not expect to pay any cash dividends in the foreseeable future.

The Company recognizes stock-based compensation expense on a straight-line basis over the requisite service or vesting period. The Company recognizes the cumulative effect of changes in the probability outcomes in the period in which the changes occur.

**Income Taxes**—Prior to November 20, 2020, the Company was an LLC entity and elected to be treated under the Partnership provisions of the Internal Revenue Code. Accordingly, the LLC entity was not viewed as a tax-paying entity in any jurisdiction and all income and deductions of the LLC entity flowed through to the individual members and therefore no income taxes were recorded by the Company. On November 20, 2020, the Company elected to convert to a C Corporation.

The Company accounts for income taxes under the asset and liability method pursuant to ASC 740, Income Taxes. Under this method, the Company recognizes deferred tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance is recorded for deferred tax assets if it is more likely than not that some portion or all of the deferred tax assets will not be realized based on all available positive and negative evidence. Under the Tax Cuts and Jobs Act of 2017, the Company is required to capitalize, and subsequently amortize, research and development expenses over five years for research activities conducted in the U.S. and over fifteen years for research activities conducted outside of the U.S commencing in 2022. The capitalization of research and development expenses during the year ended December 31, 2022 resulted in a decrease to our current year operating loss generation (see Note 11). As of December 31, 2022, the Company continues to maintain a full valuation allowance against its deferred tax assets.

The Company recognizes a tax benefit only if it is more likely than not the tax position will be sustained on examination by the local taxing authorities, based on the technical merits of the position. The tax benefits

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recognized in the financial statements from such positions are then measured based on the largest benefit greater than 50% likelihood of being realized upon settlement with the related tax authority. The changes in recognition or measurement are reflected in the period in which the change in judgment occurs. As of December 31, 2022, the Company has not identified any uncertain tax positions.

The Company records interest and penalties related to unrecognized tax benefits in the provision for income taxes.

**Fair Value Measurements**—Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The three levels of inputs that may be used to measure fair value are described below:

*Level 1*—Inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.

*Level 2*—Inputs are observable, unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities.

*Level 3*—Inputs are unobservable inputs for the asset or liability.

**Concentrations of Credit Risk**—Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents and restricted cash. The Company's cash balances exceed those that are federally insured. The majority of the Company's cash and cash equivalents and restricted cash is held with a large financial institution that management believes to be of high credit quality. To date, the Company has not recognized any losses caused by uninsured balances.

**Segment Information**—The Company manages its operations as a single segment for the purposes of assessing performance and allocating resources. The Company is focused on preclinical and clinical stage gene therapies, and specifically on hereditary and acquired diseases of high unmet need. The Company's chief operating decision maker reviews the Company's financial information on an aggregated basis for purposes of assessing performance and allocating resources. All assets are in the United States. The Company has not earned any product revenue through December 31, 2022.

**Property and Equipment**—Property and equipment are stated at cost less accumulated depreciation and amortization. Depreciation and amortization is recognized using the straight-line method over the estimated useful life of each asset. Such costs are periodically reviewed for recoverability when impairment indicators are present. Such indicators include, among other factors, unused capacity, market value declines, and technology obsolescence. Recorded values of asset groups of equipment that are not expected to be recovered through undiscounted future net cash flows are written down to current fair value, which generally is determined from estimated discounted future net cash flows (assets held for use) or net realizable value (assets held for sale).

Costs for capital assets not yet placed into service are capitalized as construction-in-progress and depreciated once placed into service. Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation and amortization are removed from the accounts and any resulting gain or loss is included in loss from operations. Expenditures for repairs and maintenance that do not improve or extend the life of the respective assets are charged to expense in the period incurred. See Note 5 for information regarding the Company's capitalized operating and finance lease right-of-use assets.

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The following is the summary of property and equipment and related accumulated depreciation as of December 31, 2022, and December 31, 2021 (in thousands):

	Useful life	December 31, 2022	December 31, 2021
Internal use software	3 years	245	—
Furniture and fixtures	5 years	375	—
Lab equipment	7 years	279	187
Leasehold improvements	7 years	232	—
Total property and equipment		1,131	187
Less: accumulated depreciation and amortization		(133)	(13)
Total property and equipment, net		\$ 998	\$ 174

**Leases**—In accordance with ASC 842, Leases, which the Company adopted in 2022, the Company determines if an arrangement is or contains a lease at inception. A contract is or contains a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. The Company classifies leases at the lease commencement date as operating or finance leases and records a right-of-use asset and a lease liability on the consolidated balance sheet for all leases with an initial lease term of greater than 12 months. Leases with an initial term of 12 months or less are not recorded in the balance sheet, but payments are recognized as expense on a straight-line basis over the lease term. The Company has elected not to recognize leases with terms of 12 months or less.

A lease qualifies as a finance lease if any of the following criteria are met at the inception of the lease: (i) there is a transfer of ownership of the leased asset to the Company by the end of the lease term, (ii) the Company holds an option to purchase the leased asset that it is reasonably certain to exercise, (iii) the lease term is for a major part of the remaining economic life of the leased asset, (iv) the present value of the sum of lease payments equals or exceeds substantially all of the fair value of the leased asset, or (v) the nature of the leased asset is specialized to the point that it is expected to provide the lessor no alternative use at the end of the lease term. All other leases are recorded as operating leases.

The Company enters into contracts that contain both lease and non-lease components. Non-lease components may include maintenance, utilities, and other operating costs. The Company combines the lease and non-lease components of fixed costs in its lease arrangements as a single lease component. Variable costs, such as utilities or maintenance costs, are not included in the measurement of right-of-use assets and lease liabilities, but rather are expensed when the event determining the amount of variable consideration to be paid occurs.

Operating lease right-of-use assets and lease liabilities are recognized at the lease commencement date based on the present value of the lease payments over the lease term using the discount rate implicit in the lease. If the rate implicit is not readily determinable, the Company utilizes an estimate of its incremental borrowing rate based upon the available information at the operating lease commencement date. Operating lease right-of-use assets are further adjusted for prepaid or accrued lease payments. Operating lease payments are expensed using the straight-line method as an operating expense over the lease term. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Finance lease right-of-use assets and lease liabilities are recognized upon receipt of the assets based on their fair values, and are amortized to depreciation expense using the straight-line method over the estimated useful lives of the related assets. Finance lease liability payments are bifurcated into (i) a portion that is recorded as interest expense and (ii) a portion that reduces the finance liability associated with the lease, according to the interest rates implicit in the leases.

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Certain of the Company's leases include options to extend or terminate the lease. The amounts determined for the Company's right-of-use assets and lease liabilities generally do not assume that renewal options or early-termination provisions, if any, are exercised, unless it is reasonably certain that the Company will exercise such options.

**Recent Accounting Pronouncements Not Yet Adopted**—In June 2016, the FASB issued ASU 2016-13, *Financial Instruments-Credit Losses* ("Topic 326"): *Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), which requires the measurement and recognition of expected credit losses for financial assets held at amortized cost. ASU 2016-13 replaces the existing incurred loss impairment model with an expected loss methodology, which will result in more timely recognition of credit losses. ASU 2016-13 and ASU 2022-02 are effective for annual private company reporting periods, and interim periods within those years, beginning after December 15, 2022. The Company is currently in the process of evaluating the impact of the adoptions of ASU 2016-13 and ASU 2022-02 but does not expect a material impact to its consolidated financial statements or disclosures as it does not currently maintain financial assets held at amortized cost.

In October 2021, the FASB issued ASU 2021-08, *Business Combinations* ("Topic 805"): *Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* ("ASU 2021-08"). ASU 2021-08 requires an acquirer in a business combination to recognize and measure deferred revenue from acquired contracts using the revenue recognition guidance in Accounting Standards Codification Topic 606, rather than the prior requirement to record deferred revenue at fair value. ASU 2021-08 allows for immediate adoption on a retrospective basis for all business combinations that have occurred since the beginning of the annual period that includes the interim period of adoption. ASU 2021-08 is effective for annual private company reporting periods, and interim periods within those years, beginning after December 15, 2023. The Company is currently in the process of evaluating the impact of the adoption of ASU 2021-08 but does not expect a material impact to its consolidated financial statements or disclosures as it does not currently have revenue or deferred revenue from acquired contracts.

### 3. ACQUISITIONS

#### *Stelios Therapeutics, Inc.*

Stelios Therapeutics, Inc. ("Stelios") is an early-stage company developing novel adeno-associated virus ("AAV") based gene therapies for rare cardiac conditions. On July 16, 2021, the Company acquired 100% of the outstanding stock of Stelios, for initial consideration of \$7.0 million, with up to an aggregate of \$20.5 million payable upon the achievement of certain development milestones and concurrently entered into consulting agreements with three consultants who assist with research on Stelios' therapies. The Company accounted for the acquisition of Stelios as an asset acquisition pursuant FASB ASC 805, *Business Combinations*. The Company acquired in-process research and development ("IPR&D") assets from Stelios related to arrhythmogenic right ventricular cardiomyopathy and TNNI3-associated hypertrophic cardiomyopathy programs. The fair value of the IPR&D acquired was \$7.0 million and was charged to research and development expense as it had no alternative future use at the time of the acquisition. In the third quarter of 2022, a development milestone was achieved resulting in a \$2.0 million payment to the selling shareholders of Stelios.

#### 4. FAIR VALUE MEASUREMENTS

The following table presents information about the Company’s financial assets and liabilities measured at fair value on a recurring basis and indicates the level of the fair value hierarchy utilized to determine such fair values (in thousands):

	As of December 31, 2022:			
	Level 1	Level 2	Level 3	Total
<b>Assets:</b>				
Cash equivalents (money market)	\$ 74,802	\$ —	\$ —	\$ 74,802
	\$ 74,802	\$ —	\$ —	\$ 74,802

	As of December 31, 2021:			
	Level 1	Level 2	Level 3	Total
<b>Assets:</b>				
Cash equivalents (money market)	\$128,216	\$ —	\$ —	\$128,216
	\$128,216	\$ —	\$ —	\$128,216

There have been no transfers between fair value levels during the years ended December 31, 2022 and 2021. The carrying values of prepaid expenses, other current assets, accounts payable and accrued expenses approximate their fair values due to the short-term nature of these assets and liabilities.

##### *Preferred stock tranche obligation*

In 2020, the Company obtained series A funding from investors with two subsequent milestone closing dates. Each of the two milestones represented a separate tranche obligation as they could have been exercised separately and an investor could have transferred part of any rights under the agreement, including the right/obligation to participate in an individual tranche. The tranche obligation was recorded at fair value at the issuance date and a portion of the proceeds from the first closing equal to that amount was allocated to the tranche obligation. The Company determined that its obligation to issue additional shares at a fixed price (i.e. the issuance price) in subsequent tranches (collectively, the “Milestones”; see Note 6) following the initial closing of the series A convertible preferred stock financings represented two freestanding financial instruments (together, the “Tranche Obligation”). The Tranche Obligation was previously carried at fair value determined according to Level 3 inputs in the fair value hierarchy. On July 30, 2021, the Company waived all Milestone events causing the Milestone closings to occur. This resulted in the derecognition of the Tranche Obligation liabilities and the recognition of the cash proceeds received. The Company determined that the value of the Tranche Obligations at issuance would be equivalent at settlement and, as such, no mark-to-market adjustment was recorded upon settlement.

The following Level 3 table provides a roll forward of the aggregate fair value of the Company’s Tranche Obligation (in thousands):

	December 31, 2022	December 31, 2021
Balance as of January 1	\$ —	\$ 3,010
Extinguishment of Tranche Obligation	—	(3,010)
Balance as of December 31	\$ —	\$ —

## 5. LEASES

Effective January 1, 2022, the Company adopted the US GAAP accounting rules in ASC Topic 842, *Leases* (“ASC 842”). The Company elected to follow the package of practical expedients provided under the transition guidance within ASC 842, and accordingly, elected to combine lease and non-lease components for its real estate and financed equipment leases. Upon commencement of its real estate lease, the Company recorded an operating lease right-of-use asset and related current and non-current lease liabilities in its consolidated balance sheet, which were recognized based on the present value of remaining lease payments over the lease term. Upon receipt of the financed equipment, the Company recorded finance lease right-of-use assets and lease liabilities in its consolidated balance sheet, which were based on the fair values of the equipment financed with implicit interest rates provided in the terms of the lease agreements. As the Company’s operating lease right-of-use asset does not provide an implicit rate, an estimated incremental borrowing rate was used based on the information available at the adoption date in determining the present value of lease payments. Operating lease right-of-use asset expense is recognized on a straight-line basis over the lease term. Variable lease costs such as common area costs and other operating costs are expensed as incurred. Leases with an initial term of 12 months or less are not recorded on the Company’s balance sheet.

### *Operating lease right-of-use asset*

In January 2022, the Company entered into a lease agreement for an office facility and laboratory space in New York, New York that commenced in April 2022 and ends in July 2029 and there is an additional five-year option to extend the lease beyond July 2029 at the then prevailing effective market rental rate. Upon commencement of this lease, the Company recorded operating lease right-of-use assets and operating lease liabilities of approximately \$11.6 million based on the present value of payments over the lease term using an estimated incremental borrowing rate of 8.53%. In connection with the Company’s lease of office space and laboratory space, the Company provided a security deposit to the landlord in the form of a letter of credit totaling \$1.2 million. The cash collateralizing the letter of credit is included in long-term restricted cash in the Company’s consolidated balance sheet as of December 31, 2022. This lease was classified as an operating lease in accordance with the provisions of Topic 842. The Company did not recognize any right-of-use assets and lease liabilities associated with the potential option to renew or extend. The Company’s operating lease agreement does not contain any significant residual value guarantees or restrictive covenants.

Components of the operating lease are as follows (in thousands, except remaining lease term and payment term (in years) and incremental borrowing rate):

<b>Year ended December 31</b>	<b>2022</b>
Operating lease expense	\$ 1,610
Variable lease expense	185
Total operating lease expense	\$ 1,795
Other information	
Remaining lease term and payment term (in years)	6.6
Incremental borrowing rate	8.53%
Cash paid for amounts included in the measurement of lease liabilities, included in operating cash flows	\$ 1,032



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The following table provides a reconciliation of the Company's remaining undiscounted contractual rent obligations due within each year ended December 31 to the operating lease liabilities recognized as of December 31, 2022 (in thousands):

	<b>Operating leases</b>
Years ended December 31	
2023	\$ 2,308
2024	2,100
2025	2,152
2026	2,206
2027	2,261
Thereafter	3,689
Total lease payments	14,716
Less: present value adjustment	(3,429)
Total operating lease liabilities	<u>\$ 11,287</u>
Included in the consolidated balance sheet:	
Current portion of lease liabilities—operating	2,287
Non-current portion of lease liabilities—operating	9,000
Total operating lease liabilities	<u>\$ 11,287</u>

### *Equipment finance leases*

Commencing in April 2022, the Company leases certain laboratory equipment under financing arrangements accounted for as finance leases classified in the Company's balance sheet as finance lease liabilities with related right-of-use assets recorded and depreciated on a straight-line basis over the estimated useful life of 7 years. The total amount of equipment finance lease right-of-use assets capitalized was approximately \$2.2 million during the year ended December 31, 2022. The total gross, accumulated amortization, and net book values of equipment finance lease right-of-use assets capitalized under such finance lease arrangements at December 31, 2022 were approximately \$2.2 million, \$0.1 million and \$2.1 million, respectively. The equipment finance leases entered into also included approximately \$0.1 million of research and development laboratory supplies received that were not capital in nature and were recorded to research and development expense in the Company's consolidated statement of operations and comprehensive loss during the year ended December 31, 2022. Under the terms of the equipment finance lease agreements executed through the issuance date of these financial statements, the principal balances plus interest for the equipment are to be repaid in full after 60 monthly installments following lease commencement, with lease commencement dates ranging from April 1, 2022 to January 1, 2023, annual imputed interest rates ranging from 7.90% to 9.30%, and monthly installment payment amounts ranging from approximately \$7,000 to \$18,000. As of December 31, 2022, the total aggregate monthly installment payment amount was approximately \$45,000 for equipment finance lease agreements executed through the issuance date of these financial statements. Total equipment finance right of use assets and lease liabilities of approximately \$534,000 were recorded in the Company's consolidated balance sheet at December 31, 2022 for which lease periods had not yet commenced. In connection with the Company's leases of laboratory equipment, the Company provided a security deposit to the lessor in the form of a letter of credit totaling \$1.9 million and assigned all rights and interests in the equipment to the lessor. The cash collateralizing the letter of credit is included in long-term restricted cash in the Company's consolidated balance sheet as of December 31, 2022.

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Components of the equipment finance leases are as follows (in thousands, except weighted average remaining lease payment term (in years), weighted average remaining amortization term (in years), and weighted average effective interest rate):

<b>Year ended December 31</b>	<b>2022</b>
Finance lease amortization of right-of-use assets	\$ 148
Interest on finance lease liabilities	46
<b>Total finance lease expense</b>	<b>\$ 194</b>
Other information	
Weighted Average Remaining Lease Payment Term (in years)	4.6
Weighted Average Remaining Amortization Term (in years)	6.6
Weighted Average Effective Interest Rate	8.66%
Cash paid for amounts included in the measurement of lease liabilities, included in financing cash flows	\$ 240

The following table provides a reconciliation of the Company's remaining equipment finance lease obligations due within each year ending December 31 to the equipment finance lease liabilities recognized at December 31, 2022, including estimated amounts due for equipment received by December 31, 2022 under equipment finance leases anticipated to be executed following the issuance date of these financial statements (in thousands):

	<b>Equipment finance leases</b>
<b>Years ended December 31</b>	
2023	\$ 550
2024	580
2025	580
2026	580
2027	357
Thereafter	11
Total lease payments	2,658
Less: imputed interest	(463)
Total finance lease liabilities	\$ 2,195
Included in the consolidated balance sheet:	
Current portion of lease liabilities—finance	547
Non-current portion of lease liabilities—finance	1,648
Total finance lease liabilities	\$ 2,195

## **6. PREFERRED STOCK**

As of December 31, 2022, the Company's certificate of incorporation authorized the Company to issue 143,653,546 million shares of series A and series B convertible preferred stock at par value of \$0.0001.

On November 20, 2020, the Company entered into a series A convertible preferred stock purchase agreement (the "Series A Purchase Agreement") whereby the Company issued 29,999,996 shares of series A convertible preferred stock at \$1 per share for an aggregate purchase price of \$30.0 million and incurred \$0.2 million of issuance costs. Additionally, on November 20, 2020, the Company issued additional series A convertible preferred stock to the holders of the Company's Notes (the "Noteholders"). In connection with the conversion, the Company issued 4,495,719 shares of series A convertible preferred stock.

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Pursuant to the Series A Purchase Agreement, the shareholders were eligible to receive additional shares at the date of certain contractual Milestone events. The first Milestone event was the successful Federal Drug Administration (“FDA”) clearance to proceed into human clinical studies of one of the Company’s therapeutics; the second Milestone event was the successful dosing of the therapeutic in five human patients with all relevant safety data supportive of future development.

On July 30, 2021, the Company’s board of directors voted to waive the Milestones related to both the second and third tranches of the series A convertible preferred stock and issued 50,999,997 shares for an aggregate consideration of \$51.0 million.

On August 10, 2021, the Company entered into a series B convertible preferred stock purchase agreement whereby the Company issued 58,157,823 shares of series B convertible preferred stock at \$1.72 per share for an aggregate purchase price of approximately \$100.1 million.

As of December 31, 2022 and 2021, preferred stock consisted of the following (in thousands, except share amounts):

	<b>Convertible Preferred Stock Authorized</b>	<b>Convertible Preferred Stock Issued and Outstanding</b>	<b>Proceeds Received</b>	<b>Liquidation Preference</b>	<b>Common Stock Issuable Upon Conversion</b>
Series A convertible preferred stock	85,495,722	85,495,722	\$ 85,496	\$ 85,496	85,495,722
Series B convertible preferred stock	58,157,824	58,157,823	100,060	100,060	58,157,825
	143,653,546	143,653,545	\$ 185,556	\$ 185,556	143,653,547

As of December 31, 2022, the rights and privileges of the holders of the convertible preferred stock were as follows:

*Voting*—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.

*Dividends*—The holders of shares of series A convertible preferred stock are entitled to receive, as declared by the Company’s board of directors, dividends at the rate of 8% per share of preferred stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of common stock payable in shares of common stock).

*Deemed liquidation event*—Each of the following events shall be considered a “Deemed Liquidation Event” unless the holders of a majority of the outstanding shares of preferred stock elect otherwise by written notice sent to the Company at least five business days prior to the effective date of any such event; (a) A merger or consolidation in which the Company is a constituent party or a subsidiary of the Company is a constituent party and the Company issues shares of its capital stock pursuant to such merger or consolidation. Except any such merger or consolidation involving the Company or a subsidiary in which the shares of capital stock of the Company 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, at least a majority of the capital stock of (1) the surviving or resulting company; or (2) if the surviving or resulting company is a wholly owned subsidiary of another company immediately following such merger or consolidation, the parent company of such surviving or resulting corporation; or (b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single

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transaction or a series of related transactions) of one or more subsidiaries of the Company if substantially all of the assets of the Company 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 Company.

*Liquidation preference*—In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of shares of preferred stock shall be entitled to be paid out of the assets of the Company or, in the case of a Deemed Liquidation Event, out of the consideration payable to stockholders or the available proceeds, before any payment shall be made to the holders of common stock, an amount per share equal to the series B convertible preferred stock issue price of \$1.72 per share and the series A convertible preferred stock issue price of \$1.00 per share, plus any dividends declared but unpaid. If upon any such liquidation, dissolution or winding up of the Company or Deemed Liquidation Event, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of preferred stock the full amount to which they 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 (collectively, the “Liquidation Preference Per Convertible Preferred Stock”).

In the event that there are additional assets to be distributed, the holders of the series A convertible preferred stock and series B convertible preferred stock will share in the distribution along with common stockholders as if the shares of the series A convertible preferred stock and series B convertible preferred stock had converted to common stock immediately prior to the distribution up to an amount taken in consideration with the Liquidation Preference Per Convertible Preferred Stock not to exceed \$3.00 per share allocated to series A convertible preferred stockholders and \$5.16147 per share allocated to series B convertible preferred stockholders.

*Redemption*—The preferred stock does not contain a mandatory redemption provision. Upon a Deemed Liquidation Event, the holders will be paid their preference amounts according to their priority. That is, the preferred stockholders will be entitled to an amount up to \$1.00 per share, plus any accrued dividends. Accretion to redemption value will only be required if a Deemed Liquidation Event is probable.

*Conversion*—In the event that any Noteholder, or an affiliate of any Noteholder, the investor of Notes did not participate in any Milestones then each share of preferred stock held by the Noteholders would have automatically been converted into the number of shares of common stock equal to the \$1.00 per share divided by the conversion price in effect immediately prior to the consummation of the Milestones closings multiplied by ten.

Upon either (a) the closing of the sale of shares of common stock to the public at a price of at least \$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 common stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$50.0 million of gross proceeds to the Company and in connection with the offering of the common stock listed for trading on the Nasdaq Stock Market’s National Market, the New York Stock Exchange or another exchange or marketplace approved by the Company’s board of directors, including the approval of at least two (2) preferred directors (a “Qualified IPO”) or (b) the date and time, or the occurrence of an event specified by vote or written consent of the Noteholders, then (i) all outstanding shares of preferred stock shall automatically be converted into shares of common stock, at the then effective conversion rate.

## 7. COMMON STOCK

As of December 31, 2022, the Company's certificate of incorporation authorized the Company to issue 192,020,973 shares of common stock with a par value of \$0.0001 per share. The voting, dividend and liquidation rights of the holders of the Company's common shares are subject to and qualified by the rights, powers and preferences of the holders of the convertible preferred stock set forth above.

Each common share entitles the holder to one vote on all matters submitted to a vote of the Company's stockholders. Common stockholders are entitled to receive dividends, if any, as may be declared by the Company's board of directors, subject to the preferential dividend rights of the convertible preferred stock. Through December 31, 2022, no cash dividends have been declared or paid by the Company.

The Company has reserved the following number of shares of common stock for the exercise of outstanding stock options, future issuance of stock-based awards, and conversion of outstanding shares of convertible preferred stock:

	Year ended December 31,	
	2022	2021
Shares of series A convertible preferred stock	85,495,722	85,495,722
Shares of series B convertible preferred stock	58,157,823	58,157,823
Options to purchase shares of common stock	20,300,861	19,922,318
Shares available for issuance under the 2021 Plan	10,599,419	11,699,283
Total shares of common stock reserved for future issuance	174,553,825	175,275,146

## 8. NET LOSS PER SHARE

Basic and diluted net loss per common share attributable to common stockholders was calculated as follows (in thousands, except share and per share amounts):

	Year ended December 31,	
	2022	2021
Numerator:		
Net loss attributable to common stockholders	\$ (59,277)	\$ (50,622)
Denominator:		
Weighted-average common shares outstanding, basic and diluted	17,272,352	16,449,814
Net loss per share attributable to common stockholders, basic and diluted	\$ (3.43)	\$ (3.08)

## 9. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consisted of the following (in thousands):

	December 31, 2022	December 31, 2021
Accrued research and development expenses	\$ 4,755	\$ 2,588
Accrued payroll expenses	796	97
Accrued professional fees	629	168
Other current liabilities	240	30
Total accrued expenses and other current liabilities	\$ 6,420	\$ 2,883

## 10. STOCK-BASED COMPENSATION

In February 2021, the Company adopted the 2021 Equity Incentive Plan (the “Plan”) for the issuance of stock options to the Company’s key directors, officers, employees and consultants, as a means to secure the benefits arising from capital stock ownership. The purposes of the Plan are to promote the alignment of the interests of key directors, officers, employees, and consultants with the success of the Company and to provide compensation opportunities to attract, retain and motivate directors, officers, employees, and consultants of the Company.

Under the Plan, the Company initially authorized 8,918,225 shares of its common stock for issuance upon exercise of options granted under the Plan. In August 2021, the Company’s Board of Directors amended the Plan to increase the aggregate number of shares of its common stock reserved for issuance pursuant to the Plan by 20,019,725 shares, from 8,918,225 shares to a new total of 28,937,950 shares. In November 2021, the Company’s Board of Directors further amended the Plan to further increase the aggregate number of shares of its common stock reserved for issuance pursuant to the Plan by 3,388,594 shares, from 28,937,950 shares to a new total of 32,326,544 shares. As of December 31, 2022, 10,599,419 shares were available for future grants.

### Stock option activity

Stock options granted during the years ended December 31, 2022 and 2021 generally (i) are subject to requisite service requirements, (ii) vest over a four-year period with 25% of the options granted vesting after one year and the remainder vesting in equal monthly installments over the following 36 months, and (iii) allow for early exercise subject to repurchase. Stock options granted to certain of the Company’s non-employees vest in equal monthly installments over a four-year period or vested upon the achievement of a certain milestone event. The Company did not repurchase any stock options during the years ended December 31, 2022 and 2021.

The following table summarizes the stock option activity under the Plan for years ended December 31, 2022 and 2021:

	Number of shares	Weighted-average exercise price	Weighted-average grant date fair value	Weighted-average remaining contractual term (in years)	Aggregate intrinsic value (in thousands)
Outstanding as of December 31, 2021	19,922,318	\$ 0.37	\$ 0.24	9.61	\$ 19,787
Granted	1,728,638	1.42	0.94		
Exercised	(721,321)	0.46	0.30		700
Forfeited	(628,774)	0.97	0.63		
Outstanding as of December 31, 2022	20,300,861	\$ 0.44	\$ 0.22	8.65	\$ 20,130
Vested options outstanding and exercisable as of December 31, 2021	591,478	\$ 0.25	\$ 0.15	9.20	\$ 671
Vested options outstanding and exercisable as of December 31, 2022	7,005,610	\$ 0.35	\$ 0.23	8.55	\$ 7,540
Unvested options outstanding and exercisable as of December 31, 2021	18,988,439	\$ 0.37	\$ 0.24	9.61	\$ 19,117
Unvested options outstanding and exercisable as of December 31, 2022	13,295,251	\$ 0.48	\$ 0.31	8.70	\$ 12,590

The aggregate intrinsic value of stock options is calculated as the difference between the exercise price of the stock options and the fair value of the Company’s common stock for those stock options that had exercise prices lower than the fair value of the Company’s common stock.

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The total grant date fair values of options vested during the years ended December 31, 2022 and 2021 were \$1.6 million and \$0.2 million, respectively, including \$0.1 million for a total of 342,404 stock options granted to certain nonemployees that vested upon the achievement of a certain milestone event during the year ended December 31, 2022.

The Company estimated the fair value of options granted using a Black-Scholes option pricing model with the following assumptions presented on a weighted average basis:

	Year ended December 31, 2022	Year ended December 31, 2021
Weighted average risk-free interest rate	2.76%	1.04%
Expected term (in years)	6.03	5.37
Expected volatility	73.36%	61.36%
Expected dividend yield	0.00%	0.00%

Expected dividend yield is based on the fact that the Company has never paid cash dividends and does not expect to pay any cash dividends in the foreseeable future.

### *Stock-based compensation expense*

The Company recorded total stock-based compensation of \$1.8 million and \$0.4 million for the years ended December 31, 2022, and 2021, respectively. Stock-based compensation expense was classified as follows in the consolidated statements of operations and comprehensive loss (in thousands):

	Year ended December 31,	
	2022	2021
Research and development expense	\$ 966	\$252
General and administrative expense	815	134
Total stock-based compensation expense	\$1,781	\$386

As of December 31, 2022 there was \$4.0 million of unrecognized stock-based compensation expense related to unvested stock options estimated to be recognized over a weighted-average period of 2.54 years.

## **11. INCOME TAXES**

A reconciliation of the Company's statutory income tax rate to the Company's effective income tax rate is as follows for the years ended December 31, 2022, and 2021:

	December 31,	
	2022	2021
Federal statutory rate	21.00%	21.00%
State taxes, net of federal benefit	11.77	9.06
Change in valuation allowance	(36.43)	(30.38)
Stelios IPR&D	—	(2.90)
Permanent differences	0.08	(0.37)
Tax credits	3.66	3.37
Other	(0.08)	0.21
Effective income tax rate	0.00%	0.00%

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The principal components of the Company's deferred tax assets and liabilities at December 31, 2022 and 2021 are as follows (in thousands):

	Year ended December 31,	
	2022	2021
Deferred tax assets:		
Net operating loss carryforwards	\$ 15,379	\$ 11,496
Tax credits	3,883	1,710
Intangibles	3,407	2,838
Capitalized R&D expenses	13,823	—
Lease liabilities	4,423	—
Other deferred tax assets	1,309	355
Total deferred tax assets	42,224	16,399
Valuation allowance	(37,992)	(16,399)
Net deferred tax assets	\$ 4,232	\$ —

	Year ended December 31,	
	2022	2021
Deferred tax liabilities:		
Right of use asset	\$(4,214)	\$ —
Other deferred tax liabilities	(18)	—
Total deferred tax liabilities	(4,232)	—
Net deferred tax assets (liabilities)	\$ —	\$ —

As of December 31, 2022 and 2021, the Company had federal net operating loss carryforwards of approximately \$48.6 million and \$36.7 million, respectively, which can be carried forward indefinitely. As of December 31, 2022 and 2021, the Company had state and local net operating loss carryforwards of approximately \$109.3 million and \$73.7 million, respectively, which begin to expire in 2040.

As of December 31, 2022, the Company had federal tax credits of \$3.9 million, which begin to expire in 2041.

Future realization of the tax benefits of existing temporary differences and net operating loss carryforwards ultimately depends on the existence of sufficient taxable income within the carryforward period. As of December 31, 2022 and 2021, the Company performed an evaluation to determine whether a valuation allowance was needed. The Company considered all available evidence, both positive and negative, which included the results of operations for the current and preceding years. The Company determined that it was not possible to reasonably quantify future taxable income and determined that it is more likely than not that all of the deferred tax assets will not be realized. Accordingly, the Company maintained a full valuation allowance as of December 31, 2022 and 2021.

Under Internal Revenue Code Section 382, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change NOL carryforwards and other pre-change tax attributes to offset its post-change income may be limited. We have not completed a study to assess whether an "ownership change" has occurred or whether there have been multiple ownership changes since we became a "loss corporation" as defined in Section 382. Future changes in our stock ownership, which may be outside of our control, may trigger an "ownership change." In addition, future equity offerings or acquisitions that have equity as a component of the purchase price could result in an "ownership change." If an "ownership change" has occurred or does occur in



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the future, utilization of the NOL carryforwards or other tax attributes may be limited, which could potentially result in increased future tax liability to us.

The calculation of our tax liabilities involves dealing with uncertainties in the application of complex tax laws and regulations for both federal taxes and the many states in which we operate or do business in. ASC 740 states that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, on the basis of the technical merits.

We record uncertain tax positions as liabilities in accordance with ASC 740 and adjust these liabilities when our judgment changes as a result of the evaluation of new information not previously available. Because of the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from our current estimate of the unrecognized tax benefit liabilities. These differences will be reflected as increases or decreases to income tax expense in the period in which new information is available. As of December 31, 2021 and 2022 we have not recorded any uncertain tax positions in our consolidated financial statements.

We recognize interest and penalties related to unrecognized tax benefits on the income tax expense line in the accompanying consolidated statement of operations. As of December 31, 2022 and 2021, no accrued interest or penalties are included on the related tax liability line in the consolidated balance sheet.

The Company files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Company is subject to examination by federal and state jurisdictions, where applicable. The resolution of tax matters is not expected to have a material effect on the Company's consolidated financial statements.

## 12. COMMITMENTS AND CONTINGENCIES

**Leases**—As of December 31, 2022, the Company had entered into commitments under lease agreements to rent office space and finance equipment (see Note 5).

**Commitments**—As of December 31, 2022, the Company had entered into commitments under license, acquisition, research collaboration and sponsored research agreements with third parties (see Notes 3 and 13). In addition, the Company has entered into services agreements with third parties for pharmaceutical manufacturing and research activities in the normal course of business, which can generally be terminated by the Company with 30- or 60-days' written notice, unless otherwise indicated. Further, certain of the Company's manufacturing agreements could require early termination and wind-down payments due from the Company upon either the termination of its clinical trials or if the Company terminates such agreements for convenience.

**Contingencies**—From time to time, the Company may have certain contingent liabilities that arise in the ordinary course of business. The Company accrues a liability for such matters when it is probable that future expenditures will be made, and such expenditures can be reasonably estimated. For all periods presented, the Company was not a party to any pending material litigation or other material legal proceedings.

**Indemnification agreements**— In the ordinary course of business, the Company may provide indemnification of varying scope and terms to vendors, lessors, business partners and other parties with respect to certain matters including, but not limited to, losses arising out of breach of such agreements or from intellectual property infringement claims made by third parties. In addition, the Company has entered into indemnification agreements with members of its board of directors and executive officers that will require the Company, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors or

officers. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is, in many cases, unlimited. As of December 31, 2022, and 2021, the Company had not incurred any material costs as a result of such indemnifications.

### 13. LICENSE, RESEARCH COLLABORATION AND SPONSORED RESEARCH AGREEMENTS

**Adverum Biotechnologies**—On January 25, 2021, the Company entered into an exclusive license agreement with Adverum Biotechnologies Inc. (“Adverum”) (the “Adverum Agreement”) to in-license materials and technology related to the treatment of Cardiomyopathy due to Friedrich’s Ataxia. In connection with the Adverum Agreement, the Company gained access to a portfolio of inventions, patent rights, technology, and licensed methods that the Company continues to develop, and the Company will assume all development and commercialization activities worldwide. Pursuant to the Adverum Agreement the Company paid a one-time up-front non-refundable fee of \$7.5 million, and is obligated to pay aggregate development and regulatory milestones of up to \$17.5 million including a \$3.5 million development milestone that was achieved in the first quarter of 2023, aggregate sales event and commercialization milestones of up to \$49.0 million, and royalty payments ranging from 8% of aggregate net sales less than or equal to \$500 million in a calendar year to 10% of aggregate net sales greater than \$500 million in a calendar year subject to reductions upon the expiration of valid claims in licensed patents and third-party licenses. As of December 31, 2022, there were no research and development expenses recorded by the Company or payments made to Adverum under the terms of the Adverum Agreement other than the one-time up-front non-refundable fee of \$7.5 million.

The Adverum Agreement remains in effect until termination at the date of the last royalty term to expire. The Company can terminate the Adverum Agreement with 120 days written notice. The Adverum Agreement can also be terminated as a result of a patent challenge, material breach of contractual terms, or insolvency by either party.

**Cornell University**—On May 27, 2020, the Company entered into two exclusive license agreements with Cornell University (“Cornell”) (the “Cornell First License Agreement” and the “Cornell Second License Agreement,” collectively “the Cornell License Agreements”). The Cornell First License Agreement is for the in-license of technology related to portfolios for APOE, Alzheimer’s disease, and Anti-Tau, although our license is not restricted by such indications and it includes assignment to us of Cornell’s IND for the use of AAVrh10.hAPOE2 vector to treat APOE4 homozygous patients who are at risk for or have Alzheimer’s disease to support development of the Company’s LX1001 program. The Cornell Second License Agreement is for the in-license of technology related to portfolios for infantile neuronal ceroid lipofuscinosis (also called CLN2 Batten disease) and Friedreich’s ataxia although our license is not restricted by such indications, and it includes assignment to us of Cornell’s IND for the use of AAVrh.10cUhCLN2 to treat children with CLN2 Batten disease to support development of the Company’s LX1004 program. Through the Cornell License Agreements, the Company gains access to a portfolio of inventions, patent rights, technology, and licensed methods that the Company continues to develop. Under the terms of the Cornell License Agreements, the Company has assumed all development and commercialization activities worldwide with respect to the licensed technology.

As initial consideration for the Cornell License Agreements, the Company paid Cornell an upfront payment in cash of \$0.3 million and issued \$1.3 million of Notes. In November 2020, Notes with outstanding principal of \$1.3 million were cancelled in exchange for 1,337,610 shares of Series A convertible preferred stock. As additional consideration, the Company is required to pay Cornell up to \$8.4 million upon the achievement of specific clinical and regulatory milestones under the Cornell First License Agreement and up to \$4.3 million upon the achievement of specific clinical and regulatory milestones under the Cornell Second License Agreement. The Company is also required to pay Cornell a flat royalty in the mid-single-digits based on net sales of the products covered by the licenses, subject to certain adjustments.

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Upon expiration of the royalty term of a given licensed product in a country, the respective license becomes non-exclusive and royalty-free. In addition, each of the Cornell License Agreements may be terminated by the Company for any reason upon 90 days' advance notice to Cornell and by Cornell upon the Company's material uncured breach, and all licenses and rights granted by either party under such agreement will concurrently terminate.

In the second quarter of 2022, the Company paid Cornell \$0.1 million for a research and development milestone achieved in the first quarter of 2022 under the Cornell Second License Agreement. In connection with the Cornell License Agreements, the Company recorded \$0.1 million of research and development expenses within its consolidated statement of operations and comprehensive loss during the year ended December 31, 2022, which were paid during the year ended December 31, 2022. The Company did not record any research and development expenses in its consolidated statement of operations and comprehensive loss or make any payments to Cornell under the terms of the Cornell License Agreements during the year ended December 31, 2021.

**Regents of the University of California, San Diego**—Stelios, which was acquired by the Company in August 2021, entered into exclusive worldwide license agreements on April 23, 2020 and August 6, 2020 (the "First UCSD Agreement" and the "Second UCSD Agreement", respectively) with the Regents of UCSD to in-license materials and intellectual property related to gene therapies for arrhythmogenic right ventricular cardiomyopathy and hypertrophic cardiomyopathy, respectively. The First UCSD Agreement and the Second UCSD Agreement relate to the Company's development efforts for its LX2021 and LX2022 programs, respectively. In connection with the First UCSD Agreement and the Second UCSD Agreement, the Company gained access to inventions, patent rights, technology, and licensed methods that it continues to develop, and it has assumed all worldwide development and commercialization activities with respect to the licensed technologies. The First UCSD Agreement and Second UCSD Agreement required Stelios to pay one-time up-front non-refundable cash fees of \$20,000 for each agreement, and required the Company to pay aggregate development and commercialization milestones of up to \$4.75 million and \$2.4 million, respectively, and low- to mid-single digit royalties and low-single digit royalties, respectively, based on aggregate net sales. The only research and development expenses incurred by Stelios or the Company and payments made to the Regents of UCSD to-date under the terms of the First UCSD Agreement and the Second UCSD Agreement were the one-time up-front non-refundable cash fees of \$20,000 for each agreement. The Company has the right to terminate the First UCSD Agreement and the Second UCSD Agreement at any time upon a sixty (60)-day written notice to the Regents of UCSD.

On October 4, 2021, the Company entered into an exclusive worldwide license agreement (the "Third UCSD Agreement" and collectively with the First UCSD Agreement and the Second UCSD Agreement, the "UCSD Agreements") with the Regents of UCSD to in-license materials and intellectual property related to a gene therapy for arrhythmogenic right ventricular cardiomyopathy. The Third UCSD Agreement relates to the Company's development efforts for its LX2020 program. In connection with the Third UCSD Agreement, the Company gained access to inventions, patent rights, technology, and licensed methods that it continues to develop, and it has assumed all worldwide development and commercialization activities with respect to the licensed technology. The Third UCSD Agreement required the Company to pay a one-time up-front non-refundable cash fee of \$20,000, aggregate development and commercialization milestones of up to \$4.0 million, and low- to mid-single digit royalties based on aggregate net sales. The only research and development expenses incurred by the Company and payments made to the Regents of UCSD to-date under the terms of the Third UCSD Agreement were the one-time up-front non-refundable cash fee of \$20,000. The Company has the right to terminate the Third UCSD Agreement at any time upon a sixty (60)-day written notice to the Regents of UCSD.

On December 3, 2021, the Company entered into two sponsored research agreements with the Regents of UCSD (collectively, the "UCSD SRAs") for the Company's LX2020, LX2021 and LX2022 programs in connection with the UCSD Agreements. Under the terms of the UCSD SRAs, the Company has the first rights to obtain

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non-exclusive or exclusive, sublicensable, royalty-bearing, perpetual and transferable worldwide licenses in any resulting inventions owned by the Regents of UCSD or resulting jointly owned inventions between the Company and the Regents of UCSD, and the Company retains the rights to any resulting inventions owned by the Company. The UCSD SRAs have a two-year term and may be terminated early by the Company at any time upon the giving of thirty (30) days written notice to the Regents of UCSD. The total costs to be invoiced to the Company under the terms of the UCSD SRAs are approximately \$5.5 million, of which \$2.3 million and \$0.2 million were recorded in research and development expenses in the Company's consolidated statements of operations and comprehensive loss during the years ended December 31, 2022 and 2021, respectively, and of which \$2.8 million was paid for the year ended December 31, 2022. The Company did not make any payments to UCSD during the year ended December 31, 2021.

**Weill Cornell Medical College**—On February 2, 2021, the Company entered into a Research Collaboration Agreement with Weill Cornell Medical College ("WCM") (the "WCM Agreement") in conjunction with the Cornell License Agreements entered on May 27, 2020. The Company committed to fund scientific research at WCM to investigate further and potentially enhance the technology licensed to the Company pursuant to the License Agreements.

Under the terms of the WCM Agreement, the Company will pay WCM at least \$3.0 million over the course of 3 years, with equal \$0.25 million payments due each quarter starting 10 days after the execution of the WCM Agreement. With respect to each WCM invention, joint invention, and related joint results for which an Improvement applies and the Company has made an election to amend the Agreements, the Company has the first option to negotiate in good faith with WCM for royalty-bearing, worldwide license, under Cornell patent rights, Cornell rights, and Cornell's interest in joint patent rights, to develop, make, have made, use, offer for sale, sell, have sold, and import derived products in the field. Research and development costs incurred and paid by the Company related to the WCM Agreement were \$6.1 million and \$5.5 million, respectively, during the year ended December 31, 2022. Research and development costs incurred and paid by the Company related to the WCM Agreement were \$2.8 million and \$2.3 million during the year ended December 31, 2021.

The WCM Agreement terminates upon the expiration of the agreed upon 3-year term. In addition, the WCM Agreement may be terminated by the Company in the event that the WCM principal investigator ceases to supervise the research and WCM is unable to or declines to find a substitute.

## **14. SUBSEQUENT EVENTS**

Subsequent events have been evaluated through March 31, 2023, which is the date that these consolidated financial statements were issued and were available to be issued.

# Lexeo Therapeutics, Inc.

## Condensed Consolidated Balance Sheets

(Unaudited, in thousands, except share and per share amounts)

	June 30, 2023	December 31, 2022
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 45,539	\$ 77,335
Prepaid expenses	1,934	2,342
Other current assets	1,239	371
Total current assets	48,712	80,048
Restricted cash	3,252	3,253
Property and equipment, net	975	998
Lease right-of-use assets—finance, net	1,921	2,069
Lease right-of-use assets—operating	10,079	10,708
Total assets	\$ 64,939	\$ 97,076
<b>Liabilities, Convertible Preferred Stock and Stockholders' Deficit</b>		
Current liabilities:		
Accounts payable	\$ 2,369	\$ 2,678
Taxes payable	135	506
Accrued expenses and other current liabilities	7,217	6,420
Accrued bonuses	1,146	1,911
Current portion of lease liabilities—finance	528	547
Current portion of lease liabilities—operating	2,265	2,287
Total current liabilities	13,660	14,349
Non-current liabilities		
Non-current portion of lease liabilities—finance	1,454	1,648
Non-current portion of lease liabilities—operating	8,411	9,000
Total liabilities	23,525	24,997
Commitments and contingencies (Note 11)		
Series A convertible preferred stock, \$0.0001 par value; 85,495,722 shares authorized, issued, and outstanding as of June 30, 2023 and December 31, 2022; aggregate liquidation value of \$85,496 as of June 30, 2023 and December 31, 2022	85,268	85,268
Series B convertible preferred stock, \$0.0001 par value; 58,157,824 shares authorized as of June 30, 2023 and December 31, 2022; 58,157,823 shares issued and outstanding as of June 30, 2023 and December 31, 2022; aggregate liquidation value of \$100,060 as of June 30, 2023 and December 31, 2022	99,765	99,765
Stockholders' and members' deficit:		
Common stock, \$0.0001 par value, 192,020,973 shares authorized as of June 30, 2023 and December 31, 2022; 17,507,813 shares issued and 17,184,439 shares outstanding as of June 30, 2023; 17,467,148 shares issued and 17,026,915 shares outstanding as of December 31, 2022	2	2
Additional paid-in capital	3,924	2,490
Accumulated deficit	(147,545)	(115,446)
Total stockholders' deficit	(143,619)	(112,954)
Total liabilities, convertible preferred stock, stockholders' deficit	\$ 64,939	\$ 97,076

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Lexeo Therapeutics, Inc.****Condensed Consolidated Statements of Operations and Comprehensive Loss***(Unaudited, in thousands, except share and per share amounts)*

	Three Months Ended		Six Months Ended	
	2023	June 30, 2022	2023	June 30, 2022
Revenue				
Grant revenue	\$ —	\$ 37	\$ —	\$ 123
Total revenue	—	37	—	123
Operating expenses				
Research and development	11,236	12,267	27,674	22,413
General and administrative	2,739	3,081	5,592	5,540
Total operating expenses	13,975	15,348	33,266	27,953
Operating loss	(13,975)	(15,311)	(33,266)	(27,830)
Other income and expense				
Other expense	(3)	—	(7)	—
Interest expense	(53)	(9)	(103)	(9)
Interest income	590	177	1,277	194
Total other income and expense	534	168	1,167	185
Loss from operations before income taxes	(13,441)	(15,143)	(32,099)	(27,645)
Income taxes	—	—	—	—
Net loss and comprehensive loss	\$ (13,441)	\$ (15,143)	\$ (32,099)	\$ (27,645)
Net loss per common share, basic and diluted	\$ (0.80)	\$ (0.87)	\$ (1.88)	\$ (1.61)
Weighted average number of shares outstanding used in computation of net loss per common share, basic and diluted	16,789,923	17,389,561	17,111,777	17,127,869

*The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.*

# Lexeo Therapeutics, Inc.

## Condensed Consolidated Statements of Convertible Preferred Stock and Stockholders' Deficit

(Unaudited, in thousands, except share amounts)

	Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount			
Balances at January 1, 2022	143,653,545	\$ 185,013	16,745,827	\$ 2	\$ 565	\$ (56,169)	\$ (55,602)
Proceeds from issuance of series A convertible preferred stock	—	20	—	—	—	—	—
Exercise of stock options	—	—	511,866	—	235	—	235
Proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities	—	—	(639,242)	—	(235)	—	(235)
Stock-based compensation expense	—	—	—	—	275	—	275
Net loss	—	—	—	—	—	(12,502)	(12,502)
<b>Balances at March 31, 2022</b>	<b>143,653,545</b>	<b>\$ 185,033</b>	<b>16,618,451</b>	<b>\$ 2</b>	<b>\$ 840</b>	<b>\$ (68,671)</b>	<b>\$ (67,829)</b>
Exercise of stock options	—	—	150,000	—	69	—	69
Proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities, net of amounts reclassified from deposit liabilities upon the vesting of early-exercised stock options previously subject to repurchase	—	—	(104,142)	—	(69)	—	(69)
Stock-based compensation expense	—	—	—	—	554	—	554
Net loss	—	—	—	—	—	(15,143)	(15,143)
<b>Balances at June 30, 2022</b>	<b>143,653,545</b>	<b>185,033</b>	<b>16,664,309</b>	<b>2</b>	<b>1,394</b>	<b>(83,814)</b>	<b>(82,418)</b>

	Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount			
Balances at January 1, 2023	143,653,545	\$ 185,033	17,026,915	\$ 2	\$ 2,490	\$ (115,446)	\$ (112,954)
Exercise of stock options	—	—	15,843	—	12	—	12
Amounts reclassified from deposit liabilities upon the vesting of early-exercised stock options previously subject to repurchase, net of proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities	—	—	56,400	—	21	—	21
Stock-based compensation expense	—	—	—	—	397	—	397
Net loss	—	—	—	—	—	(18,658)	(18,658)
<b>Balances at March 31, 2023</b>	<b>143,653,545</b>	<b>\$ 185,033</b>	<b>17,099,158</b>	<b>\$ 2</b>	<b>\$ 2,920</b>	<b>\$ (134,104)</b>	<b>\$ (131,182)</b>
Exercise of stock options	—	—	24,822	—	9	—	9
Amounts reclassified from deposit liabilities upon the vesting of early-exercised stock options previously subject to repurchase, net of proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities	—	—	60,459	—	26	—	26
Stock-based compensation expense	—	—	—	—	969	—	969
Net loss	—	—	—	—	—	(13,441)	(13,441)
<b>Balances at June 30, 2023</b>	<b>143,653,545</b>	<b>\$ 185,033</b>	<b>17,184,439</b>	<b>\$ 2</b>	<b>\$ 3,924</b>	<b>\$ (147,545)</b>	<b>\$ (143,619)</b>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

# Lexeo Therapeutics, Inc.

## Condensed Consolidated Statements of Cash Flows

(Unaudited, in thousands)

	Six Months Ended	
	June 30,	
	2023	2022
<b>Cash flows from operating activities:</b>		
Net loss	\$(32,099)	\$ (27,645)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Amortization of right-of-use asset, operating	629	291
Amortization of right-of-use assets, finance	148	35
Stock based compensation expense	1,366	829
Depreciation and amortization expense	116	32
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	336	(1,504)
Accounts payable	(864)	741
Change in deferred income	—	(46)
Accrued expenses and other current liabilities	(216)	1,176
Tax payable	(371)	(130)
Lease liability, operating	(611)	76
Net cash used in operating activities	<u>(31,566)</u>	<u>(26,145)</u>
<b>Cash flows from investing activities:</b>		
Purchase of internal use software	—	(103)
Purchase of property and equipment	(39)	(291)
Net cash used in investing activities	<u>(39)</u>	<u>(394)</u>
<b>Cash flows from financing activities:</b>		
Proceeds from issuance of series A convertible preferred stock	—	20
Proceeds from exercise of stock options	21	304
Payments on finance leases	(213)	(19)
Net cash (used in) provided by financing activities	<u>(192)</u>	<u>305</u>
<b>Net change in cash, cash equivalents and restricted cash</b>	<b>(31,797)</b>	<b>(26,234)</b>
Total cash, cash equivalents and restricted cash at beginning of period	80,588	135,860
Total cash, cash equivalents and restricted cash at end of period	<b>\$ 48,791</b>	<b>\$ 109,626</b>
Cash and cash equivalents at beginning of period	77,335	135,860
Restricted cash included in long-term assets at beginning of period	3,253	—
Total cash, cash equivalents and restricted cash at beginning of period	<b>\$ 80,588</b>	<b>\$ 135,860</b>
Cash and cash equivalents at end of period	45,539	106,643
Restricted cash included in long-term assets at end of period	3,252	2,983
Total cash, cash equivalents and restricted cash at end of period	<b>\$ 48,791</b>	<b>\$ 109,626</b>
<b>Supplemental disclosure of non-cash investing and financing activities</b>		
Deferred offering costs included in accounts payable and accrued expenses	\$ 796	\$ —
Purchase of property and equipment included in accounts payable and accrued expenses	\$ 54	\$ 1,184
Operating lease right-of-use assets and operating lease liabilities recognized	\$ —	\$ 11,585
Finance lease right-of use assets and finance lease liabilities recognized	\$ —	\$ 462
Amounts reclassified from deposit liabilities upon the vesting of early-exercised stock options previously subject to repurchase, net of (proceeds received from early exercise of unvested stock options subject to repurchase and recorded as deposit liabilities)	\$ 47	\$ (304)

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.



**LEXEO THERAPEUTICS, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)**

**1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION**

**Description of Business**—Lexeo Therapeutics, Inc. (“Lexeo” or the “Company”), together with its consolidated subsidiary, Stelios Therapeutics Inc., until such subsidiary was merged into the Company on December 15, 2022 and ceased to exist, is a clinical stage genetic medicine company with a focus on hereditary and acquired diseases of high unmet need. The Company’s investigational therapies have the potential to offer gene therapy-based treatments to address many diseases that have eluded today’s existing drug delivery platforms. Lexeo utilizes adeno-associated viruses (“AAV”) that have been engineered to transfer genes to patients. The Company’s therapeutic investigational treatments include gene therapies primarily in the early clinical and late pre-clinical stages of research and development.

The Company is located in New York, NY and was first formed on February 17, 2017, as an LLC under the laws of the State of Delaware under the legal name Lexeo Therapeutics, LLC. The Company filed and executed a certificate of conversion to corporation on November 20, 2020, to convert the LLC to Lexeo Therapeutics, Inc, a Delaware corporation. All of the Company’s tangible assets are held in the United States (“U.S.”).

**Basis of Presentation and Principles of Consolidation**—The Company’s fiscal year ends on December 31, and its fiscal quarters end on March 31, June 30, and September 30.

These unaudited condensed consolidated financial statements and accompanying notes reflect the operations of the Company and its wholly owned subsidiary that have been prepared in conformity with generally accepted accounting principles in the United States of America (“GAAP”) for interim financial information. Accordingly, they do not include all of the information and disclosures required by GAAP for complete financial statements. These unaudited condensed consolidated financial statements and accompanying notes should be read in conjunction with the Company’s audited consolidated financial statements and notes thereto for the year ended December 31, 2022 (the “Annual Financial Statements”). The unaudited condensed consolidated balance sheet at December 31, 2022 has been derived from the audited consolidated financial statements at that date. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary to present fairly the financial position of the Company and its results of operations and cash flows for the periods presented have been included. Operating results for the three and six-months ended June 30, 2023 are not necessarily indicative of the results that may be expected for the year ending December 31, 2023, for any other interim period, or for any other future year.

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 Updates (“ASU”) of the Financial Accounting Standards Board (“FASB”). The accounts of the wholly owned subsidiary are included in these unaudited condensed consolidated financial statements and accompanying notes. The Company has no unconsolidated subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

**Need for Additional Capital**—Since inception, the Company has incurred net losses and negative cash flows from operations, including net losses of \$32.1 million and \$59.3 million during the six months ended June 30, 2023 and the year ended December 31, 2022, respectively. During the years ended December 31, 2021 and December 31, 2020, the Company raised \$51.0 million and \$100.1 million of gross proceeds in connection with the issuance of its Series A convertible preferred stock and Series B convertible preferred stock (see Note 7), respectively. As of June 30, 2023, the Company had cash and cash equivalents of \$45.5 million and an accumulated deficit of \$147.5 million and expects to incur substantial operating losses and negative cash flows from operations for the foreseeable future, which raises substantial doubt about the Company’s ability to

continue as a going concern for the one year period following the date that these unaudited condensed consolidated financial statements were issued or were available to be issued, before consideration of management's plans. If the Company is unable to obtain funding, management's plan includes delaying, reducing or eliminating some or all of its research and development programs and reducing headcount, which alleviates substantial doubt about the Company's ability to continue as a going concern. The Company is seeking to complete an initial public offering ("IPO") of its common stock. In the event the Company does not complete an IPO, the Company expects to seek additional funding through private equity financings, debt financings or other capital sources, including collaborations with other companies or other strategic transactions. The Company may not be able to obtain financing on acceptable terms, or at all. The terms of any financing may adversely affect the holdings or the rights of the Company's stockholders.

If the Company is unable to obtain funding, management's plan includes delaying, reducing or eliminating some or all of its research and development programs which could adversely affect its business prospects, or the Company may be unable to continue operations. Although management continues to pursue these plans, there is no assurance that the Company will be successful in implementing management's plan or obtaining sufficient funding on terms acceptable to the Company to fund continuing operations, if at all.

**Risks and Uncertainties**—The Company is subject to risks and uncertainties common to early-stage companies in the biopharmaceutical industry, including, but not limited to, successful discovery and development of its product candidates, development by competitors of new technological innovations, dependence on key personnel, the ability to attract and retain qualified employees, protection of proprietary technology, compliance with governmental regulations, the ability to secure additional capital to fund operations, and commercial success of its product candidates. Any of the Company's current product candidates and future product candidates that it may develop will require extensive nonclinical and clinical testing and regulatory approval prior to commercialization. These efforts require significant amounts of additional capital, adequate personnel, infrastructure and extensive compliance-reporting capabilities. Even if the Company's product development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

There have been no significant changes in the Company's accounting policies from those disclosed in its Annual Financial Statements.

**Use of Estimates**—The preparation of the financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of income and expense during the reporting period. The most significant estimates relate to the accruals of research and development costs, accruals of research contract costs, and assumptions used to estimate the fair value of the Company's stock option awards and the determination of fair value of its common stock. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, and makes adjustments when facts and circumstances dictate. These estimates are based on information available as of the date of the financial statements; therefore, actual results could differ from those estimates.

**Net Loss per Share**—The Company follows the two-class method when computing net income (loss) per common share as the Company has issued shares that meet the definition of participating securities. The two-class method determines net income (loss) per common 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 (loss) 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. The Company considers its convertible preferred stock to be participating securities as, in the event a dividend is paid on common stock, the holders of these securities would be entitled to receive dividends on a basis consistent with the common stockholders. The Company also considers the shares issued upon the early exercise of stock options that are subject to repurchase to be participating securities because holders of such shares have non-forfeitable dividend rights in the event a dividend is paid on common stock. There is no allocation required under the two-class method during periods of loss since the participating securities do not have a contractual obligation to share in the losses of the Company.

Basic net income (loss) per common share is computed by dividing the net income (loss) per common share by the weighted-average number of common shares outstanding for the period. Diluted net income (loss) per common share is computed by adjusting net income (loss) to reallocate undistributed earnings based on the potential impact of dilutive securities. Diluted net loss per common share is computed by dividing the diluted net loss by the weighted-average number of common shares outstanding for the period, including potential dilutive common shares. For the purposes of this calculation, shares of convertible preferred stock are considered potential dilutive common shares.

In periods in which the Company reported a net loss, diluted net loss per common share was the same as basic net loss per common share, since dilutive common shares were not assumed to have been issued if their effect was anti-dilutive. During the three and six-months ended June 30, 2023 and June 30, 2022, the Company excluded 85,495,722 potential common shares related to the conversion of Series A convertible preferred stock and 58,157,823 potential common shares related to the conversion of Series B convertible preferred stock, and during the three and six-months ended June 30, 2023 and June 30, 2022 excluded 19,844,251 and 19,981,385 potential common shares, respectively, from the computation of diluted net loss per common share because including them would have had an anti-dilutive effect and the Company reported net losses for those periods.

**Concentrations of Credit Risk**—Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents and restricted cash. The Company’s cash and restricted cash balances exceed Federal Deposit Insurance Corporation (“FDIC”) insurance limits, and the Company’s cash equivalents consist of investments in a U.S. government money market fund. The majority of the Company’s cash and cash equivalents and restricted cash is held with a large financial institution that management believes to be of high credit quality. To date, the Company has not recognized any losses caused by uninsured balances.

### 3. FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The three levels of inputs that may be used to measure fair value are as follows:

*Level 1*—Inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.

*Level 2*—Inputs are observable, unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities.

*Level 3*—Inputs are unobservable inputs for the asset or liability.

The Company’s cash equivalents consist of investments in a U.S. government money market fund that are reported at carrying value, which approximates fair value and is based on quoted prices in active markets for

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identical securities. Cash is stated at carrying value, which approximates fair value due to its short-term nature. The carrying values of prepaid expenses, other current assets, accounts payable and accrued expenses approximate their fair values due to the short-term nature of these assets and liabilities.

The following table presents information about the Company's financial assets and liabilities measured at fair value on a recurring basis and indicates the level of the fair value hierarchy utilized to determine such fair values (in thousands):

	As of June 30, 2023:			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents (money market)	\$ 41,560	\$ —	\$ —	\$ 41,560
	\$ 41,560	\$ —	\$ —	\$ 41,560

	As of December 31, 2022:			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents (money market)	\$ 74,802	\$ —	\$ —	\$ 74,802
	\$ 74,802	\$ —	\$ —	\$ 74,802

## 4. PROPERTY AND EQUIPMENT

The following is the summary of the Company's property and equipment and related accumulated depreciation and amortization as of June 30, 2023 and December 31, 2022 (in thousands):

	Useful Life	June 30, 2023	December 31, 2022
Internal use software	3 years	\$ 296	\$ 245
Furniture and fixtures	5 years	375	375
Lab equipment	7 years	321	279
Leasehold improvements	7 years	232	232
Total property and equipment		1,224	1,131
Less: accumulated depreciation and amortization		(249)	(133)
Total property and equipment, net		\$ 975	\$ 998

## 5. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consisted of the following (in thousands):

	As of June 30, 2023	As of December 31, 2022
Accrued research and development expenses	\$ 4,837	\$ 4,755
Accrued payroll expenses	477	796
Accrued professional fees	648	629
Other current liabilities	1,255	240
Total accrued expenses and other current liabilities	\$ 7,217	\$ 6,420

## 6. LEASES

### *Operating Lease Right-of-Use Asset*

In January 2022, the Company entered into a lease agreement for an office facility and laboratory space in New York, New York that commenced in April 2022 and ends in July 2029 with an additional five-year option to extend the lease beyond July 2029 at the then-prevailing effective market rental rate. Upon commencement of this lease, the Company recorded operating lease right-of-use assets and operating lease liabilities of approximately \$11.6 million based on the present value of payments over the lease term using an estimated incremental borrowing rate of 8.53% in accordance with the provisions of ASC Topic 842, *Leases* (“ASC 842”). In connection with the Company’s lease of office space and laboratory space, the Company provided a security deposit to the landlord in the form of a letter of credit totaling \$1.2 million. The cash collateralizing the letter of credit was included in long-term restricted cash in the Company’s condensed consolidated balance sheets as of June 30, 2023, and December 31, 2022. This lease was classified as an operating lease in accordance with the provisions of Topic 842. The Company did not recognize any right-of-use assets and lease liabilities associated with the potential option to renew or extend. The Company’s operating lease agreement does not contain any significant residual value guarantees or restrictive covenants.

Components of this operating lease are as follows (in thousands, except remaining lease term and payment term (in years) and incremental borrowing rate):

	Six Months Ended		Three Months	
	June 30,		Ended June 30,	
	2023	2022	2023	2022
Operating lease expense	\$ 1,074	\$ 537	\$ 537	\$ 537
Variable lease expense	1,523	69	80	69
<b>Total operating lease expense</b>	<b>\$ 1,226</b>	<b>\$ 606</b>	<b>\$ 617</b>	<b>\$ 606</b>
Other information				
Remaining lease term and payment term (in years)	6.1	7.1	6.2	7.1
Incremental borrowing rate	8.53%	8.53%	8.53%	8.53%
Cash paid for amounts included in the measurement of lease liabilities, included in operating cash flows	\$ 1,055	\$ —	\$ 507	\$ —

The following table provides a reconciliation of the Company’s remaining undiscounted contractual rent obligations due within each year ended December 31 to the operating lease liabilities recognized as of June 30, 2023 (in thousands):

	Operating Leases
Years ended December 31	
2023	\$ 1,252
2024	2,100
2025	2,152
2026	2,206
2027	2,261
Thereafter	3,689
Total lease payments	13,660
Less: present value adjustment	(2,985)
Total operating lease liabilities	<u>\$ 10,676</u>
Included in the consolidated balance sheet:	
Current portion of lease liabilities—operating	2,265
Non-current portion of lease liabilities—operating	8,411
Total operating lease liabilities	<u>\$ 10,676</u>

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### *Equipment Finance Leases*

Commencing in April 2022, the Company leases certain laboratory equipment under financing arrangements accounted for as finance leases in accordance with the provision of ASC Topic 842 that are classified in the Company's condensed consolidated balance sheet as finance lease liabilities with related right-of-use assets recorded and depreciated on a straight-line basis over the estimated useful life of 7 years. The total gross, accumulated amortization, and net book values of equipment finance lease right-of-use assets capitalized under such finance lease arrangements at June 30, 2023 were approximately \$2.2 million, \$0.3 million and \$1.9 million, respectively. Under the terms of the equipment finance lease agreements executed through the issuance date of these unaudited condensed consolidated financial statements, the principal balances plus interest for the equipment are to be repaid in full after 60 monthly installments following lease commencement, with lease commencement dates ranging from April 1, 2022 to April 1, 2023, annual imputed interest rates ranging from 7.90% to 9.30%, and monthly installment payment amounts ranging from approximately \$4,000 to \$18,000. As of June 30, 2023, the total aggregate monthly installment payment amount was approximately \$48,000 for equipment finance lease agreements executed through the issuance date of these unaudited condensed consolidated financial statements.

Components of the equipment finance leases were as follows (in thousands, except weighted average remaining lease payment term (in years), weighted average remaining amortization term (in years), and weighted average effective interest rate):

	Six Months Ended		Three Months	
	June 30,		Ended June 30,	
Period ended June 30	2023	2022	2023	2022
Finance lease amortization of right-of-use assets	\$ 148	\$ —	\$ 79	\$ —
Interest on finance lease liabilities	103	9	53	9
Total finance lease expense	\$ 251	\$ 9	\$ 132	\$ 9
Other information				
Weighted Average Remaining Lease Payment Term (in years)	4.2	6.8	4.3	6.8
Weighted Average Remaining Amortization Term (in years)	6.2	6.8	6.3	6.8
Weighted Average Effective Interest Rate	8.58%	7.90%	8.58%	7.90%
Cash paid for amounts included in the measurement of lease liabilities, included in financing cash flows	\$ 213	\$ 19	\$ 53	\$ 19

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The following table provides a reconciliation of the Company's remaining equipment finance lease obligations due within each year ending December 31 to the equipment finance lease liabilities recognized at June 30, 2023 (in thousands):

	<b>Equipment Finance Leases</b>
Years ended December 31	
2023	\$ 251
2024	580
2025	580
2026	580
2027	357
Thereafter	11
Total lease payments	2,359
Less: imputed interest	(377)
Total finance lease liabilities	\$ 1,982
Included in the consolidated balance sheet:	
Current portion of lease liabilities—finance	528
Non-current portion of lease liabilities—finance	1,454
Total finance lease liabilities	\$ 1,982

## 7. PREFERRED STOCK

As of June 30, 2023, the Company's certificate of incorporation authorized the Company to issue 143,653,546 million shares of series A and series B convertible preferred stock at par value of \$0.0001.

As of June 30, 2023 and December 31, 2022, preferred stock consisted of the following (in thousands, except share amounts):

	<b>Convertible Preferred Stock Authorized</b>	<b>Convertible Preferred Stock Issued and Outstanding</b>	<b>Proceeds Received</b>	<b>Liquidation Preference</b>	<b>Common Stock Issuable Upon Conversion</b>
Series A convertible preferred stock	85,495,722	85,495,722	\$ 85,496	\$ 85,496	85,495,722
Series B convertible preferred stock	58,157,824	58,157,823	100,060	100,060	58,157,825
	143,653,546	143,653,545	\$ 185,556	\$ 185,556	143,653,547

As of June 30, 2023, the rights and privileges of the holders of the convertible preferred stock were as follows:

**Voting**—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.

**Dividends**—The holders of shares of series B convertible preferred stock are entitled to receive, as declared by the Company's board of directors, dividends per share at the rate of 8% of the issue price per share of series B convertible preferred stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of common stock payable in shares of common stock). After payment of dividends to the holders of shares of series B convertible preferred stock, the holders of shares of series A convertible preferred stock are entitled to receive, as declared by the Company's board of directors, dividends per share at the rate of 8% of the issue price per share of series A convertible preferred stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of common stock payable in shares of common stock).

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*Deemed Liquidation Event*—Each of the following events shall be considered a “Deemed Liquidation Event” unless the holders of a majority of the outstanding shares of preferred stock and the holders of at least 64% of the outstanding shares of series B convertible preferred stock elect otherwise by written notice sent to the Company at least five business days prior to the effective date of any such event; (a) a merger or consolidation in which the Company is a constituent party or a subsidiary of the Company is a constituent party and the Company issues shares of its capital stock pursuant to such merger or consolidation, except: any such merger or consolidation involving the Company or a subsidiary in which the shares of capital stock of the Company 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, at least a majority by voting power of the capital stock of (1) the surviving or resulting company; or (2) if the surviving or resulting company is a wholly owned subsidiary of another company immediately following such merger or consolidation, the parent company of such surviving or resulting corporation; (b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company 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 Company if substantially all of the assets of the Company 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 Company; or (c) the Corporation’s completion of (1) a reverse merger into a public shell, or (2) a merger or consolidation with a special purpose acquisition company or its subsidiary in which the common stock (or similar securities) of the surviving or parent entity are publicly traded in a public offering pursuant to an effective registration statement under the 1933 Securities Act, as amended.

*Liquidation Preference*—In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of shares of series B convertible preferred stock shall be entitled to be paid out of the assets of the Company or, in the case of a Deemed Liquidation Event, out of the consideration payable to stockholders or the available proceeds, before any payment shall be made to the holders of common stock or series A convertible preferred stock, an amount per share equal to the series B convertible preferred stock issue price of \$1.72049 per share (subject to adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), plus any dividends declared but unpaid. If upon any such liquidation, dissolution or winding up of the Company or Deemed Liquidation Event, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of series B convertible preferred stock the full amount to which they are entitled, the holders of shares of series B convertible 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 (the “Series B Liquidation Preference”).

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after payment of the Series B Liquidation Preference, the holders of shares of series A convertible preferred stock shall be entitled to be paid out of the assets of the Company or, in the case of a Deemed Liquidation Event, out of the consideration payable to stockholders or the available proceeds, before any payment shall be made to the holders of common stock or series A convertible preferred stock, an amount per share equal to the series A convertible preferred stock issue price of \$1.00 per share (subject to adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization), plus any dividends declared but unpaid. If upon any such liquidation, dissolution or winding up of the Company or Deemed Liquidation Event, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of series A convertible preferred stock the full amount to which they shall be entitled, the holders of shares of series A convertible 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



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upon such distribution if all amounts payable on or with respect to such shares were paid in full (the “Series A Liquidation Preference”).

In the event that there are additional assets to be distributed after payment of the Series A Liquidation Preference and the Series B Liquidation Preference, the holders of the series A convertible preferred stock and series B convertible preferred stock will share in the distribution along with common stockholders as if the shares of the series A convertible preferred stock and series B convertible preferred stock had converted to common stock immediately prior to the distribution, up to an amount, (a) taken together with the Series A Liquidation Preference, not to exceed \$3.00 per share with respect to the series A convertible preferred stockholders; and (b) taken together with the Series B Liquidation Preference, not to exceed \$5.16147 per share with respect to the series B convertible preferred stockholders.

*Redemption*—The preferred stock does not contain a mandatory redemption provision. Upon a deemed liquidation event, the holders will be paid their preference amounts according to their priority. Remeasurement to redemption value will only be required if a deemed liquidation event is probable.

*Conversion*—Upon either (a) the closing of the sale of shares of common stock to the public at a price of at least \$2.15061 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the common stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$75.0 million of gross proceeds to the Company and in connection with the offering of the common stock listed for trading on the Nasdaq Stock Market’s National Market, the New York Stock Exchange or another exchange or marketplace approved by the Company’s board of directors, including the approval of at least two (2) preferred directors (a “Qualified IPO”) or (b) the date and time, or the occurrence of an event specified by vote or written consent of the Noteholders, then (i) all outstanding shares of convertible preferred stock shall automatically be converted into shares of common stock, at the then effective conversion rate.

## 8. COMMON STOCK

As of June 30, 2023, the Company’s certificate of incorporation authorized the Company to issue 192,020,973 shares of common stock with a par value of \$0.0001 per share. The voting, dividend and liquidation rights of the holders of the Company’s common shares are subject to and qualified by the rights, powers and preferences of the holders of the convertible preferred stock set forth in Note 7. Each common share entitles the holder to one vote on all matters submitted to a vote of the Company’s stockholders.

Common stockholders are entitled to receive dividends, if any, as may be declared by the Company’s board of directors, subject to the preferential dividend rights of the convertible preferred stock. Through June 30, 2023, no cash dividends have been declared or paid by the Company.

The Company has reserved the following number of shares of common stock for the exercise of outstanding stock options, future issuance of stock-based awards, and conversion of outstanding shares of convertible preferred stock:

	June 30, 2023	December 31, 2022
Shares of series A convertible preferred stock	85,495,722	85,495,722
Shares of series B convertible preferred stock	58,157,823	58,157,823
Options to purchase shares of common stock	19,844,251	20,300,861
Shares available for issuance under the 2021 Plan	11,015,364	10,599,419
Total shares of common stock reserved for future issuance	174,513,160	174,553,825

## 9. STOCK-BASED COMPENSATION

In February 2021, the Company adopted the 2021 Equity Incentive Plan (the “Plan”) for the issuance of stock options to the Company’s key directors, officers, employees and consultants, as a means to secure the benefits arising from capital stock ownership. The purposes of the Plan are to promote the alignment of the interests of key directors, officers, employees, and consultants with the success of the Company and to provide compensation opportunities to attract, retain and motivate directors, officers, employees, and consultants of the Company.

Under the Plan, the Company initially authorized 8,918,225 shares of its common stock for issuance upon exercise of options granted under the Plan. In August 2021, the Company’s Board of Directors amended the Plan to increase the aggregate number of shares of its common stock reserved for issuance pursuant to the Plan by 20,019,725 shares, from 8,918,225 shares to a new total of 28,937,950 shares. In November 2021, the Company’s Board of Directors further amended the Plan to further increase the aggregate number of shares of its common stock reserved for issuance pursuant to the Plan by 3,388,594 shares, from 28,937,950 shares to a new total of 32,326,544 shares. As of June 30, 2023, 11,015,364 shares were available for future grants.

### *Stock option activity*

Stock options granted generally (i) are subject to requisite service requirements, (ii) vest over a four-year period with 25% of the options granted vesting after one year and the remainder vesting in equal monthly installments over the following 36 months, and (iii) allow for early exercise subject to repurchase. Stock options granted to certain of the Company’s non-employees vest in equal monthly installments over a four-year period or vested upon the achievement of a certain milestone event. The Company did not repurchase any stock options during the six months ended June 30, 2023 and June 30, 2022.

The following table summarizes the stock option activity under the Plan for the six months ended June 30, 2023:

	Number of Shares	Weighted- Average Exercise Price	Weighted- Average Grant Date Fair Value	Weighted- Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding as of December 31, 2022	20,300,861	\$ 0.44	\$ 0.22	8.65	\$ 20,130
Granted	4,922,272	1.66	1.23		
Exercised	(40,665)	0.53	0.34		44
Forfeited	(3,374,767)	0.45	0.29		
Expired	(1,963,450)	0.35	0.22		
Outstanding as of June 30, 2023	19,844,251	\$ 0.75	\$ 0.52	8.41	\$ 18,062
Vested options outstanding and exercisable as of June 30, 2023	7,186,881	\$ 0.41	\$ 0.26	7.74	\$ 8,982
Unvested options outstanding and exercisable as of June 30, 2023	12,657,370	\$ 0.94	\$ 0.67	8.79	\$ 9,080

The aggregate intrinsic value of stock options is calculated as the difference between the exercise price of the stock options and the fair value of the Company’s common stock for those stock options that had exercise prices lower than the fair value of the Company’s common stock.

The total grant date fair values of options vested during the six months ended June 30, 2023 and June 30, 2022 were \$0.8 million and \$0.3 million, respectively.

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The Company estimated the fair value of options granted using a Black-Scholes option pricing model with the following assumptions presented on a weighted average basis during the following periods presented:

	Six Months Ended June 30,	
	2023	2022
Weighted average risk-free interest rate	3.76%	2.62%
Expected term (in years)	5.90	6.03
Expected volatility	86.80%	72.73%
Expected dividend yield	0.00%	0.00%

The expected dividend yields are 0.00% as the Company has never paid cash dividends and does not expect to pay any cash dividends in the foreseeable future.

### *Stock-based compensation expense*

The Company recorded total stock-based compensation of \$0.9 million and \$1.4 million for the three and six-months ended June 30, 2023, respectively, and \$0.6 million and \$0.8 million for the three and six-months ended June 30, 2022, respectively. Stock-based compensation expense was classified as follows in the Company's unaudited condensed consolidated statements of operations and comprehensive loss (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Research and development expense	\$558	\$273	\$ 716	\$405
General and administrative expense	411	281	650	424
Total stock-based compensation expense	\$969	\$554	\$1,366	\$829

As of June 30, 2023 there was \$7.7 million of unrecognized stock-based compensation expense related to unvested stock options estimated to be recognized over a weighted-average period of 2.55 years.

## **10. NET LOSS PER SHARE**

Basic and diluted net loss per common share attributable to common stockholders was calculated as follows (in thousands, except share and per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
<b>Numerator:</b>				
Net loss attributable to common stockholders	\$ (13,441)	\$ (15,143)	\$ (32,099)	\$ (27,645)
<b>Denominator:</b>				
Weighted-average common shares outstanding, basic and diluted	16,789,923	17,389,561	17,111,777	17,127,869
Net loss per share attributable to common stockholders, basic and diluted	\$ (0.80)	\$ (0.87)	\$ (1.88)	\$ (1.61)

## 11. COMMITMENTS AND CONTINGENCIES

**Leases**—As of June 30, 2023, the Company had entered into commitments under lease agreements to rent office space and finance equipment (see Note 6).

**Commitments**—As of December 31, 2022, the Company had entered into commitments under license, acquisition, research collaboration and sponsored research agreements with third parties (see Note 12). In addition, the Company has entered into services agreements with third parties for pharmaceutical manufacturing and research activities in the normal course of business, which can generally be terminated by the Company with 30- to 60-days' written notice, unless otherwise indicated. Further, certain of the Company's manufacturing agreements could require early termination and wind-down payments due from the Company upon either the termination of its clinical trials or if the Company terminates such agreements for convenience.

**Contingencies**—From time to time, the Company may have certain contingent liabilities that arise in the ordinary course of business. The Company accrues a liability for such matters when it is probable that future expenditures will be made, and such expenditures can be reasonably estimated. For all periods presented, the Company was not a party to any pending material litigation or other material legal proceedings.

**Indemnification Agreements**—In the ordinary course of business, the Company may provide indemnification of varying scope and terms to vendors, lessors, business partners and other parties with respect to certain matters including, but not limited to, losses arising out of breach of such agreements or from intellectual property infringement claims made by third parties. In addition, the Company has entered into indemnification agreements with members of its board of directors and executive officers that will require the Company, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is, in many cases, unlimited. For all periods presented, the Company has not incurred any material costs as a result of such indemnifications.

## 12. LICENSE, ACQUISITION, RESEARCH COLLABORATION AND SPONSORED RESEARCH AGREEMENTS

**Adverum Biotechnologies**—On January 25, 2021, the Company entered into an exclusive license agreement with Adverum Biotechnologies Inc. ("Adverum") to in-license materials and technology related to the treatment of Cardiomyopathy due to Friedrich's Ataxia (the "Adverum Agreement"). In connection with the Adverum Agreement, the Company gained access to a portfolio of inventions, patent rights, technology, and licensed methods that the Company continues to develop, and the Company will assume all development and commercialization activities worldwide. Pursuant to the Adverum Agreement, the Company paid a one-time up-front non-refundable fee of \$7.5 million, and is obligated to pay aggregate development and regulatory milestones of up to \$17.5 million including a \$3.5 million development milestone that was achieved and paid in the first quarter of 2023, aggregate sales event and commercialization milestones of up to \$49.0 million, and royalty payments ranging from 8% of aggregate net sales less than or equal to \$500 million in a calendar year to 10% of aggregate net sales greater than \$500 million in a calendar year subject to reductions upon the expiration of valid claims in licensed patents and third-party licenses. As of June 30, 2023, there were no research and development expenses recorded by the Company or payments made to Adverum under the terms of the Adverum Agreement other than the one-time up-front non-refundable fee of \$7.5 million and the \$3.5 million development milestone that was achieved and paid in the first quarter of 2023.

The Adverum Agreement remains in effect until termination at the date of the last royalty term to expire. The Company can terminate the Adverum Agreement with 120 days' written notice. The Adverum Agreement can also be terminated as a result of a patent challenge, material breach of contractual terms, or insolvency by either party.

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**Cornell University**—On May 27, 2020, the Company entered into two exclusive license agreements with Cornell University (“Cornell”) (the “Cornell First License Agreement” and the “Cornell Second License Agreement,” collectively “the Cornell License Agreements”). The Cornell First License Agreement is for the in-license of technology related to portfolios for APOE, Alzheimer’s disease, and Anti-Tau, although the Company’s license is not restricted by such indications and it includes assignment to the Company of Cornell’s IND for the use of AAVrh10.hAPOE2 vector to treat APOE4 homozygous patients who are at risk for or have Alzheimer’s disease to support development of the Company’s LX1001 program. The Cornell Second License Agreement is for the in-license of technology related to portfolios for infantile neuronal ceroid lipofuscinosis (also called CLN2 Batten disease) and Friedreich’s ataxia although the Company’s license is not restricted by such indications, and it includes assignment to the Company of Cornell’s IND for the use of AAVrh.10cUhCLN2 to treat children with CLN2 Batten disease to support development of the Company’s LX1004 program. Through the Cornell License Agreements, the Company gains access to a portfolio of inventions, patent rights, technology, and licensed methods that the Company continues to develop. Under the terms of the Cornell License Agreements, the Company has assumed all development and commercialization activities worldwide with respect to the licensed technology.

As initial consideration for the Cornell License Agreements, the Company paid Cornell an upfront payment in cash of \$0.3 million and issued \$1.3 million of notes (“Notes”). In November 2020, Notes with outstanding principal of \$1.3 million were cancelled in exchange for 1,337,610 shares of Series A convertible preferred stock. As additional consideration, the Company is required to pay Cornell up to \$8.4 million upon the achievement of specific clinical and regulatory milestones under the Cornell First License Agreement and up to \$4.3 million in two portfolios and up to \$0.6 million for a third portfolio upon the achievement of specific clinical and regulatory milestones under the Cornell Second License Agreement. In the second quarter of 2022, a clinical and regulatory milestone of \$0.1 million was recognized and paid to Cornell in connection with the Cornell Second License Agreement. The Company is also required to pay Cornell a flat royalty in the mid-single-digits based on net sales of the products covered by the licenses, subject to certain adjustments.

Upon expiration of the royalty term of a given licensed product in a country, the respective license becomes non-exclusive and royalty-free. In addition, each of the Cornell License Agreements may be terminated by the Company for any reason upon ninety (90) days’ advance notice to Cornell and by Cornell upon the Company’s material uncured breach, and all licenses and rights granted by either party under such agreement will concurrently terminate.

During the three and six months ended June 30, 2022, the Company incurred and paid \$0.1 million of research and development expenses to Cornell in connection with the Cornell License Agreements. During the three and six months ended June 30, 2023, the Company did not incur any research and development expenses or make any payments to Cornell in connection with the Cornell License Agreements.

**Stelios Therapeutics, Inc.**—Stelios Therapeutics, Inc. (“Stelios”) was an early-stage company developing novel adeno-associated AAV-based gene therapies for rare cardiac conditions including arrhythmogenic right ventricular cardiomyopathy and TNNI3-associated hypertrophic cardiomyopathy. On July 16, 2021, the Company acquired 100% of the outstanding stock of Stelios that was accounted for as an asset acquisition pursuant FASB ASC 805, *Business Combinations*. The Company is required to pay up to an aggregate of \$20.5 million to the selling shareholders of Stelios upon the achievement of certain development milestones, including a \$2.0 million development milestone that was achieved and paid in the third quarter of 2022.

**Regents of the University of California, San Diego**—Stelios entered into exclusive worldwide license agreements on April 23, 2020, and August 6, 2020 (the “First UCSD Agreement” and the “Second UCSD Agreement”, respectively) with the Regents of UCSD to in-license materials and intellectual property related to gene therapies for arrhythmogenic right ventricular cardiomyopathy and hypertrophic cardiomyopathy,

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respectively. The First UCSD Agreement and the Second UCSD Agreement relate to the Company's development efforts for its LX2021 and LX2022 programs, respectively. In connection with the First UCSD Agreement and the Second UCSD Agreement, the Company gained access to inventions, patent rights, technology, and licensed methods that it continues to develop, and it has assumed all worldwide development and commercialization activities with respect to the licensed technologies. The First UCSD Agreement and Second UCSD Agreement required Stelios to pay one-time up-front non-refundable cash fees of \$20,000 for each agreement and requires the Company to pay aggregate development and commercialization milestones of up to \$4.75 million and \$2.4 million, respectively, and low- to mid-single digit royalties and low-single digit royalties, respectively, based on aggregate net sales. The only research and development expenses incurred by Stelios or the Company and payments made to the Regents of UCSD to-date under the terms of the First UCSD Agreement and the Second UCSD Agreement were the one-time up-front non-refundable cash fees of \$20,000 for each agreement. The Company has the right to terminate the First UCSD Agreement and the Second UCSD Agreement at any time upon sixty (60)-days' written notice to the Regents of UCSD.

On October 4, 2021, the Company entered into an exclusive worldwide license agreement (the "Third UCSD Agreement" and collectively with the First UCSD Agreement and the Second UCSD Agreement, the "UCSD Agreements") with the Regents of UCSD to in-license materials and intellectual property related to a gene therapy for arrhythmogenic right ventricular cardiomyopathy. The Third UCSD Agreement relates to the Company's development efforts for its LX2020 program. In connection with the Third UCSD Agreement, the Company gained access to inventions, patent rights, technology, and licensed methods that it continues to develop, and it has assumed all worldwide development and commercialization activities with respect to the licensed technology. The Third UCSD Agreement required the Company to pay a one-time up-front non-refundable cash fee of \$20,000 and requires the Company to pay aggregate development and commercialization milestones of up to \$4.0 million, and low- to mid-single digit royalties based on aggregate net sales. The only research and development expenses incurred by the Company and payments made to the Regents of UCSD to-date under the terms of the Third UCSD Agreement were the one-time up-front non-refundable cash fee of \$20,000. The Company has the right to terminate the Third UCSD Agreement at any time upon sixty (60)-days' written notice to the Regents of UCSD.

On December 3, 2021, the Company entered into two sponsored research agreements with the Regents of UCSD (collectively, the "UCSD SRAs") for the Company's LX2020, LX2021 and LX2022 programs in connection with the UCSD Agreements. Under the terms of the UCSD SRAs, the Company has the first rights to obtain non-exclusive or exclusive, sublicensable, royalty-bearing, perpetual and transferable worldwide licenses in any resulting inventions owned by the Regents of UCSD or resulting jointly owned inventions between the Company and the Regents of UCSD, and the Company retains the rights to any resulting inventions owned by the Company. The UCSD SRAs have a two-year term and may be terminated early by the Company at any time upon the giving of thirty (30) days' written notice to the Regents of UCSD. The total costs to be invoiced to the Company over the terms of the UCSD SRAs are approximately \$5.5 million, of which \$0.5 million and \$0.5 million were recorded in research and development expenses during the three months ended June 30, 2023, and June 30, 2022, respectively, and \$0.3 million and \$1.8 million were recorded in research and development expenses during the six months ended June 30, 2023, and June 30, 2022, respectively. The Company did not make any payments to UCSD in connection with the UCSD SRAs during the three months ended June 30, 2023, and made payments totaling \$0.2 million during the six months ended June 30, 2023. The Company paid totals of \$0.5 million and \$1.8 million during the three and six months ended June 30, 2022, respectively, and has paid a cumulative total of \$3.0 million to the Regents of UCSD to-date as of June 30, 2023, in connection with the UCSD SRAs.

**Weill Cornell Medical College**—On February 2, 2021, the Company entered into a Research Collaboration Agreement with Weill Cornell Medical College (“WCM” and the “WCM Agreement”) in conjunction with the Cornell License Agreements entered on May 27, 2020. The Company committed to fund scientific research at WCM to investigate further and potentially enhance the technology licensed to the Company pursuant to the License Agreements.

Under the terms of the WCM Agreement, the Company is required to pay WCM at least \$3.0 million over the course of 3 years, with equal \$0.25 million payments due each quarter starting 10 days after the execution of the WCM Agreement. With respect to each WCM invention, joint invention, and related joint results for which an Improvement, as defined in the WCM Agreement, applies and the Company has made an election to amend the Cornell License Agreements, the Company has the first option to negotiate in good faith with WCM for royalty-bearing, worldwide license, under Cornell patent rights, Cornell rights, and Cornell’s interest in joint patent rights, to develop, make, have made, use, offer for sale, sell, have sold, and import derived products in the field. During the three months ended June 30, 2022, the Company did not incur or pay any costs to WCM in connection with the WCM Agreement and incurred and paid \$0.8 million to WCM during the six months ended June 30, 2022. During the three months ended June 30, 2023, the Company incurred and paid \$0.3 million of costs to WCM in connection with the WCM Agreement, and during the six months ended June 30, 2023, the Company incurred and paid \$3.4 million to WCM. Cumulatively, the Company has incurred and paid total research and development costs of \$9.6 million to WCM to-date in connection with the WCM Agreement as of June 30, 2023.

The WCM Agreement terminates upon the expiration of the agreed upon 3-year term. In addition, the WCM Agreement may be terminated by the Company in the event that the WCM principal investigator ceases to supervise the research and WCM is unable to or declines to find a substitute.

### **13. SUBSEQUENT EVENTS**

Subsequent events have been evaluated through August 15, 2023, which is the date that these unaudited condensed consolidated financial statements were issued and were available to be issued.

*Shares*

*Common Stock*



**J.P. Morgan**

**Leerink Partners**

**Stifel**

**RBC Capital Markets**

**Chardan**

Through and including \_\_\_\_\_, 2023 (the 25th day after the date of this prospectus), all dealers that buy, sell or trade shares of our common stock, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.



## 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, or SEC, registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the Nasdaq Global Market initial listing fee.

	<b>Amount</b>
SEC registration fee	\$11,020
FINRA filing fee	15,500
Nasdaq Global Market initial listing fee	*
Accountants' fees and expenses	*
Legal fees and expenses	*
Transfer agent's fees and expenses	*
Printing and engraving expenses	*
Miscellaneous	*
Total expenses	\$ *

\* To be provided by amendment

#### Item 14. Indemnification of Directors and Officers.

We are incorporated under the laws of the State of Delaware. Section 102 of the Delaware General Corporation Law 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.

Section 145 of the Delaware General Corporation Law provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party 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.

As permitted by the Delaware General Corporation Law, our amended and restated certificate of incorporation and bylaws to be in effect upon the closing of this offering will provide that: (i) we are required to indemnify our

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directors to the fullest extent permitted by the Delaware General Corporation Law; (ii) we may, in our discretion, indemnify our officers, employees and agents as set forth in the Delaware General Corporation Law; (iii) we are required, upon satisfaction of certain conditions, to advance all expenses incurred by our directors in connection with certain legal proceedings; (iv) the rights conferred in the bylaws are not exclusive; and (v) we are authorized to enter into indemnification agreements with our directors, officers, employees and agents.

In connection with this offering, we expect to enter into indemnification agreements with each of our directors and executive officers that require us to indemnify them against expenses, judgments, fines, settlements and other amounts that any such person becomes legally obligated to pay (including with respect to a derivative action) in connection with any proceeding, whether actual or threatened, to which such person may be made a party by reason of the fact that such person is or was a director or officer of us or any of our affiliates, provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, our best interests. The indemnification agreements will also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. We intend to enter into similar indemnification agreements with our executive officers prior to the completion of this offering. At present, no litigation or proceeding is pending that involves any of our directors or officers regarding which indemnification is sought, nor are we aware of any threatened litigation that may result in claims for indemnification.

We maintain a directors' and officers' liability insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions.

In addition, the underwriting agreement filed as Exhibit 1.1 to this Registration Statement provides for indemnification by the underwriters of us and our officers and directors for certain liabilities arising under the Securities Act, or otherwise. Our amended and restated investor rights agreement with certain investors also provides for cross-indemnification in connection with the registration of our common stock on behalf of such investors.

### **Item 15. Recent Sales of Unregistered Securities.**

The following list sets forth information regarding all unregistered securities sold by us since our inception through the date of the prospectus that forms a part of this registration statement.

#### ***Issuances of Limited Liability Interests***

In connection with our formation in February 2017, we issued 95 limited liability common units to our founder and 5 limited liability common units to a service provider that is an accredited investor.

In January 2020, we issued 500 limited liability company incentive units to our chief executive officer.

In May 2020, we issued an aggregate of 206 limited liability company incentive units to two of our employees.

#### ***Issuances of Common Stock***

In November 2020, we issued an aggregate of 16,040,884 shares of our common stock to five individuals and accredited investors, including our founder and our chief executive officer, in connection with the conversion of all outstanding units to shares of common stock and the conversion of our company from a limited liability company to a corporation.

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### ***Issuances of Convertible Promissory Notes and SAFE Instruments***

In May 2020, we issued a convertible promissory note to Cornell University in the principal amount of \$650,000.

In May 2020, we issued a convertible promissory note to Cornell University in the principal amount of \$650,000.

In June 2020, we issued a convertible promissory note to the Alzheimer's Drug Discovery Foundation in the principal amount of \$1,977,336.

In August 2020, we issued a convertible promissory note to the Alchemy LP in the principal amount of \$250,000.

In August 2020, we issued a convertible promissory note to Thomas McWilliams in the principal amount of \$250,000.

In September 2020, we issued a convertible promissory note to Nova Venture Holdings LLC in the principal amount of \$125,000.

In August 2023, we issued a SAFE instrument to Sarepta Therapeutics, Inc. in the amount of \$4.0 million.

### ***Issuances of Preferred Stock***

In November 2020, we issued an aggregate of 31,337,606 shares of our Series A convertible preferred stock to 13 investors at a purchase price of \$1.00 per share, for aggregate cash consideration of approximately \$30 million and pursuant to the conversion of certain convertible promissory notes and related cancellation of indebtedness of approximately \$1.3 million. We also issued an aggregate of 4,495,729 shares of our Series A convertible preferred stock to four investors at a price of \$0.85 per share, pursuant to the conversion of certain convertible promissory notes and related cancellation of indebtedness of approximately \$2.7 million.

In July 2021, we issued an aggregate of 50,999,997 shares of our Series A convertible preferred stock to 11 investors at a purchase price of \$1.00 per share, for aggregate consideration of approximately \$51 million.

In August 2021, we issued an aggregate of 58,157,823 shares of our Series B convertible preferred stock to 32 investors at a purchase price of \$1.72049 per share, for aggregate consideration of over \$100 million.

### ***Issuances Pursuant to our Equity Plans***

From February 2017 (the date of our inception) through the date of this registration statement, we granted options under the Existing Plan to purchase an aggregate of 34,761,249 shares of common stock, at a weighted average exercise price of \$0.74 per share, to our employees and consultants. Of these, 1,552,548 shares have been issued upon the exercise of options, and 8,599,237 options have been forfeited, expired or cancelled.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions, or any public offering. Unless otherwise specified above, we believe these transactions were exempt from registration under the Securities Act in reliance on Sections 3(a)(9) and 4(a)(2) of the Securities Act (and Regulation D or Regulation S promulgated thereunder) or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving any public offering or under benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed on the share certificates issued in these transactions. All recipients had adequate access, through their relationships with us, to information about us. The sales of these securities were made without any general solicitation or advertising.

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### Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

The exhibits listed below are filed as part of this registration statement.

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
1.1+	Form of Underwriting Agreement
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant (as amended and currently in effect)</a>
3.2	<a href="#">Bylaws of the Registrant (currently in effect)</a>
3.3+	Form of Amended and Restated Certificate of Incorporation of the Registrant (to be effective upon the closing of this offering)
3.4+	Form of Amended and Restated Bylaws of the Registrant (to be effective upon the closing of this offering)
4.1¥	<a href="#">Amended and Restated Investors' Rights Agreement, by and among the Registrant and certain of its stockholders, dated August 10, 2021</a>
4.2+	Form of Common Stock Certificate of the Registrant
5.1+	Opinion of Cooley LLP
10.1#	<a href="#">2021 Equity Incentive Plan, as amended from time to time and Form of Stock Option Agreement, Early Exercise Notice and Restricted Stock Purchase Agreement, and Exercise Notice</a>
10.2+#	2023 Equity Incentive Plan and Forms of Option Grant Notice and Agreement, Exercise Notice, Early Exercise Notice and Restricted Stock Award Notice
10.3+#	2023 Employee Stock Purchase Plan
10.4#	<a href="#">Form of Indemnification Agreement with Executive Officers and Directors</a>
10.5#	<a href="#">Amended and Restated Employment Agreement, dated September 28, 2023, by and between the Company and R. Nolan Townsend</a>
10.6#	<a href="#">Amended and Restated Employment Agreement, dated September 28, 2023, by and between the Company and Jenny R. Robertson</a>
10.7#	<a href="#">Amended and Restated Employment Agreement, dated September 28, 2023, by and between the Company and Paul McCormac</a>
10.8*#	<a href="#">Consulting Agreement, dated October 9, 2020, between LEXEO Therapeutics, LLC and Ronald G. Crystal, M.D.</a>
10.9*#	<a href="#">Consulting Agreement, dated July 16, 2021, between LEXEO Therapeutics, LLC and Eric Adler, M.D.</a>
10.10*¥	<a href="#">Stock Purchase Agreement, dated July 16, 2021, by and among LEXEO Therapeutics, Inc., Stelios Therapeutics, Inc., The Cystinosis Research Foundation, Eric Adler, M.D., Farah Sheikh, Ph.D., Jeffrey M. Ostrove, Ph.D., and Stephanie Cherqui, Ph.D., and Jeffery M. Ostrove, Ph.D., as Stockholders' Representative</a>
10.11*¥	<a href="#">License Agreement, dated October 4, 2021, by and between LEXEO Therapeutics, Inc. and the Regents of the University of California</a>
10.12*¥	<a href="#">License Agreement, dated April 23, 2020, by and between Stelios Therapeutics, Inc. (as successor-in-interest to ARVC Therapeutics, Inc.) and the Regents of the University of California</a>
10.13*¥	<a href="#">License Agreement, dated August 6, 2020, by and between Stelios Therapeutics, Inc. and the Regents of the University of California</a>

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<b>Exhibit Number</b>	<b>Description of Exhibit</b>
10.14*¥	<a href="#">ARVC Research Agreement, dated December 3, 2021, between LEXEO Therapeutics, Inc. and the Regents of the University of California, as amended by Amendment No. 1, dated April 5, 2023</a>
10.15*¥	<a href="#">TNNI3 Research Agreement, dated December 3, 2021, between LEXEO Therapeutics, Inc. and the Regents of the University of California, as amended by Amendment No. 1, dated April 19, 2023</a>
10.16*¥	<a href="#">First License Agreement, dated May 28, 2020, between LEXEO Therapeutics, LLC and Cornell University</a>
10.17*¥	<a href="#">Second License Agreement, dated May 28, 2020, between LEXEO Therapeutics, LLC and Cornell University</a>
10.18*	<a href="#">Amendment No. 1, dated January 13, 2022, to the Second License Agreement, dated May 28, 2020, by and between LEXEO Therapeutics, Inc. and Cornell University</a>
10.19*	<a href="#">Amendment No. 1, dated July 4, 2022, to the First License Agreement, dated May 28, 2020, by and between LEXEO Therapeutics, Inc. and Cornell University and Amendment No. 2, dated July 1, 2022, to the Second License Agreement, dated May 28, 2020 (as amended by Amendment No. 1 to the Second License Agreement, dated January 13, 2022)</a>
10.20*	<a href="#">Amendment No. 2, dated September 28, 2022, to the First License Agreement, dated May 28, 2020, by and between LEXEO Therapeutics, Inc. and Cornell University (as amended by Amendment No. 1 to the First License Agreement, dated July 4, 2022)</a>
10.21*¥	<a href="#">Research Collaboration Agreement, dated February 3, 2021, by and between Cornell University and LEXEO Therapeutics, Inc. as amended by Amendment No. 1, dated February 1, 2022</a>
10.22*¥	<a href="#">License Agreement, dated January 19, 2021, between Adverum Biotechnologies, Inc. and LEXEO Therapeutics, Inc., as amended by the First Amendment, dated February 28, 2022</a>
23.1	<a href="#">Consent of KPMG LLP, independent registered public accounting firm</a>
23.2+	Consent of Cooley LLP (included in Exhibit 5.1)
24.1	<a href="#">Power of Attorney (included on signature page)</a>
107	<a href="#">Filing Fee Table</a>

+ To be filed by amendment.

\* Portions of this exhibit (indicated by [\*\*\*]) have been omitted because the registrant has determined that the information is both not material and is the type that the Registrant treats as private or confidential.

¥ Schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant undertakes to furnish supplemental copies of any of the omitted schedules upon request by the SEC.

# Indicates management or compensatory plan.

### (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 underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters 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 SEC 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

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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 Registrant hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act, 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, 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 of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of New York, State of New York, on this 29th day of September, 2023.

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend

R. Nolan Townsend  
Chief Executive Officer

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints R. Nolan Townsend as his or her true and lawful agent, proxy and attorney-in-fact, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to (i) act on, sign and file with the Securities and Exchange Commission any and all amendments (including post-effective amendments) to this registration statement together with all schedules and exhibits thereto and any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, together with all schedules and exhibits thereto, (ii) act on, sign and file such certificates, instruments, agreements and other documents as may be necessary or appropriate in connection therewith, (iii) act on and file any supplement to any prospectus included in this registration statement or any such amendment or any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and (iv) take any and all actions which may be necessary or appropriate to be done, as fully for all intents and purposes as he might or could do in person, hereby approving, ratifying and confirming all that such agent, proxy and attorney-in-fact or any of his substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ R. Nolan Townsend</u> R. Nolan Townsend	Chief Executive Officer and Director <i>(Principal Executive, Financial and Accounting Officer)</i>	September 29, 2023
<u>/s/ Mette Kirstine Agger</u> Mette Kirstine Agger	Director	September 29, 2023
<u>/s/ Steven Altschuler</u> Steven Altschuler, M.D.	Director	September 29, 2023
<u>/s/ Paula HJ Cholmondeley</u> Paula HJ Cholmondeley	Director	September 29, 2023
<u>/s/ Bernard Davitian</u> Bernard Davitian	Director	September 29, 2023
<u>/s/ Reinaldo Diaz</u> Reinaldo Diaz	Director	September 29, 2023
<u>/s/ Brenda Cooperstone</u> Brenda Cooperstone, M.D.	Director	September 29, 2023

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
LEXEO THERAPEUTICS, INC.**

(Pursuant to Sections 242 and 245 of the  
General Corporation Law of the State of Delaware)

Lexeo 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**”), was originally incorporated pursuant to the General Corporation Law on November 20, 2020.

**DOES HEREBY CERTIFY:**

**FIRST:** The name of this corporation is Lexeo Therapeutics, Inc. (the “**Corporation**”).

**SECOND:** The address of the registered office of the Corporation in the State of Delaware is 251 Little Falls Drive, in the City of Wilmington, County of New Castle 19808. The name of its registered agent at such address is Corporation Service 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 the Corporation shall have authority to issue is 332,285,926, of which (i) 188,632,380 are shares of Common Stock, \$0.0001 par value per share (“**Common Stock**”) and (ii) 143,653,546 are shares of Preferred Stock, \$0.0001 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 (1) 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 (1) 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 (1) or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no cumulative voting. 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 (1) 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

85,495,722 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series A Preferred Stock**” and 58,157,824 shares of the authorized Preferred Stock are hereby designated “**Series B Preferred Stock**” with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to “Sections” in this Part B of this Article Fourth refer to sections of Part B of this Article Fourth. References to “Preferred Stock” mean the Series A Preferred Stock and the Series B Preferred Stock.

### 1. Dividends.

The holders of then outstanding shares of Series B Preferred Stock shall be entitled to receive, only when, as and if declared by the Board of Directors, out of any funds and assets legally available therefor, dividends at the rate of 8% of the applicable Original Issue Price (as defined below), per annum, for each share of Series B Preferred Stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of Common Stock payable in shares of Common Stock) on the Series A Preferred Stock or the Common Stock. After payment in full of all accrued and unpaid dividends on the Series B Preferred Stock, the holders of then outstanding shares of Series A Preferred Stock shall be entitled to receive, only when, as and if declared by the Board of Directors, out of any funds and assets legally available therefor, dividends at the rate of 8% of the applicable Original Issue Price (as defined below) for each share of Series A Preferred Stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of Common Stock payable in shares of Common Stock) on the Common Stock. The right to receive dividends on shares of Preferred Stock pursuant to the preceding two sentences of this Section 1 shall not be cumulative, and no right to dividends shall accrue to holders of a series of Preferred Stock by reason of the fact that dividends on said shares are not declared. 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 Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, in addition to the dividends payable pursuant to the first two sentences of this Section 1, 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 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 such 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 such 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 applicable Original Issue Price (as defined below) for such series of Preferred Stock; provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one (1) 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 Preferred Stock dividend. The applicable “**Original Issue Price**” shall mean, with respect to the Series A Preferred Stock, \$1.00 per share, and with respect to the Series B Preferred Stock, \$1.72049 per share (in each case, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the applicable series of Preferred Stock).

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Series B Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event (as defined below), out of the consideration payable to stockholder in such Deemed Liquidation Event or the Available Proceeds (as defined below), before any payment shall be made to the holder of the Series A Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to one times (1x) the Series B Original Issue Price (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such series of Preferred Stock), plus any dividends declared but unpaid thereon (the “**Series B Liquidation Preference**”). 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 B Preferred Stock the full amount to which they shall be entitled under this Section 2.1, the holders of shares of Series B 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 Preferential Payments to Holders of Series A Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after payment of the Series B Liquidation Preference pursuant to Section 2.1, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event, out of the consideration payable to stockholder in such Deemed Liquidation Event or the Available Proceeds, before any payment shall be made to the holder of Common Stock by reason of their ownership thereof, an amount per share equal to one times (1x) the Series A Original Issue Price (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such series of Preferred Stock), plus any dividends declared but unpaid thereon (the “**Series A Liquidation Preference**”, and together with the Series B Liquidation Preference, the “**Liquidation Preferences**”). 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 stockholder shall be insufficient to pay the holder of shares of Series A Preferred Stock the full amount to which they shall be entitled under this Section 2.2, the holder of shares of Series A 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.

2.3 Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, (a) after the payment in full of all Liquidation Preferences required to be paid to the holders of shares of Preferred Stock the remaining assets of the Corporation available for distribution to its stockholder or, in the case of a Deemed Liquidation Event, the consideration not payable to the holder of shares of Preferred Stock pursuant to Sections 2.1, 2.2 or the remaining Available Proceeds, as the case may be, shall be distributed among the holder of the shares of Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted to Common Stock pursuant to the terms of this Amended and Restated Certificate of Incorporation immediately prior to such liquidation, dissolution or winding up of the Corporation; provided, however, that if the aggregate amount which the holder of a series of Preferred Stock are entitled to receive under Sections 2.1 or 2.2 as applicable, and the

amount otherwise payable under clause (a) of this Section 2.3 exceeds \$5.16147 per share of Series B Preferred Stock or \$3.00 per share of Series A Preferred Stock (each subject to appropriate adjustment in the event of a stock split, stock dividend, combination, reclassification, or similar event affecting such series of Preferred Stock) (the applicable “**Maximum Participation Amount**”), each holder of such series of Preferred Stock shall be entitled to receive upon such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, (b) the greater of (i) the applicable Maximum Participation Amount and (ii) the amount such holder would have received if all shares of such series of Preferred Stock had been converted into Common Stock immediately prior to such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event. The aggregate amount which a holder of a share of Preferred Stock is entitled to receive under Sections 2.1, 2.2 and 2.3 is hereinafter referred to as the applicable “**Liquidation Amount**.”

#### 2.4 Deemed Liquidation Events.

2.4.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**” unless the holders of (x) a majority of the outstanding shares of Preferred Stock (the “**Preferred Majority**”) and (y) the holders of at least 64% of the outstanding shares of Series B Preferred Stock, (the “**Series B Majority**” and together with the Preferred Majority, the “**Requisite Holders**”) elect otherwise by written notice sent to the Corporation at least five (5) business days prior to the effective date of any such event:

- (a) a merger, reorganization 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, reorganization or consolidation,

except any such merger, reorganization or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger, reorganization or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least 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 a merger, reorganization or consolidation, the parent corporation of such surviving or resulting corporation;

(b) (1) the sale, exclusive 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 (1) 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; or

(c) the Corporation’s completion of (1) a reverse merger into a public shell, or (2) a merger or consolidation with a special purpose acquisition company or its subsidiary in which the common stock (or similar securities) of the surviving or parent entity are publicly traded in a public offering pursuant to an effective registration statement under the 1933 Securities Act, as amended (a “**SPAC Transaction**”).

#### 2.4.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Section 2.4.1(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 allocated to the holders of capital stock of the Corporation in accordance with Sections 2.1, 2.2 and 2.3.

(b) In the event of a Deemed Liquidation Event referred to in Section 2.4.1(a)(ii) or 2.4.1(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 (90th) 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 Requisite Holders 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), together with any other assets of the Corporation available for distribution to its stockholder, all to the extent permitted by Delaware law governing distributions to stockholders (the “**Available Proceeds**”), on the one hundred fiftieth (150th) day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the applicable 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 stockholder. Prior to the distribution or redemption provided for in this Section 2.4.2(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.

2.4.3 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. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation, including the approval of at least two (2) Preferred Director.

2.4.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Section 2.4.1(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 Sections 2.1, 2.2 and 2.3 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 Sections 2.1, 2.2 and 2.3 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Section 2.4.4, consideration placed into escrow or retained as a 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 stockholder 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 stockholder entitled to vote on such matter. Except as provided by law or by the other provisions of this Certificate of Incorporation, holder 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 Director. The holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect three (3) director of the Corporation (the “**Preferred Directors**”); the holder of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation; and the holder of record of the shares of Preferred Stock Mid Common Stock, voting together as a single class, shall be entitled to elect two (2) director of the Corporation. 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 the shares of the class or series of capital stock entitled to elect such director or director, given either at a special meeting of such stockholder duly called for that purpose or pursuant to a written consent of stockholders. If the holder of shares of Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of director 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 Section 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Preferred Stock or Common Stock, as the case may be, 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 stockholder of the Corporation other than by the stockholder 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), exclusively and 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 holder 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 Section 3.2, a vacancy in any directorship filled by the holder of any class or classes or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or classes or series or by any remaining director or director elected by the holders of such class or classes or series pursuant to this Section 3.2. The rights of the holders of the Preferred Stock and the rights of the holder of the Common Stock under the first sentence of this Section 3.2 shall terminate on the first date following the date the first share of Series B Preferred Stock was issued (the “**Series B Original Issue Date**”) on which there are no issued and outstanding shares of Preferred Stock.

3.3 Preferred Stock Protective Provisions. For so long as any shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, 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) separately as a 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, change of control 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 relative to the Preferred Stock;

3.3.3 create, or authorize the creation of, or issue or obligate itself to issue shares of, any series of Preferred Stock, Common Stock or any additional class or series of capital stock, or increase the authorized number of shares of any series of Preferred Stock or Common Stock or increase the authorized number of shares of any additional class or series of capital stock of the Corporation;

3.3.4 (i) reclassify, alter or amend any existing security of the Corporation that is *pari passu* with any class or series of 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 any class or series of 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 any class or series of 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 any class or series of 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, director, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at no greater than the lower of the original purchase price or the then-current fair market value thereof or (iv) as approved by the Board of Director, including the approval of at least two (2) Preferred Directors (a "Requisite Board Vote").

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, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following such action would exceed \$250,000;

3.3.7 create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation, or permit any subsidiary 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 unless otherwise approved by a Requisite Board Vote, make any changes to the senior management or executive team of the Corporation;
- 3.3.9 increase or decrease the authorized number of, or method of selecting, director constituting the Board of Director;
- 3.3.10 create, adopt, amend, restate, terminate or repeal any equity (or equity-linked) incentive plan or, unless otherwise approved by a Requisite Board Vote, amend or waive any of the terms of any option or other grant pursuant to any such equity (or equity-linked) incentive plan;
- 3.3.11 consummate any financing, fundraise or corporate partnership (inclusive of equity, bridge notes, warrants and other financing vehicles or structures, including corporate partnerships for the purpose of researching, developing or commercializing any of the Corporation's products);
- 3.3.12 unless otherwise approved by a Requisite Board Vote, approve any operating budget or any amendment and/or alteration to the same;
- 3.3.13 unless otherwise approved by a Requisite Board Vote, consummate any transaction related to the acquisition, transfer, or disposition of the Corporation's assets or intellectual property outside of the Corporation's ordinary course of business;
- 3.3.14 enter into any interested party transaction, unless approved by the Board of Director (including a majority of the disinterested directors);
- 3.3.15 loan or advance, or enter into any agreement contemplating any loan or advance, to any person or entity, including but not limited to the Corporation's employees, consultants or directors, except advances (a) in the ordinary course of the business or (b) under the terms of an equity incentive plan, duly authorized and approved by a Requisite Board Vote;
- 3.3.16 change the type of legal entity or tax status of the Corporation; or
- 3.3.17 cause any subsidiary of the Corporation to do or take any of the actions listed above.

3.4 Series B Preferred Stock Protective Provisions. At any time when any shares of Series B 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 the Amended and Restated Certificate of Incorporation) the written consent or affirmative vote of the Series B Majority given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a 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.

3.4.1 amend, alter or repeal this Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner that adversely affects the rights, privileges or preferences of the Series B Preferred Stock;

3.4.2 increase or decrease the number of authorized shares of Series B Preferred Stock;

3.4.3 create, or authorize the creation of, or issue or obligate itself to issue shares of any additional class or series of capital stock if the same is senior to the Series B 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, the rights on conversion or voting;

3.4.4 consummate any Deemed Liquidation Event unless the Initial Consideration paid for the Series B Preferred Stock at the initial closing of such transaction is at least \$3.44098 per share; or

3.4.5 cause any subsidiary of the Corporation to do or take any of the actions listed above.

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 Ratio. Each share of 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 applicable Original Issue Price by the applicable Conversion Price (as defined below) in effect at the time of conversion. The applicable “**Conversion Price**” shall initially be equal to (i) \$1.00 for the Series A Preferred Stock and (ii) \$1.72049 for the Series B Preferred Stock. Such initial applicable Conversion Price, and the rate at which shares of a series of 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 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; provided that the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Sections 2.1, 2.2 and 2.3 to holders of Preferred Stock pursuant to such liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

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 number of shares of Common Stock to be issued upon conversion of a series of Preferred Stock shall be rounded to the nearest whole share.

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, 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 (ii) 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 the 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 the 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 Certificate of Incorporation. Before taking any action which would cause an adjustment reducing any Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the 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 nonassessable shares of Common Stock at such adjusted applicable Conversion Price.

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 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 Preferred Stock accordingly.

4.3.4 **No Further Adjustment.** Upon any such conversion, no adjustment to the applicable Conversion Price shall be made for any declared but unpaid dividends on the 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 Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued (or, pursuant to Section 4.4.3 below, deemed to be issued) by the Corporation after the Series B 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) as to any series of Preferred Stock shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on such series of 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 Section 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 a Requisite Board Vote;
- (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, 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 a Requisite Board Vote;

- (vi) shares of Common Stock, Options or Convertible Securities issued to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by a Requisite Board Vote;
- (vii) shares of Common Stock, Options or Convertible Securities issued as acquisition consideration pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by a Requisite Board Vote; or
- (viii) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved a Requisite Board Vote.

(b) “**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.

(c) “**Option**” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

#### 4.4.2 No Adjustment of Conversion Price.

(a) No adjustment in the applicable Conversion Price for the Series A Preferred Stock 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 holders of a majority of the Series A Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

(b) No adjustment in the applicable Conversion Price for the Series B Preferred Stock 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 Series B Majority 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 B 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 Conversion Price pursuant to the terms of Section 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 Conversion Price 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 Conversion Price as would have 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 Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price 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 applicable Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4 (either because the consideration per share (determined pursuant to Section 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the applicable Conversion Price then in effect, or because such Option or Convertible Security was issued before the Series B Original Issue Date), are revised after the Series B 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 Section 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 applicable Conversion Price pursuant to the terms of Section 4.4.4, the applicable Conversion Price shall be readjusted to such Conversion Price as would have 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 applicable Conversion Price provided for in this Section 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 Section 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 applicable Conversion Price that would result under the terms of this Section 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 applicable Conversion Price 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 B Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the applicable Conversion Price in effect immediately prior to such issuance or deemed issuance, then the applicable Conversion Price 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 the applicable Conversion Price for a series of Preferred Stock in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock;

(b) "CP<sub>1</sub>" shall mean the applicable Conversion Price in effect for a series of Preferred Stock 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 issue);

(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 issue 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 Section 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 issue, as determined in good faith by the Board of Directors of the Corporation; 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 of the Corporation.

(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 Section 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 applicable Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4, then, upon the final such issuance, such applicable Conversion Price 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 B Original Issue Date effect a subdivision of the outstanding Common Stock, the applicable Conversion Price for a series of Preferred Stock in effect immediately before that 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 B Original Issue Date combine the outstanding shares of Common Stock, the applicable Conversion Price for a series of Preferred Stock in effect immediately before the 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 Section 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 B 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 applicable 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 applicable Conversion Price for a series of Preferred Stock then in effect 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 applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Conversion Price shall be adjusted pursuant to this Section as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of a series of Preferred Stock 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 Preferred Stock had been converted into 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 B 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 each series of Preferred Stock, as applicable, 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 such series 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 Section 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 Sections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of a series 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 (1) share of such series of Preferred Stock 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 of the Corporation) 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 the 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 applicable Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of a series of Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price for a series of Preferred Stock 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 such series of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Stock 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 Preferred Stock (but in any event not later than ten (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect for such series of Preferred Stock, 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 such series of Preferred Stock.

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 to the public at a price of at least \$2.15061 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$75,000,000 of gross proceeds to the Corporation and in connection with such offering the Common Stock is listed for trading on the Nasdaq Stock Market's National Market, the New York Stock Exchange or another exchange or marketplace approved the Board of Director, including the approval of at least two (2) Preferred Director (a "**Qualified IPO**") or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders (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 Section 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 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 Section 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 Section 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) 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 and (b) pay 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 Preferred Stock accordingly.

6. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed, converted 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, conversion or acquisition.

7. Waiver. Except as otherwise set forth herein, (a) any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the Requisite Holders, (b) any of the rights, powers, preferences and other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of such series of 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 and (c) any of the rights, powers, preferences and other terms of the Series B Preferred Stock set forth herein may be waived on behalf of all holders of such series of Preferred Stock by the affirmative written consent or vote of the Series B Majority.

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 Certificate of Incorporation or Bylaws, 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 Certificate of Incorporation, the number of director of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. Each director shall be entitled to one (1) vote on each matter presented to the Board of Director.

**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 stockholder 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 director, 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 following indemnification provisions shall apply to the persons set forth 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 Tenth 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 Tenth or otherwise.

3. Claims by Director and Officers. If a claim for indemnification or advancement of expenses under this Article Tenth 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 nondirector 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 Director.

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 Tenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of this Certificate of Incorporation, the Bylaws of the Corporation, or any agreement, or pursuant to any vote of stockholder or disinterested director 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 Director 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 officer to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incur as a result of the indemnification of directors, officer and employees under the provisions of this Article Tenth; and (b) to indemnify or insure directors, officer and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

9. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article Tenth 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 heir, executor and administrator.

**ELEVENTH:** 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 (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) 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 (i) and (ii) 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 Eleventh will only be prospective and will not affect the rights under this Article Eleventh 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 Certificate of Incorporation, the affirmative vote of the holders of a majority of the shares of Preferred Stock the outstanding, will be required to amend or repeal, or to adopt any provisions inconsistent with this Article Eleventh.

**TWELFTH:** 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 stockholder, (iii) any action asserting a claim against the Corporation, its director, officer 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 (10) 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 Twelfth 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 Twelfth (including, without limitation, each portion of any sentence of this Article Twelfth 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.

**THIRTEENTH:** For purposes of Section 500 of the California Corporations Code (to the extent applicable), in connection with any repurchase of shares of Common Stock permitted under this Certificate of Incorporation from employees, officers, directors or consultants of the Corporation in connection with a termination of employment or services pursuant to agreements or arrangements approved by the Board of Directors (in addition to any other consent required under this Certificate of Incorporation), such repurchase may be made without regard to any “preferential dividends arrears amount” or “preferential rights amount” (as those terms are defined in Section 500 of the California Corporations Code). Accordingly, for purposes of making any calculation under California Corporations Code Section 500 in connection with such repurchase, the amount of any “preferential dividends arrears amount” or “preferential rights amount” (as those terms are defined therein) shall be deemed to be zero (0).

\* \* \*

1. 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.

2. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this Corporation’s Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

[Signature Page Follows]

**IN WITNESS WHEREOF**, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 9th day of August, 2021.

**CORPORATION:**

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend

Name: R. Nolan Townsend

Title: Chief Executive Officer

BYLAWS  
OF  
LEXEO THERAPEUTICS, INC.

ARTICLE I

ARTICLE I

Meetings of Stockholders

Section 1.1. Annual Meetings. If required by applicable law, an annual meeting of stockholders shall be held for the election of directors at such date, time and place, if any, either within or without the State of Delaware, as may be designated by resolution of the Board of Directors from time to time. Any other proper business may be transacted at the annual meeting. The corporation may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board of Directors.

Section 1.2. Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, but such special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. The corporation may postpone, reschedule or cancel any special meeting of stockholders previously scheduled by the Board of Directors.

Section 1.3. Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a notice of the meeting shall be given that shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting) and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the certificate of incorporation or these bylaws, the notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at the meeting as of the record date for determining the stockholders entitled to notice of the meeting.

Section 1.4. Adjournments. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record

entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

Section 1.5. Quorum. Except as otherwise provided by law, the certificate of incorporation or these bylaws, at each meeting of stockholders the presence in person or by proxy of the holders of a majority in voting power of the outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. Where a separate vote by class or series is required, the presence in person or by proxy of the holders of a majority in voting power of the outstanding shares of such class or series shall be necessary and sufficient to constitute a quorum with respect to that matter. In the absence of a quorum, the stockholders so present may, by the affirmative vote of the holders of a majority in voting power of the shares of the corporation which are present in person or by proxy and entitled to vote thereon, adjourn the meeting from time to time in the manner provided in Section 1.4 of these bylaws until a quorum shall attend. Shares of its own stock belonging to the corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the corporation or any subsidiary of the corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 1.6. Organization. Meetings of stockholders shall be presided over by the Executive Chair of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in his or her absence by the Chief Executive Officer, if any, or in his or her absence by the President, if any, or in his or her absence by a Vice President, if any, or in the absence of the foregoing persons by a chairperson designated by the Board of Directors, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7. Voting; Proxies. Except as otherwise provided by or pursuant to the provisions of the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder which has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders or to express consent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the corporation a revocation of the proxy or a new proxy bearing a later date. Voting at meetings of stockholders need not be by written ballot. At all meetings of stockholders for the election of directors at which a quorum is present a plurality of the votes cast shall be sufficient to elect. All other elections and questions presented to the stockholders at a meeting at which a



quorum is present shall, unless a different or minimum vote is required by the certificate of incorporation, these bylaws, the rules or regulations of any stock exchange applicable to the corporation, or any law or regulation applicable to the corporation or its securities, in which case such different or minimum vote shall be the applicable vote on the matter, be decided by the affirmative vote of the holders of a majority in voting power of the shares of stock of the corporation which are present in person or by proxy and entitled to vote thereon.

Section 1.8. Fixing Date for Determination of Stockholders of Record.

(a) In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, 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 next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. 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 determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than sixty (60) days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(c) Unless otherwise restricted by the certificate of incorporation, in order that the corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date for determining stockholders entitled to express consent to corporate action in writing without a meeting is fixed by the Board of Directors, (i) when no prior action of the Board of Directors is required by law, the record date for such purpose shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation in

accordance with applicable law, and (ii) if prior action by the Board of Directors is required by law, the record date for such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 1.9. List of Stockholders Entitled to Vote. The corporation shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), 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 at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (ii) during ordinary business hours at the principal place of business of the corporation. If the meeting is to be held at a place, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined 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. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.9 or to vote in person or by proxy at any meeting of stockholders.

Section 1.10. Action By Written Consent of Stockholders. Unless otherwise restricted by the certificate of incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be 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 thereon were present and voted and 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 minutes of proceedings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. An electronic transmission consenting to action to be taken transmitted by a stockholder, a proxyholder or by a person authorized to act by such stockholder, shall be deemed to be written and signed for the purposes of this Section if the electronic transmission sets forth or is delivered with information from which the corporation can determine that the electronic transmission was transmitted by the stockholder, the proxyholder or by a person authorized to act for the stockholder and the date on which such electronic transmission was transmitted. Any such consent given by electronic transmission shall be deemed delivered as provided by the General Corporation Law of the State of Delaware (the "General Corporation Law"). Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall, to the extent required by law, 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 notice of 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.

Section 1.11. Inspectors of Election. The corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

Section 1.12. Conduct of Meetings. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, 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 presiding person 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 entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; (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. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

ARTICLE II

Board of Directors

Section 2.1. Number; Qualifications. The Board of Directors shall consist of one or more members, the number thereof to be determined from time to time by resolution of the Board of Directors. Directors need not be stockholders.

Section 2.2. Election; Resignation; Vacancies. The Board of Directors shall initially consist of the persons named as directors in the certificate of incorporation or elected by the incorporator of the corporation, and each director so elected shall hold office until the first annual meeting of stockholders or until his or her successor is duly elected and qualified. At the first annual meeting of stockholders and at each annual meeting thereafter, the stockholders shall elect directors each of whom shall hold office for a term of one year or until his or her successor is duly elected and qualified, subject to such director's earlier death, resignation, disqualification or removal. Any director may resign at any time upon notice to the corporation. Unless otherwise provided by law or the certificate of incorporation, as it may be amended, any newly created directorship or any vacancy occurring in the Board of Directors for any cause may be filled by a majority of the remaining members of the Board of Directors, although such majority is less than a quorum, or by a plurality of the votes cast at a meeting of stockholders, and each director so elected shall hold office until the expiration of the term of office of the director whom he or she has replaced or until his or her successor is elected and qualified.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine.

Section 2.4. Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Chief Executive Officer, President, any Vice President, the Secretary, or by any two (2) members of the Board of Directors, unless the Board of Directors consists of only one director, in which case special meetings may be called by any one director. Notice of a special meeting of the Board of Directors shall be given by the person or persons calling the meeting at least twenty-four hours before the special meeting.

Section 2.5. Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting 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 in a meeting pursuant to this by-law shall constitute presence in person at such meeting.

Section 2.6. Quorum; Vote Required for Action. At all meetings of the Board of Directors the directors entitled to cast a majority of the votes of the whole Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which the certificate of

incorporation, these bylaws or applicable law otherwise provides, a majority of the votes entitled to be cast by the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 2.7. Organization. Meetings of the Board of Directors shall be presided over by the Executive Chair of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in his or her absence by the Chief Executive Officer, if any, or in his or her absence by the President, if any, or in their absence by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8. Action by Unanimous Consent of Directors. Unless otherwise restricted by the certificate of incorporation or these bylaws, 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 such committee, as the case may be, consent thereto in writing or by electronic transmission. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the board or committee in the same paper or electronic form as the minutes are maintained.

### ARTICLE III

#### Committees

Section 3.1. Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, 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.

Section 3.2. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these bylaws.

ARTICLE IV

Officers

Section 4.1. Officers; Election; Qualifications; Term of Office; Resignation; Removal; Vacancies. The Board of Directors shall elect a Chief Executive Officer and Secretary, and it may, if it so determines, choose an Executive Chair or Vice Chairperson of the Board from among its members. The Board of Directors may also choose a President, one or more Vice Presidents, one or more Assistant Secretaries, a Treasurer and one or more Assistant Treasurers and such other officers as it shall from time to time deem necessary or desirable. Each such officer shall hold office until the first meeting of the Board of Directors after the annual meeting of stockholders next succeeding his or her election, and until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon notice to the corporation. The Board of Directors may remove any officer with or without cause at any time, but such removal shall be without prejudice to the contractual rights of such officer, if any, with the corporation. Any number of offices may be held by the same person. Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

Section 4.2. Powers and Duties of Officers. The officers of the corporation shall have such powers and duties in the management of the corporation as may be prescribed in a resolution by the Board of Directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board of Directors. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 4.3. Appointing Attorneys and Agents; Voting Securities of Other Entities. Unless otherwise provided by resolution adopted by the Board of Directors, the Executive Chair of the Board, the Chief Executive Officer, any President or any Vice President may from time to time appoint an attorney or attorneys or agent or agents of the corporation, in the name and on behalf of the corporation, to cast the votes which the corporation may be entitled to cast as the holder of stock or other securities in any other corporation or other entity, any of whose stock or other securities may be held by the corporation, at meetings of the holders of the stock or other securities of such other corporation or other entity, or to consent in writing, in the name of the corporation as such holder, to any action by such other corporation or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consents, and may execute or cause to be executed in the name and on behalf of the corporation and under its corporate seal or otherwise, all such proxies or other instruments as he or she may deem necessary or proper. Any of the rights set forth in this Section 4.3 which may be delegated to an attorney or agent may also be exercised directly by the Chairperson of the Board, the Chief Executive Officer, the President or the Vice President.

ARTICLE V

Stock

Section 5.1. Certificates. 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 stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the corporation by any two authorized officers of the corporation (it being understood that each of the Executive Chair of the Board of Directors, the Vice Chairperson of the Board of Directors, the Chief Executive Officer, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary and any Assistant Secretary shall be an authorized officer for such purpose), certifying the number of shares owned by such holder in the corporation. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Section 5.2. Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

ARTICLE VI

Indemnification and Advancement of Expenses

Section 6.1. Right to Indemnification. The corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the corporation or, while a director or officer of the corporation, is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 6.3, the corporation shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board of Directors of the corporation.

Section 6.2. Advancement of Expenses. The corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article VI or otherwise.

Section 6.3. Claims. If a claim for indemnification under this Article VI (following the final disposition of such proceeding) is not paid in full within sixty days after the corporation has received a claim therefor by the Covered Person, or if a claim for any advancement of expenses under this Article VI is not paid in full within thirty days after the corporation has received a statement or statements requesting such amounts to be advanced, the Covered Person shall thereupon (but not before) be entitled to file suit to recover the unpaid amount of such claim. If successful in whole or in part, the Covered Person shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action, the corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

Section 6.4. Nonexclusivity of Rights. The rights conferred on any Covered Person by this Article VI shall not be exclusive of any other rights which such Covered Person may have or hereafter acquire under any statute, provision of the certificate of incorporation, these bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.5. Amendment or Repeal. Any right to indemnification or to advancement of expenses of any Covered Person arising hereunder shall not be eliminated or impaired by an amendment to or repeal of these bylaws after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought.

Section 6.6. Other Indemnification and Advancement of Expenses. This Article VI shall not limit the right of the corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

## ARTICLE VII

### Miscellaneous

Section 7.1. Fiscal Year. The fiscal year of the corporation shall be determined by resolution of the Board of Directors.

Section 7.2. Seal. The corporate seal shall have the name of the corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors.



Section 7.3. Manner of Notice.

(a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of the General Corporation Law, the certificate of incorporation or these bylaws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the corporation. Notice shall be given (i) if mailed, when deposited in the United States mail, postage prepaid, (ii) if delivered by courier service, the earlier of when the notice is received or left at the stockholder's address, or (iii) if given by electronic mail, when directed to such stockholder's electronic mail address (unless the stockholder has notified the corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by the General Corporation Law to be given by electronic transmission). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the corporation. A notice by electronic mail will include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files or information. Any notice to stockholders given by the corporation under any provision of the General Corporation Law, the certificate of incorporation or these bylaws provided by means of electronic transmission (other than any such notice given by electronic mail) may only be given in a form consented to by such stockholder, and any such notice by such means of electronic transmission shall be deemed to be given as provided by the General Corporation Law. The terms "electronic mail," "electronic mail address," "electronic signature" and "electronic transmission" as used herein shall have the meanings ascribed thereto in the General Corporation Law.

(b) Except as otherwise provided herein or permitted by applicable law, notices to any director may be in writing and delivered personally or mailed to such director at such director's address appearing on the books of the corporation, or may be given by telephone or by any means of electronic transmission (including, without limitation, electronic mail) directed to an address for receipt by such director of electronic transmissions appearing on the books of the corporation.

(c) Without limiting the manner by which notice otherwise may be given effectively to stockholders, and except as prohibited by applicable law, any notice to stockholders given by the corporation under any provision of applicable law, the certificate of incorporation, or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice permitted under this Section 7.3(c), shall be deemed to have consented to receiving such single written notice.

Section 7.4. Waiver of Notice of Meetings of Stockholders, Directors and Committees. Any waiver of notice, given by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends 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. Neither the business to be transacted at nor the purpose of any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in a waiver of notice.

Section 7.5. Form of Records. Any records maintained by the corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time.

Section 7.6. Electronic Signatures, etc. Any document, including, without limitation, any consent, agreement, certificate or instrument, required by the General Corporation Law, the certificate of incorporation or these bylaws to be executed by any officer, director, stockholder, employee or agent of the corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law. All other contracts, agreements, certificates or instruments to be executed on behalf of the corporation may be executed using a facsimile or other form of electronic signature to the fullest extent permitted by applicable law.

Section 7.7. Amendment of Bylaws. Subject to any additional votes required by the certificate of incorporation or applicable law, these bylaws may be altered, amended or repealed, and new bylaws made, by the Board of Directors, but the stockholders may make additional bylaws and may alter and repeal any bylaws whether adopted by them or otherwise.

## AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

THIS AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT (this "**Agreement**"), is made as of August 10, 2021, by and among Lexeo 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**".

## RECITALS

**WHEREAS**, certain of the Investors (the "**Existing Investors**") hold shares of the Company's Series A Preferred Stock and/or shares of Common Stock issued upon conversion thereof and possess registration rights, information rights, rights of first offer, and other rights pursuant to an Investors' Rights Agreement dated as of November 20, 2020 by and between the Company and such Existing Investors (the "**Prior Agreement**");

**WHEREAS**, the undersigned Existing Investors are holders of at least a majority of the Registrable Securities (as defined in the Prior Agreement) of the Company, and 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;

**WHEREAS**, the Company and certain of the Investors are parties to that certain Series B Preferred Stock Purchase Agreement of even date herewith (as amended and/or restated from time to time, the "**Purchase Agreement**"); and

**WHEREAS**, in order to induce the Company to enter into the Purchase Agreement and to induce the Investors to invest funds in the Company pursuant to the Purchase Agreement, the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock issuable to the Investors, to receive certain information from the Company, and to participate in future equity offerings by the Company, and shall govern certain other matters as set forth in this Agreement.

**NOW, THEREFORE**, the parties hereby 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, director or trustee of such Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such Person. For the avoidance of doubt, D1 Master Holdco I LLC, D1 Master Holdco II LLC, D1 Master Holdco III LLC and D1 Capital Partners Master LP shall all be deemed Affiliates of each other. Additionally, Donald E. Mosman, Jr., as Trustee of the PBM 2020 Irrevocable Trust under agreement dated as of August 18, 2020, Sean Stalfort, Jayson Rieger and Don Mosman shall all be deemed Affiliates of PBM (as defined below).

1.2 “**Board of Directors**” means the board of directors of the Company.

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 \$0.0001 per share.

1.5 “**Competitor**” means a Person engaged, directly or indirectly (including through any partnership, limited liability company, corporation, joint venture or similar arrangement (whether now existing or formed hereafter)), in the research, development, manufacture and/or commercialization of gene therapies for Freidrich’s Ataxia Cardiomyopathy, CLN2 Batten’s Disease and/or APOE4 Alzheimer’s Disease, but shall not include any financial investment firm or collective investment vehicle that, together with its Affiliates, holds less than five percent (5%) of the outstanding equity of any Competitor and does not, nor do any of its Affiliates, have a right to designate any members of the board of directors of any Competitor. Notwithstanding the foregoing, the Company agrees and acknowledges that neither Longitude Venture Partners IV, L.P., together with its Affiliates (“**Longitude**”), Lundbeckfond Invest A/S, together with its Affiliates (“**Lundbeckfonden**”), PBM LEX Holdings, LLC, together with its Affiliates (“**PBM**”), Woodline Partners LP, together with its Affiliates (“**Woodline**”), Alexandria Venture Investments, LLC, together with its Affiliates (“**Alexandria**”), Omega Fund VI, L.P., together with its Affiliates (“**Omega**”), Mutual Fund Series Trust, On Behalf Of Eventide Healthcare & Life Sciences Fund together with its Affiliates (“**Eventide**”), Invus Public Equities, L.P., together with its Affiliates (“**Invus**”), CAM Capital, together with its Affiliates (“**CAM Capital**”), Laurion Capital Master Fund Ltd., together with its Affiliates (“**Laurion**”), Verition Multi-Strategy Master Fund Ltd., together with its Affiliates (“**Veriton**”) nor D1 Master Holdco I LLC, together with its Affiliates (“**D1**”), shall be deemed to be a Competitor solely by virtue of either Longitude’s, Lundbeckfonden’s, PBM’s, Woodline’s, Alexandria’s, Omega’s, Eventide’s, Invus’, Laurion’s, Veriton’s or D1’s (as applicable) status as a venture capital investor or equity holdings in any portfolio company.

1.6 “**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.

1.7 “**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.

- 1.8 “**DPA**” means Section 721 of the Defense Production Act, as amended, including all implementing regulations thereof.
- 1.9 “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.
- 1.10 “**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; or (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.
- 1.11 “**FOIA Party**” means a Person that, in the reasonable determination of the Board of Directors, may be subject to, and thereby required to disclose non-public information furnished by or relating to the Company under, the Freedom of Information Act, 5 U.S.C. 552 (“**FOIA**”), any state public records access law, any state or other jurisdiction’s laws similar in intent or effect to FOIA, or any other similar statutory or regulatory requirement.
- 1.12 “**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.
- 1.13 “**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.
- 1.14 “**GAAP**” means generally accepted accounting principles in the United States as in effect from time to time.
- 1.15 “**Holder**” means any holder of Registrable Securities who is a party to this Agreement.
- 1.16 “**Immediate Family Member**” means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, life partner or similar statutorily-recognized domestic partner, 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.
- 1.17 “**Initiating Holders**” means, collectively, Holders who properly initiate a registration request under this Agreement.
- 1.18 “**IPO**” means the Company’s first underwritten public offering of its Common Stock under the Securities Act.
- 1.19 “**Key Employee**” means any executive-level employee (including division director and vice president-level positions) as well as any employee who, either alone or in concert with others, develops, invents, programs, or designs any Company Intellectual Property (as defined in the Purchase Agreement).

1.20 “**Major Investor**” means any Investor that, individually or together with such Investor’s Affiliates, holds greater than 5,746,142 shares of Preferred Stock or shares of Common Stock into which such shares of Preferred Stock have been converted.

1.21 “**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.

1.22 “**Person**” means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.23 “**Preferred Director**” means any director of the Company that the holders of record of a series of Preferred Stock are entitled to elect, exclusively and as a separate class, pursuant to the Certificate of Incorporation.

1.24 “**Preferred Stock**” means, collectively, shares of the Company’s Series A Preferred Stock and Series B Preferred Stock.

1.25 “**Registrable Securities**” means (i) the Common Stock issuable or issued upon conversion of the Preferred Stock; (ii) 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, acquired by the Investors after the date hereof; and (iii) 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 clauses (i) and (ii) above; excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Section 6.1, and excluding for purposes of Section 2 any shares for which registration rights have terminated pursuant to Section 2.13.

1.26 “**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.

1.27 “**Restricted Securities**” means the securities of the Company required to be notated with the legend set forth in Section 2.12(b) hereof.

1.28 “**SEC**” means the Securities and Exchange Commission.

1.29 “**SEC Rule 144**” means Rule 144 promulgated by the SEC under the Securities Act.

1.30 “**SEC Rule 145**” means Rule 145 promulgated by the SEC under the Securities Act.

1.31 “**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.32 “**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 Section 2.6.

1.33 “**Series A Preferred Stock**” means shares of the Company’s Series A Preferred Stock, par value \$0.0001 per share.

1.34 “**Series B Preferred Stock**” means shares of the Company’s Series B Preferred Stock, par value \$0.0001 per share.

1.35 “**Voting Agreement**” means the Amended and Restated Voting Agreement of even date herewith among the Investors, the Company and the other parties named therein.

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) three (3) 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 with respect to an aggregate offering to the public of not less than \$10,000,000, then the Company shall: (x) 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 (y) 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 thirty (30) days of the date the Demand Notice is given, and in each case, subject to the limitations of Sections 2.1(c) and 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 ten percent (10%) 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, net of Selling Expenses, of at least \$1,000,000, 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 Sections 2.1(c) and 2.3.

(c) Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Section 2.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Board of Directors 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 for a period of not more than thirty (30) 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 thirty (30) day period.

(d) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 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 (2) registrations pursuant to Section 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 Section 2.1(b). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 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 (2) registrations pursuant to Section 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 Section 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, elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Section 2.6, in which case such withdrawn registration statement shall be counted as "**effected**" for purposes of this Section 2.1(d); provided, that if such withdrawal is during a period the Company has deferred taking action pursuant to Section 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 Section 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 Common Stock under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration or the IPO, if such IPO does not result from a demand registration made under Section 2.1(a)), 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 Section 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 Section 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 Section 2.6.

### 2.3 Underwriting Requirements.

(a) If, pursuant to Section 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 Section 2.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Board of Directors and shall be reasonably acceptable to a majority in interest of the Initiating Holders. 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 Section 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting; provided, however, that no Holder (or any of their assignees) shall be required to make any representations, warranties or indemnities except as they relate to such Holder's ownership of shares and authority to enter into the underwriting agreement and to such Holder's intended method of distribution, and the liability of such Holder shall be several and not joint, and limited to an amount equal to the net proceeds from the offering received by such Holder. Notwithstanding any other provision of this Section 2.3, if the 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 (i) first to the Initiating Holders until all of the Registrable Securities that the Initiating Holders demanded to be included are included in such underwriting and (ii) to the extent any additional Registrable Securities are to be included in such underwriting (as determined by the underwriter), to the other Holders of Registrable Securities 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.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Section 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. 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 twenty-five percent (25%) 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 Section 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 Section 2.1, a registration shall not be counted as "**effected**" if, as a result of an exercise of the underwriter's cutback provisions in Section 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 as 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 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 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 Section 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 Sections 2.1(a) or 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 Sections 2.1(a) or 2.1(b). All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 (other than fees and disbursements of counsel to any Holder, other than the Selling Holder Counsel, which shall be borne solely by the Holder engaging such counsel) 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 Section 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, except to the extent such information has been corrected in a subsequent writing prior to or concurrently with the sale of Registrable Securities to the Person asserting the claim.

(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 has not been corrected in a subsequent writing prior to or concurrently with the sale of Registrable Securities to the Person asserting the claim; 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 Section 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 Section 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 Section 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 Section 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.

(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 Section 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 Section 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 Section 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 Section 2.8(d), when combined with the amounts paid or payable by such Holder pursuant to Section 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; provided, however, that any matter expressly provided for or addressed by the foregoing provisions that is not expressly provided for or addressed by the underwriting agreement shall be controlled by the foregoing provisions.

(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 Section 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 or any provisions 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 provide to such holder or prospective holder the right to include securities in any registration on other than 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; provided that this limitation shall not apply to Registrable Securities acquired by any additional Investor that becomes a party to this Agreement in accordance with Section 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 registration by the Company of shares of its Common Stock or any other equity securities under the Securities Act on a registration statement on Form S-1 filed in connection with the Company’s IPO (other than an IPO resulting from a demand registration made under Section 2.1(a)), and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days, (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 2.11 shall apply only to the IPO, and shall not apply to (a) transactions in open market or other transactions from and after the IPO or that involve or relate to shares of Common Stock purchased by a Holder in or after the IPO, (b) the sale of any shares to an underwriter pursuant to an underwriting agreement and shall be applicable to the Holders only if all officers and directors and all 1% or greater stockholders of the Company are subject to the same restrictions. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 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 Section 2.11 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all Company stockholders that are subject to such agreements.

#### 2.12 Restrictions on Transfer.

(a) The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, 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. Notwithstanding the foregoing, the Company shall not require any transferee of shares pursuant to an effective registration statement or, following the IPO, SEC Rule 144, in each case, to be bound by the terms of 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 Section 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. 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 Section 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, or following the IPO, the transfer is made pursuant to SEC Rule 144, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer; provided that no such notice shall be required in connection if the intended sale, pledge or transfer complies with SEC Rule 144. 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 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 notice, 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, with respect to any transfers pursuant to clause (y) above, each transferee agrees in writing to be subject to the terms of this Section 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 Section 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 Sections 2.1 or 2.2 shall terminate upon the earliest to occur of:

(a) the closing of a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, in which the consideration received by the Investors in such Deemed Liquidation Event is in the form of cash and/or publicly traded securities, or if the Investors receive registration rights from the acquiring company or other successor to the Company reasonably comparable to those set forth in this Section 2;

(b) such time after consummation of the IPO as 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 (3)-month period without registration (and without the requirement for the Company to be in compliance with the current public information required under subsection (c)(1) of SEC Rule 144) and such Holder (together with its "**affiliates**" determined under SEC Rule 144) holds less than one percent (1%) of the outstanding capital stock of the Company; or

(c) the fifth (5<sup>th</sup>) anniversary of the IPO (or such later date that is one hundred eighty (180) days following the expiration of all deferrals of the Company's obligations pursuant to Section 2 that remain in effect as of the fifth (5<sup>th</sup>) anniversary of the consummation of the IPO).

3. Information and Observer Rights.

3.1 Delivery of Financial Statements. The Company shall deliver to each Major Investor; provided that the Board of Directors has not reasonably determined that such Major Investor is a Competitor:

(a) as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year of the Company (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 Section 3.1(e)) 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 of nationally recognized standing selected by the Company.

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each quarter of each fiscal year of the Company, unaudited statements of income and cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter and a comparison against the budget, 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);

(c) as soon as practicable, but in any event within forty-five (45) days after the end of each quarter of each fiscal year of the Company, a statement showing the number of shares of each class and series of capital stock and securities convertible into or exercisable for shares of capital stock outstanding at the end of the period, the Common Stock issuable upon conversion or exercise of any outstanding securities convertible or exercisable for Common Stock and the exchange ratio or exercise price applicable thereto, and the number of shares of issued stock options and stock options not yet issued but reserved for issuance, if any, all in sufficient detail as to permit the Major Investors to calculate their respective percentage equity ownership in the Company, and certified by the chief financial officer or chief executive officer of the Company as being true, complete, and correct;

(d) as soon as practicable, but in any event within thirty (30) days after the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month and a comparison against budget, 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);

(e) as soon as practicable, but in any event thirty (30) days before the end of each fiscal year, a budget and business plan for the next fiscal year, prepared on a monthly 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 (such budget and business plan that is approved by the Board of Directors (including the approval of at least two (2) of the Preferred Directors then seated, the “**Requisite Preferred Director Vote**”) is collectively referred to herein as the “**Budget**”); and

(f) such other information relating to the financial condition, business, prospects, or corporate affairs of the Company as any Major Investor may from time to time reasonably request; provided, however, that the Company shall not be obligated under this Section 3.1 to provide information (i) that the Company reasonably determines in good faith to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in a form acceptable to the Company); or (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

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 Section 3.1 to the contrary, the Company may cease providing the information set forth in this Section 3.1 during the period starting with the date thirty (30) 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 Section 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 of Directors has not reasonably determined that such Major Investor is a Competitor), 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 Section 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 Observer Rights. A representative designated by each of (i) Longitude, (ii) Omega, (iii) PBM, (iv) D1, (v) Eventide and (vi) Ronald G. Crystal, MD (“**Founder**”), for so long as Founder holds not less than twenty five percent (25%) of the shares of Common Stock held by Founder as of the date of this Agreement, shall be invited by the to attend all meetings of the Board of Directors in a nonvoting observer capacity and, in this respect, shall give each such representative copies of all notices, minutes, consents, and other materials that it provides to its directors at the same time and in the same manner as provided to each such directors; provided.

however, that each such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude any such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if any such Investor, Founder or their respective representative is a Competitor.

3.4 Termination of Information, Inspection and Observer Rights. Subject to the proviso to this sentence, the covenants set forth in Sections 3.1, 3.2 and 3.3 shall terminate and be of no further force or effect (i) immediately before the completion 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) upon the closing of a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, whichever event occurs first; provided, that (a) with respect to clause (iii), the covenants set forth in Section 3.1 shall only terminate if the consideration received by the Investors in such Deemed Liquidation Event is in the form of cash and/or publicly traded securities or if the Investors receive financial information from the acquiring company or other successor to the Company comparable to those set forth in Section 3.1 and (b) notwithstanding anything to the contrary contained herein, solely with respect to the rights granted to the Founder pursuant to Section 3.3, such rights shall not terminate in accordance with clauses (i) and (ii) but instead shall survive until such time as Founder holds less than twenty five percent (25%) of the shares of Common Stock held by Founder as of the date of this Agreement.

3.5 Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor or make decisions with respect to 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), 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 Section 3.5 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 reasonably 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 Section 3.5; (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 Section 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 in such proportions as it deems appropriate, among (i) itself, (ii) its Affiliates and (iii) its beneficial interest holders, such as limited partners, members or any other Person having “**beneficial ownership,**” as such term is defined in Rule 13d-3 promulgated under the Exchange Act, of such Major Investor (“**Investor Beneficial Owners**”); provided that each such Affiliate or Investor Beneficial Owner (x) is not a Competitor or FOIA Party, unless such party’s purchase of New Securities is otherwise consented to by the Board of Directors, (y) agrees to enter into this Agreement and the Voting Agreement as an “**Investor**” under each such agreement (provided that any Competitor or FOIA Party shall not be entitled to any rights as a Major Investor under Sections 3.1, 3.2 and 4.1 hereof), and (z) agrees to purchase at least such number of New Securities as are allocable hereunder to the Major Investor holding the fewest number of Preferred Stock and any other Derivative Securities.

(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 then held by such Major Investor (including all shares of Common Stock then 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, but excluding, for avoidance of doubt, options reserved but not 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 Section 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 Section 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 Section 4.1(b), the Company may, during the ninety (90) day period following the expiration of the periods provided in Section 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 Section 4.1.

(d) The right of first offer in this Section 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; and (iii) grants by the Company to employees and directors who purchase, receive options to purchase, or receive awards of shares of the Company's capital stock, if approved by the Board of Directors, including the Requisite Preferred Director Vote.

4.2 Termination. The covenants set forth in Section 4.1 shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, or (ii) upon the closing of a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation, in which the consideration received by the Investors in such Deemed Liquidation Event is in the form of cash and/or publicly traded securities, or if the Investors receive participation rights from the acquiring company or other successor to the Company reasonably comparable to those set forth in this Section 4.

## 5. Additional Covenants.

5.1 Insurance. The Company shall maintain Directors and Officers liability insurance and term "key person" insurance on Ronald G. Crystal, MD, each in an amount and on terms and conditions satisfactory to the Board of Directors, including the Requisite Preferred Director Vote, and will use commercially reasonable efforts to cause such insurance policies to be maintained until such time as the Board of Directors, including the Requisite Preferred Director Vote, determines that such insurance should be discontinued. The key person policy shall name the Company as loss payee, and neither policy shall be cancelable by the Company without prior approval by the Board of Directors, including the Requisite Preferred Director Vote, and holders of a majority of the outstanding Preferred Stock. Notwithstanding any other provision of this Section 5.1 to the contrary, for so long as a Preferred Director is serving on the Board of Directors, the Company shall not cease to maintain a Directors and Officers liability insurance policy in an amount of at least \$3,000,000 unless approved by such Preferred Director, shall include the Investors entitled to designate the Preferred Director pursuant to the Voting Agreement as additional insureds in such policy, and shall annually, within one hundred twenty (120) days after the end of each fiscal year of the Company, deliver to the Investors a certification that such a Directors and Officers liability insurance policy remains in effect.

5.2 Employee Agreements. Unless otherwise approved by the Board of Directors, including the Requisite Preferred Director Vote, 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, proprietary rights assignment and non-solicitation agreement; and (ii) a restrictive covenants agreement, in substantially the form approved by the Board of Directors,

including the Requisite Preferred Director Vote. 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 consent of the Board of Directors, including the Requisite Preferred Director Vote.

5.3 Employee Stock. Unless otherwise approved by the Board of Directors, including the Requisite Preferred Director Vote, all future employees 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 monthly installments over the following thirty-six (36) months, and (ii) a market stand-off provision substantially similar to that in Section 2.11. Without the prior approval by the Board of Directors, including the Requisite Preferred Director Vote, 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 Section 5.3. In addition, unless otherwise approved by the Board of Directors, including the Requisite Preferred Director Vote, the Company (x) shall not offer or allow any acceleration of vesting, and (y) shall retain (and not waive) a "**right of first refusal**" on employee transfers until the Company's IPO and shall have the right to repurchase unvested shares at cost upon termination of employment of a holder of restricted stock.

5.4 Matters Requiring Preferred Director Approval. During such time or times as the holders of Preferred Stock are entitled to elect a Preferred Director and such seat is filled, the Company hereby covenants and agrees with each of the Investors that it shall not, without approval of the Board of Directors, which approval must include the Requisite Preferred Director Vote:

- (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;
- (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 of Directors;
- (e) incur any aggregate indebtedness in excess of two hundred fifty thousand dollars (\$250,000) that is not already included in the Budget, other than trade credit incurred in the ordinary course of business;

(f) hire, terminate, or change the compensation of the executive officers, including approving any option grants or stock awards to executive officers;

(g) change the principal business of the Company, enter new lines of business, or exit the current line of business;

(h) sell, assign, license, pledge, or encumber material technology or intellectual property, other than licenses granted in the ordinary course of business; or

(i) 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 five hundred thousand dollars (\$500,000).

5.5 Board Matters. The Board of Directors shall meet at least quarterly in accordance with an agreed upon schedule. 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 of Directors.

5.6 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 of Directors 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.

5.7 Expenses of Counsel. In the event of a transaction which is a Sale of the Company (as defined in the Voting Agreement), the reasonable fees and disbursements of one counsel for the Major Investors ("**Investor Counsel**"), in their capacities as stockholders, shall be borne and paid by the Company. At the outset of considering a transaction which, if consummated would constitute a Sale of the Company, the Company shall obtain the ability to share with the Investor Counsel (and such counsel's clients) and shall share the confidential information (including, without limitation, the initial and all subsequent drafts of memoranda of understanding, letters of intent and other transaction documents and related noncompete, employment, consulting and other compensation agreements and plans) pertaining to and memorializing any of the transactions which, individually or when aggregated with others would constitute the Sale of the Company. The Company shall be obligated to share (and cause the Company's counsel and investment bankers to share) such materials when distributed to the Company's executives and/or any one (1) or more of the other parties to such transaction(s). In the event that Investor Counsel deems it appropriate, in its reasonable discretion, to enter into a joint defense (or common interest) agreement or other arrangement to enhance the ability of the parties to protect their communications and other reviewed materials under the attorney client privilege, the Company shall, and shall direct its counsel to, execute and deliver to Investor Counsel and its clients such an agreement in form and substance reasonably acceptable to Investor Counsel. In the event that one (1) or more of the other party or parties to such transactions require the clients of Investor Counsel to enter into a confidentiality agreement and/or joint defense (or common interest) agreement in order to receive such information, then the Company shall share whatever information can be shared without entry into such agreement and shall, at the same time, in good faith work expeditiously to enable Investor Counsel and its clients to negotiate and enter into the appropriate agreement(s) without undue burden to the clients of Investor Counsel.



**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 one (1) or more Investors (each, an “**Investor Director**”) may have certain rights to indemnification, advancement of expenses and/or insurance provided by one (1) 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 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 Section 5.8 and shall have the right, power and authority to enforce the provisions of this Section 5.8 as though they were a party to this Agreement.

**5.9 Right to Conduct Activities.** The Company hereby agrees and acknowledges that Longitude, Lundbeckfonden, PBM, Omega, Eventide, Alexandria, Invus, CAM Capital, Laurion, Veriton and D1 (together with their respective Affiliates) are professional investment organizations, and as such 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). Nothing in this Agreement shall preclude or in any way restrict the Investors from evaluating or purchasing securities, including publicly traded securities, of a particular enterprise, or investing or participating in any particular enterprise whether or not such enterprise has products or services which compete with those of the Company; and the Company hereby agrees that, to the extent permitted under applicable law, Longitude, Lundbeckfonden, PBM, Omega, Eventide, Alexandria, Invus, CAM Capital, Laurion, Veriton and D1 (and their respective Affiliates) shall not be liable to the Company for any claim arising out of, or based upon, (i) the investment by Longitude, Lundbeckfonden, PBM, Omega, Eventide, Alexandria, Invus, CAM Capital, Laurion, Veriton or D1 (or their respective Affiliates) in any entity competitive with the Company, or (ii) actions taken by any partner, officer, employee or other representative of Longitude, Lundbeckfonden, PBM, Omega, Eventide, Alexandria, Invus, CAM Capital, Laurion, Veriton or D1 (or their respective 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 Anti-Harassment Policy. The Company shall, within sixty (60) days following the Initial Closing (as defined in the Purchase Agreement), adopt and thereafter maintain in effect (i) a Code of Conduct governing appropriate workplace behavior and (ii) an Anti-Harassment and Discrimination Policy prohibiting discrimination and harassment at the Company. Such policy shall be reviewed and approved by the Board of Directors.

5.11 FCPA. The Company covenants that it shall not (and shall not permit any of its subsidiaries or 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 anti-corruption law. The Company further covenants that it shall (and shall cause each of its subsidiaries and Affiliates to) cease all of its or their respective activities, as well as remediate any actions taken by the Company, its subsidiaries or 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 covenants that it shall (and shall cause each of its subsidiaries and 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 promptly notify each Investor if the Company becomes aware of any Enforcement Action (as defined in the Purchase Agreement). 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.

5.12 Cybersecurity. On a periodic basis at least annually, the Company shall use commercially reasonable efforts to (a) identify and restrict access (including through physical and/or technical controls) to the Company's confidential business information and trade secrets and any information about identified or identifiable natural persons maintained by or on behalf of the Company (collectively, "**Protected Data**") to those individuals who have a need to access it, (b) implement reasonable physical, technical and administrative safeguards ("**Cybersecurity Solutions**") designed to protect the confidentiality, integrity and availability of its technology and systems (including servers, laptops, desktops, cloud, containers, virtual environments and data centers) and all Protected Data and (c) evaluate whether such safeguards described in Section 5.2(a) and 5.2(b) should be updated to maintain a level of security appropriate to the risk posed to Company systems and Protected Data. The Company shall use commercially reasonable efforts to ensure that the Cybersecurity Solutions (x) are up-to-date and include industry-standard

protections (e.g., antivirus, endpoint detection and response and threat hunting), (y) to the extent determined necessary by the Company or the Board of Directors, are backed by a breach prevention warranty from the vendor certifying the effectiveness of such solutions, and (z) require the vendors to notify the Company of any security incidents posing a risk to the Company's information (regardless of whether information was actually compromised). The Company shall educate its employees about the proper use and storage of Protected Data, including periodic training as determined reasonably necessary by the Company or the Board of Directors.

5.13 Real Property Holding Corporation. Promptly following (and in any event within ten (10) days after receipt of) written request by an Investor, the Company shall provide such Investor with a written statement informing such Investor whether such Investor's interest in the Company constitutes a United States real property interest. The Company's determination shall comply with the requirements of Treasury Regulation Section 1.897-2(h)(1) or any successor regulation, and the Company shall provide timely notice to the Internal Revenue Service, in accordance with and to the extent required by Treasury Regulation Section 1.897-2(h)(2) or any successor regulation, that such statement has been made. The Company's obligation to furnish such written statement shall continue notwithstanding the fact that a class of the Company's stock may be regularly traded on an established securities market or the fact that there is no Preferred Stock then outstanding.

5.14 Critical Technology Matters. If to the Company's knowledge (i) any pre-existing products or services provided by the Company are re-categorized by the U.S. government as a critical technology within the meaning of the DPA, or would reasonably be considered to constitute the design, fabrication, development, testing, production or manufacture of a critical technology after a re-categorization of selected technologies by the U.S. government, or (ii) after execution of the Purchase Agreement, the Company engages in any activity that could reasonably be considered to constitute the design, fabrication, development, testing, production or manufacture of a critical technology within the meaning of the DPA, the Company shall promptly notify the Major Investors of (i) such change in the categorization of its products, services, or technology or (ii) its engagement in the design, fabrication, development, testing, production or manufacture of a critical technology.

5.15 Legal Compliance. The Company shall comply with all applicable laws and regulations, maintain intellectual property rights and pay required taxes.

5.16 Affiliate Transactions. The Company shall not enter into any contract, agreement or transaction with an Affiliate without the approval of the Board of Directors, including the Requisite Preferred Director Vote.

5.17 Notification of Default. The Company shall promptly notify each Major Investor with respect to all Company defaults, litigation and other major corporate events.

5.18 Termination of Covenants. The covenants set forth in this Section 5, except for Sections 5.5, 5.8 and 5.8, shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, (ii) upon 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 (1) or more of such Holder's Immediate Family Members; or (iii) after such transfer, together with its Affiliates, would be a Major Investor; 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 Section 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 shall be governed by the internal law of the State of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware.

6.3 Counterparts. This Agreement may be executed in two (2) 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 electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, [www.docusign.com](http://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 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 (as to the Company) to the principal office of the Company and to the attention of the Chief Executive Officer, or in any case to such email address or address as subsequently modified by written notice given in accordance with this Section 6.5. If notice is given to the Company, a copy (which copy shall not constitute notice) shall also be sent to Cooley LLP, 55 Hudson Yards, New York, NY 10001, Attn: Eric Blanchard, and if notice is given to Investors, a copy (which copy shall not constitute notice) shall also be given to Sidley Austin LLP, 78 Seventh Avenue, New York, NY 10019, Attn: Geoffrey Levin.

(b) Consent to Electronic Notice. Each Investor consents to the delivery of any stockholder notice pursuant to the Delaware General Corporation Law (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 set forth below such Investor’s name on the Schedules hereto, as updated from time to time by notice to the Company, or as on the books of the Company. To the extent that any notice given by means of electronic transmission is returned or undeliverable for any reason, the foregoing consent shall be deemed to have been revoked until a new or corrected electronic mail address has been provided, and such attempted electronic notice shall be ineffective and deemed to not have been given. 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 and the holders of a majority of the Registrable Securities then outstanding; provided that the Company may in its sole discretion waive compliance with Section 2.12(c) (and the Company’s failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Section 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), (b) Sections 3.1 and 3.2, Section 4 and any other section of this Agreement applicable to the Major Investors (including this clause (b) of this Section 6.6) may not be amended, modified, terminated or waived with only the written consent of the Company and the holders of a majority of the then-outstanding shares of Preferred Stock, which majority must include the holders of shares representing at least sixty-four percent (64%) of the outstanding shares of Series B Preferred Stock, and no amendment of Sections 3.3 and 5.9, or the definition of “**Affiliate**” or “**Competitor**”, may be made without the consent of each of (i) Longitude, (ii) Omega, (iii) PBM, (iv) D1, (v) Lundbeckfonden, (vi) Woodline, (vii) Alexandria, (viii) Eventide, (ix) Invus, (x) CAM Capital, (xi) Laurion, (xii) Veriton and (xiii) Ronald G. Crystal, MD, as applicable, and (c) in the case of the rights granted to the Founder pursuant to Sections 3.3 and 3.4,

such rights may not be amended, modified, terminated or waived without the prior written consent of the Founder. 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 Section 6.9. The Company shall give prompt notice of any amendment, modification or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, modification, termination, or waiver. Any amendment, modification, termination, or waiver effected in accordance with this Section 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 (1) 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 (1) 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; Apportionment. 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. All references to numbers of shares in this Agreement shall be appropriately adjusted to reflect any stock dividend, split, combination or other recapitalization affecting the Capital Stock occurring after the date of this Agreement.

6.9 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of Preferred Stock pursuant to the Purchase Agreement after the date hereof, 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 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 Delaware to the jurisdiction of the United States District Court for the District of Delaware 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 Delaware or the United States District Court for the District of Delaware, 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 non-defaulting 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**COMPANY:**

**LEXEO THERAPEUTICS, INC.**

By: /s/ Richard Nolan Townsend

Name: Richard Nolan Townsend

Title: Chief Executive Officer

(Signature Page to Amended and Restated Investors' Rights Agreement)



IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Abbas Khan

\_\_\_\_\_  
Abbas Khan

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Alexandria Venture Investments, LLC**

By: Alexandra Real Estate Equities, Inc.,  
its managing member

By: /s/ Hilary Levin

Name: Hilary Levin

Title: Vice President – Venture Counsel/Business  
Development

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**CDK Associates, L.L.C.**

By:  /s/ Karen Cross

Name: Karen Cross

Title: Treasurer

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Christopher Holterhoff

Christopher Holterhoff

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Christopher Scovotti

Christopher Scovotti

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**D1 MASTER HOLDCO I LLC**

By: D1 Capital Partners Master LP,  
its Managing Member

By: D1 Capital Partners GP Sub LLC,  
Its General Partner

By: /s/ Dan Sundheim  
Name: Dan Sundheim  
Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ David Epstein

\_\_\_\_\_  
David Epstein

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Divesh Mehra

Divesh Mehra

(Signature Page to Amended and Restated Investors' Rights Agreement)



IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Don Mosman

\_\_\_\_\_  
Don Mosman

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Donald E. Mosman, Jr., as Trustee of the PBM 2020 Irrevocable Trust under agreement dated as of August 18, 2020**

By: /s/ Donald E. Mosman, Jr.  
Name: Donald E. Mosman, Jr.  
Title: Trustee

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Gray's Creek Capital Partners**

By:  /s/ Jason R. Little

Name: Jason R. Little

Title: Managing Partner

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**INVUS PUBLIC EQUITIES, L.P.**

By: /s/ Raymond Debbane

Name: Raymond Debbane

Title: President of its General Partner

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Jamie May

Jamie May

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Janus Henderson Biotech Innovation Master Fund Limited**

By: Janus Capital Management LLC,  
its investment advisor

By: /s/ Andrew Acker

Name: Andrew Acker

Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Janus Henderson Capital Funds PLC on behalf of its  
Series Janus Henderson Global Life Sciences Fund**

By: Janus Capital Management LLC,  
its investment advisor

By: /s/ Andrew Acker

Name: Andrew Acker

Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Janus Henderson Fund - Biotechnology Fund**

By: Janus Capital Management LLC,  
its investment advisor

By: /s/ Andrew Acker

Name: Andrew Acker

Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)



IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Janus Henderson Global Life Sciences Fund**

By: Janus Capital Management LLC,  
its investment advisor

By: /s/ Andrew Acker

Name: Andrew Acker

Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Jayson Rieger

Jayson Rieger

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Jay Levine

\_\_\_\_\_  
Jay Levine

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Jeannie Jirachat Visootsak

Jeannie Jirachat Visootsak

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Laurion Capital Master Fund Ltd.**

By: /s/ Daniel Woelfel

Name: Daniel Woelfel

Title: Director

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Light Doors LLC**

By:  /s/ Mathew Van Alstyne  
Name: Mathew Van Alstyne  
Title: Managing Member

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**LONGITUDE VENTURE PARTNERS IV, L.P.**

By: Longitude Capital Partners IV, LLC,  
Its General Partner

By: /s/ Patrick Enright

Name: Patrick Enright

Title: Managing Member

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**LUNDBECKFOND INVEST A/S**

By:  /s/ Lene Skole  
Name: Lene Skole  
Title: Chief Executive Officer

By:  /s/ Mette Kirstine Agger  
Name: Mette Kirstine Agger  
Title: Managing Partner

(Signature Page to Amended and Restated Investors' Rights Agreement)



IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Matthew Seigel

Matthew Seigel

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(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Mehmood Khan

\_\_\_\_\_

Mehmood Khan

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Mutual Fund Series Trust, on Behalf of Eventide  
Healthcare & Life Sciences Fund**

By:  /s/ Erik Naviloff

Name: Erik Naviloff

Title: Treasurer

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**OMEGA FUND VI, L.P.**

By: Omega Fund VI GP, L.P.,  
its General Partner

By: Omega Fund VI GP Manager, Ltd.,  
Its General Partner

By: /s/ Otello Stampacchia

Name: Otello Stampacchia

Title: Director

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Paul McCormac

\_\_\_\_\_  
Paul McCormac

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**PBM LEX Holdings, LLC**

By: PBM Capital Group, LLC,  
its manager

By: /s/ Sean Stalfort

Name: Sean Stalfort

Title: President

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**The RF Trust**

By:  /s/ Eric Rothfeld  
Name: Eric Rothfeld  
Title: Agent

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Richard Dem

Richard Dem

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(Signature Page to Amended and Restated Investors' Rights Agreement)



IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Richie Khanna

Richie Khanna

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(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Sean Stalfort

Sean Stalfort

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(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

/s/ Timothy Fenn

Timothy Fenn

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Third Street Holdings LLC**

By: /s/ Karen Cross

Name: Karen Cross

Title: CFO & COO of Investment Mgr.

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Verition Multi-Strategy Master Fund Ltd.**

By: /s/ William Anderson

Name: William Anderson

Title: Authorized Signatory

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Woodline Master Fund LP**

By: /s/ Matthew Hooker \_\_\_\_\_

Name: Matthew Hooker

Title: COO

(Signature Page to Amended and Restated Investors' Rights Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

**INVESTORS:**

**Yvonne R. Jackson and Frederick Jackson Jr.**

/s/ Yvonne R. Jackson

\_\_\_\_\_  
Yvonne R. Jackson

/s/ Frederick Jackson Jr.

\_\_\_\_\_  
Frederick Jackson Jr.

(Signature Page to Amended and Restated Investors' Rights Agreement)

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**SCHEDULE A**

**INVESTORS**

**[\*\*\*]**



## LEXEO THERAPEUTICS, INC.

## 2021 EQUITY INCENTIVE PLAN

1. **Purposes of the Plan.** The purposes of this Plan are (a) to attract and retain the best available personnel to ensure the Company's success and accomplish the Company's goals; (b) to incentivize Employees, Directors and Independent Contractors with long-term equity-based compensation to align their interests with the Company's stockholders, and (c) to promote the success of the Company's business. The Plan permits the grant of Incentive Stock Options, Nonstatutory Stock Options and Restricted Stock.

2. **Definitions.** As used herein, the following definitions will apply:

(a) "**Administrator**" means the Board or any of its Committees as will be administering the Plan, in accordance with Section 4 of the Plan.

(b) "**Affiliate**" means (i) an entity other than a Subsidiary which, together with the Company, is under common control of a third person or entity and (ii) an entity other than a Subsidiary in which the Company and/or one or more Subsidiaries own a controlling interest.

(c) "**Applicable Laws**" means all applicable laws, rules, regulations and requirements, including, but not limited to, all applicable U.S. federal or state laws, rules and regulations, the rules and regulations of any stock exchange or quotation system on which the Common Stock is listed or quoted, and the applicable laws, rules and regulations of any other country or jurisdiction where Awards are, or will be, granted under the Plan or Participants reside or provide services to the Company or any Parent or Subsidiary of the Company, as such laws, rules, and regulations shall be in effect from time to time.

(d) "**Award**" means, individually or collectively, a grant under the Plan of Options or Restricted Stock.

(e) "**Award Agreement**" means any written or electronic agreement setting forth the terms and provisions applicable to each Award granted under the Plan. All Award Agreements are subject to the terms and conditions of the Plan.

(f) "**Board**" means the Board of Directors of the Company.

(g) "**Cause**" means, with respect to the termination of a Participant's status as a Service Provider, except as otherwise defined in an Award Agreement, (i) in the case where there is no employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or an Affiliate of the Company and the Participant at the time of the grant of the Award (or where there is such an agreement but it does not define "cause" (or words of like import) or where it only applies upon the occurrence of a change in control and one has not yet taken place): (A) any material breach by Participant of any material written agreement between

Participant and the Company; (B) any failure by Participant to comply with the Company's material written policies or rules as they may be in effect from time to time; (C) neglect or persistent unsatisfactory performance of Participant's duties; (D) Participant's repeated failure to follow reasonable and lawful instructions from the Board or Chief Executive Officer; (E) Participant's indictment for, conviction of, or plea of guilty or nolo contendere to, any felony or crime that results in, or is reasonably expected to result in, a material adverse effect on the business or reputation of the Company; (F) Participant's commission of or participation in an act of fraud against the Company; (G) Participant's intentional material damage to the Company's business, property or reputation; or (H) Participant's unauthorized use or disclosure of any proprietary information or trade secrets of the Company or any other party to whom the Participant owes an obligation of nondisclosure as a result of his or her relationship with the Company; or (ii) in the case where there is an employment agreement, consulting agreement, change in control agreement or similar agreement in effect between the Company or an Affiliate and the Participant at the time of the grant of the Award that defines "cause" (or words of like import), "cause" as defined under such agreement; provided, however, that with regard to any agreement under which the definition of "cause" only applies on occurrence of a change in control, such definition of "cause" shall not apply until a change in control actually takes place and then only with regard to a termination thereafter. For purposes of clarity, a termination without "Cause" does not include any termination that occurs solely as a result of Participant's death or Disability. The determination as to whether a Participant's status as a Service Provider for purposes of the Plan has been terminated for Cause shall be made in good faith by the Company and shall be final and binding on the Participant. The foregoing definition does not in any way limit the Company's ability (or that of any Parent or Subsidiary or any successor thereto, as appropriate) to terminate a Participant's employment or consulting relationship at any time, subject to Applicable Laws.

(h) "**Change in Control**" except as may otherwise be provided in an Award Agreement or other applicable agreement, means the occurrence of any of the following:

(i) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if the Company's stockholders immediately prior to such merger, consolidation or reorganization cease to directly or indirectly own immediately after such merger, consolidation or reorganization at least a majority of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or reorganization;

(ii) The consummation of the sale, transfer or other disposition of all or substantially all of the Company's assets (other than (x) to a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the Company, (y) to a corporation or other entity owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of Common Stock or (z) to a continuing or surviving entity described in Section 2(h)(i) in connection with a merger, consolidation or reorganization which does not result in a Change in Control under Section 2(h)(i));

(iii) A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election; or

(iv) The consummation of any transaction as a result of which any Person becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing at least fifty percent (50%) of the total voting power represented by the Company’s then outstanding voting securities. For purposes of this Section 2(h), the term “Person” shall have the same meaning as when used in Sections 13(d) and 14(d) of the Exchange Act but shall exclude:

- Company;
- (1) a trustee or other fiduciary holding securities under an employee benefit plan of the Company or an affiliate of the Company;
  - (2) a corporation or other entity owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of Common Stock;
  - (3) the Company; and
  - (4) a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the Company.

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company’s incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company’s securities immediately before such transactions. In addition, if any Person (as defined above) is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered to cause a Change in Control. If required for compliance with Code Section 409A, in no event will a Change in Control be deemed to have occurred if such transaction is not also a “change in the ownership or effective control of” the Company or “a change in the ownership of a substantial portion of the assets of” the Company as determined under Treasury Regulation Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder).

(i) “**Code**” means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder shall include such section or regulation, any valid regulation promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(j) “**Code Section 409A**” means Section 409A of the Code, as amended from time to time, including the guidance and regulations promulgated thereunder and successor provisions, guidance and regulations thereto.

(k) “**Committee**” means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board in accordance with Section 4 hereof.

(l) “**Common Stock**” means the common stock of the Company.

(m) “**Company**” means Lexeo Therapeutics, Inc., a Delaware corporation, or any successor thereto.

(n) “**Director**” means a member of the Board.

(o) “**Disability**” means total and permanent disability as defined in Section 22(e)(3) of the Code, provided that in the case of Awards other than Incentive Stock Options, the Administrator in its discretion may determine whether a permanent and total disability exists in accordance with uniform and non-discriminatory standards adopted by the Administrator from time to time.

(p) “**Effective Date**” means February 12, 2021.

(q) “**Employee**” means any person employed by the Company or any Parent or Subsidiary of the Company. Neither service as a Director nor payment of a director’s fee by the Company will be sufficient to constitute “employment” by the Company.

(r) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

(s) “**Exchange Program**” means a program under which outstanding Awards are amended to provide for a lower exercise price or surrendered or cancelled in exchange for (i) Awards with a lower exercise price, (ii) a different type of award under a different equity incentive plan, (iii) cash, or (iv) a combination of (i), (ii) and/or (iii). Notwithstanding the preceding, the term Exchange Program does not include (A) any action described in Section 10 or any action taken in connection with a Change in Control transaction nor (B) any transfer or other disposition permitted under Section 9. For the purpose of clarity, each of the actions described in the prior sentence, none of which constitute an Exchange Program, may be undertaken (or authorized) by the Administrator in its sole discretion without approval by the Company’s stockholders.

(t) “**Fair Market Value**” means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, its Fair Market Value will be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in such source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share will be the mean between the high bid and low asked prices for the Common Stock on the day of determination, as reported in such source as the Administrator deems reliable; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator in compliance with Applicable Laws and regulations and in a manner that complies with Code Section 409A.

(u) “**Family Member**” means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law (including adoptive relationships) of a Participant, any person sharing the Participant’s household (other than a tenant or employee), a trust in which these persons (or the Participant) have more than 50% of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than 50% of the voting interests.

(v) "**Fiscal Year**" means the fiscal year of the Company.

(w) "**Incentive Stock Option**" means an Option that by its terms qualifies and is intended to qualify as an incentive stock option within the meaning of Section 422 of the Code and the regulations promulgated thereunder.

(x) "**Independent Contractor**" means any person, including an advisor, consultant or agent, engaged by the Company or a Parent or Subsidiary to render services to such entity or who renders, or has rendered, services to the Company, or any Parent, Subsidiary or Affiliate and is compensated for such services.

(y) "**Nonstatutory Stock Option**" means an Option that by its terms does not qualify or is not intended to qualify as an Incentive Stock Option.

(z) "**Option**" means a stock option granted pursuant to the Plan.

(aa) "**Parent**" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if each of the corporations other than the Company owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

(bb) "**Participant**" means the holder of an outstanding Option.

(cc) "**Period of Restriction**" means the period during which the transfer of Shares of Restricted Stock are subject to restrictions and therefore, the Shares are subject to a substantial risk of forfeiture.

(dd) "**Plan**" means this 2021 Equity Incentive Plan, as it may be amended from time to time.

(ee) "**Service Provider**" means an Employee, Director or Independent Contractor.

(ff) "**Share**" means a share of the Common Stock, as adjusted in accordance with Section 10 of the Plan.

(gg) "**Subsidiary**" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

(hh) "**Tax-Related Items**" means income tax, social insurance or other social contributions, national insurance, social security, payroll tax, fringe benefits tax, payment on account or other tax-related items.

### 3. **Stock Subject to the Plan.**

(a) **Stock Subject to the Plan.** Subject to the provisions of Section 10 of the Plan, the maximum aggregate number of Shares that may be issued under the Plan shall be [•] Shares. The Shares may be authorized, but unissued, or reacquired Common Stock. Notwithstanding the foregoing, subject to the provisions of Section 10 below, in no event shall the maximum aggregate number of Shares that may be issued under the Plan pursuant to Incentive Stock Options exceed the number set forth in this Section 3(a) plus, to the extent allowable under Section 422 of the Code and the regulations promulgated thereunder, any Shares that again become available for issuance pursuant to Section 3(b).

(b) **Lapsed Awards.** To the extent an Award should expire or be forfeited or become unexercisable for any reason without having been exercised in full, or is surrendered pursuant to an Exchange Program, the unissued Shares that were subject thereto shall, unless the Plan shall have been terminated, continue to be available under the Plan for issuance pursuant to future Awards. In addition, any Shares which are retained by the Company in order to satisfy the exercise or purchase price for any Award or any withholding taxes due with respect to any Award shall be treated as not issued and shall continue to be available under the Plan for issuance pursuant to future Awards. Shares issued under the Plan and later forfeited to the Company due to the failure to vest or repurchased by the Company at the original purchase price paid to the Company for the Shares (including, without limitation, upon forfeiture to or repurchase by the Company in connection with a Participant ceasing to be a Service Provider) shall again be available for future grant under the Plan.

### 4. **Administration of the Plan.**

#### (a) **Procedure.**

(i) **Multiple Administrative Bodies.** Different Committees with respect to different groups of Service Providers may administer the Plan.

(ii) **Other Administration.** Other than as provided above, the Plan will be administered by (A) the Board or (B) a Committee, which committee will be constituted to satisfy Applicable Laws.

(b) **Powers of the Administrator.** Subject to the provisions of the Plan, the Administrator will have the authority, in its discretion:

- (i) to determine the Fair Market Value in accordance with Section 2(c);
- (ii) to select the Service Providers to whom Awards may be granted hereunder;
- (iii) to determine the number of Shares to be covered by each Award granted hereunder;
- (iv) to approve forms of Award Agreements for use under the Plan;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder; such terms and conditions include, but are not limited to, the exercise price, the time or times when Options may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Award or the Shares relating thereto, based in each case on such factors as the Administrator will determine;

(vi) to institute and determine the terms and conditions of an Exchange Program; provided, however, that the Administrator shall not implement an Exchange Program without the approval of the holders of a majority of the Shares that are present in person or by proxy and entitled to vote at any annual or special meeting of Company's stockholders;

(vii) to construe and interpret the terms of the Plan and Awards granted pursuant to the Plan;

(viii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations established for the purpose of satisfying applicable non-U.S. laws, for qualifying for favorable tax treatment under applicable non-U.S. laws or facilitating compliance with non-U.S. laws (sub-plans may be created for any of these purposes);

(ix) to modify or amend each Award (subject to Section 17 of the Plan), including but not limited to the discretionary authority to extend the post-termination exercisability period of Options, to accelerate vesting and to extend the maximum term of an Option (subject to Section 6(b) of the Plan regarding Incentive Stock Options);

(x) to allow Participants to satisfy tax withholding obligations in such manner as prescribed in Section 11 of the Plan;

(xi) to authorize any person to execute on behalf of the Company any instrument required to effect the grant of an Award previously granted by the Administrator;

(xii) to allow a Participant to defer the receipt of the payment of cash or the delivery of Shares that would otherwise be due to such Participant under an Award; and

(xiii) to make all other determinations deemed necessary or advisable for administering the Plan.

(c) **Effect of Administrator's Decision.** The Administrator's decisions, determinations and interpretations will be final and binding on all Participants and any other holders of Awards.

(d) **Delegation by the Administrator.** To the extent permitted by Applicable Laws, the Administrator, in its sole discretion and on such terms and conditions as it may provide, may delegate all or any part of its authority and powers under the Plan to one or more Directors or officers of the Company.

5. **Award Eligibility.** Nonstatutory Stock Options and Restricted Stock may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

## 6. Stock Options.

(a) **Limitations.** Each Option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds one hundred thousand dollars (\$100,000), such Options will be treated as Nonstatutory Stock Options. For purposes of this Section 6(a), Incentive Stock Options will be taken into account in the order in which they were granted. The Fair Market Value of the Shares will be determined as of the date the Option with respect to such Shares is granted. With respect to the Committee's authority in Section 4(b)(ix), if, at the time of any such extension, the exercise price per Share of the Option is less than the Fair Market Value of a Share, the extension shall, unless otherwise determined by the Committee, be limited to the earlier of (1) the maximum term of the Option as set by its original terms, or (2) ten (10) years from the grant date. Unless otherwise determined by the Committee, any extension of the term of an Option pursuant to Section 4(b)(ix) shall comply with Code Section 409A to the extent necessary to avoid taxation thereunder.

(b) **Term of Option.** The term of each Option will be stated in the Award Agreement. In the case of an Incentive Stock Option, the term will be ten (10) years from the date of grant or such shorter term as may be provided in the Award Agreement. Moreover, in the case of an Incentive Stock Option granted to a Participant who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Incentive Stock Option will be five (5) years from the date of grant or such shorter term as may be provided in the Award Agreement.

### (c) **Option Exercise Price and Consideration.**

(i) **Exercise Price.** The per share exercise price for the Shares to be issued pursuant to exercise of an Option will be determined by the Administrator, subject to the following:

#### (1) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price will be no less than one hundred ten percent (110%) of the Fair Market Value per Share on the date of grant.

(B) granted to any Employee other than an Employee described in paragraph (A) immediately above, the per Share exercise price will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant.

(2) In the case of a Nonstatutory Stock Option, the per Share exercise price will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant.

(3) Notwithstanding the foregoing, Options may be granted with a per Share exercise price of less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant pursuant to a transaction described in, and in a manner consistent with, Section 424(a) of the Code.



(ii) **Waiting Period and Exercise Dates.** At the time an Option is granted, the Administrator will fix the period within which the Option may be exercised and will determine any conditions that must be satisfied before the Option may be exercised.

(iii) **Form of Consideration.** The Administrator will determine the acceptable form of consideration for exercising an Option, including the method of payment. In the case of an Incentive Stock Option, the Administrator will determine the acceptable form of consideration at the time of grant. Such consideration for both types of Options may consist entirely of: (1) cash; (2) check (subject to collection); (3) promissory note, to the extent permitted by Applicable Laws; (4) other Shares, provided that such Shares have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option will be exercised and provided that accepting such Shares will not result in any adverse accounting consequences to the Company, as the Administrator determines in its sole discretion; (5) consideration received by the Company under a broker-assisted (or other) cashless exercise program (whether through a broker or otherwise) implemented by the Company in connection with the Plan; (6) by net exercise; (7) such other consideration and method of payment for the issuance of Shares to the extent permitted by Applicable Laws; or (8) any combination of the foregoing methods of payment.

(d) **Exercise of Option.**

(i) **Procedure for Exercise; Rights as a Stockholder.** Any Option granted hereunder will be exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Administrator and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share.

An Option will be deemed exercised when the Company receives: (i) a notice of exercise (in such form as the Administrator may specify from time to time) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised (together with full payment of any applicable taxes or other amounts required to be withheld or deducted with respect to the Option). Full payment may consist of any consideration and method of payment authorized by the Administrator and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares subject to an Option, notwithstanding the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 10 of the Plan.

(ii) **Termination of Relationship as a Service Provider.** If a Participant ceases to be a Service Provider, other than upon the Participant's termination as the result of the Participant's death, Disability or Cause, the Participant may exercise his or her Option within such period of time as is specified in the Award Agreement to the extent that the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in

the Award Agreement). In the absence of a specified time in the Award Agreement, the Option will remain exercisable for three (3) months following the Participant's termination. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified by the Administrator, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iii) **Disability of Participant.** If a Participant ceases to be a Service Provider as a result of the Participant's Disability, the Participant may exercise his or her Option within such period of time as is specified in the Award Agreement to the extent the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement). In the absence of a specified time in the Award Agreement, the Option will remain exercisable for twelve (12) months following the Participant's termination as a result of the Participant's Disability. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iv) **Death of Participant.** If a Participant dies while a Service Provider, the Option may be exercised following the Participant's death within such period of time as is specified in the Award Agreement to the extent that the Option is vested on the date of death (but in no event may the Option be exercised later than the expiration of the term of such Option as set forth in the Award Agreement), by the Participant's designated beneficiary, provided such beneficiary has been designated prior to Participant's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Participant, then such Option may be exercised by the personal representative of the Participant's estate or by the person(s) to whom the Option is transferred pursuant to the Participant's will or in accordance with the laws of descent and distribution. In the absence of a specified time in the Award Agreement, the Option will remain exercisable for twelve (12) months following the Participant's death. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If the Option is not so exercised within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(v) **Termination for Cause.** If a Participant ceases to be a Service Provider as a result of being terminated for Cause, any outstanding Option (including any vested portion thereof) held by such Participant shall immediately terminate in its entirety upon the Participant being first notified of his or her termination for Cause and the Participant will be prohibited from exercising his or her Option from and after the date of such termination. All the Participant's rights under any Option, including the right to exercise the Option, may be suspended pending an investigation of whether Participant will be terminated for Cause.

## 7. Restricted Stock.

(a) **Grant of Restricted Stock.** Restricted Stock may be granted at any time and from time to time as determined by the Administrator. After the Administrator determines that it will grant Restricted Stock under the Plan, it will advise the Participant in an Award Agreement of the terms, conditions, and restrictions (if any) related to the grant, including the number of Shares of Restricted Stock.

(b) **Restricted Stock Agreement.** Each Award of Restricted Stock will be evidenced by an Award Agreement that will specify the Period of Restriction, the number of Shares granted, and such other terms and conditions as the Administrator, in its sole discretion, will determine. Unless the Administrator determines otherwise, the Company as escrow agent will hold Shares of Restricted Stock until the restrictions on such Shares have lapsed.

(c) **Transferability.** Except as provided in this Section 7 or the Award Agreement, Shares of Restricted Stock may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated until the end of the applicable Period of Restriction.

(d) **Other Restrictions.** The Administrator, in its sole discretion, may impose such other restrictions on Shares of Restricted Stock as it may deem advisable or appropriate.

(e) **Removal of Restrictions.** Except as otherwise provided in this Section 7, Shares of Restricted Stock covered by each Restricted Stock grant made under the Plan will be released from escrow as soon as practicable after the last day of the Period of Restriction or at such other time as the Administrator may determine. The Administrator, in its discretion, may accelerate the time at which any restrictions will lapse or be removed.

(f) **Voting Rights.** During the Period of Restriction, Service Providers holding Shares of Restricted Stock granted hereunder may exercise full voting rights with respect to those Shares, unless the Administrator determines otherwise.

(g) **Dividends and Other Distributions.** During the Period of Restriction, any dividends or distributions paid with respect to Shares of Restricted Stock will be subject to the same restrictions, including without limitation restrictions on transferability and forfeitability, as the Shares of Restricted Stock with respect to which they were paid.

(h) **Return of Restricted Stock to Company.** On the date set forth in the Award Agreement, the Restricted Stock for which restrictions have not lapsed will be cancelled and returned as unissued shares to the Company and again will become available for grant under the Plan.

8. **Leaves of Absence/Transfer Between Locations.** The Administrator shall have the discretion to determine at any time whether and to what extent the vesting of Awards shall be suspended during any leave of absence; provided, however, that in the absence of such determination, vesting of Awards shall continue during any paid leave and shall be suspended during any unpaid leave of greater than thirty (30) days (unless otherwise required by Applicable Laws). A Participant will not cease to be an Employee in the case of (a) any leave of absence approved by the Participant's employer or (b) transfers between locations of the Company or between the Company, its Parent, or any Subsidiary. If an Employee is holding an Incentive Stock Option and such leave exceeds three (3) months then, for purposes of Incentive Stock Option status only, such Employee's service as an Employee shall be deemed terminated on the first (1st) day following such three (3) month period and the Incentive Stock Option shall thereafter automatically treated for tax purposes as a Nonstatutory Stock Option in accordance with Applicable Laws, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to a written Company policy.

## 9. Non-Transferability of Awards and Shares Underlying Awards.

### (a) Non-Transferability of Awards.

(i) **General.** Except as set forth in this Section 9, Awards (or any rights of such Awards) may not be sold, pledged, encumbered, assigned, hypothecated, or disposed of or otherwise transferred in any manner other than by will or by the laws of descent or distribution. The designation of a beneficiary by a Participant pursuant to this Plan and the applicable Award Agreement will not constitute a transfer. An Option may be exercised, during the lifetime of the holder of the Option, only by such holder or a transferee permitted by this Section 9.

(ii) **Limited Transferability Rights.** Notwithstanding anything else in this Section 9, the Administrator may in its sole discretion provide that any Nonstatutory Stock Options may be transferred by instrument to an inter vivos or testamentary trust in which the Options are to be passed to beneficiaries upon the death of the trustor (settlor) or by gift to Family Members. Further, beginning with (1) the period when the Company begins to rely on the exemption described in Rule 12h-1(f)(1) promulgated under the Exchange Act, as determined by the Board in its sole discretion, and (2) ending on the earlier of (x) the date when the Company ceases to rely on such exemption, as determined by the Board in its sole discretion, or (y) the date when the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, an Option, or prior to exercise, the Shares subject to the Option, may not be pledged, hypothecated or otherwise transferred or disposed of, in any manner, including by entering into any short position, any "put equivalent position" or any "call equivalent position" (as defined in Rule 16a-1(h) and Rule 16a-1(b) of the Exchange Act, respectively), other than to persons who are Family Members through gifts or domestic relations orders, or to an executor or guardian of the Participant upon the death or disability of the Participant. Notwithstanding the foregoing sentence, the Board, in its sole discretion, may permit transfers of Nonstatutory Stock Options to the Company or in connection with a Change in Control or other acquisition transactions involving the Company to the extent permitted by Rule 12h-1(f).

### (b) Non-Transferability of Stock Underlying Awards.

(i) **General.** Notwithstanding anything to the contrary, no Participant or other stockholder shall Transfer (as such term is defined below) any Shares (or any rights of or interests in such Shares) acquired pursuant to any Award to any person or entity unless such Transfer is approved by the Company prior to such Transfer, which approval may be granted or withheld in the Company's sole and absolute discretion. "Transfer" shall mean, with respect to any security, the direct or indirect assignment, sale, transfer, tender, pledge, hypothecation, or the grant, creation or suffrage of a lien or encumbrance in or upon, or the gift, placement in trust, or the Constructive Sale (as such term is defined below) or other disposition of such security (including transfer by testamentary or intestate succession, merger or otherwise by operation of law) or any right, title or interest therein (including, but not limited to, any right or power to vote to which the holder thereof may be entitled, whether such right or power is granted by proxy or otherwise), or the record or beneficial ownership

thereof, the offer to make such a sale, transfer, Constructive Sale or other disposition, and each agreement, arrangement or understanding, whether or not in writing, to effect any of the foregoing. "Constructive Sale" shall mean, with respect to any security, a short sale with respect to such security, entering into or acquiring an offsetting derivative contract with respect to such security, entering into or acquiring a futures or forward contract to deliver such security, or entering into any other hedging or other derivative transaction that has the effect of materially changing the economic benefits and risks of ownership. Any purported Transfer effected in violation of this Section 13 shall be null and void and shall have no force or effect and the Company shall not be required (x) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of the Plan or (y) 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.

(ii) **Approval Process**. Any Participant or stockholder seeking the approval of the Company to Transfer some or all of its Shares shall give written notice thereof to the Secretary of the Company that shall include: (1) the name of the stockholder; (2) the proposed transferee; (3) the number of shares of the Transfer of which approval is thereby requested; and (4) the purchase price, if any, of the shares proposed for Transfer. The Company may require the Participant to supplement its notice with such additional information as the Company may request or as may otherwise be required by the applicable Award Agreement or other applicable written agreement. In addition, such request for Transfer shall be subject to such right of first refusal, transfer provisions and any other terms and conditions as may be set forth in the applicable Award Agreement or other applicable written agreement.

#### 10. **Adjustments; Dissolution or Liquidation; Merger or Change in Control**.

(a) **Adjustments**. In the event of a stock split, reverse stock split, stock dividend, combination, consolidation, recapitalization (including a recapitalization through a large nonrecurring cash dividend) or reclassification of the Shares, subdivision of the Shares, a rights offering, a reorganization, merger, spin-off, split-up, repurchase, or exchange of Common Stock or other securities of the Company or other significant corporate transaction, or other change affecting the Common Stock occurs, the Administrator, in order to prevent dilution, diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will, in such manner as it may deem equitable, adjust the number, kind and class of securities that may be delivered under the Plan and/or the number, class, kind and price of securities covered by each outstanding Award. Notwithstanding the forgoing, all adjustments under this Section 10 shall be made in a manner that does not result in taxation under Code Section 409A.

(b) **Dissolution or Liquidation**. In the event of the proposed winding up, dissolution or liquidation of the Company, the Administrator will notify each Participant as soon as practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Award will terminate immediately prior to the consummation of such proposed action.

(c) **Change in Control**. In the event of a Change in Control, each outstanding Award (vested or unvested) will be treated as the Administrator determines, which determination may be made without the consent of any Participant and need not treat all outstanding Awards (or portion thereof) in an identical manner. Such determination, without the consent of any Participant, may

provide (without limitation) for one or more of the following in the event of a Change in Control: (i) the continuation of such outstanding Awards by the Company (if the Company is the surviving corporation); (ii) the assumption of such outstanding Awards by the surviving corporation or its parent; (iii) the substitution by the surviving corporation or its parent of new options or other equity awards for such Awards; (iv) the cancellation of such Awards in exchange for a payment to the Participants equal to the excess, if any, of (1) the Fair Market Value of the Shares subject to such Awards as of the closing date of such Change in Control over (2) the exercise or purchase price paid or to be paid for the Shares subject to the Awards; provided that at the discretion of the Administrator, such payment may be subject to the same conditions that apply to the consideration that will be paid to holders of Shares in connection with the transaction; provided, however, that any payout in connection with a terminated award shall comply with Code Section 409A to the extent necessary to avoid taxation thereunder; or (E) the opportunity for Participants to exercise the Options prior to the occurrence of the Change in Control and the termination (for no consideration) upon the consummation of such Change in Control of any Options not exercised prior thereto.

11. **Tax.**

(a) **Withholding Requirements.** Prior to the delivery of any Shares or cash pursuant to an Award (or exercise thereof) or prior to any time the Awards or Shares are subject to taxation or other Tax-Related Items, the Company and/or the Participant's employer will have the power and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any Tax-Related Items or other items that are required to be withheld or deducted or otherwise applicable with respect to such Award.

(b) **Withholding Arrangements.** The Administrator, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit a Participant to satisfy such withholding or deduction obligations or any other Tax-Related Items, in whole or in part by (without limitation) (i) paying cash, (ii) electing to have the Company withhold otherwise deliverable cash or Shares, or (iii) delivering to the Company already-owned Shares; provided that, unless specifically permitted by the Company, any proceeds derived from a cashless exercise must be an approved broker-assisted cashless exercise or the cash or Shares withheld or delivered must be limited to avoid financial accounting charges under applicable accounting guidance or Shares must have been previously held for the minimum duration required to avoid financial accounting charges under applicable accounting guidance. Except as otherwise determined by the Administrator, the Fair Market Value of the Shares to be withheld or delivered will be determined as of the date that the amounts are required to be withheld or deducted.

(c) **Compliance With Code Section 409A.** Awards will be designed and operated in such a manner that they are either exempt from the application of, or comply with, the requirements of Code Section 409A such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Code Section 409A. The Plan and each Award Agreement under the Plan is intended to meet the requirements of Code Section 409A (or an exemption therefrom) and will be construed and interpreted in accordance with such intent, except as otherwise determined in the sole discretion of the Administrator. To the extent that an Award or payment, or the settlement or deferral thereof, is subject to Code Section 409A the Award will be granted, paid, settled or deferred in a manner that will meet the requirements of Code Section 409A (or an exemption therefrom), such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Code Section 409A. In no event will the Company be responsible for or reimburse a Participant for any taxes or other penalties incurred as a result of the application of Code Section 409A.

12. **No Effect on Employment or Service.** Neither the Plan nor any Award will confer upon a Participant any right with respect to continuing the Participant's relationship as a Service Provider with the Company or any Subsidiary or Affiliate, nor will they interfere in any way with the Participant's right or the Company's or any Subsidiary or Affiliate's right to terminate such relationship at any time, with or without cause, to the extent permitted by Applicable Laws.

13. **Date of Grant.** The date of grant of an Award will be, for all purposes, the date on which the granting of an Award is authorized, or such other date as may be specified in such authorization.

14. **Corporate Records Control.** In the event that the corporate records (e.g., Board consents, resolutions or minutes) documenting the corporate action constituting the grant contain terms (e.g., exercise price, vesting schedule or number of shares) that are inconsistent with those in the Award Agreement or related grant documents as a result of a clerical error in the papering of the Award Agreement or related grant documents, the corporate records will control and the Participant will have no legally binding right to the incorrect term in the Award Agreement or related grant documents.

15. **Clawback/Recovery.** All Awards granted under the Plan will be subject to recoupment in accordance with any clawback policy that the Company is required to adopt pursuant to the listing standards of any national securities exchange or association on which the Company's securities are listed or as is otherwise required by the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act or other Applicable Laws. In addition, the Board may impose such other clawback, recovery or recoupment provisions in an Award Agreement as the Board determines necessary or appropriate, including but not limited to a reacquisition right in respect of previously acquired Shares or other cash or property upon the occurrence of an event constituting Cause. No recovery of compensation under such a clawback policy will be an event giving rise to a right to resign for "good reason" or "constructive termination" (or similar term) under any agreement with the Company.

16. **Term of Plan.** Subject to Section 20 of the Plan, this Plan will become effective as of the Effective Date. The Plan will continue in effect until terminated under Section 17 of the Plan.

17. **Amendment and Termination of the Plan.**

(a) **Amendment and Termination.** The Administrator may at any time amend, alter, suspend or terminate the Plan.

(b) **Stockholder Approval.** The Company will obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) **Effect of Amendment or Termination.** No amendment, alteration, suspension or termination of the Plan will materially impair the rights of any Participant, unless mutually agreed otherwise between the Participant and the Administrator, which agreement must be in writing and signed by the Participant and the Company. Termination of the Plan will not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Awards granted under the Plan prior to the date of such termination.

**18. Conditions Upon Issuance of Shares.**

(a) **Legal Compliance.** Shares will not be issued pursuant to the exercise or vesting (as applicable) of an Award unless the exercise or vesting of such Award and the issuance and delivery of such Shares will comply with Applicable Laws and will be further subject to the approval of counsel for the Company with respect to such compliance.

(b) **Investment Representations.** As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

19. **Inability to Obtain Authority.** The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, will relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority will not have been obtained.

20. **Stockholder Approval.** The Plan will be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

21. **Notices and Agreements.** Any notices, agreements or communications provided pursuant to the Plan will be given in writing, in a form provided by the Company (including documents delivered in electronic form). Unless specifically provided for in the Plan, notices, agreements or communications will be deemed effectively given upon receipt (including documents delivered in electronic form).

22. **Governing Law.** The Plan and all Awards hereunder shall be construed in accordance with and governed by the laws of the State of Delaware, but without regard to its conflict of law provisions.



**LEXEO THERAPEUTICS, INC.**

**AMENDMENT TO 2021 EQUITY INCENTIVE PLAN**

1. This Amendment to the Lexeo Therapeutics, Inc. 2021 Equity Incentive Plan (this "**Amendment**") is dated August 10, 2021, and amends the 2021 Equity Incentive Plan (as amended, the "**Plan**") pursuant to Section 17 of the Plan.

Unless otherwise expressly provided for in this Amendment, all capitalized words or phrases or other defined terms used in this Amendment will have the same meaning ascribed to them in the Plan.

2. Section 3(a) of the Plan is amended and restated in its entirety to read as follows:

"Subject to the provisions of Section 10 of the Plan, the maximum aggregate number of Shares that may be issued under the Plan shall be 28,937,950 Shares. The Shares may be authorized, but unissued, or reacquired Common Stock."

*[Signature Page Follows]*

I hereby certify that the foregoing Amendment was duly approved by the Board of Directors and the Stockholders of Lexeo Therapeutics, Inc., effective as of the date set forth above.

By: /s/ R. Nolan Townsend

Name: R. Nolan Townsend

Title: Chief Executive Officer

**LEXEO THERAPEUTICS, INC.**

**AMENDMENT TO 2021 EQUITY INCENTIVE PLAN**

1. This Amendment to the Lexeo Therapeutics, Inc. 2021 Equity Incentive Plan (this "**Amendment**") is dated November 4, 2021, and amends the 2021 Equity Incentive Plan (as amended, the "**Plan**") pursuant to Section 17 of the Plan.

Unless otherwise expressly provided for in this Amendment, all capitalized words or phrases or other defined terms used in this Amendment will have the same meaning ascribed to them in the Plan.

2. Section 3(a) of the Plan is amended and restated in its entirety to read as follows:

"Subject to the provisions of Section 10 of the Plan, the maximum aggregate number of Shares that may be issued under the Plan shall be 32,326,544 Shares. The Shares may be authorized, but unissued, or reacquired Common Stock."

*[Signature Page Follows]*

I hereby certify that the foregoing Amendment was duly approved by the Board of Directors and the Stockholders of Lexeo Therapeutics, Inc., effective as of the date set forth above.

By: /s/ R. Nolan Townsend

Name: R. Nolan Townsend

Title: Chief Executive Officer

**LEXEO THERAPEUTICS, INC.**

**2021 EQUITY INCENTIVE PLAN**

**STOCK OPTION AWARD AGREEMENT**

Unless otherwise defined herein, the terms defined in the Lexeo Therapeutics, Inc. 2021 Equity Incentive Plan (the “**Plan**”) will have the same defined meanings in this Stock Option Award Agreement (the “**Award Agreement**”).

**NOTICE OF STOCK OPTION GRANT**

**Participant Name:** Farah Sheikh

You have been granted an Option to purchase Common Stock of Lexeo Therapeutics, Inc. (the “**Company**”), subject to the terms and conditions of the Plan and this Award Agreement, as follows:

Grant Number	CS-00xx
Date of Grant	_____
Vesting Commencement Date	_____
Exercise Schedule	The Option is immediately exercisable.
Exercise Price per Share	USD \$ _____
Total Number of Shares	_____
Total Exercise Price	USD \$ _____
Type of Option:	_____ Incentive Stock Option _____ Nonstatutory Stock Option
Term/Expiration Date:	10 Year Term
Vesting Schedule:	See Below

Subject to Section 2 of this Award Agreement, this Option shall vest in accordance with the following schedule: subject to Participant's continuous service relationship as a Service Provider with the Company through each applicable vesting date: (i) effective as of the Study Launch Date, a number of shares shall vest equal to (A) the Total Number of Shares, multiplied by (B) a fraction, the numerator of which is the number of full months (not to exceed 48) that have elapsed from the Vesting Commencement Date through the Study Launch Date, and the denominator of which is 48 (the "Performance Vesting Shares"). The remainder of the Total Number of Shares that are not Performance Vesting Shares, if any, shall vest in equal monthly installments between the Study Launch Date and the fourth anniversary of the Vesting Commencement Date. The "Study Launch Date" means the date the Company or any of its affiliates initiates a definitive toxicology study with respect to or arising out of one of the Company's or any of its affiliates' ARVC programs.

In the event (i) Participant's service relationship as a Service Provider with the Company is terminated (I) by the Company without Cause (as defined in the Consulting Agreement), (II) due to Participant's death or Disability (as defined in the Consulting Agreement) or (III) by Participant for Good Reason (as defined in the Consulting Agreement), or (ii) the Company consummates a Change in Control, then, subject to (in the case of clause (i) only) Participant's execution of a mutual release of claims (which may also include a mutual nondisparagement provision (under which the Company shall instruct its C-Suite executives not to disparage Participant and the Participant shall agree not to disparage the Company) and customary mutual confidentiality provisions, but shall not include any other restrictive covenants) in the form promptly provided by the Company (the "**Release**"), the execution of which by Participant shall occur within the time period required by the Release but in no event later than 60 days following the last day of Participant's service relationship as a Service Provider with the Company (the "**Termination Date**"), if the Study Launch Date has occurred during Consultant's service relationship with the Company, this Option shall become fully vested and exercisable immediately as of the effective date of the Release or, if applicable, immediately prior to the closing date of such Change in Control.

"**Consulting Agreement**" means that certain Consulting Agreement, dated as of July 16, 2021, by and between Participant and the Company.

Termination Period:

This Option, to the extent then vested, will be exercisable for three (3) months after Participant ceases to be a Service Provider, unless such termination is due to Participant's death, Disability or Cause. If Participant's relationship as a Service Provider is terminated as a result of the Service Provider's death or Disability, this Option, to the extent then vested, will be exercisable for twelve (12) months after Participant ceases to be a Service Provider. If Participant's relationship as a Service Provider is terminated for Cause, this Option (including any vested portion thereof) shall immediately terminate in its entirety upon Participant being first notified such termination for Cause and Participant will be prohibited from exercising this Option from and after the date of such termination. Notwithstanding the foregoing, in no event may this Option be exercised after the Term/Expiration Date as provided above and may be subject to earlier termination as provided in Section 10 of the Plan.

By Participant's signature and the signature of the Company's representative below, or by Participant otherwise accepting or exercising this Option, Participant and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan and this Award Agreement, including the Terms and Conditions of Stock Option Grant, attached hereto as Exhibit A, all of which are made a part of this document. Participant has reviewed the Plan and this Award Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Award Agreement and fully understands all provisions of the Plan and Award Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator on any questions relating to the Plan and Award Agreement.

PARTICIPANT:

LEXEO THERAPEUTICS, INC.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
By

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

EXHIBIT A

TERMS AND CONDITIONS OF STOCK OPTION GRANT

1. Grant of Option. The Company hereby grants to Participant named in the Notice of Stock Option Grant attached to this Award Agreement (the "**Participant**") an option (the "**Option**") to purchase the number of Shares set forth in the Notice of Stock Option Grant, at the exercise price per Share set forth in the Notice of Stock Option Grant (the "**Exercise Price**"), subject to all of the terms and conditions set forth in the Notice of Stock Option Grant and in this Award Agreement and the Plan, which is incorporated herein by reference. Subject to Section 17 of the Plan, if there is a conflict between the terms and conditions of the Plan and the terms and conditions of this Award Agreement, the terms and conditions of the Plan will prevail.

If designated in the Notice of Stock Option Grant as an Incentive Stock Option ("**ISO**"), this Option is intended to qualify as an ISO to the maximum extent permitted under Section 422 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"). However, if this Option is intended to be an ISO, to the extent that it exceeds the USD \$100,000 rule of Code Section 422(d) it will be treated as a Nonstatutory Stock Option ("**NSO**"). Further, if for any reason this Option (or portion thereof) will not qualify as an ISO, then, to the extent of such non-qualification, such Option (or portion thereof) shall be regarded as an NSO granted under the Plan. In no event will the Administrator, the Company or any Parent or Subsidiary or any of their respective employees or directors have any liability to Participant (or any other person) due to the failure of the Option to qualify for any reason as an ISO.

2. Vesting Schedule. Except as provided in Section 3, the Option awarded by this Award Agreement will vest in accordance with the vesting provisions set forth in the Notice of Stock Option Grant. Options scheduled to vest on a certain date or upon the occurrence of a certain condition will not vest in accordance with any of the provisions of this Award Agreement, unless Participant will have been continuously a Service Provider from the Date of Grant until the date such vesting occurs. Service Provider status for purposes of this Award will end on the day that Participant is no longer actively providing services as an Employee, Director, or Independent Contractor and will not be extended by any notice period or "garden leave" that may be required contractually or under any Applicable Laws. Notwithstanding the foregoing, the Administrator (or any delegate) shall have the sole and absolute discretion to determine when Participant is no longer providing active service for purposes of Service Provider status and participation in the Plan.
3. Exercise of Option.

(a) Right to Exercise. This Option may be exercised only within the term set forth in the Notice of Stock Option Grant and may be exercised during such term only in accordance with the Plan and the terms of this Award Agreement.



(b) Method of Exercise. This Option is exercisable by delivery of an exercise notice in the form of Early Exercise Notice and Restricted Stock Purchase Agreement attached hereto as Exhibit B or, to the extent Participant exercises the Option with respect to vested shares only, the form of the Exercise Notice attached hereto as Exhibit C (collectively, the “**Exercise Notice**”) or in a manner and pursuant to such procedures as the Administrator may determine, which will state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the “**Exercised Shares**”), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice will be completed by Participant and delivered to the Company. The Exercise Notice will be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares together with any Tax-Related Items (as defined below) required to be withheld, paid or provided pursuant to any Applicable Laws. This Option will be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by such aggregate Exercise Price and any other requirements or restrictions that may be imposed by the Company to comply with Applicable Laws or facilitate administration of the Plan. Notwithstanding the above, Participant understands that the Applicable Laws of the country in which Participant is residing or working at the time of grant, vesting, and/or exercise of this Option (including any rules or regulations governing securities, foreign exchange, tax, labor or other matters) may restrict or prevent exercise of this Option, and neither the Company nor any Parent or Subsidiary assumes any liability in relation to this Option in such case.

4. Method of Payment. Payment of the aggregate Exercise Price will be by any of the following, or a combination thereof, at the election of Participant unless otherwise specified by the Company in its sole discretion:

(a) cash (U.S. dollars); or

(b) check (denominated in U.S. dollars); or

(c) consideration received by the Company under a formal cashless exercise program adopted by the Company in connection with the Plan.

Participant understands and agrees that, unless otherwise permitted by the Company, any cross-border remittance made to exercise this Option or transfer proceeds received upon the sale of Shares must be made through a locally authorized financial institution or registered foreign exchange agency and may require Participant to provide such entity with certain information regarding the transaction.

5. Tax Obligations.

(a) Withholding Taxes. Regardless of any action the Company or Participant’s employer (the “**Employer**”) takes with respect to any or all applicable national, local, or other tax or social contribution, withholding, required deductions, or other payments, if any, that arise upon the grant, vesting, or exercise of this Option, the holding or subsequent sale of Shares, and the receipt of dividends, if any, or otherwise in connection with this Option or the Shares (“**Tax-Related Items**”), Participant acknowledges and agrees that the ultimate liability for all Tax-Related Items legally due by Participant is and remains Participant’s responsibility and may exceed any amount actually withheld by the Company or the Employer. Participant further acknowledges and agrees that Participant is solely responsible for filing all relevant documentation that may be required in relation to this Option or any Tax-Related Items (other than filings or documentation that is the specific obligation of the Company or a Parent,

Subsidiary, or Employer pursuant to Applicable Laws) such as but not limited to personal income tax returns or reporting statements in relation to the grant, vesting or exercise of this Option, the holding of Shares or any bank or brokerage account, the subsequent sale of Shares, and the receipt of any dividends. Participant further acknowledges that the Company and the Employer (a) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Option, including the grant, vesting, or exercise of the Option, the subsequent sale of Shares acquired under the Plan and the receipt of dividends, if any; and (b) does not commit to and is under no obligation to structure the terms of the Option or any aspect of the Option to reduce or eliminate Participant's liability for Tax-Related Items, or achieve any particular tax result. Participant also understands that Applicable Laws may require varying Share or Option valuation methods for purposes of calculating Tax-Related Items, and the Company assumes no responsibility or liability in relation to any such valuation or for any calculation or reporting of income or Tax-Related Items that may be required of Participant under Applicable Laws. Further, if Participant has become subject to tax in more than one jurisdiction between the Date of Grant and the date of any relevant taxable event, Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

(b) Satisfaction of Tax-Related Items. As a condition to the grant, vesting and exercise of this Option and as set forth in Section 11 of the Plan, Participant hereby agrees to make adequate provision for the satisfaction of (and will indemnify the Company and any Parent or Subsidiary for) any Tax-Related Items. No payment will be made to Participant (or his or her estate or beneficiary) related to an Option, and no Shares will be issued pursuant to an Option, unless and until satisfactory arrangements (as determined by the Company) have been made by Participant with respect to the payment of any Tax-Related Items obligations of the Company and/or any Parent, Subsidiary, or Employer with respect to the grant, vesting or exercise of the Option. In this regard, Participant authorizes the Company and/or any Parent, Subsidiary, or Employer, or their respective agents, at their discretion, to satisfy the obligations with regard to all Tax-Related Items by one or a combination of the following:

- (i) withholding from Participant's wages or other cash compensation paid to Participant by the Company or the Employer; or
- (ii) withholding from proceeds of the sale of Shares acquired upon exercise of the Option, either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant's behalf pursuant to this authorization); or
- (iii) withholding in Shares to be issued upon exercise of the Option.

Notwithstanding the foregoing, if Participant is subject to Section 16 of the Exchange Act, Participant may direct the Company to withhold Shares to be issued upon exercise of the Option to satisfy Participant's obligations with regard to all Tax-Related Items and any such disposition of Shares to the Company shall be exempt from Section 16(b) of the Exchange Act pursuant to Rule 16b-3(e).

If the obligation for Tax-Related Items is satisfied by withholding Shares, Participant is deemed to have been issued the full number of Shares purchased for tax purposes, notwithstanding that a number of Shares is held back solely for the purpose of paying the Tax-Related Items due as a result of Participant's participation in the Plan. Participant shall pay to the Company or a Parent, Subsidiary, or Employer any amount of Tax-Related Items that the Company may be required to withhold, pay or otherwise provide for as a result of Participant's participation in the Plan that cannot be satisfied by one or more of the means previously described in this Section 5. Participant acknowledges and agrees that the Company may refuse to honor the exercise and refuse to issue or deliver the Shares or the proceeds of the sale of Shares if Participant fails to comply with his or her obligations in connection with the Tax-Related Items.

(c) Notice of Disqualifying Disposition of ISO Shares. If the Option granted to Participant herein is an ISO, and if Participant sells or otherwise disposes of any of the Shares acquired pursuant to the ISO on or before the later of (i) the date two (2) years after the Date of Grant, or (ii) the date one (1) year after the date of exercise, Participant will immediately notify the Company in writing of such disposition.

(d) Code Section 409A (Applicable Only to Participants Subject to U.S. Taxes). Under Code Section 409A, an option that is granted with a per Share exercise price that is determined by the Internal Revenue Service (the "**IRS**") to be less than the Fair Market Value of a Share on the Date of Grant (a "**Discount Option**") may be considered "deferred compensation." A Discount Option may result in (i) income recognition by Participant prior to the exercise of the option, (ii) an additional twenty percent (20%) federal income tax, and (iii) potential penalty and interest charges. The Discount Option may also result in additional state income, penalty and interest charges to Participant. Participant acknowledges that the Company cannot and has not guaranteed that the IRS will agree that the per Share exercise price of this Option equals or exceeds the Fair Market Value of a Share on the Date of Grant in a later examination. Participant agrees that if the IRS determines that the Option was granted with a per Share exercise price that was less than the Fair Market Value of a Share on the Date of Grant, Participant will be solely responsible for Participant's costs related to such a determination.

6. Rights as Stockholder. Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company in respect of any Shares unless and until such Shares will have been issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). After such issuance, Participant will have all the rights of a stockholder of the Company with respect to voting such Shares and receipt of dividends and distributions on such Shares, but prior to such issuance, Participant will not have any rights to dividends and/or distributions on such Shares.
7. No Guarantee of Continued Service or Grants. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF SHALL OCCUR ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE EMPLOYER OR CONTRACTING ENTITY (AS APPLICABLE) AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THE OPTION OR ACQUIRING SHARES HEREUNDER. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS AWARD AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND WILL NOT INTERFERE IN ANY WAY WITH PARTICIPANT'S RIGHT OR THE RIGHT OF THE EMPLOYER OR THE COMPANY, PARENT, OR SUBSIDIARY TO TERMINATE PARTICIPANT'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE (SUBJECT TO APPLICABLE LOCAL LAWS).

8. Nature of Grant. In accepting the Option, Participant acknowledges, understands and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, amended, suspended or terminated by the Company at any time;

(b) the grant of the Option is voluntary and occasional and does not create any contractual or other right to receive future grants of Options, or benefits in lieu of Options even if Options have been granted repeatedly in the past;

(c) all decisions with respect to future awards of Options, if any, will be at the sole discretion of the Company;

(d) Participant's participation in the Plan is voluntary;

(e) the Option and the Shares subject to the Option are extraordinary items that do not constitute regular compensation for services rendered to the Company or the Employer, and that are outside the scope of Participant's employment contract, if any;

(f) the Option and the Shares subject to the Option are not intended to replace any pension rights or compensation;

(g) the Option and the Shares subject to the Option are not part of normal or expected compensation or salary for any purposes, including, but not limited to, calculating any severance, resignation, termination, redundancy, dismissal, or end of service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments and in no event should be considered as compensation for, or relating in any way to, past services for the Company or the Employer, subject to Applicable Laws;

(h) the future value of the underlying Shares is unknown and cannot be predicted with certainty; further, if Participant exercises the Option and obtains Shares, the value of the Shares acquired upon exercise may increase or decrease in value, even below the Exercise Price;

(i) Participant also understands that neither the Company nor any affiliate is responsible for any foreign exchange fluctuation between local currency and the United States Dollar or the selection by the Company or any affiliate in its sole discretion of an applicable foreign currency exchange rate that may affect the value of the Option (or the calculation of income or Tax-Related Items thereunder);

(j) in consideration of the grant of the Option, no claim or entitlement to compensation or damages shall arise from forfeiture of the Option resulting from termination of employment by the Employer (for any reason whatsoever and whether or not in breach of Applicable Laws, including, without limitation, applicable local labor laws), and Participant irrevocably releases the Employer from any such claim that may arise; if, notwithstanding the foregoing, any such claim is found by a court of competent jurisdiction to have arisen, Participant shall be deemed irrevocably to have waived his or her entitlement to pursue such claim; and

(k) the Option and the benefits under the Plan, if any, will not without the Administrator's consent transfer to another company in the case of a merger, take-over or transfer of liability.

9. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan, or Participant's acquisition or sale of the underlying Shares. Participant is hereby advised to consult with his or her own personal tax, legal and financial advisors regarding Participant's participation in the Plan before taking any action related to the Plan.
10. Data Privacy. Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of Participant's Personal Data (as described below) by and among, as applicable, the Company, any Parent, Subsidiary, or affiliate, or third parties as may be selected by the Company for the exclusive purpose of implementing, administering and managing Participant's participation in the Plan. Participant understands that refusal or withdrawal of consent will affect Participant's ability to participate in the Plan; without providing consent, Participant will not be able to participate in the Plan or realize benefits (if any) from the Option. Participant understands that the Company and any Parent, Subsidiary, affiliate, or designated third parties may hold personal information about Participant, including, but not limited to, Participant's name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company or any Parent, Subsidiary, or affiliate, details of all Options or any other entitlement to Shares awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Personal Data"). Participant understands that Personal Data may be transferred to any Parent, Subsidiary, affiliate, or third parties assisting in the implementation, administration and management of the Plan, that these recipients may be located in the United States, Participant's country (if different than the United States), or elsewhere, and that the recipient's country may have different data privacy laws and protections than Participant's country. In particular, the Company may transfer Personal Data to the broker or stock plan administrator assisting with the Plan, to its legal counsel and tax/accounting advisor, and to the affiliate or entity that is Participant's employer and its payroll provider. Participant should also refer to any data privacy policy implemented by the Company (which will be available to Participant separately and may be updated from time to time) for more information regarding the collection, use, storage, and transfer of Participant's Personal Data.
11. Address for Notices. Any notice to be given to the Company under the terms of this Award Agreement will be addressed to the Company, in care of its Secretary at Lexeo Therapeutics, Inc., 430 East 29th Street, 14th Floor, New York, NY 10016, or at such other address as the Company may hereafter designate in writing.

12. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Participant only by Participant.
13. Binding Agreement. Subject to the limitation on the transferability of this Option contained herein, this Award Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.
14. Additional Conditions to Issuance of Stock. If at any time the Company will determine, in its discretion, that the listing, registration, qualification or compliance of the Shares upon or with any securities exchange or under any Applicable Laws, the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the grant or vesting of the Option or purchase by, or issuance of Shares to, Participant (or his or her estate) hereunder, such purchase or issuance will not occur unless and until such listing, registration, qualification, compliance, consent or approval will have been completed, effected or obtained free of any conditions not acceptable to the Company. The Company will make all reasonable efforts to meet the requirements of any Applicable Laws. Assuming such compliance, for purposes of the Tax-Related Items, the Exercised Shares will be considered transferred to Participant on the date the Option is exercised with respect to such Exercised Shares. The Company shall not be obligated to issue any Shares pursuant to this Option at any time if the issuance of Shares, or the exercise of an Option by Participant, violates or is not in compliance with any Applicable Laws.
15. Lock-Up Agreement. If so requested by the Company (or any successor thereof) or the underwriters in connection with the initial public offering of the securities of the Company (or any successor or parent thereof), or any direct listing or other transaction pursuant to which the securities of the Company will be exchanged for securities of the Company (or any successor or parent thereof) registered under the Securities Act of 1933, as amended, including, without limitation, through a transaction with a publicly-listed blank check company registered under the Securities Act, Participant shall not sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company (or any successor thereof) however or whenever acquired (except for those being registered) without the prior written consent of the Company or such underwriters, as the case may be, for 180 days from the effective date of the registration statement or becoming a listed security, and Participant shall execute an agreement reflecting the foregoing as may be requested by the Company (or any successor or parent thereof) or the underwriters at the time of such offering or listing.
16. Plan Governs. This Award Agreement is subject to all terms and provisions of the Plan. If there is a conflict between one or more provisions of this Award Agreement and one or more provisions of the Plan, the provisions of the Plan will govern. Capitalized terms used and not defined in this Award Agreement will have the meaning set forth in the Plan.
17. Administrator Authority. The Administrator will have the power to interpret the Plan and this Award Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination regarding whether any Shares subject to the Option have vested). All actions taken, and all interpretations and determinations made, by the Administrator in good faith will be final and binding upon Participant, the Company and all other interested persons. No member of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or this Award Agreement.

18. Electronic Delivery and Acceptance. The Company may, in its sole discretion, decide to deliver any documents related to Participant's current or future participation in the Plan, this Option, the Shares subject to this Option, any other securities of the Company or any other Company-related documents, by electronic means. By accepting this Option, whether electronically or otherwise, Participant hereby (a) consents to receive such documents by electronic means, (b) consents to the use of electronic signatures, and (c) agrees to participate in the Plan and/or receive any such documents through an on-line or electronic system established and maintained by the Company or a third party designated by the Company, including but not limited to the use of electronic signatures or click-through electronic acceptance of terms and conditions.
19. Translation. If Participant has received this Award Agreement, including appendices, or any other document related to the Plan translated into a language other than English, and the meaning of the translated version is different than the English version, the English version will control.
20. Imposition of Other Requirements. The Company reserves the right to impose other requirements on Participant's participation in the Plan, on the Option and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with any Applicable Laws or facilitate the administration of the Plan, and to require Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing. Furthermore, Participant understands that the Applicable Laws of the country in which he or she is resident at the time of grant, vesting, and/or exercise of this Option or the holding or disposition of Shares (including any rules or regulations governing securities, foreign exchange, tax, labor or other matters) may restrict or prevent exercise of this Option or may subject Participant to additional procedural or regulatory requirements he or she is solely responsible for and will have to independently fulfill in relation to this Option or the Shares. Participant also understands and agrees that if he works, resides, moves to, or otherwise is or becomes subject to Applicable Laws or company policies of another jurisdiction at any time, certain country-specific notices, disclaimers and/or terms and conditions may apply to Participant as from the Date of Grant, unless otherwise determined by the Company in its sole discretion.
21. Captions. Captions provided herein are for convenience only and are not to serve as a basis for interpretation or construction of this Award Agreement.
22. Agreement Severable. If any provision in this Award Agreement will be held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of this Award Agreement.
23. Modifications to this Award Agreement. This Award Agreement and the Plan constitute the entire understanding of the parties on the subjects covered. Participant expressly warrants that he or she is not accepting this Award Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Award Agreement or the Plan can be made only in an express written contract executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Award Agreement, the Company reserves the right to revise this Award Agreement as it deems necessary or advisable, in its sole discretion and without the consent of Participant, to comply with Code Section 409A or to otherwise avoid imposition of any additional tax or income recognition under Code Section 409A in connection to this Option.

24. Amendment, Suspension or Termination of the Plan. By accepting this Award, Participant expressly warrants that he or she has received an Option under the Plan, and has received, read and understood a description of the Plan. Participant understands that the Plan is discretionary in nature and may be amended, suspended or terminated by the Company at any time.
25. Governing Law and Venue. This Award Agreement will be governed by the laws of the State of Delaware, without giving effect to the conflict of law principles thereof. For purposes of litigating any dispute that arises under this Award Agreement, the parties hereby submit to and consent to the jurisdiction of the State of New York and agree that such litigation will be conducted in the courts of New York County, New York, or the federal courts for the United States for the Southern District of New York, and no other courts.

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EXHIBIT B

LEXEO THERAPEUTICS, INC.

2021 EQUITY INCENTIVE PLAN

EARLY EXERCISE NOTICE AND RESTRICTED STOCK PURCHASE AGREEMENT

Lexeo Therapeutics, Inc.

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

1. Exercise of Option. Effective as of today, \_\_\_\_\_, \_\_\_\_\_, the undersigned (“**Purchaser**”) hereby elects to purchase, \_\_\_\_\_, shares (the “**Shares**”) of the Common Stock of Lexeo Therapeutics, Inc. (the “**Company**”) under and pursuant to the 2021 Equity Incentive Plan (the “**Plan**”) and the Stock Option Award Agreement dated \_\_\_\_\_, \_\_\_\_\_ (the “**Award Agreement**”). The purchase price for the Shares will be USD \$ \_\_\_\_\_, as required by the Award Agreement. Of these Shares, Purchaser has elected to purchase \_\_\_\_\_ Shares which have become vested as of the date hereof under the Vesting Schedule set forth in the Notice of Stock Option Grant (the “**Vested Shares**”) and \_\_\_\_\_ Shares which have not yet vested under such Vesting Schedule (the “**Unvested Shares**”).
2. Delivery of Payment. Purchaser herewith delivers to the Company, or otherwise makes adequate arrangements satisfactory to the Company, the full purchase price of the Shares and any Tax-Related Items (as defined in the Agreement) to be paid in connection with the exercise of the Option.
3. Representations of Purchaser. Purchaser acknowledges that Purchaser has received, read and understood the Plan and the Award Agreement and agrees to abide by and be bound by their terms and conditions.
4. Rights as Stockholder. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the Shares, no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares subject to the Option, notwithstanding the exercise of the Option. The Shares so acquired will be issued to Purchaser as soon as practicable after exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date of issuance, except as provided in Section 10 of the Plan.
5. Tax Consultation. Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted with any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

6. Limitations on Transfer. Purchaser acknowledges and agrees that the Shares purchased under this Agreement are subject to Section 9 of the Plan, the terms and conditions that apply to the Company's Common Stock, as set forth in the Company's Bylaws, as may be in effect at the time of any proposed transfer (the "Bylaw Provisions"), and any other limitation or restriction on transfer created by Applicable Laws. In addition to the foregoing limitations on transfer, Purchaser shall not assign, encumber or dispose of any interest in the Shares while the Shares are subject to the Company's Repurchase Option (as defined below). After any Shares have been released from such Repurchase Option, Purchaser shall not assign, encumber or dispose of any interest in the Shares except to the extent permitted by, and in compliance with, Section 9 of the Plan, the Bylaw Provisions and, Applicable Laws, and the provisions below.

(a) Repurchase Option.

(i) In the event of the voluntary or involuntary termination of Purchaser's continuous Service with the Company for any reason (including, without limitation, resignation, death or Disability), with or without Cause, the Company shall upon the date of such termination (the "Termination Date") have an irrevocable, exclusive option (the "Repurchase Option") for a period of 3 months from such date to repurchase all or any portion of the Unvested Shares (as defined below) held by Purchaser as of the Termination Date at the original purchase price per Share (adjusted for any stock splits, stock dividends and the like) specified in Section 1. As used herein, "Unvested Shares" means Shares that have not yet been released from the Repurchase Option.

(ii) Unless the Company notifies Purchaser within 3 months from the Termination Date that it does not intend to exercise its Repurchase Option with respect to some or all of the Unvested Shares, the Repurchase Option shall be deemed automatically exercised by the Company as of the end of such 3-month period following the Termination Date, provided that the Company may notify Purchaser that it is exercising its Repurchase Option as of a date prior to the end of such 3-month period. Unless Purchaser is otherwise notified by the Company pursuant to the preceding sentence that the Company does not intend to exercise its Repurchase Option as to some or all of the Unvested Shares to which it applies at the time of termination, execution of this Agreement by Purchaser constitutes written notice to Purchaser of the Company's intention to exercise its Repurchase Option with respect to all Unvested Shares to which such Repurchase Option applies. The Company, at its choice, may satisfy its payment obligation to Purchaser with respect to exercise of the Repurchase Option by either (1) delivering a check to Purchaser in the amount of the purchase price for the Unvested Shares being repurchased, or (2) in the event Purchaser is indebted to the Company, canceling an amount of such indebtedness equal to the purchase price for the Unvested Shares being repurchased, or (3) by a combination of (1) and (2) so that the combined payment and cancellation of indebtedness equals such purchase price. In the event of any deemed automatic exercise of the Repurchase Option pursuant to this Section 6(a)(ii) in which Purchaser is indebted to the Company, such indebtedness equal to the purchase price of the Unvested Shares being repurchased shall be deemed automatically canceled as of the end of such 3-month period following the Termination Date unless the Company otherwise satisfies its payment obligations. As a result of any repurchase of Unvested Shares pursuant

to this Section 6, the Company shall become the legal and beneficial owner of the Unvested Shares being repurchased and shall have all rights and interest therein or related thereto, and the Company shall have the right to transfer to its own name the number of Unvested Shares being repurchased by the Company, without further action by Purchaser.

(iii) One hundred percent (100%) of the Shares shall initially be subject to the Repurchase Option. The Unvested Shares shall be released from the Repurchase Option in accordance with the Vesting Schedule set forth in the Notice of Stock Option Grant until all Shares are released from the Repurchase Option; provided, however, that such scheduled releases from the Repurchase Option shall immediately cease as of the Termination Date. Fractional shares shall be rounded down to the nearest whole share.

(b) Transfer Restrictions; Right of First Refusal. Before any Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company shall first, to the extent the Company's approval is required by the Plan or any applicable Bylaw Provisions, have the right to approve such sale or transfer, in full or in part, and shall then have the right to purchase all or any part of the Shares proposed to be sold or transferred, in each case, in its sole and absolute discretion (the "Right of First Refusal"). If the Holder would like to sell or transfer any Shares, the Holder must provide the Company or its assignee(s) with a Notice (as defined below) requesting approval to sell or transfer the Shares and offering the Company or its assignee(s) a Right of First Refusal on the same terms and conditions set forth in this Section 6(b). The Company may either (i) exercise its Right of First Refusal in full or in part and purchase such Shares pursuant to this Section 6(b), (ii) decline to exercise its Right of First Refusal in full or in part and permit the transfer of such Shares to the Proposed Transferee (as defined below) in full or in part or (iii) decline to exercise its Right of First Refusal in full or in part and, to the extent the Company's approval is required by the Plan or any applicable Bylaw Provisions, decline the request to sell or transfer the Shares in full or in part.

(i) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (1) the Holder's intention to sell or otherwise transfer such Shares; (2) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (3) the number of Shares to be sold or transferred to each Proposed Transferee; (4) the terms and conditions of each proposed sale or transfer, including (without limitation) the purchase price for such Shares (the "Purchase Price"); and (5) the Holder's offer to the Company or its assignee(s) to purchase the Shares at the Purchase Price and upon the same terms (or terms that are no less favorable to the Company).

(ii) Exercise of Right of First Refusal. At any time within 30 days after receipt of the Notice, the Company and/or its assignee(s) shall deliver a written notice to the Holder indicating whether the Company and/or its assignee(s) elect to permit or reject the proposed sale or transfer, in full or in part, and/or elect to accept or decline the offer to purchase any or all of the Shares proposed to be sold or transferred to any one or more of the Proposed Transferees, at the Purchase Price, provided that if the Purchase Price consists of no legal consideration (as, for example, in the case of a transfer by gift), the purchase price will be the fair market value of the Shares as determined in good faith by the Company. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Company in good faith.

(iii) Payment. Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within 60 days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) Holder's Right to Transfer. If any of the Shares proposed in the Notice to be sold or transferred to a given Proposed Transferee are both (1) not purchased by the Company and/or its assignee(s) as provided in this Section 6(b) and (2) approved by the Company to be sold or transferred, then the Holder may sell or otherwise transfer any such Shares to the applicable Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within 120 days after the date of the Notice; provided that (A) any such sale or other transfer is also effected in accordance with the Bylaw Provisions, the transfer restrictions set forth in the Plan and any Applicable Laws and (B) the Proposed Transferee agrees in writing that the Plan, the Bylaw Provisions and the provisions of the Award Agreement and this Agreement, including this Section 6 shall continue to apply to the Shares in the hands of such Proposed Transferee. The Company, in consultation with its legal counsel, may require the Holder to provide an opinion of counsel evidencing compliance with Applicable Laws. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again have the right to approve such transfer and be offered the Right of First Refusal.

(v) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 6 notwithstanding, the transfer of any or all of the Shares during Holder's lifetime or on Holder's death by will or intestacy to Holder's Immediate Family or a trust for the benefit of Holder or Holder's Immediate Family shall be exempt from the provisions of this Section 6(b). "Immediate Family" as used herein shall mean lineal descendant or antecedent, father, mother, brother or sister (or their descendants), stepchild (or their antecedents or descendants), aunt or uncle (or their antecedents or descendants), brother-in-law or sister-in-law (or their antecedents or descendants) and shall include adoptive relationships, or any person sharing Holder's household (other than a tenant or an employee). In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of the Plan, the Bylaw Provisions and the provisions of the Award Agreement and this Agreement, including this Section 6, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 6, the Plan, and the Bylaw Provisions.

(c) Company's Right to Purchase upon Involuntary Transfer. In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 6(b)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase any or all of the Shares transferred at the Fair Market Value of the Shares on the date of transfer (as determined by the Company in its sole discretion). Upon such a transfer, the Holder shall promptly notify the Secretary of the Company of such transfer and if requested by the Company. The right to purchase such Shares shall be provided to the Company for a period of 30 days following receipt by the Company of written notice from the Holder.

(d) Assignment. The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(e) Restrictions Binding on Transferees. All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the Plan, the Bylaw Provisions, the provisions of the Award Agreement and this Agreement and, including, insofar as applicable, the Repurchase Option. In the event of any purchase by the Company hereunder where the Shares or interest are held by a transferee, the transferee shall be obligated, if requested by the Company, to transfer the Shares or interest to the Purchaser for consideration equal to the amount to be paid by the Company hereunder. In the event the Repurchase Option is deemed exercised by the Company pursuant to Section 6(a)(ii) hereof, the Company may deem any transferee to have transferred the Shares or interest to Purchaser prior to their purchase by the Company, and payment of the purchase price by the Company to such transferee shall be deemed to satisfy Purchaser's obligation to pay such transferee for such Shares or interest, and also to satisfy the Company's obligation to pay Purchaser for such Shares or interest. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

(f) Termination of Rights. The transfer restrictions set forth in Section 6(b) above, the Right of First Refusal granted the Company by Section 6(b) above and the right to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 6(c) above shall terminate upon (i) the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act") (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan) or (ii) any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act. Upon termination of such transfer restrictions, the Company will remove any stop-transfer notices referenced in Section 8(b) below and related to the restrictions in this Section 6 and a new stock certificate or, in the case of uncertificated securities, notice of issuance, for the Shares not repurchased shall be issued, on request, without the legend referred to in Section 8(a) below and delivered to Holder.

(g) Lock-Up Agreement. The lock-up provisions set forth in Section 15 of the Award Agreement shall apply to the Shares issued upon exercise of the Option hereunder and Purchaser reaffirms Purchaser's obligations set forth therein.

7. Investment and Taxation Representations. In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser 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 Shares. Purchaser is purchasing the Shares for investment for Purchaser's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act or under any applicable provision of state law. Purchaser does not have any present intention to transfer the Shares to any other person or entity.

(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser's investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities.

(d) Purchaser is familiar with the provisions of Rule 144, promulgated under the Securities Act, which, in substance, permits limited public resale of "restricted securities" acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144, which rule requires, among other things, that the Company be subject to the reporting requirements of the Exchange Act, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods, and under certain circumstances, that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this Section 7(d), Purchaser acknowledges and agrees to the restrictions set forth in Section 7(e) below.

(e) Purchaser further understands that in the event 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; and that, notwithstanding the fact that Rule 144 is not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

(f) Purchaser represents that Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act. Purchaser also agrees to notify the Company if Purchaser becomes subject to such disqualifications after the date hereof.

(g) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser's purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

8. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Any stock certificate or, in the case of uncertificated securities, any notice of issuance, for the Shares shall bear the following legends (as well as any legends required by the Company or applicable state and federal corporate and securities laws):

- "THE SECURITIES REFERENCED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."
- "THE SECURITIES REFERENCED HEREIN 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 AND MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY AT NO CHARGE."
- "THE TRANSFER OF THE SECURITIES REFERENCED HEREIN IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS SET FORTH IN THE COMPANY'S STOCK PLAN, A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS. THE COMPANY SHALL NOT REGISTER OR OTHERWISE RECOGNIZE OR GIVE EFFECT TO ANY PURPORTED TRANSFER OF SECURITIES THAT DOES NOT COMPLY WITH SUCH TRANSFER RESTRICTIONS."

(b) Stop-Transfer Notices. Purchaser 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) Refusal to Transfer. 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.

9. Escrow of Unvested Shares. For purposes of facilitating the enforcement of the provisions of Section 6(a) above, Purchaser agrees to deliver a Stock Power in the form attached to this Agreement as Annex I executed by Purchaser and by Purchaser's spouse (if required for transfer), in blank, and such stock certificate(s), if any, to the Secretary of the Company, or the Secretary's designee, to hold such Shares (and such stock certificate(s), if any) and Stock Power in escrow and

to take all such actions and to effectuate all such transfers and/or releases as are required in accordance with the terms of this Agreement. Purchaser hereby acknowledges that the Secretary of the Company, or the Secretary's designee, is so appointed as the escrow holder with the foregoing authorities as a material inducement to make this Agreement and that said appointment is coupled with an interest and is accordingly irrevocable. Purchaser agrees that said escrow holder shall not be liable to any party hereof (or to any other party). The escrow holder may rely upon any letter, notice or other document executed by any signature purported to be genuine and may resign at any time. Purchaser agrees that if the Secretary of the Company, or the Secretary's designee, resigns as escrow holder for any or no reason, the Board shall have the power to appoint a successor to serve as escrow holder pursuant to the terms of this Agreement.

10. Section 83(b) Election.

(a) Purchaser understands that Section 83(a) of the Code taxes as ordinary income for a Nonstatutory Stock Option and as alternative minimum taxable income for an Incentive Stock Option the difference between the amount paid for the Shares and the Fair Market Value of the Shares as of the date any restrictions on the Shares lapse. In this context, "restriction" means the right of the Company to buy back the Shares pursuant to the Repurchase Option set forth in Section 6(a) of this Agreement. Purchaser understands that Purchaser may elect to be taxed at the time the Shares are purchased, rather than when and as the Repurchase Option expires, by filing an election under Section 83(b) (an "83(b) Election") of the Code with the Internal Revenue Service within 30 days from the date of purchase. Even if the Fair Market Value of the Shares at the time of the execution of this Agreement equals the amount paid for the Shares, the election must be made to avoid income and alternative minimum tax treatment under Section 83(a) in the future. Purchaser understands that failure to file such an election in a timely manner may result in adverse tax consequences for Purchaser. Purchaser further understands that an additional copy of such election form should be filed with his or her federal income tax return for the calendar year in which the date of this Agreement falls. Purchaser acknowledges that the foregoing is only a summary of the effect of United States federal income taxation with respect to purchase of the Shares hereunder, does not purport to be complete, and is not intended or written to be used, and cannot be used, for the purposes of avoiding taxpayer penalties. Purchaser further acknowledges that the Company has directed Purchaser to seek independent advice regarding the applicable provisions of the Code, the income tax laws of any municipality, state or foreign country in which Purchaser may reside, and the tax consequences of Purchaser's death, and Purchaser has consulted, and has been fully advised by, Purchaser's own tax advisor regarding such tax laws and tax consequences or has knowingly chosen not to consult such a tax advisor. Purchaser further acknowledges that neither the Company nor any subsidiary or representative of the Company has made any warranty or representation to Purchaser with respect to the tax consequences of Purchaser's purchase of the Shares or of the making or failure to make an 83(b) Election. PURCHASER (AND NOT THE COMPANY, ITS AGENTS OR ANY OTHER PERSON) SHALL BE SOLELY RESPONSIBLE FOR APPROPRIATELY FILING SUCH FORM WITH THE IRS, EVEN IF PURCHASER REQUESTS THE COMPANY, ITS AGENTS OR ANY OTHER PERSON MAKE THIS FILING ON PURCHASER'S BEHALF.



(b) Purchaser agrees that he or she will execute and deliver to the Company with this executed Agreement a copy of the Acknowledgment and Statement of Decision Regarding Section 83(b) Election (the "Acknowledgment") attached hereto as Annex II. Purchaser further agrees that he or she will execute and submit with the Acknowledgment a copy of the 83(b) Election attached hereto as Annex III (for tax purposes in connection with the early exercise of an option) if Purchaser has indicated in the Acknowledgment his or her decision to make such an election.

11. Waiver of Statutory Information Rights. Purchaser acknowledges and understands that, but for the waiver made herein, Purchaser would be entitled, upon written demand under oath stating the purpose thereof, to inspect for any proper purpose, and to make copies and extracts from, the Company's stock ledger, a list of its stockholders, and its other books and records, and the books and records of subsidiaries of the Company, if any, under the circumstances and in the manner provided in Section 220 of the Delaware General Corporation Law (any and all such rights, and any and all such other rights of Purchaser as may be provided for in Section 220, the "Inspection Rights"). In light of the foregoing, until the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended, Purchaser hereby unconditionally and irrevocably waives the Inspection Rights, whether such Inspection Rights would be exercised or pursued directly or indirectly pursuant to Section 220 or otherwise, and covenants and agrees never to directly or indirectly commence, voluntarily aid in any way, prosecute, assign, transfer, or cause to be commenced any claim, action, cause of action, or other proceeding to pursue or exercise the Inspection Rights. The foregoing waiver applies to the Inspection Rights of Purchaser in Purchaser's capacity as a stockholder and shall not affect any rights of a director, in his or her capacity as such, under Section 220. The foregoing waiver shall not apply to any contractual inspection rights of Purchaser under any written agreement with the Company.
12. Entire Agreement; Governing Law. The Plan and Award Agreement are incorporated herein by reference. This Early Exercise Notice and Restricted Stock Purchase Agreement, the Plan and the Award Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Purchaser with respect to the subject matter hereof, and may not be modified adversely to the Purchaser's interest except by means of a writing signed by the Company and Purchaser. This agreement is governed by the internal substantive laws, but not the choice of law rules, of the State of Delaware.

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Submitted by:

Accepted by:

PURCHASER:

LEXEO THERAPEUTICS, INC.

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Signature

---

By

---

Print Name

---

Title

---

Date Received

ANNEX 1

STOCK POWER

FOR VALUE RECEIVED, the undersigned ("Holder"), hereby sells, assigns and transfers unto \_\_\_\_\_ ("Transferee") \_\_\_\_\_ shares of the Common Stock of Lexeo Therapeutics, Inc., a Delaware corporation (the "Company"), standing in Holder's name on the Company's books as Certificate No. \_\_\_\_ whether held in certificated or uncertificated form, and does hereby irrevocably constitute and appoint \_\_\_\_\_ to transfer said stock on the books of the Company with full power of substitution in the premises.

HOLDER:

SPOUSE OF HOLDER (IF APPLICABLE)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Date:

Date:

This Stock Power may only be used as authorized by the Early Exercise Notice and Restricted Stock Purchase Agreement between the Holder and the Company, dated \_\_\_\_\_ and the exhibits thereto.

Instructions: Please do not fill in any blanks other than the signature line. The purpose of this Stock Power is to enable the Company to exercise its repurchase option set forth in the Agreement without requiring additional signatures on the part of Holder.

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IF YOU WISH TO MAKE A SECTION 83(B) ELECTION, THE FILING OF SUCH ELECTION IS YOUR RESPONSIBILITY.

THE FORM FOR MAKING THIS SECTION 83(B) ELECTION IS ATTACHED TO THIS AGREEMENT.

YOU MUST FILE THIS FORM WITHIN 30 DAYS OF PURCHASING THE SHARES.

YOU (AND NOT THE COMPANY, ANY OF ITS AGENTS OR ANY OTHER PERSON) SHALL BE SOLELY RESPONSIBLE FOR FILING SUCH FORM WITH THE IRS, EVEN IF YOU REQUEST THE COMPANY, ITS AGENTS OR ANY OTHER PERSON TO MAKE THIS FILING ON YOUR BEHALF AND EVEN IF THE COMPANY, ANY OF ITS AGENTS OR ANY OTHER PERSON HAS PREVIOUSLY MADE THIS FILING ON YOUR BEHALF.

The election should be filed by mailing a signed election form by certified mail, return receipt requested to the IRS Service Center where you file your tax returns. See [www.irs.gov](http://www.irs.gov).

ANNEX II

ACKNOWLEDGMENT AND STATEMENT OF DECISION

REGARDING SECTION 83(b) ELECTION

The undersigned has entered into a stock purchase agreement with Lexeo Therapeutics, Inc., a Delaware corporation (the “Company”), pursuant to which the undersigned is purchasing \_\_\_\_\_ shares of Common Stock of the Company (the “Shares”). In connection with the purchase of the Shares, the undersigned hereby represents as follows:

1. The undersigned has carefully reviewed the stock purchase agreement pursuant to which the undersigned is purchasing the Shares.

2. The undersigned either [check and complete as applicable]:

(a) \_\_\_\_ has consulted, and has been fully advised by, the undersigned’s own tax advisor, \_\_\_\_\_, whose business address is \_\_\_\_\_, regarding the federal, state and local tax consequences of purchasing the Shares, and particularly regarding the advisability of making elections pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended (the “Code”) and pursuant to the corresponding provisions, if any, of applicable state law; or

(b) \_\_\_\_ has knowingly chosen not to consult such a tax advisor.

3. The undersigned hereby states that the undersigned has decided [check as applicable]:

(a) \_\_\_\_ to make an election pursuant to Section 83(b) of the Code, and is submitting to the Company, together with the undersigned’s executed stock purchase agreement, an executed form entitled “Election Under Section 83(b) of the Internal Revenue Code of 1986;” or

(b) \_\_\_\_ not to make an election pursuant to Section 83(b) of the Code.

4. Neither the Company nor any subsidiary or representative of the Company has made any warranty or representation to the undersigned with respect to the tax consequences of the undersigned’s purchase of the Shares or of the making or failure to make an election pursuant to Section 83(b) of the Code or the corresponding provisions, if any, of applicable state law.

Dated: \_\_\_\_\_

**PURCHASER:**

\_\_\_\_\_  
(PRINT NAME)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Spouse of Purchaser (if applicable)

ANNEX III

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, to include in taxpayer's gross income or alternative minimum taxable income, as applicable, for the current taxable year, the amount of any income that may be 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 OF TAXPAYER: \_\_\_\_\_

NAME OF SPOUSE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
United States

IDENTIFICATION NO. OF TAXPAYER: \_\_\_\_\_

IDENTIFICATION NO. OF SPOUSE: \_\_\_\_\_

TAXABLE YEAR: \_\_\_\_\_

1. The property with respect to which the election is made is described as follows: \_\_\_\_\_ shares of the Common Stock of Lexeon Therapeutics, Inc., a Delaware corporation (the "Company").

2. The date on which the property was transferred is: \_\_\_\_\_

3. The property is subject to the following restrictions: Repurchase option at cost in favor of the Company upon termination of taxpayer's employment or consulting relationship.

4. 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 such property is: USD \$ \_\_\_\_\_.

5. The amount (if any) paid for such property: USD \$ \_\_\_\_\_.

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: \_\_\_\_\_

**PURCHASER:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Spouse of Purchaser (if applicable)

EXHIBIT C

LEXEO THERAPEUTICS, INC.

2021 EQUITY INCENTIVE PLAN

EXERCISE NOTICE

Lexeo Therapeutics, Inc.

\_\_\_\_\_

Attention: \_\_\_\_\_

1. Exercise of Option. Effective as of today, \_\_\_\_\_, \_\_\_\_\_, the undersigned ("**Purchaser**") hereby elects to purchase, \_\_\_\_\_, shares (the "**Shares**") of the Common Stock of Lexeo Therapeutics, Inc. (the "**Company**") under and pursuant to the 2021 Equity Incentive Plan (the "**Plan**") and the Stock Option Award Agreement dated \_\_\_\_\_, \_\_\_\_\_ (the "**Award Agreement**"). The purchase price for the Shares will be USD \$ \_\_\_\_\_, as required by the Award Agreement.

2. Delivery of Payment. Purchaser herewith delivers to the Company, or otherwise makes adequate arrangements satisfactory to the Company, the full purchase price of the Shares and any Tax-Related Items (as defined in the Agreement) to be paid in connection with the exercise of the Option.

3. Representations of Purchaser. Purchaser acknowledges that Purchaser has received, read and understood the Plan and the Award Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Stockholder. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the Shares, no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares subject to the Option, notwithstanding the exercise of the Option. The Shares so acquired will be issued to Purchaser as soon as practicable after exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date of issuance, except as provided in Section 10 of the Plan.

5. Tax Consultation. Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser's purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted with any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.



6. Limitations on Transfer. Purchaser acknowledges and agrees that the Shares purchased under this Agreement are subject to Section 9 of the Plan, the terms and conditions that apply to the Company's Common Stock, as set forth in the Company's Bylaws, as may be in effect at the time of any proposed transfer (the "Bylaw Provisions"), and any other limitation or restriction on transfer created by Applicable Laws. Purchaser shall not assign, encumber or dispose of any interest in the Shares except to the extent permitted by, and in compliance with, Section 9 of the Plan, the Bylaw Provisions and, Applicable Laws, and the provisions below.

(a) Transfer Restrictions; Right of First Refusal. Before any Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company shall first, to the extent the Company's approval is required by the Plan or any applicable Bylaw Provisions, have the right to approve such sale or transfer, in full or in part, and shall then have the right to purchase all or any part of the Shares proposed to be sold or transferred, in each case, in its sole and absolute discretion (the "Right of First Refusal"). If the Holder would like to sell or transfer any Shares, the Holder must provide the Company or its assignee(s) with a Notice (as defined below) requesting approval to sell or transfer the Shares and offering the Company or its assignee(s) a Right of First Refusal on the same terms and conditions set forth in this Section 6(a). The Company may either (i) exercise its Right of First Refusal in full or in part and purchase such Shares pursuant to this Section 6(a), (ii) decline to exercise its Right of First Refusal in full or in part and permit the transfer of such Shares to the Proposed Transferee (as defined below) in full or in part or (iii) decline to exercise its Right of First Refusal in full or in part and, to the extent the Company's approval is required by the Plan or any applicable Bylaw Provisions, decline the request to sell or transfer the Shares in full or in part.

(i) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (1) the Holder's intention to sell or otherwise transfer such Shares; (2) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (3) the number of Shares to be sold or transferred to each Proposed Transferee; (4) the terms and conditions of each proposed sale or transfer, including (without limitation) the purchase price for such Shares (the "Purchase Price"); and (5) the Holder's offer to the Company or its assignee(s) to purchase the Shares at the Purchase Price and upon the same terms (or terms that are no less favorable to the Company).

(ii) Exercise of Right of First Refusal. At any time within 30 days after receipt of the Notice, the Company and/or its assignee(s) shall deliver a written notice to the Holder indicating whether the Company and/or its assignee(s) elect to permit or reject the proposed sale or transfer, in full or in part, and/or elect to accept or decline the offer to purchase any or all of the Shares proposed to be sold or transferred to any one or more of the Proposed Transferees, at the Purchase Price, provided that if the Purchase Price consists of no legal consideration (as, for example, in the case of a transfer by gift), the purchase price will be the fair market value of the Shares as determined in good faith by the Company. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Company in good faith.

(iii) Payment. Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within 60 days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) Holder's Right to Transfer. If any of the Shares proposed in the Notice to be sold or transferred to a given Proposed Transferee are both (1) not purchased by the Company and/or its assignee(s) as provided in this Section 6(a) and (2) approved by the Company to be sold or transferred, then the Holder may sell or otherwise transfer any such Shares to the applicable Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within 120 days after the date of the Notice; provided that (A) any such sale or other transfer is also effected in accordance with the Bylaw Provisions, the transfer restrictions set forth in the Plan and any Applicable Laws and (B) the Proposed Transferee agrees in writing that the Plan, the Bylaw Provisions and the provisions of the Award Agreement and this Agreement, including this Section 6 shall continue to apply to the Shares in the hands of such Proposed Transferee. The Company, in consultation with its legal counsel, may require the Holder to provide an opinion of counsel evidencing compliance with Applicable Laws. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again have the right to approve such transfer and be offered the Right of First Refusal.

(v) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 6 notwithstanding, the transfer of any or all of the Shares during Holder's lifetime or on Holder's death by will or intestacy to Holder's Immediate Family or a trust for the benefit of Holder or Holder's Immediate Family shall be exempt from the provisions of this Section 6(a). "Immediate Family" as used herein shall mean lineal descendant or antecedent, father, mother, brother or sister (or their descendants), stepchild (or their antecedents or descendants), aunt or uncle (or their antecedents or descendants), brother-in-law or sister-in-law (or their antecedents or descendants) and shall include adoptive relationships, or any person sharing Holder's household (other than a tenant or an employee). In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of the Plan, the Bylaw Provisions and the provisions of the Award Agreement and this Agreement, including this Section 6, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 6, the Plan, and the Bylaw Provisions.

(b) Company's Right to Purchase upon Involuntary Transfer. In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 6(a)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase any or all of the Shares transferred at the Fair Market Value of the Shares on the date of transfer (as determined by the Company in its sole discretion). Upon such a transfer, the Holder shall promptly notify the Secretary of the Company of such transfer and if requested by the Company. The right to purchase such Shares shall be provided to the Company for a period of 30 days following receipt by the Company of written notice from the Holder.

(c) Assignment. The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(d) Restrictions Binding on Transferees. All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the Plan, the Bylaw Provisions, the provisions of the Award Agreement and this Agreement. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

(e) Termination of Rights. The transfer restrictions set forth in Section 6(a) above, the Right of First Refusal granted the Company by Section 6(a) above and the right to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 6(b) above shall terminate upon (i) the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act") (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan) or (ii) any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act. Upon termination of such transfer restrictions, the Company will remove any stop-transfer notices referenced in Section 8(b) below and related to the restrictions in this Section 6 and a new stock certificate or, in the case of uncertificated securities, notice of issuance, for the Shares not repurchased shall be issued, on request, without the legend referred to in Section 8(a) below and delivered to Holder.

(f) Lock-Up Agreement. The lock-up provisions set forth in Section 15 of the Award Agreement shall apply to the Shares issued upon exercise of the Option hereunder and Purchaser reaffirms Purchaser's obligations set forth therein.

7. Investment and Taxation Representations. In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser 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 Shares. Purchaser is purchasing the Shares for investment for Purchaser's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act or under any applicable provision of state law. Purchaser does not have any present intention to transfer the Shares to any other person or entity.

(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser's investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities.

(d) Purchaser is familiar with the provisions of Rule 144, promulgated under the Securities Act, which, in substance, permits limited public resale of “restricted securities” acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144, which rule requires, among other things, that the Company be subject to the reporting requirements of the Exchange Act, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods, and under certain circumstances, that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this Section 7(d), Purchaser acknowledges and agrees to the restrictions set forth in Section 7(e) below.

(e) Purchaser further understands that in the event 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; and that, notwithstanding the fact that Rule 144 is not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

(f) Purchaser represents that Purchaser is not subject to any of the “Bad Actor” disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act. Purchaser also agrees to notify the Company if Purchaser becomes subject to such disqualifications after the date hereof.

(g) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

#### 8. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Any stock certificate or, in the case of uncertificated securities, any notice of issuance, for the Shares shall bear the following legends (as well as any legends required by the Company or applicable state and federal corporate and securities laws):

- “THE SECURITIES REFERENCED HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.”
- “THE SECURITIES REFERENCED HEREIN 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 AND MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY AT NO CHARGE.”

- “THE TRANSFER OF THE SECURITIES REFERENCED HEREIN IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS SET FORTH IN THE COMPANY’S STOCK PLAN, A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS. THE COMPANY SHALL NOT REGISTER OR OTHERWISE RECOGNIZE OR GIVE EFFECT TO ANY PURPORTED TRANSFER OF SECURITIES THAT DOES NOT COMPLY WITH SUCH TRANSFER RESTRICTIONS.”

(b) Stop-Transfer Notices. Purchaser 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) Refusal to Transfer. 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.

9. Waiver of Statutory Information Rights. Purchaser acknowledges and understands that, but for the waiver made herein, Purchaser would be entitled, upon written demand under oath stating the purpose thereof, to inspect for any proper purpose, and to make copies and extracts from, the Company’s stock ledger, a list of its stockholders, and its other books and records, and the books and records of subsidiaries of the Company, if any, under the circumstances and in the manner provided in Section 220 of the Delaware General Corporation Law (any and all such rights, and any and all such other rights of Purchaser as may be provided for in Section 220, the “Inspection Rights”). In light of the foregoing, until the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended, Purchaser hereby unconditionally and irrevocably waives the Inspection Rights, whether such Inspection Rights would be exercised or pursued directly or indirectly pursuant to Section 220 or otherwise, and covenants and agrees never to directly or indirectly commence, voluntarily aid in any way, prosecute, assign, transfer, or cause to be commenced any claim, action, cause of action, or other proceeding to pursue or exercise the Inspection Rights. The foregoing waiver applies to the Inspection Rights of Purchaser in Purchaser’s capacity as a stockholder and shall not affect any rights of a director, in his or her capacity as such, under Section 220. The foregoing waiver shall not apply to any contractual inspection rights of Purchaser under any written agreement with the Company.

10. Entire Agreement; Governing Law. The Plan and Award Agreement are incorporated herein by reference. This Exercise Notice, the Plan and the Award Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Purchaser with respect to the subject matter hereof, and may not be modified adversely to the Purchaser’s interest except by means of a writing signed by the Company and Purchaser. This agreement is governed by the internal substantive laws, but not the choice of law rules, of the State of Delaware.

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Submitted by:

PURCHASER:

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Signature

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Print Name

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Accepted by:

LEXEO THERAPEUTICS, INC.

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By

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Title

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Date Received

LEXEO THERAPEUTICS, INC.  
INDEMNIFICATION AGREEMENT

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This Indemnification Agreement (this “**Agreement**”) is dated as of [\_\_\_\_], 20[\_\_\_], and is between Lexeo Therapeutics, Inc., a Delaware corporation (the “**Company**”), and [insert name of indemnitee] (“**Indemnitee**”).

**RECITALS**

**A.** Indemnitee’s service to the Company substantially benefits the Company.

**B.** Individuals are reluctant to serve as directors or officers of corporations or in certain other capacities unless they are provided with adequate protection through insurance or indemnification against the risks of claims and actions against them arising out of such service.

**C.** Indemnitee does not regard the protection currently provided by applicable law, the Company’s governing documents and any insurance as adequate under the present circumstances, and Indemnitee may not be willing to serve as a director or officer without additional protection.

**D.** In order to induce Indemnitee to continue to provide services to the Company, it is reasonable, prudent and necessary for the Company to contractually obligate itself to indemnify, and to advance expenses on behalf of, Indemnitee as permitted by applicable law.

**E.** This Agreement is a supplement to and in furtherance of the indemnification provided in the Company’s certificate of incorporation and bylaws, and any resolutions adopted pursuant thereto, and this Agreement shall not be deemed a substitute therefor, nor shall this Agreement be deemed to limit, diminish or abrogate any rights of Indemnitee thereunder.

The parties therefore agree as follows:

**1. Definitions.**

(a) A “**Change in Control**” shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) *Acquisition of Stock by Third Party.* Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the Company’s then outstanding securities;

(ii) *Change in Board Composition.* During any period of two consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Company's board of directors, and any new directors (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 1(a)(i), 1(a)(iii) or 1(a)(iv)) whose election by the board of directors or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Company's board of directors;

(iii) *Corporate Transactions.* The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

(iv) *Liquidation.* The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) *Other Events.* Any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended, whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 1(a), the following terms shall have the following meanings:

(1) "**Person**" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended; *provided, however,* that "**Person**" shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(2) "**Beneficial Owner**" shall have the meaning given to such term in Rule 13d-3 under the Securities Exchange Act of 1934, as amended; *provided, however,* that "**Beneficial Owner**" shall exclude any Person otherwise becoming a Beneficial Owner by reason of (i) the stockholders of the Company approving a merger of the Company with another entity or (ii) the Company's board of directors approving a sale of securities by the Company to such Person.

(b) "**Corporate Status**" describes the status of a person who is or was a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise.

(c) "**DGCL**" means the General Corporation Law of the State of Delaware.



(d) “**Disinterested Director**” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) “**Enterprise**” means the Company and any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary.

(f) “**Expenses**” include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees and costs of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedes bond or other appeal bond or their equivalent, and (ii) for purposes of Section 12(d), Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement or under any directors’ and officers’ liability insurance policies maintained by the Company. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) “**Independent Counsel**” means a law firm, or a partner or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than as Independent Counsel with respect to matters concerning Indemnitee under this Agreement, or other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “**Independent Counsel**” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(h) “**Proceeding**” means any threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative or investigative nature, including any appeal therefrom and including without limitation any such Proceeding pending as of the date of this Agreement, in which Indemnitee was, is or will be involved as a party, a potential party, a non-party witness or otherwise by reason of (i) the fact that Indemnitee is or was a director or officer of the Company, (ii) any action taken by Indemnitee or any action or inaction on Indemnitee’s part while acting as a director or officer of the Company, or (iii) the fact that he or she is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification or advancement of expenses can be provided under this Agreement.

(i) Reference to “*other enterprises*” shall include employee benefit plans; references to “*fin*es” shall include any excise taxes assessed on a person with respect to any employee benefit plan; references to “*serv*ing at the request of the Company” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “*not opposed to the best interests of the Company*” as referred to in this Agreement.

**2. Indemnity in Third-Party Proceedings.** The Company shall indemnify Indemnitee in accordance with the provisions of this Section 2 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 2, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

**3. Indemnity in Proceedings by or in the Right of the Company.** The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee’s behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 3 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification for such expenses as the Delaware Court of Chancery or such other court shall deem proper.

**4. Indemnification for Expenses of a Party Who is Wholly or Partly Successful.** To the extent that Indemnitee is a party to or a participant in and is successful (on the merits or otherwise) in defense of any Proceeding or any claim, issue or matter therein, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee’s behalf in connection therewith. To the extent permitted by applicable law, if Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, in defense of one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee’s behalf in connection with (a) each successfully resolved claim, issue or matter and (b) any claim, issue or matter related to any such successfully resolved claim, issue or matter. For purposes of this section, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

**5. Indemnification for Expenses of a Witness.** To the extent that Indemnitee is, by reason of his or her Corporate Status, a witness in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified to the extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

**6. Additional Indemnification.**

(a) Notwithstanding any limitation in Sections 2, 3 or 4, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with the Proceeding or any claim, issue or matter therein.

(b) For purposes of Section 6(a), the meaning of the phrase "**to the fullest extent permitted by applicable law**" shall include, but not be limited to:

(i) the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL; and

(ii) the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

**7. Exclusions.** Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any Proceeding (or any part of any Proceeding):

(a) for which payment has actually been made to or on behalf of Indemnitee under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(b) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if Indemnitee is held liable therefor (including pursuant to any settlement arrangements);

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "**Sarbanes-Oxley Act**"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act), if Indemnitee is held liable therefor (including pursuant to any settlement arrangements);

(d) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees, agents or other indemnitees, unless (i) the Company's board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (iii) otherwise authorized in Section 12(d) or (iv) otherwise required by applicable law; or

(e) if prohibited by applicable law.

**8. Advances of Expenses.** The Company shall advance the Expenses incurred by Indemnitee in connection with any Proceeding, and such advancement shall be made as soon as reasonably practicable, but in any event no later than 60 days, after the receipt by the Company of a written statement or statements requesting such advances from time to time (which shall include invoices received by Indemnitee in connection with such Expenses but, in the case of invoices in connection with legal services, any references to legal work performed or to expenditure made that would cause Indemnitee to waive any privilege accorded by applicable law shall not be included with the invoice). Advances shall be unsecured and interest free and made without regard to Indemnitee's ability to repay such advances. Indemnitee hereby undertakes to repay any advance to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. This Section 8 shall not apply to the extent advancement is prohibited by law and shall not apply to any Proceeding for which indemnity is not permitted under this Agreement, but shall apply to any Proceeding referenced in Section 7(b) or 7(c) prior to a determination that Indemnitee is not entitled to be indemnified by the Company.

**9. Procedures for Notification and Defense of Claim.**

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses as soon as reasonably practicable following the receipt by Indemnitee of notice thereof. The written notification to the Company shall include, in reasonable detail, a description of the nature of the Proceeding and the facts underlying the Proceeding. The failure by Indemnitee to notify the Company will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights, except to the extent that such failure or delay materially prejudices the Company.

(b) If, at the time of the receipt of a notice of a Proceeding pursuant to the terms hereof, the Company has directors' and officers' liability insurance in effect, the Company shall give prompt notice of the commencement of the Proceeding to the insurers in accordance with the procedures set forth in the applicable policies. The Company shall thereafter take all commercially-reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event the Company may be obligated to make any indemnity in connection with a Proceeding, the Company shall be entitled to assume the defense of such Proceeding with counsel approved by Indemnitee, which approval shall not be unreasonably withheld, upon the delivery to Indemnitee of written notice of its election to do so. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee for any fees or expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. Notwithstanding the Company's assumption of the defense of any such Proceeding, the Company shall be obligated to pay the fees and expenses of Indemnitee's counsel to the extent (i) the employment of counsel by Indemnitee is authorized by the Company, (ii) counsel for the Company or Indemnitee shall have reasonably concluded that there is a conflict of interest between the Company and Indemnitee in the conduct of any such defense such that Indemnitee needs to be separately represented, (iii) the fees and expenses are non-duplicative and reasonably incurred in connection with Indemnitee's role in the Proceeding despite the Company's assumption of the defense, (iv) the Company is not financially or legally able to perform its indemnification obligations or (v) the Company shall not have retained, or shall not continue to retain, such counsel to defend such Proceeding. The Company shall have the right to conduct such defense as it sees fit in its sole discretion. Regardless of any provision in this Agreement, Indemnitee shall have the right to employ counsel in any Proceeding at Indemnitee's personal expense. The Company shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Company.

(d) Indemnitee shall give the Company such information and cooperation in connection with the Proceeding as may be reasonably appropriate.

(e) The Company shall not be liable to indemnify Indemnitee for any settlement of any Proceeding (or any part thereof) without the Company's prior written consent, which shall not be unreasonably withheld.

(f) The Company shall not settle any Proceeding (or any part thereof) without Indemnitee's prior written consent, which shall not be unreasonably withheld.

#### **10. Procedures upon Application for Indemnification.**

(a) To obtain indemnification, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and as is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Proceeding. The Company shall, as soon as reasonably practicable after receipt of such a request for indemnification, advise the board of directors that Indemnitee has requested indemnification. Any delay in providing the request will not relieve the Company from its obligations under this Agreement, except to the extent such failure is prejudicial.

(b) Upon written request by Indemnitee for indemnification pursuant to Section 10(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Company's board of directors, a copy of which shall be delivered to Indemnitee or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's board of directors, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's board of directors, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Company's board of directors, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Company's board of directors, by the stockholders of the Company. If it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making the determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information that is not privileged or otherwise protected from disclosure and that is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) reasonably incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company, to the extent permitted by applicable law.

(c) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 10(b), the Independent Counsel shall be selected as provided in this Section 10(c). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Company's board of directors, and the Company shall give written notice to Indemnitee advising him or her of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Company's board of directors, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; *provided, however*, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 1 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after the later of (i) submission by Indemnitee of a written request for indemnification pursuant to Section 10(a) hereof and (ii) the final disposition of the Proceeding, the parties have not agreed upon an Independent Counsel, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and for the appointment as Independent Counsel of a person selected by the court or by such other person as the court

shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 10(b) hereof. Upon the due commencement of any judicial proceeding pursuant to Section 12(a) of this Agreement, the Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(d) The Company agrees to pay the reasonable fees and expenses of any Independent Counsel and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

#### **11. Presumptions and Effect of Certain Proceedings.**

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption in connection with the making by such person, persons or entity of any determination contrary to that presumption.

(b) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

(c) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith to the extent Indemnitee relied in good faith on (i) the records or books of account of the Enterprise, including financial statements, (ii) information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, (iii) the advice of legal counsel for the Enterprise or its board of directors or counsel selected by any committee of the board of directors or (iv) information or records given or reports made to the Enterprise by an independent certified public accountant, an appraiser, investment banker or other expert selected with reasonable care by the Enterprise or its board of directors or any committee of the board of directors. The provisions of this Section 11(c) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(d) Neither the knowledge, actions nor failure to act of any other director, officer, agent or employee of the Enterprise shall be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

## 12. Remedies of Indemnitee.

(a) Subject to Section 12(e), in the event that (i) a determination is made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 8 or 12(d) of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10 of this Agreement within 90 days after the later of the receipt by the Company of the request for indemnification or the final disposition of the Proceeding, (iv) payment of indemnification pursuant to this Agreement is not made (A) within ten days after a determination has been made that Indemnitee is entitled to indemnification or (B) with respect to indemnification pursuant to Sections 4, 5 and 12(d) of this Agreement, within 30 days after receipt by the Company of a written request therefor, or (v) the Company or any other person or entity takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, Indemnitee the benefits provided or intended to be provided to Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of Expenses. The Company shall not oppose Indemnitee's right to seek any such adjudication in accordance with this Agreement.

(b) Neither (i) the failure of the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor (ii) an actual determination by the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders that Indemnitee has not met the applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has or has not met the applicable standard of conduct. In the event that a determination shall have been made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 12 shall be conducted in all respects as a *de novo* trial, on the merits, and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding commenced pursuant to this Section 12, the Company shall, to the fullest extent not prohibited by law, have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) To the fullest extent not prohibited by law, the Company shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement. If a determination shall have been made pursuant to Section 10 of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 12, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statements not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.



(d) To the extent not prohibited by law, the Company shall indemnify Indemnitee against all Expenses that are incurred by Indemnitee in connection with any action for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company to the extent Indemnitee is successful in such action, and, if requested by Indemnitee, shall (as soon as reasonably practicable, but in any event no later than 60 days, after receipt by the Company of a written request therefor) advance such Expenses to Indemnitee, subject to the provisions of Section 8.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification shall be required to be made prior to the final disposition of the Proceeding.

**13. Contribution.** To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amounts incurred by Indemnitee, whether for Expenses, judgments, fines or amounts paid or to be paid in settlement, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the events and transactions giving rise to such Proceeding; and (ii) the relative fault of Indemnitee and the Company (and its other directors, officers, employees and agents) in connection with such events and transactions.

**14. Non-exclusivity.** The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Company's certificate of incorporation or bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Company's certificate of incorporation and bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change, subject to the restrictions expressly set forth herein or therein. Except as expressly set forth herein, no right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. Except as expressly set forth herein, the assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

**15. Primary Responsibility.** The Company acknowledges that to the extent Indemnitee is serving as a director on the Company's board of directors at the request or direction of a venture capital fund or other entity and/or certain of its affiliates (collectively, the "Secondary Indemnitors"), Indemnitee may have certain rights to indemnification and advancement of expenses provided by such Secondary Indemnitors. The Company agrees that, as between the Company and the Secondary Indemnitors, the Company is primarily responsible for amounts required to be indemnified or advanced under the Company's certificate of incorporation or bylaws or this Agreement and any obligation of the Secondary Indemnitors to provide indemnification or advancement for the same amounts is secondary to those Company

obligations. To the extent not in contravention of any insurance policy or policies providing liability or other insurance for the Company or any director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, the Company waives any right of contribution or subrogation against the Secondary Indemnitors with respect to the liabilities for which the Company is primarily responsible under this Section 15. In the event of any payment by the Secondary Indemnitors of amounts otherwise required to be indemnified or advanced by the Company under the Company's certificate of incorporation or bylaws or this Agreement, the Secondary Indemnitors shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee for indemnification or advancement of expenses under the Company's certificate of incorporation or bylaws or this Agreement or, to the extent such subrogation is unavailable and contribution is found to be the applicable remedy, shall have a right of contribution with respect to the amounts paid. The Secondary Indemnitors are express third-party beneficiaries of the terms of this Section 15.

**16. No Duplication of Payments.** The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder (or for which advancement is provided hereunder) if and to the extent that Indemnitee has otherwise actually received payment for such amounts under any insurance policy, contract, agreement or otherwise.

**17. Insurance.** To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, trustees, general partners, managing members, officers, employees, agents or fiduciaries of the Company or any other Enterprise, Indemnitee shall be covered by such policy or policies to the same extent as the most favorably-insured persons under such policy or policies in a comparable position.

**18. Subrogation.** In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

**19. Services to the Company.** Indemnitee agrees to serve as a director or officer of the Company or, at the request of the Company, as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of another Enterprise, for so long as Indemnitee is duly elected or appointed or until Indemnitee tenders his or her resignation or is removed from such position. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that any employment with the Company (or any of its subsidiaries or any Enterprise) is at will, and Indemnitee may be discharged at any time for any reason, with or without cause, with or without notice, except as may be otherwise expressly provided in any executed, written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), any existing formal severance policies adopted by the Company's board of directors or, with respect to service as a director or officer of the Company, the Company's certificate of incorporation or bylaws or the DGCL. No such document shall be subject to any oral modification thereof.

**20. Duration.** This Agreement shall continue until and terminate upon the later of (a) ten years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company or as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of any other Enterprise, as applicable; or (b) one year after the final termination of any Proceeding, including any appeal, then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement relating thereto.

**21. Successors.** This Agreement shall be binding upon the Company and its successors and assigns, including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company, and shall inure to the benefit of Indemnitee and Indemnitee's heirs, executors and administrators.

**22. Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order or other applicable law, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (ii) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (iii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

**23. Enforcement.** The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

**24. Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; *provided, however*, that this Agreement is a supplement to and in furtherance of the Company's certificate of incorporation and bylaws and applicable law.

**25. Modification and Waiver.** No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties hereto. No amendment, alteration or repeal of this Agreement shall adversely affect any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. No waiver of any of the provisions of this Agreement shall constitute or be deemed a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver.

**26. Notices.** All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail or otherwise delivered by hand, messenger or courier service addressed:

(a) if to Indemnitee, to Indemnitee's address, facsimile number or electronic mail address set forth below Indemnitee signature hereto; or

(b) if to the Company, to the attention of the Chief Executive Officer of the Company at Lexeo Therapeutics, Inc., 345 Park Avenue South, Sixth Floor, New York, New York 10016, or at such other current address as the Company shall have furnished to Indemnitee, with a copy (which shall not constitute notice) to Eric Blanchard, Cooley LLP, 55 Hudson Yards, New York, NY 10001.

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered (or if sent *via* a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day delivery, one business day after deposit with the courier), or (ii) if sent *via* mail, at the earlier of its receipt or five days after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid, or (iii) if sent *via* facsimile, upon confirmation of facsimile transfer or, if sent *via* electronic mail, upon confirmation of delivery when directed to the relevant electronic mail address, if sent during normal business hours of the recipient, or if not sent during normal business hours of the recipient, then on the recipient's next business day.

**27. Applicable Law and Consent to Jurisdiction.** This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 12(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court of Chancery, and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court of Chancery for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, Capitol Services, Inc., Dover, Delaware as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court of Chancery, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court of Chancery has been brought in an improper or inconvenient forum.

**28. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. This Agreement may also be executed and delivered by facsimile signature and in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

**29. Captions.** The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

*(signature page follows)*

The parties are signing this Indemnification Agreement as of the date stated in the introductory sentence.

**LEXEO THERAPEUTICS, INC.**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print name)*

\_\_\_\_\_  
*(Title)*

**[INSERT INDEMNITEE NAME]**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print name)*

\_\_\_\_\_  
*(Street address)*

\_\_\_\_\_  
*(City, State and ZIP)*

*(Signature page to Indemnification Agreement)*

**EMPLOYMENT AGREEMENT**  
**for**  
**R. NOLAN TOWNSEND**

This Employment Agreement (the “**Agreement**”) is made between Lexeo Therapeutics, Inc. (the “**Company**”) and R. Nolan Townsend (the “**Executive**”) (collectively, the “**Parties**”).

**WHEREAS**, the Company desires for Executive to provide services to the Company, and wishes to provide Executive with certain compensation and benefits in return for such employment services; and

**WHEREAS**, Executive wishes to be employed by the Company and to provide personal services to the Company in return for certain compensation and benefits;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**1. Employment by the Company.**

**1.1 Position.** On or about January 1, 2020, Executive commenced employment with the Company as the Company’s Chief Executive Officer. The Company intends for the Executive to continue serving as the Company’s Chief Executive Officer on the terms and conditions set forth in this Agreement, which shall take effect on October 1, 2023. During the term of Executive’s employment with the Company, Executive will devote Executive’s best efforts and substantially all of Executive’s business time and attention to the business of the Company, except for approved time off permitted by the Company’s general employment policies.

**1.2 Duties and Location.** Executive shall perform such duties incident to the position(s) held by Executive, including without limitation such duties and responsibilities as may be assigned to Executive by the Board of Directors (the “**Board**”), to whom Executive will report. Executive’s principal place of employment shall be the Company’s New York City office, but Executive will be permitted to work remotely from home or from other business locations relevant to the execution of his duties and responsibilities. The Company may modify Executive’s job title and duties as it deems necessary and appropriate in light of the Company’s needs and interests from time to time.

**1.3 Policies and Procedures.** The employment relationship between the Parties shall be governed by the general employment policies and practices of the Company, except that when the terms of this Agreement differ from or are in conflict with the Company’s general employment policies or practices, this Agreement shall control.

**1.4 Indemnification.** The Executive shall be provided indemnification coverage under the Company’s D&O liability insurance policies to the same extent as directors and other executive officers of the Company.

## 2. Compensation.

**2.1 Salary.** For services to be rendered hereunder, Executive shall receive a base salary at the rate of **Five Hundred Seventy-Five Thousand Dollars (\$575,000)** per year (the “**Base Salary**”), subject to standard payroll deductions and withholdings and payable in accordance with the Company’s regular payroll schedule. The Base Salary is subject to periodic review and modification by the Board (or the Compensation Committee of the Board), from time to time, at its sole discretion.

**2.2 Annual Cash Bonus.** Executive will be eligible for an annual discretionary cash bonus of up to **Fifty-Five Percent (55%)** of Executive’s Base Salary (the “**Annual Bonus**”). Whether Executive receives an Annual Bonus for any given year, and the amount of any such Annual Bonus, will be determined by the Board (or the Compensation Committee of the Board) in its sole discretion based upon the Company’s performance and Executive’s achievement of individual objectives and milestones to be determined on an annual basis. Any Annual Bonus that is awarded will be paid within the first ninety (90) days of the calendar year following the applicable bonus year. Executive will not be eligible for, and will not earn, any Annual Bonus if Executive’s employment terminates for any reason, or if Executive or the Company has given notice of the termination of Executive’s employment, before the payment date.

**3. Standard Company Benefits.** Executive shall be entitled to participate in all employee benefit programs for which Executive is eligible under the terms and conditions of the benefit plans that may be in effect from time to time and provided by the Company to its employees, subject to the eligibility criteria, rules, plan provisions and regulations applicable to such plans, except to the extent that participation in such plans or programs would result in duplication of benefits provided hereunder. The Company reserves the right to cancel or change the benefit plans or programs it offers to its employees at any time, in its sole discretion.

**4. Expenses.** The Company will reimburse Executive for reasonable travel, entertainment or other expenses incurred by Executive in furtherance or in connection with the performance of Executive’s duties hereunder, subject to, and in accordance with, the Company’s expense reimbursement policy as in effect from time to time.

## 5. Termination of Employment; Severance

**5.1 At-Will Employment.** Executive’s employment relationship is at-will. Either Executive or the Company may terminate the employment relationship at any time, with or without cause or advance notice.



**5.2 Termination Based on Death or Disability.** In the event of the Executive's death, the Executive's employment with the Company shall terminate automatically. The Company, in its discretion, shall have the right to terminate the Executive's employment because of the Executive's Disability during the Employment Period, subject to applicable law. For purposes of this Agreement, "Disability" means that the Executive has been unable, for 60 consecutive days, or for any period aggregating 90 business days in any consecutive 180 day period, as the case may be, to perform a substantial portion of the Executive's duties under this Agreement, as a result of physical or mental impairment, illness or injury, as determined by a medical doctor reasonably selected by the Company and approved by the Executive, such approval not to be unreasonably withheld, delayed or conditioned. Such determination shall be deemed to be conclusive for all purposes of this Section 5.2. In connection with the foregoing, the Executive shall cooperate with such medical doctor, including without limitation, by submitting to such medical tests and examinations as may be requested by the medical doctor. A termination of the Executive's employment by the Company for Disability shall be communicated to the Executive by written notice upon the expiration of the applicable period and shall be effective on the 30<sup>th</sup> day after receipt of such notice by the Executive (the "Disability Effective Date"), unless the Executive returns to satisfactory full-time performance of the Executive's previous duties before the Disability Effective Date. In the event the Executive's employment is terminated due to death or Disability, the Company shall have no further obligations to the Executive hereunder, except the Company shall pay to the Executive (or, in the event of death, to the Executive's estate) any (i) Base Salary earned or payable but unpaid to the Executive through the Date of Termination, (ii) reimbursable business expenses incurred but unpaid through the Date of Termination (subject to Company's applicable expense policies, including submission of all required documentation), (iii) any Annual Bonus earned in the calendar year immediately preceding the calendar year of the Date of Termination to the extent that such Annual Bonus is unpaid as of the Date of Termination, to be paid at the same time as if no such termination occurred, (iv) payment for any accrued by unused vacation time from the year of the Date of Termination, and (v) any other amounts or benefits required by applicable law.

**5.3 Termination Without Cause; Resignation for Good Reason.**

(i) The Company may terminate Executive's employment with the Company at any time without Cause (as defined below). Further, Executive may resign at any time for Good Reason (as defined below).

(ii) In the event Executive's employment with the Company is terminated by the Company without Cause, or Executive resigns for Good Reason, then provided such termination constitutes a "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h), without regard to any alternative definition thereunder, a "**Separation from Service**"), and provided that Executive remains in compliance with the terms of this Agreement, the Company shall provide Executive with the following severance benefits:

(a) The Company shall pay Executive, as severance, fifteen (15) months of Executive's base salary in effect as of the date of Executive's employment termination, subject to standard payroll deductions and withholdings (the "**Severance**"). The Severance will be paid in a single lump sum on or about the Company's first regular payroll date following the 60<sup>th</sup> day after Executive's Separation from Service.

(b) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**COBRA Premiums**") through the period (the "**COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (i) fifteen (15) months following Executive's Separation from Service; (ii) the date Executive becomes eligible for group health insurance coverage through a new employer; or (iii) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**Special Cash Payment**"), for the remainder of the COBRA Premium Period. Executive may, but is not obligated to, use such Special Cash Payments toward the cost of COBRA premiums.

#### **5.4 Termination for Cause; Resignation Without Good Reason; Death or Disability.**

(i) The Company may terminate Executive's employment with the Company at any time for Cause. Further, Executive may resign at any time without Good Reason. Executive's employment with the Company may also be terminated due to Executive's death or disability.

(ii) If Executive resigns without Good Reason, or the Company terminates Executive's employment for Cause, or upon Executive's death or disability, then (i) Executive will no longer vest in the Option and any other stock options held by the Executive, (ii) all payments of compensation by the Company to Executive hereunder will terminate immediately (except as to amounts already earned), and (c) Executive will not be entitled to any severance benefits, including (without limitation) the Severance, COBRA Premiums, Special Cash Payments, unless required by law.

**5.5 Termination in Connection with Change in Control.** If the Company terminates Executive's employment no more than three (3) months prior to a Change in Control (as defined herein) or within twelve (12) months after a Change in Control, Executive shall be entitled to receive the following severance benefit:

(i) The Company shall pay Executive, as severance, eighteen (18) months of Executive's base salary in effect as of the date of Executive's employment termination, subject to standard payroll deductions and withholdings (the "CIC Severance"). The CIC Severance will be paid in equal installments on the Company's regular payroll schedule over the eighteen (18) month period following Executive's Separation from Service; provided, however, that no payments will be made prior to the 60th day following Executive's Separation from Service. On the 60th day following Executive's Separation from Service, the Company will pay Executive in a lump sum the Severance that Executive would have received on or prior to such date under the standard payroll schedule but for the delay while waiting for the 60th day in compliance with Code Section 409A, with the balance of the Severance being paid as originally scheduled.

(ii) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**CIC COBRA Premiums**") through the period (the "**CIC COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (a) eighteen (18) months following Executive's Separation from Service; (b) the date Executive becomes eligible for group health insurance coverage through a new employer; or (c) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the CIC COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the CIC COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**CIC Special Cash Payment**"), for the remainder of the CIC COBRA Premium Period. Executive may, but is not obligated to, use such CIC Special Cash Payments toward the cost of COBRA premiums.

(iii) The Company shall pay Executive, as further severance, a lump sum amount equal to one and a half times his full bonus target for the calendar year in which the Change in Control occurs (the "**CIC Bonus Payment**"), to be paid no later than thirty (30) days following Executive's Separation from Service.

(iv) The Company shall accelerate the vesting of any shares, options, or other equity grants then unvested and outstanding as of the Executive's Separation from Service, such that Executive will thereafter be 100% vested in any shares, options, or other equity grants awarded by the Company to Executive during Executive's employment with the Company (the "Vesting Acceleration").

**6. Conditions to Receipt of Severance, COBRA Premiums, and Special Cash Payments.** The receipt of the Severance, CIC Severance, COBRA Premiums, CIC COBRA Premiums, Special Cash Payments, CIC Special Cash Payments, CIC Bonus Payment, and Vesting Acceleration (collectively, the “**Severance Benefits**”) will be subject to Executive signing and not revoking a separation agreement and release of claims in a form satisfactory to the Company (the “**Separation Agreement**”) within a time period specified by the Company, in its sole discretion. No Severance Benefits will be paid or provided until the Separation Agreement becomes effective. Executive shall also resign from all positions and terminate any relationships as an employee, advisor, officer or director with the Company and any of its affiliates, each effective on the date of termination.

**7. Section 409A.** It is intended that all of the severance benefits and other payments payable under this Agreement satisfy, to the greatest extent possible, the exemptions from the application of Code Section 409A provided under Treasury Regulations 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9), and this Agreement will be construed to the greatest extent possible as consistent with those provisions, and to the extent not so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A. For purposes of Code Section 409A (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii)), Executive’s right to receive any installment payments under this Agreement (whether severance payments, reimbursements or otherwise) shall be treated as a right to receive a series of separate payments and, accordingly, each installment payment hereunder shall at all times be considered a separate and distinct payment. Notwithstanding any provision to the contrary in this Agreement, if Executive is deemed by the Company at the time of Executive’s Separation from Service to be a “specified employee” for purposes of Code Section 409A(a)(2)(B)(i), and if any of the payments upon Separation from Service set forth herein and/or under any other agreement with the Company are deemed to be “deferred compensation”, then to the extent delayed commencement of any portion of such payments is required in order to avoid a prohibited distribution under Code Section 409A(a)(2)(B)(i) and the related adverse taxation under Section 409A, such payments shall not be provided to Executive prior to the earliest of (i) the expiration of the six-month period measured from the date of Executive’s Separation from Service with the Company, (ii) the date of Executive’s death or (iii) such earlier date as permitted under Section 409A without the imposition of adverse taxation. Upon the first business day following the expiration of such applicable Code Section 409A(a)(2)(B)(i) period, all payments deferred pursuant to this Paragraph shall be paid in a lump sum to Executive, and any remaining payments due shall be paid as otherwise provided herein or in the applicable agreement. No interest shall be due on any amounts so deferred.

## 8. Definitions.

**(i) Cause.** For purposes of this Agreement, “Cause” for termination will mean: (a) Executive’s conviction for, or entry of a guilty plea or plea of nolo contendere for, any felony or crime involving dishonesty; (b) Executive’s participation in any fraud against the Company; (c) material breach of Executive’s duties to the Company; (d) persistent unsatisfactory performance of Executive’s job duties after written notice from the Board and a reasonable opportunity to cure (if deemed curable); (e) Executive’s intentional damage to any property of the Company; (f) Executive’s intentional violation of Company policy that causes harm to the Company’s reputation or prospects; (g) Executive’s material breach of any written agreement with the Company; and (h) conduct by Executive involving moral turpitude, corruption, dishonesty, or other conduct that harms the Company’s reputation or prospects.

**(ii) Good Reason.** For purposes of this Agreement, Executive shall have “Good Reason” for resignation from employment with the Company if any of the following actions are taken by the Company without Executive’s prior written consent: (a) a material reduction in Executive’s base salary, which the parties agree is a reduction of at least 10% of Executive’s base salary (unless pursuant to a salary reduction program applicable generally to the Company’s similarly situated executive employees); (b) a material reduction in Executive’s duties (including responsibilities and/or authorities), *provided, however*, that a change in job position shall not be deemed a “material reduction” in and of itself unless Executive’s new duties are materially reduced from the prior duties; or (c) relocation of Executive’s principal place of employment to a place that increases Executive’s one-way commute by more than sixty (60) miles as compared to Executive’s then-current principal place of employment immediately prior to such relocation. In order to resign for Good Reason, Executive must provide written notice to the Board within 30 days after the first occurrence of the event giving rise to Good Reason setting forth the basis for Executive’s resignation, allow the Company at least 30 days from receipt of such written notice to cure such event, and if such event is not reasonably cured within such period, Executive must resign from all positions Executive then holds with the Company not later than 90 days after the expiration of the cure period.

**(iii) Change in Control.** For purposes of this Agreement, “Change in Control” shall have the meaning set forth in the Lexeo Therapeutics, Inc. 2023 Equity Incentive Plan.

## 9. Proprietary Information Obligations.

**9.1 Confidential Information Agreement.** As a condition of employment, Executive shall execute and abide by the Company’s standard form of Employee Confidential Information And Inventions Assignment Agreement (the “Confidentiality Agreement”).

**9.2 Third-Party Agreements and Information.** Executive represents and warrants that Executive’s employment by the Company does not conflict with any prior employment or consulting agreement or other agreement with any third party, and that Executive will perform Executive’s duties to the Company without violating any such agreement. Executive represents and warrants that Executive does not possess confidential information arising out of prior employment, consulting, or other third party relationships,

that would be used in connection with Executive's employment by the Company, except as expressly authorized by that third party. During Executive's employment by the Company, Executive will use in the performance of Executive's duties only information which is generally known and used by persons with training and experience comparable to Executive's own, common knowledge in the industry, otherwise legally in the public domain, or obtained or developed by the Company or by Executive in the course of Executive's work for the Company. Executive expressly acknowledges that he will not use any confidential or proprietary information of a third-party in connection with the performance of his duties to the Company.

## **10. Outside Activities During Employment.**

**10.1 Non-Company Business.** Except with the prior written consent of the Board, Executive will not during the term of Executive's employment with the Company undertake or engage in any other employment, occupation or business enterprise, other than ones in which Executive is a passive investor. In any event, Executive may: (i) engage in civic and not-for-profit activities; (ii) engage in activities in connection with personal investments; (iii) serve, following receiving consent from the Board (which shall not unreasonably be withheld), on board of directors positions for up to two (2) corporations, and (iv) serve as an advisor, or as a member of an advisory board, following receiving consent from the Board (which shall not unreasonably be withheld), on up to two (2) organizations; so long as such activities do not materially interfere with the performance of Executive's duties hereunder.

**10.2 No Adverse Interests.** Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known to be adverse or antagonistic to the Company, its business or prospects, financial or otherwise. This does not prohibit the Executive from purchasing any publicly listed securities or funds which hold publicly listed securities.

**11. Dispute Resolution.** To ensure the timely and economical resolution of disputes that may arise in connection with Executive's employment with the Company, Executive and the Company agree that any and all disputes, claims, or causes of action arising from or relating to the enforcement, breach, performance, negotiation, execution, or interpretation of this Agreement, the Confidential Information Agreement, or Executive's employment, or the termination of Executive's employment, including but not limited to all statutory claims, with the exception of discrimination and harassment claims, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §1-16 (the "FAA"), and to the fullest extent permitted by law, by final, binding and confidential arbitration by a single arbitrator conducted in New York, New York by Judicial Arbitration and Mediation Services Inc. ("JAMS") under the then applicable JAMS rules appropriate to the relief being sought (the applicable rules are available at the following web addresses: (i) <https://www.jamsadr.com/rules-employment-arbitration/> and (ii) <https://www.jamsadr.com/rules-comprehensive-arbitration/>); provided, however, this arbitration provision not apply to any action or claim that cannot be subject to mandatory

arbitration as a matter of law, including, without limitation, claims involving allegations of sexual harassment and discrimination, to the extent such claims are not permitted by applicable law(s) to be submitted to mandatory arbitration and the applicable law(s) are not preempted by the FAA or otherwise invalid (collectively, the “**Excluded Claims**”). A hard copy of the rules will be provided to Executive upon request. A hard copy of the rules will be provided to Executive upon request. **By agreeing to this arbitration procedure, both Executive and the Company waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.** In addition, all claims, disputes, or causes of action under this section, whether by Executive or the Company, must be brought in an individual capacity, and shall not be brought as a plaintiff (or claimant) or class member in any purported class or representative proceeding, nor joined or consolidated with the claims of any other person or entity. The Arbitrator may not consolidate the claims of more than one person or entity, and may not preside over any form of representative or class proceeding. To the extent that the preceding sentences regarding class claims or proceedings are found to violate applicable law or are otherwise found unenforceable, any claim(s) alleged or brought on behalf of a class shall proceed in a court of law rather than by arbitration. The Company acknowledges that Executive will have the right to be represented by legal counsel at any arbitration proceeding. Questions of whether a claim is subject to arbitration under this Agreement shall be decided by a federal court in the State of New York. However, procedural questions which grow out of the dispute and bear on the final disposition are matters for the arbitrator. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; (b) issue a written arbitration decision, to include the arbitrator’s essential findings and conclusions and a statement of the award; and (c) be authorized to award any or all remedies that Executive or the Company would be entitled to seek in a court of law. Executive and the Company shall equally share all JAMS’ arbitration fees. To the extent JAMS does not collect or Executive otherwise does not pay to JAMS an equal share of all JAMS’ arbitration fees for any reason, and the Company pays JAMS Executive’s share, Executive acknowledges and agrees that the Company shall be entitled to recover from Executive half of the JAMS arbitration fees invoiced to the parties (less any amounts Executive paid to JAMS) in a federal or state court of competent jurisdiction. Except as modified in the Confidential Information Agreement, each party is responsible for its own attorneys’ fees. Nothing in this Agreement is intended to prevent either Executive or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction. To the extent a New York federal court determines that any applicable law prohibits mandatory arbitration of Excluded Claims, if Executive intends to bring multiple claims, including one or more Excluded Claims, the Excluded Claim(s) may be publicly filed with a court, while any other claims will remain subject to mandatory arbitration.

## 12. Section 280G Matters.

**12.1** If any payment or benefit Executive will or may receive from the Company or otherwise (a “**280G Payment**”) would (i) constitute a “parachute payment” within the meaning of Section 280G of the Code, and (ii) but for this Section, be subject to the excise tax imposed by Section 4999 of the Code (the “**Excise Tax**”), then any such 280G Payment provided pursuant to this Agreement (a “**Payment**”) shall be equal to the Reduced Amount. The “**Reduced Amount**” shall be either (x) the largest portion of the Payment that would result in no portion of the Payment (after reduction) being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount (i.e., the amount determined by clause (x) or by clause (y)), after taking into account all applicable federal, state, and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive’s receipt, on an after-tax basis, of the greater economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in a Payment is required pursuant to the preceding sentence and the Reduced Amount is determined pursuant to clause (x) of the preceding sentence, the reduction shall occur in the manner (the “**Reduction Method**”) that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the “**Pro Rata Reduction Method**”).

**12.2** Notwithstanding any provision of this Section 12 to the contrary, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A that would not otherwise be subject to taxes pursuant to Section 409A, then the Reduction Method and/or the Pro Rata Reduction Method, as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for Executive as determined on an after-tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without Cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are “deferred compensation” within the meaning of Section 409A shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A.

**12.3** The Company shall appoint a nationally-recognized accounting, consulting or law firm to make the determinations required by this Section 12. The Company shall bear all expenses with respect to the determinations by such firm required to be made hereunder.

**12.4** If Executive receives a Payment for which the Reduced Amount was determined pursuant to clause (x) of and the Internal Revenue Service determines thereafter that some portion of the Payment is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment (after reduction pursuant to clause (x) of Section 12(i)) so that no portion of the remaining Payment is subject to the Excise Tax. For the avoidance of doubt, if the Reduced Amount was determined pursuant to clause (y) of Section 12(i), Executive shall have no obligation to return any portion of the Payment pursuant to the preceding sentence.



### 13. General Provisions.

**13.1 Notices.** Any notices provided must be in writing and will be deemed effective upon the earlier of personal delivery (including personal delivery by fax) or the next day after sending by overnight carrier, to the Company at its primary office location and to Executive at the address as listed on the Company payroll.

**13.2 Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction to the extent possible in keeping with the intent of the parties.

**13.3 Waiver.** Any waiver of any breach of any provisions of this Agreement must be in writing to be effective, and it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision of this Agreement.

**13.4 Complete Agreement.** This Agreement, together with the Confidentiality Agreement, constitutes the entire agreement between Executive and the Company with regard to this subject matter and is the complete, final, and exclusive embodiment of the Parties' agreement with regard to this subject matter. This Agreement supersedes and replaces all previous agreements between the Parties concerning the terms and conditions of Executive's employment, including but not limited to the Employment Agreement between Executive and Company dated on or about January 1, 2020. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. It is entered into without reliance on any promise or representation other than those expressly contained herein, and it cannot be modified or amended except in a writing signed by a duly authorized officer of the Company.

**13.5 Amendments and Waivers.** This Agreement cannot be changed, modified or amended, and no provision or requirement hereof may be waived, without the consent in writing of the Executive and the Company. The failure of a party at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by a party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such breach, or a waiver of the breach of any other term or covenant in this Agreement.

**13.6 Counterparts.** This Agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same Agreement.

**13.7 Headings.** The headings of the paragraphs hereof are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning thereof.

**13.8 Successors and Assigns.** This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive and the Company, and their respective successors, assigns, heirs, executors and administrators, except that Executive may not assign any of his duties hereunder and he may not assign any of his rights hereunder without the written consent of the Company, which shall not be withheld unreasonably.

**13.9 Tax Withholding and Indemnification.** All payments and awards contemplated or made pursuant to this Agreement will be subject to withholdings of applicable taxes in compliance with all relevant laws and regulations of all appropriate government authorities. Executive acknowledges and agrees that the Company has neither made any assurances nor any guarantees concerning the tax treatment of any payments or awards contemplated by or made pursuant to this Agreement. Executive has had the opportunity to retain a tax and financial advisor and fully understands the tax and economic consequences of all payments and awards made pursuant to the Agreement.

**13.10 Choice of Law.** All questions concerning the construction, validity and interpretation of this Agreement will be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written below.

**LEXEO THERAPEUTICS, INC.**

**By:** /s/ Steven Altschuler

Steven Altschuler

Chairman of the Board

**Date:** September 28, 2023

**R. NOLAN TOWNSEND**

/s/ R. Nolan Townsend

Chief Executive Officer

**Date:** September 28, 2023

**EMPLOYMENT AGREEMENT**  
**for**  
**JENNY R. ROBERTSON**

This Employment Agreement (the “**Agreement**”) is made between Lexeo Therapeutics, Inc. (the “**Company**”) and Jenny R. Robertson (the “**Executive**”) (collectively, the “**Parties**”).

**WHEREAS**, the Company desires for Executive to provide services to the Company, and wishes to provide Executive with certain compensation and benefits in return for such employment services; and

**WHEREAS**, Executive wishes to be employed by the Company and to provide personal services to the Company in return for certain compensation and benefits;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**1. Employment by the Company.**

**1.1 Position.** On or about March 21, 2022, Executive commenced employment with the Company as the Company’s General Counsel, and was subsequently promoted to Chief Legal and Administrative Officer. The Company intends for the Executive to continue serving as the Company’s Chief Legal and Administrative Officer on the terms and conditions set forth in this Agreement, which shall take effect on October 1, 2023. During the term of Executive’s employment with the Company, Executive will devote Executive’s best efforts and substantially all of Executive’s business time and attention to the business of the Company, except for approved time off permitted by the Company’s general employment policies.

**1.2 Duties and Location.** Executive shall perform such duties incident to the position(s) held by Executive, including without limitation such duties and responsibilities as may be assigned to Executive by the Chief Executive Officer (“CEO”), to whom Executive will report. Executive shall work in the Company’s New York City office as needed and requested by the Company, and Executive will be permitted to work remotely from home when not in the New York City office. The Company reserves the right, at the Board’s discretion, to reasonably require Executive to perform Executive’s duties at places other than Executive’s primary office location from time to time, and to require reasonable business travel. The Company may modify Executive’s job title and duties as it deems necessary and appropriate in light of the Company’s needs and interests from time to time.

**1.3 Policies and Procedures.** The employment relationship between the Parties shall be governed by the general employment policies and practices of the Company, except that when the terms of this Agreement differ from or are in conflict with the Company's general employment policies or practices, this Agreement shall control.

**1.4 Indemnification.** The Executive shall be provided indemnification coverage under the Company's D&O liability insurance policies to the same extent as directors and other executive officers of the Company.

## **2. Compensation.**

**2.1 Salary.** For services to be rendered hereunder, Executive shall receive a base salary at the rate of **Four Hundred Twenty-Five Thousand Dollars (\$425,000)** per year (the "**Base Salary**"), subject to standard payroll deductions and withholdings and payable in accordance with the Company's regular payroll schedule. The Base Salary is subject to periodic review and modification by the CEO and the Board (or the Compensation Committee of the Board), from time to time, at their sole discretion.

**2.2 Annual Cash Bonus.** Executive will be eligible for an annual discretionary cash bonus of up to **Forty Percent (40%)** of Executive's Base Salary (the "**Annual Bonus**"). Whether Executive receives an Annual Bonus for any given year, and the amount of any such Annual Bonus, will be determined by the CEO and the Board (or the Compensation Committee of the Board) in their sole discretion based upon the Company's performance and Executive's achievement of individual objectives and milestones to be determined on an annual basis. Any Annual Bonus that is awarded will be paid within the first ninety (90) days of the calendar year following the applicable bonus year. Executive will not be eligible for, and will not earn, any Annual Bonus if Executive's employment terminates for any reason, or if Executive or the Company has given notice of the termination of Executive's employment, before the payment date.

**3. Standard Company Benefits.** Executive shall be entitled to participate in all employee benefit programs for which Executive is eligible under the terms and conditions of the benefit plans that may be in effect from time to time and provided by the Company to its employees, subject to the eligibility criteria, rules, plan provisions and regulations applicable to such plans, except to the extent that participation in such plans or programs would result in duplication of benefits provided hereunder. The Company reserves the right to cancel or change the benefit plans or programs it offers to its employees at any time, in its sole discretion.

**4. Expenses.** The Company will reimburse Executive for reasonable travel, entertainment or other expenses incurred by Executive in furtherance or in connection with the performance of Executive's duties hereunder, subject to, and in accordance with, the Company's expense reimbursement policy as in effect from time to time.

## **5. Termination of Employment; Severance**

**5.1 At-Will Employment.** Executive's employment relationship is at-will. Either Executive or the Company may terminate the employment relationship at any time, with or without cause or advance notice.

**5.2 Termination Based on Death or Disability.** In the event of the Executive's death, the Executive's employment with the Company shall terminate automatically. The Company, in its discretion, shall have the right to terminate the Executive's employment because of the Executive's Disability during the Employment Period, subject to applicable law. For purposes of this Agreement, "Disability" means that the Executive has been unable, for 60 consecutive days, or for any period aggregating 90 business days in any consecutive 180 day period, as the case may be, to perform a substantial portion of the Executive's duties under this Agreement, as a result of physical or mental impairment, illness or injury, as determined by a medical doctor reasonably selected by the Company and approved by the Executive, such approval not to be unreasonably withheld, delayed or conditioned. Such determination shall be deemed to be conclusive for all purposes of this Section 5.2. In connection with the foregoing, the Executive shall cooperate with such medical doctor, including without limitation, by submitting to such medical tests and examinations as may be requested by the medical doctor. A termination of the Executive's employment by the Company for Disability shall be communicated to the Executive by written notice upon the expiration of the applicable period and shall be effective on the 30th day after receipt of such notice by the Executive (the "Disability Effective Date"), unless the Executive returns to satisfactory full-time performance of the Executive's previous duties before the Disability Effective Date. In the event the Executive's employment is terminated due to death or Disability, the Company shall have no further obligations to the Executive hereunder, except the Company shall pay to the Executive (or, in the event of death, to the Executive's estate) any (i) Base Salary earned or payable but unpaid to the Executive through the Date of Termination, (ii) reimbursable business expenses incurred but unpaid through the Date of Termination (subject to Company's applicable expense policies, including submission of all required documentation), and (iii) any other amounts or benefits required by applicable law.

**5.3 Termination Without Cause; Resignation for Good Reason.**

(i) The Company may terminate Executive's employment with the Company at any time without Cause (as defined below). Further, Executive may resign at any time for Good Reason (as defined below).

(ii) In the event Executive's employment with the Company is terminated by the Company without Cause, or Executive resigns for Good Reason, then provided such termination constitutes a "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h), without regard to any alternative definition thereunder, a "**Separation from Service**"), and provided that Executive remains in compliance with the terms of this Agreement, the Company shall provide Executive with the following severance benefits:

(a) The Company shall pay Executive, as severance, a lump sum payment equal to the sum of twelve (12) months of Executive's base salary in effect as of the date of Executive's employment termination, plus a lump sum amount equal to her full bonus target for the calendar year in which the Separation from Service occurs, subject to standard payroll deductions and withholdings (the "**Severance**"). The severance will be paid in a single lump sum on or about the Company's first regular payroll date following the 60th day after Executive's Separation from Service.

(b) The Company shall accelerate the vesting of Executive's new hire Option referenced in Executive's February 22, 2022 offer letter from the Company (the "Offer Letter") and awarded pursuant to the May 6, 2022 Option Award Agreement by four (4) additional months effective as of the date of Separation from Service.

(c) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**COBRA Premiums**") through the period (the "**COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (i) twelve (12) months following Executive's Separation from Service; (ii) the date Executive becomes eligible for group health insurance coverage through a new employer; or (iii) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**Special Cash Payment**"), for the remainder of the COBRA Premium Period. Executive may, but is not obligated to, use such Special Cash Payments toward the cost of COBRA premiums.

#### **5.4 Termination for Cause; Resignation Without Good Reason; Death or Disability.**

(i) The Company may terminate Executive's employment with the Company at any time for Cause. Further, Executive may resign at any time without Good Reason. Executive's employment with the Company may also be terminated due to Executive's death or disability.

(ii) If Executive resigns without Good Reason, or the Company terminates Executive's employment for Cause, or upon Executive's death or disability, then (i) Executive will no longer vest in the Option and any other stock options held by the Executive, (ii) all payments of compensation by the Company to Executive hereunder will terminate immediately (except as to amounts already earned), and (c) Executive will not be entitled to any severance benefits, including (without limitation) the Severance, COBRA Premiums, Special Cash Payments, unless required by law.

**5.5 Termination in Connection with Change in Control.** If the Company terminates Executive's employment no more than three (3) months prior to a Change in Control (as defined herein) or within twelve (12) months after a Change in Control, Executive shall be entitled to receive the following severance benefits:

(i) The Company shall pay Executive, as severance, twelve (12) months of Executive's base salary in effect as of the date of Executive's employment termination, subject to standard payroll deductions and withholdings (the "**CIC Severance**"). The CIC Severance will be paid in a single lump sum on or about the Company's first regular payroll date following the 60<sup>th</sup> day after Executive's Separation from Service.

(ii) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**CIC COBRA Premiums**") through the period (the "**CIC COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (i) twelve (12) months following Executive's Separation from Service; (ii) the date Executive becomes eligible for group health insurance coverage through a new employer; or (iii) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the CIC COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the CIC COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**CIC Special Cash Payment**"), for the remainder of the CIC COBRA Premium Period. Executive may, but is not obligated to, use such CIC Special Cash Payments toward the cost of COBRA premiums.

(iii) The Company shall pay Executive, as further severance, a lump sum amount equal to her full bonus target for the calendar year in which the Change in Control occurs (the "**CIC Bonus Payment**"), to be paid no later than thirty (30) days following Executive's Separation from Service.



(iv) The Company shall accelerate the vesting of any shares, options, or other equity grants then unvested and outstanding as of the Executive's Separation from Service, such that Executive will thereafter be 100% vested in any shares, options, or other equity grants awarded by the Company to Executive during Executive's employment with the Company (the "**Vesting Acceleration**").

**6. Conditions to Receipt of Severance, COBRA Premiums, and Special Cash Payments.** The receipt of the Severance, CIC Severance, COBRA Premiums, CIC COBRA Premiums, Special Cash Payments, CIC Special Cash Payments, CIC Bonus Payment, and Vesting Acceleration (collectively, the "**Severance Benefits**") will be subject to Executive signing and not revoking a separation agreement and release of claims in a form satisfactory to the Company (the "**Separation Agreement**") within a time period specified by the Company, in its sole discretion. No Severance Benefits will be paid or provided until the Separation Agreement becomes effective. Executive shall also resign from all positions and terminate any relationships as an employee, advisor, officer or director with the Company and any of its affiliates, each effective on the date of termination.

**7. Section 409A.** It is intended that all of the severance benefits and other payments payable under this Agreement satisfy, to the greatest extent possible, the exemptions from the application of Code Section 409A provided under Treasury Regulations 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9), and this Agreement will be construed to the greatest extent possible as consistent with those provisions, and to the extent not so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A. For purposes of Code Section 409A (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii)), Executive's right to receive any installment payments under this Agreement (whether severance payments, reimbursements or otherwise) shall be treated as a right to receive a series of separate payments and, accordingly, each installment payment hereunder shall at all times be considered a separate and distinct payment. Notwithstanding any provision to the contrary in this Agreement, if Executive is deemed by the Company at the time of Executive's Separation from Service to be a "specified employee" for purposes of Code Section 409A(a)(2)(B)(i), and if any of the payments upon Separation from Service set forth herein and/or under any other agreement with the Company are deemed to be "deferred compensation", then to the extent delayed commencement of any portion of such payments is required in order to avoid a prohibited distribution under Code Section 409A(a)(2)(B)(i) and the related adverse taxation under Section 409A, such payments shall not be provided to Executive prior to the earliest of (i) the expiration of the six-month period measured from the date of Executive's Separation from Service with the Company, (ii) the date of Executive's death or (iii) such earlier date as permitted under Section 409A without the imposition of adverse taxation. Upon the first business day following the expiration of such applicable Code Section 409A(a)(2)(B)(i) period, all payments deferred pursuant to this Paragraph shall be paid in a lump sum to Executive, and any remaining payments due shall be paid as otherwise provided herein or in the applicable agreement. No interest shall be due on any amounts so deferred.

## 8. Definitions.

**(i) Cause.** For purposes of this Agreement, “Cause” for termination will mean: (a) Executive’s conviction for, or entry of a guilty plea or plea of nolo contendere for, any felony or crime involving dishonesty; (b) Executive’s participation in any fraud against the Company; (c) material breach of Executive’s duties to the Company; (d) persistent unsatisfactory performance of Executive’s job duties after written notice from the Board and a reasonable opportunity to cure (if deemed curable); (e) Executive’s intentional damage to any property of the Company; (f) Executive’s misconduct, or other violation of Company policy that causes harm; (g) Executive’s breach of any written agreement with the Company; and (h) conduct by Executive which in the good faith and reasonable determination of the Board demonstrates gross unfitness to serve, including but not limited to conduct involving moral turpitude, corruption, dishonesty, or other conduct that harms the Company’s reputation or prospects.

**(ii) Good Reason.** For purposes of this Agreement, Executive shall have “Good Reason” for resignation from employment with the Company if any of the following actions are taken by the Company without Executive’s prior written consent: (a) a material reduction in Executive’s base salary, which the parties agree is a reduction of at least 10% of Executive’s base salary (unless pursuant to a salary reduction program applicable generally to the Company’s similarly situated executive employees); (b) a material reduction in Executive’s duties (including responsibilities and/or authorities), *provided, however*, that a change in job position shall not be deemed a “material reduction” in and of itself unless Executive’s new duties are materially reduced from the prior duties; or (c) relocation of Executive’s principal place of employment to a place that increases Executive’s one-way commute by more than sixty (60) miles as compared to Executive’s then-current principal place of employment immediately prior to such relocation. In order to resign for Good Reason, Executive must provide written notice to the Board within 30 days after the first occurrence of the event giving rise to Good Reason setting forth the basis for Executive’s resignation, allow the Company at least 30 days from receipt of such written notice to cure such event, and if such event is not reasonably cured within such period, Executive must resign from all positions Executive then holds with the Company not later than 90 days after the expiration of the cure period.

**(iii) Change in Control.** For purposes of this Agreement, “Change in Control” shall have the meaning set forth in the Lexeo Therapeutics, Inc. 2023 Equity Incentive Plan.

## 9. Proprietary Information Obligations.

**9.1 Confidential Information Agreement.** As a condition of employment, Executive shall execute and abide by the Company's standard form of Employee Confidential Information And Inventions Assignment Agreement (the "**Confidentiality Agreement**").

**9.2 Third-Party Agreements and Information.** Executive represents and warrants that Executive's employment by the Company does not conflict with any prior employment or consulting agreement or other agreement with any third party, and that Executive will perform Executive's duties to the Company without violating any such agreement. Executive represents and warrants that Executive does not possess confidential information arising out of prior employment, consulting, or other third party relationships, that would be used in connection with Executive's employment by the Company, except as expressly authorized by that third party. During Executive's employment by the Company, Executive will use in the performance of Executive's duties only information which is generally known and used by persons with training and experience comparable to Executive's own, common knowledge in the industry, otherwise legally in the public domain, or obtained or developed by the Company or by Executive in the course of Executive's work for the Company. Executive expressly acknowledges that she will not use any confidential or proprietary information of a third-party in connection with the performance of her duties to the Company.

## 10. Outside Activities During Employment.

**10.1 Non-Company Business.** Except with the prior written consent of the Board, Executive will not during the term of Executive's employment with the Company undertake or engage in any other employment, occupation or business enterprise, other than ones in which Executive is a passive investor. In any event, Executive may: (i) engage in civic and not-for-profit activities; (ii) engage in activities in connection with personal investments; (iii) serve, following receiving consent from the Board (which shall not unreasonably be withheld), on board of directors positions for up to two (2) organizations, and (iv) serve as an advisor, or as a member of an advisory board, following receiving consent from the Board (which shall not unreasonably be withheld), on up to two (2) organizations; so long as such activities do not materially interfere with the performance of Executive's duties hereunder.

**10.2 No Adverse Interests.** Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known to be adverse or antagonistic to the Company, its business or prospects, financial or otherwise. This does not prohibit the Executive from purchasing any publicly listed securities or funds which hold publicly listed securities.

**11. Dispute Resolution.** To ensure the timely and economical resolution of disputes that may arise in connection with Executive's employment with the Company, Executive and the Company agree that any and all disputes, claims, or causes of action arising from or relating to the enforcement, breach, performance, negotiation, execution, or interpretation of this Agreement, the Confidential Information Agreement, or Executive's employment, or the termination of Executive's employment, including but not limited to all statutory claims, with the exception of discrimination and harassment claims, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §1-16 (the "FAA"), and to the fullest extent permitted by law, by final, binding and confidential arbitration by a single arbitrator conducted in New York, New York by Judicial Arbitration and Mediation Services Inc. ("JAMS") under the then applicable JAMS rules appropriate to the relief being sought (the applicable rules are available at the following web addresses: (i) <https://www.jamsadr.com/rules-employment-arbitration/> and (ii) <https://www.jamsadr.com/rules-comprehensive-arbitration/>); provided, however, this arbitration provision not apply to any action or claim that cannot be subject to mandatory arbitration as a matter of law, including, without limitation, claims involving allegations of sexual harassment and discrimination, to the extent such claims are not permitted by applicable law(s) to be submitted to mandatory arbitration and the applicable law(s) are not preempted by the FAA or otherwise invalid (collectively, the "Excluded Claims"). A hard copy of the rules will be provided to Executive upon request. A hard copy of the rules will be provided to Executive upon request. **By agreeing to this arbitration procedure, both Executive and the Company waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.** In addition, all claims, disputes, or causes of action under this section, whether by Executive or the Company, must be brought in an individual capacity, and shall not be brought as a plaintiff (or claimant) or class member in any purported class or representative proceeding, nor joined or consolidated with the claims of any other person or entity. The Arbitrator may not consolidate the claims of more than one person or entity, and may not preside over any form of representative or class proceeding. To the extent that the preceding sentences regarding class claims or proceedings are found to violate applicable law or are otherwise found unenforceable, any claim(s) alleged or brought on behalf of a class shall proceed in a court of law rather than by arbitration. The Company acknowledges that Executive will have the right to be represented by legal counsel at any arbitration proceeding. Questions of whether a claim is subject to arbitration under this Agreement) shall be decided by a federal court in the State of New York. However, procedural questions which grow out of the dispute and bear on the final disposition are matters for the arbitrator. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; (b) issue a written arbitration decision, to include the arbitrator's essential findings and conclusions and a statement of the award; and (c) be authorized to award any or all remedies that Executive or the Company would be entitled to seek in a court of law. Executive and the Company shall equally share all JAMS' arbitration fees. To the extent JAMS does not collect or Executive otherwise does not pay to JAMS an equal share of all JAMS' arbitration fees for any reason, and the Company pays JAMS Executive's share, Executive acknowledges and agrees that the Company shall be entitled to recover from Executive half of the JAMS arbitration fees invoiced to the parties (less any amounts Executive paid to JAMS) in a federal or state court of competent jurisdiction. Except as modified in the Confidential Information Agreement, each party is responsible for its own attorneys' fees. Nothing in

this Agreement is intended to prevent either Executive or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction. To the extent a New York federal court determines that any applicable law prohibits mandatory arbitration of Excluded Claims, if Executive intends to bring multiple claims, including one or more Excluded Claims, the Excluded Claim(s) may be publicly filed with a court, while any other claims will remain subject to mandatory arbitration.

## 12. Section 280G Matters.

**12.1** If any payment or benefit Executive will or may receive from the Company or otherwise (a “**280G Payment**”) would (i) constitute a “parachute payment” within the meaning of Section 280G of the Code, and (ii) but for this Section, be subject to the excise tax imposed by Section 4999 of the Code (the “**Excise Tax**”), then any such 280G Payment provided pursuant to this Agreement (a “**Payment**”) shall be equal to the Reduced Amount. The “**Reduced Amount**” shall be either (x) the largest portion of the Payment that would result in no portion of the Payment (after reduction) being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount (i.e., the amount determined by clause (x) or by clause (y)), after taking into account all applicable federal, state, and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive’s receipt, on an after-tax basis, of the greater economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in a Payment is required pursuant to the preceding sentence and the Reduced Amount is determined pursuant to clause (x) of the preceding sentence, the reduction shall occur in the manner (the “**Reduction Method**”) that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the “**Pro Rata Reduction Method**”).

**12.2** Notwithstanding any provision of this Section 12 to the contrary, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A that would not otherwise be subject to taxes pursuant to Section 409A, then the Reduction Method and/or the Pro Rata Reduction Method, as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for Executive as determined on an after-tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without Cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are “deferred compensation” within the meaning of Section 409A shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A.

**12.3** The Company shall appoint a nationally-recognized accounting, consulting or law firm to make the determinations required by this Section 12. The Company shall bear all expenses with respect to the determinations by such firm required to be made hereunder.

**12.4** If Executive receives a Payment for which the Reduced Amount was determined pursuant to clause (x) of and the Internal Revenue Service determines thereafter that some portion of the Payment is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment (after reduction pursuant to clause (x) of Section 12(i)) so that no portion of the remaining Payment is subject to the Excise Tax. For the avoidance of doubt, if the Reduced Amount was determined pursuant to clause (y) of Section 12(i), Executive shall have no obligation to return any portion of the Payment pursuant to the preceding sentence.

### **13. General Provisions.**

**13.1 Notices.** Any notices provided must be in writing and will be deemed effective upon the earlier of personal delivery (including personal delivery by fax) or the next day after sending by overnight carrier, to the Company at its primary office location and to Executive at the address as listed on the Company payroll.

**13.2 Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction to the extent possible in keeping with the intent of the parties.

**13.3 Waiver.** Any waiver of any breach of any provisions of this Agreement must be in writing to be effective, and it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision of this Agreement.

**13.4 Complete Agreement.** This Agreement, together with the Confidentiality Agreement, constitutes the entire agreement between Executive and the Company with regard to this subject matter and is the complete, final, and exclusive embodiment of the Parties' agreement with regard to this subject matter. This Agreement supersedes and replaces all previous agreements between the Parties concerning the terms and conditions of Executive's employment, including but not limited to the Offer Letter. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. It is entered into without reliance on any promise or representation other than those expressly contained herein, and it cannot be modified or amended except in a writing signed by a duly authorized officer of the Company.

**13.5 Amendments and Waivers.** This Agreement cannot be changed, modified or amended, and no provision or requirement hereof may be waived, without the consent in writing of the Executive and the Company. The failure of a party at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by a party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such breach, or a waiver of the breach of any other term or covenant in this Agreement.

**13.6 Counterparts.** This Agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same Agreement.

**13.7 Headings.** The headings of the paragraphs hereof are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning thereof.

**13.8 Successors and Assigns.** This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive and the Company, and their respective successors, assigns, heirs, executors and administrators, except that Executive may not assign any of her duties hereunder and she may not assign any of her rights hereunder without the written consent of the Company, which shall not be withheld unreasonably.

**13.9 Tax Withholding and Indemnification.** All payments and awards contemplated or made pursuant to this Agreement will be subject to withholdings of applicable taxes in compliance with all relevant laws and regulations of all appropriate government authorities. Executive acknowledges and agrees that the Company has neither made any assurances nor any guarantees concerning the tax treatment of any payments or awards contemplated by or made pursuant to this Agreement. Executive has had the opportunity to retain a tax and financial advisor and fully understands the tax and economic consequences of all payments and awards made pursuant to the Agreement.

**13.10 Choice of Law.** All questions concerning the construction, validity and interpretation of this Agreement will be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written below.

**LEXEO THERAPEUTICS, INC.**

**By:** R. Nolan Townsend

R. Nolan Townsend  
Chief Executive Officer

**Date:** September 28, 2023

**JENNY R. ROBERTSON**

/s/ Jenny R. Robertson

Chief Legal and Administrative Officer

**Date:** September 28, 2023



**EMPLOYMENT AGREEMENT**  
**for**  
**PAUL MCCORMAC**

This Employment Agreement (the “**Agreement**”) is made between Lexeo Therapeutics, Inc. (the “**Company**”) and Paul McCormac (the “**Executive**”) (collectively, the “**Parties**”).

**WHEREAS**, the Company desires for Executive to provide services to the Company, and wishes to provide Executive with certain compensation and benefits in return for such employment services; and

**WHEREAS**, Executive wishes to be employed by the Company and to provide personal services to the Company in return for certain compensation and benefits;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**1. Employment by the Company.**

**1.1 Position.** On or about February 18, 2021, Executive commenced employment with the Company as the Company’s Chief Technology Officer. The Company intends for the Executive to continue serving as the Company’s Chief Technology Officer on the terms and conditions set forth in this Agreement, which shall take effect on October 1, 2023. During the term of Executive’s employment with the Company, Executive will devote Executive’s best efforts and substantially all of Executive’s business time and attention to the business of the Company, except for approved time off permitted by the Company’s general employment policies.

**1.2 Duties and Location.** Executive shall perform such duties incident to the position(s) held by Executive, including without limitation such duties and responsibilities as may be assigned to Executive by the Chief Executive Officer (“CEO”), to whom Executive will report. Executive shall work in the Company’s New York City office as needed and requested by the Company, and Executive will be permitted to work remotely from his home office in New Jersey when not in the New York City office. The Company reserves the right, at the Board’s discretion, to reasonably require Executive to perform Executive’s duties at places other than Executive’s primary office location from time to time, and to require reasonable business travel. The Company may modify Executive’s job title and duties as it deems necessary and appropriate in light of the Company’s needs and interests from time to time.

**1.3 Policies and Procedures.** The employment relationship between the Parties shall be governed by the general employment policies and practices of the Company, except that when the terms of this Agreement differ from or are in conflict with the Company’s general employment policies or practices, this Agreement shall control.

**1.4 Indemnification.** The Executive shall be provided indemnification coverage under the Company’s D&O liability insurance policies to the same extent as directors and other executive officers of the Company.

## 2. Compensation.

**2.1 Salary.** For services to be rendered hereunder, Executive shall receive a base salary at the rate of **Four Hundred Twenty-Five Thousand Dollars (\$425,000)** per year (the “**Base Salary**”), subject to standard payroll deductions and withholdings and payable in accordance with the Company’s regular payroll schedule. The Base Salary is subject to periodic review and modification by the CEO and the Board (or the Compensation Committee of the Board), from time to time, at their sole discretion.

**2.2 Annual Cash Bonus.** Executive will be eligible for an annual discretionary cash bonus of up to **Forty Percent (40%)** of Executive’s Base Salary (the “**Annual Bonus**”). Whether Executive receives an Annual Bonus for any given year, and the amount of any such Annual Bonus, will be determined by the CEO and the Board (or the Compensation Committee of the Board) in their sole discretion based upon the Company’s performance and Executive’s achievement of individual objectives and milestones to be determined on an annual basis. Any Annual Bonus that is awarded will be paid within the first ninety (90) days of the calendar year following the applicable bonus year. Executive will not be eligible for, and will not earn, any Annual Bonus if Executive’s employment terminates for any reason, or if Executive or the Company has given notice of the termination of Executive’s employment, before the payment date.

**3. Standard Company Benefits.** Executive shall be entitled to participate in all employee benefit programs for which Executive is eligible under the terms and conditions of the benefit plans that may be in effect from time to time and provided by the Company to its employees, subject to the eligibility criteria, rules, plan provisions and regulations applicable to such plans, except to the extent that participation in such plans or programs would result in duplication of benefits provided hereunder. The Company reserves the right to cancel or change the benefit plans or programs it offers to its employees at any time, in its sole discretion.

**4. Expenses.** The Company will reimburse Executive for reasonable travel, entertainment or other expenses incurred by Executive in furtherance or in connection with the performance of Executive’s duties hereunder, subject to, and in accordance with, the Company’s expense reimbursement policy as in effect from time to time.

## 5. Termination of Employment; Severance

**5.1 At-Will Employment.** Executive’s employment relationship is at-will. Either Executive or the Company may terminate the employment relationship at any time, with or without cause or advance notice.

**5.2 Termination Based on Death or Disability.** In the event of the Executive's death, the Executive's employment with the Company shall terminate automatically. The Company, in its discretion, shall have the right to terminate the Executive's employment because of the Executive's Disability during the Employment Period, subject to applicable law. For purposes of this Agreement, "Disability" means that the Executive has been unable, for 60 consecutive days, or for any period aggregating 90 business days in any consecutive 180 day period, as the case may be, to perform a substantial portion of the Executive's duties under this Agreement, as a result of physical or mental impairment, illness or injury, as determined by a medical doctor reasonably selected by the Company and approved by the Executive, such approval not to be unreasonably withheld, delayed or conditioned. Such determination shall be deemed to be conclusive for all purposes of this Section 5.2. In connection with the foregoing, the Executive shall cooperate with such medical doctor, including without limitation, by submitting to such medical tests and examinations as may be requested by the medical doctor. A termination of the Executive's employment by the Company for Disability shall be communicated to the Executive by written notice upon the expiration of the applicable period and shall be effective on the 30th day after receipt of such notice by the Executive (the "Disability Effective Date"), unless the Executive returns to satisfactory full-time performance of the Executive's previous duties before the Disability Effective Date. In the event the Executive's employment is terminated due to death or Disability, the Company shall have no further obligations to the Executive hereunder, except the Company shall pay to the Executive (or, in the event of death, to the Executive's estate) any (i) Base Salary earned or payable but unpaid to the Executive through the Date of Termination, (ii) reimbursable business expenses incurred but unpaid through the Date of Termination (subject to Company's applicable expense policies, including submission of all required documentation), and (iii) any other amounts or benefits required by applicable law.

**5.3 Termination Without Cause; Resignation for Good Reason.**

(i) The Company may terminate Executive's employment with the Company at any time without Cause (as defined below). Further, Executive may resign at any time for Good Reason (as defined below).

(ii) In the event Executive's employment with the Company is terminated by the Company without Cause, or Executive resigns for Good Reason, then provided such termination constitutes a "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h), without regard to any alternative definition thereunder, a "**Separation from Service**"), and provided that Executive remains in compliance with the terms of this Agreement, the Company shall provide Executive with the following severance benefits:

(a) The Company shall pay Executive, as severance, twelve (12) months of Executive's base salary in effect as of the date of Executive's employment termination, subject to standard payroll deductions and withholdings (the "**Severance**"). The Severance will be paid in a single lump sum on or about the Company's first regular payroll date following the 60<sup>th</sup> day after Executive's Separation from Service.

(b) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**COBRA Premiums**") through the period (the "**COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (i) twelve (12) months following Executive's Separation from Service; (ii) the date Executive becomes eligible for group health insurance coverage through a new employer; or (iii) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**Special Cash Payment**"), for the remainder of the COBRA Premium Period. Executive may, but is not obligated to, use such Special Cash Payments toward the cost of COBRA premiums.

#### **5.4 Termination for Cause; Resignation Without Good Reason; Death or Disability.**

(i) The Company may terminate Executive's employment with the Company at any time for Cause. Further, Executive may resign at any time without Good Reason. Executive's employment with the Company may also be terminated due to Executive's death or disability.

(ii) If Executive resigns without Good Reason, or the Company terminates Executive's employment for Cause, or upon Executive's death or disability, then (i) Executive will no longer vest in the Option and any other stock options held by the Executive, (ii) all payments of compensation by the Company to Executive hereunder will terminate immediately (except as to amounts already earned), and (c) Executive will not be entitled to any severance benefits, including (without limitation) the Severance, COBRA Premiums, Special Cash Payments, unless required by law.

**5.5 Termination in Connection with Change in Control.** If the Company terminates Executive's employment no more than three (3) months prior to a Change in Control (as defined herein) or within twelve (12) months after a Change in Control, Executive shall be entitled to receive the following severance benefits:

(i) The Company shall pay Executive, as severance, twelve (12) months of Executive's base salary in effect as of the date of Executive's employment termination, subject to standard payroll deductions and withholdings (the "**CIC Severance**"). The CIC Severance will be paid in a single lump sum on or about the Company's first regular payroll date following the 60<sup>th</sup> day after Executive's Separation from Service.

(ii) Provided Executive timely elects continued coverage under COBRA, the Company shall pay Executive's COBRA premiums to continue Executive's coverage (including coverage for eligible dependents, if applicable) ("**CIC COBRA Premiums**") through the period (the "**CIC COBRA Premium Period**") starting on Executive's Separation from Service and ending on the earliest to occur of: (i) twelve (12) months following Executive's Separation from Service; (ii) the date Executive becomes eligible for group health insurance coverage through a new employer; or (iii) the date Executive ceases to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event Executive becomes covered under another employer's group health plan or otherwise ceases to be eligible for COBRA during the CIC COBRA Premium Period, Executive must immediately notify the Company of such event. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the CIC COBRA Premiums without a substantial risk of violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall pay to Executive, on the first day of each calendar month, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including premiums for Executive and Executive's eligible dependents who have elected and remain enrolled in such COBRA coverage), subject to applicable tax withholdings (such amount, the "**CIC Special Cash Payment**"), for the remainder of the CIC COBRA Premium Period. Executive may, but is not obligated to, use such CIC Special Cash Payments toward the cost of COBRA premiums.

(iii) The Company shall pay Executive, as further severance, a lump sum amount equal to his full bonus target for the calendar year in which the Change in Control occurs (the "**CIC Bonus Payment**"), to be paid no later than thirty (30) days following Executive's Separation from Service.

(iv) The Company shall accelerate the vesting of any shares, options, or other equity grants then unvested and outstanding as of the Executive's Separation from Service, such that Executive will thereafter be 100% vested in any shares, options, or other equity grants awarded by the Company to Executive during Executive's employment with the Company (the "**Vesting Acceleration**").

**6. Conditions to Receipt of Severance, COBRA Premiums, and Special Cash Payments.** The receipt of the Severance, CIC Severance, COBRA Premiums, CIC COBRA Premiums, Special Cash Payments, CIC Special Cash Payments, CIC Bonus Payment, and Vesting Acceleration (collectively, the "**Severance Benefits**") will be subject to Executive signing and not revoking a separation agreement and release of claims

in a form satisfactory to the Company (the “**Separation Agreement**”) within a time period specified by the Company, in its sole discretion. No Severance Benefits will be paid or provided until the Separation Agreement becomes effective. Executive shall also resign from all positions and terminate any relationships as an employee, advisor, officer or director with the Company and any of its affiliates, each effective on the date of termination.

**7. Section 409A.** It is intended that all of the severance benefits and other payments payable under this Agreement satisfy, to the greatest extent possible, the exemptions from the application of Code Section 409A provided under Treasury Regulations 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9), and this Agreement will be construed to the greatest extent possible as consistent with those provisions, and to the extent not so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A. For purposes of Code Section 409A (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii)), Executive’s right to receive any installment payments under this Agreement (whether severance payments, reimbursements or otherwise) shall be treated as a right to receive a series of separate payments and, accordingly, each installment payment hereunder shall at all times be considered a separate and distinct payment. Notwithstanding any provision to the contrary in this Agreement, if Executive is deemed by the Company at the time of Executive’s Separation from Service to be a “specified employee” for purposes of Code Section 409A(a)(2)(B)(i), and if any of the payments upon Separation from Service set forth herein and/or under any other agreement with the Company are deemed to be “deferred compensation”, then to the extent delayed commencement of any portion of such payments is required in order to avoid a prohibited distribution under Code Section 409A(a)(2)(B)(i) and the related adverse taxation under Section 409A, such payments shall not be provided to Executive prior to the earliest of (i) the expiration of the six-month period measured from the date of Executive’s Separation from Service with the Company, (ii) the date of Executive’s death or (iii) such earlier date as permitted under Section 409A without the imposition of adverse taxation. Upon the first business day following the expiration of such applicable Code Section 409A(a)(2)(B)(i) period, all payments deferred pursuant to this Paragraph shall be paid in a lump sum to Executive, and any remaining payments due shall be paid as otherwise provided herein or in the applicable agreement. No interest shall be due on any amounts so deferred.

## 8. Definitions.

**(i) Cause.** For purposes of this Agreement, “Cause” for termination will mean: (a) Executive’s conviction for, or entry of a guilty plea or plea of nolo contendere for, any felony or crime involving dishonesty; (b) Executive’s participation in any fraud against the Company; (c) material breach of Executive’s duties to the Company; (d) persistent unsatisfactory performance of Executive’s job duties after written notice from the Board and a reasonable opportunity to cure (if deemed curable); (e) Executive’s intentional damage to any property of the Company; (f) Executive’s misconduct, or other violation of Company policy that causes harm; (g) Executive’s breach of any written agreement with the Company; and (h) conduct by Executive which in the good faith and reasonable determination of the Board demonstrates gross unfitness to serve, including but not limited to conduct involving moral turpitude, corruption, dishonesty, or other conduct that harms the Company’s reputation or prospects.

**(ii) Good Reason.** For purposes of this Agreement, Executive shall have “Good Reason” for resignation from employment with the Company if any of the following actions are taken by the Company without Executive’s prior written consent: (a) a material reduction in Executive’s base salary, which the parties agree is a reduction of at least 10% of Executive’s base salary (unless pursuant to a salary reduction program applicable generally to the Company’s similarly situated executive employees); (b) a material reduction in Executive’s duties (including responsibilities and/or authorities), *provided, however*, that a change in job position shall not be deemed a “material reduction” in and of itself unless Executive’s new duties are materially reduced from the prior duties; or (c) relocation of Executive’s principal place of employment to a place that increases Executive’s one-way commute by more than sixty (60) miles as compared to Executive’s then-current principal place of employment immediately prior to such relocation. In order to resign for Good Reason, Executive must provide written notice to the Board within 30 days after the first occurrence of the event giving rise to Good Reason setting forth the basis for Executive’s resignation, allow the Company at least 30 days from receipt of such written notice to cure such event, and if such event is not reasonably cured within such period, Executive must resign from all positions Executive then holds with the Company not later than 90 days after the expiration of the cure period.

**(iii) Change in Control.** For purposes of this Agreement, “Change in Control” shall have the meaning set forth in the Lexeo Therapeutics, Inc. 2023 Equity Incentive Plan.

## 9. Proprietary Information Obligations.

**9.1 Confidential Information Agreement.** As a condition of employment, Executive shall execute and abide by the Company’s standard form of Employee Confidential Information And Inventions Assignment Agreement (the “Confidentiality Agreement”).

**9.2 Third-Party Agreements and Information.** Executive represents and warrants that Executive's employment by the Company does not conflict with any prior employment or consulting agreement or other agreement with any third party, and that Executive will perform Executive's duties to the Company without violating any such agreement. Executive represents and warrants that Executive does not possess confidential information arising out of prior employment, consulting, or other third party relationships, that would be used in connection with Executive's employment by the Company, except as expressly authorized by that third party. During Executive's employment by the Company, Executive will use in the performance of Executive's duties only information which is generally known and used by persons with training and experience comparable to Executive's own, common knowledge in the industry, otherwise legally in the public domain, or obtained or developed by the Company or by Executive in the course of Executive's work for the Company. Executive expressly acknowledges that he will not use any confidential or proprietary information of a third-party in connection with the performance of his duties to the Company.

#### **10. Outside Activities During Employment.**

**10.1 Non-Company Business.** Except with the prior written consent of the Board, Executive will not during the term of Executive's employment with the Company undertake or engage in any other employment, occupation or business enterprise, other than ones in which Executive is a passive investor. In any event, Executive may: (i) engage in civic and not-for-profit activities; (ii) engage in activities in connection with personal investments; (iii) serve, following receiving consent from the Board (which shall not unreasonably be withheld), on board of directors positions for up to two (2) organizations, and (iv) serve as an advisor, or as a member of an advisory board, following receiving consent from the Board (which shall not unreasonably be withheld), on up to two (2) organizations; so long as such activities do not materially interfere with the performance of Executive's duties hereunder.

**10.2 No Adverse Interests.** Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known to be adverse or antagonistic to the Company, its business or prospects, financial or otherwise. This does not prohibit the Executive from purchasing any publicly listed securities or funds which hold publicly listed securities.

**11. Dispute Resolution.** To ensure the timely and economical resolution of disputes that may arise in connection with Executive's employment with the Company, Executive and the Company agree that any and all disputes, claims, or causes of action arising from or relating to the enforcement, breach, performance, negotiation, execution, or interpretation of this Agreement, the Confidential Information Agreement, or Executive's employment, or the termination of Executive's employment, including but not limited to all statutory claims, with the exception of discrimination and harassment claims, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §1-16 (the "FAA"), and to the fullest extent permitted by law, by final, binding and confidential arbitration by a single arbitrator conducted in New York, New York by Judicial Arbitration and Mediation



Services Inc. (“JAMS”) under the then applicable JAMS rules appropriate to the relief being sought (the applicable rules are available at the following web addresses: (i) <https://www.jamsadr.com/rules-employment-arbitration/> and (ii) <https://www.jamsadr.com/rules-comprehensive-arbitration/>); provided, however, this arbitration provision not apply to any action or claim that cannot be subject to mandatory arbitration as a matter of law, including, without limitation, claims involving allegations of sexual harassment and discrimination, to the extent such claims are not permitted by applicable law(s) to be submitted to mandatory arbitration and the applicable law(s) are not preempted by the FAA or otherwise invalid (collectively, the “Excluded Claims”). A hard copy of the rules will be provided to Executive upon request. A hard copy of the rules will be provided to Executive upon request. **By agreeing to this arbitration procedure, both Executive and the Company waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.** In addition, all claims, disputes, or causes of action under this section, whether by Executive or the Company, must be brought in an individual capacity, and shall not be brought as a plaintiff (or claimant) or class member in any purported class or representative proceeding, nor joined or consolidated with the claims of any other person or entity. The Arbitrator may not consolidate the claims of more than one person or entity, and may not preside over any form of representative or class proceeding. To the extent that the preceding sentences regarding class claims or proceedings are found to violate applicable law or are otherwise found unenforceable, any claim(s) alleged or brought on behalf of a class shall proceed in a court of law rather than by arbitration. The Company acknowledges that Executive will have the right to be represented by legal counsel at any arbitration proceeding. Questions of whether a claim is subject to arbitration under this Agreement) shall be decided by a federal court in the State of New York. However, procedural questions which grow out of the dispute and bear on the final disposition are matters for the arbitrator. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; (b) issue a written arbitration decision, to include the arbitrator’s essential findings and conclusions and a statement of the award; and (c) be authorized to award any or all remedies that Executive or the Company would be entitled to seek in a court of law. Executive and the Company shall equally share all JAMS’ arbitration fees. To the extent JAMS does not collect or Executive otherwise does not pay to JAMS an equal share of all JAMS’ arbitration fees for any reason, and the Company pays JAMS Executive’s share, Executive acknowledges and agrees that the Company shall be entitled to recover from Executive half of the JAMS arbitration fees invoiced to the parties (less any amounts Executive paid to JAMS) in a federal or state court of competent jurisdiction. Except as modified in the Confidential Information Agreement, each party is responsible for its own attorneys’ fees. Nothing in this Agreement is intended to prevent either Executive or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction. To the extent a New York federal court determines that any applicable law prohibits mandatory arbitration of Excluded Claims, if Executive intends to bring multiple claims, including one or more Excluded Claims, the Excluded Claim(s) may be publicly filed with a court, while any other claims will remain subject to mandatory arbitration.

## 12. Section 280G Matters.

**12.1** If any payment or benefit Executive will or may receive from the Company or otherwise (a “**280G Payment**”) would (i) constitute a “parachute payment” within the meaning of Section 280G of the Code, and (ii) but for this Section, be subject to the excise tax imposed by Section 4999 of the Code (the “**Excise Tax**”), then any such 280G Payment provided pursuant to this Agreement (a “**Payment**”) shall be equal to the Reduced Amount. The “**Reduced Amount**” shall be either (x) the largest portion of the Payment that would result in no portion of the Payment (after reduction) being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount (i.e., the amount determined by clause (x) or by clause (y)), after taking into account all applicable federal, state, and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive’s receipt, on an after-tax basis, of the greater economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in a Payment is required pursuant to the preceding sentence and the Reduced Amount is determined pursuant to clause (x) of the preceding sentence, the reduction shall occur in the manner (the “**Reduction Method**”) that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the “**Pro Rata Reduction Method**”).

**12.2** Notwithstanding any provision of this Section 12 to the contrary, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A that would not otherwise be subject to taxes pursuant to Section 409A, then the Reduction Method and/or the Pro Rata Reduction Method, as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for Executive as determined on an after-tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without Cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are “deferred compensation” within the meaning of Section 409A shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A.

**12.3** The Company shall appoint a nationally-recognized accounting, consulting or law firm to make the determinations required by this Section 12. The Company shall bear all expenses with respect to the determinations by such firm required to be made hereunder.

**12.4** If Executive receives a Payment for which the Reduced Amount was determined pursuant to clause (x) of and the Internal Revenue Service determines thereafter that some portion of the Payment is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment (after reduction pursuant to clause (x) of Section 12(i)) so that no portion of the remaining Payment is subject to the Excise Tax. For the avoidance of doubt, if the Reduced Amount was determined pursuant to clause (y) of Section 12(i), Executive shall have no obligation to return any portion of the Payment pursuant to the preceding sentence.

### 13. General Provisions.

**13.1 Notices.** Any notices provided must be in writing and will be deemed effective upon the earlier of personal delivery (including personal delivery by fax) or the next day after sending by overnight carrier, to the Company at its primary office location and to Executive at the address as listed on the Company payroll.

**13.2 Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction to the extent possible in keeping with the intent of the parties.

**13.3 Waiver.** Any waiver of any breach of any provisions of this Agreement must be in writing to be effective, and it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision of this Agreement.

**13.4 Complete Agreement.** This Agreement, together with the Confidentiality Agreement, constitutes the entire agreement between Executive and the Company with regard to this subject matter and is the complete, final, and exclusive embodiment of the Parties' agreement with regard to this subject matter. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. It is entered into without reliance on any promise or representation other than those expressly contained herein, and it cannot be modified or amended except in a writing signed by a duly authorized officer of the Company.

**13.5 Amendments and Waivers.** This Agreement cannot be changed, modified or amended, and no provision or requirement hereof may be waived, without the consent in writing of the Executive and the Company. The failure of a party at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by a party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such breach, or a waiver of the breach of any other term or covenant in this Agreement.

**13.6 Counterparts.** This Agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same Agreement.

**13.7 Headings.** The headings of the paragraphs hereof are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning thereof.

**13.8 Successors and Assigns.** This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive and the Company, and their respective successors, assigns, heirs, executors and administrators, except that Executive may not assign any of his duties hereunder and he may not assign any of his rights hereunder without the written consent of the Company, which shall not be withheld unreasonably.

**13.9 Tax Withholding and Indemnification.** All payments and awards contemplated or made pursuant to this Agreement will be subject to withholdings of applicable taxes in compliance with all relevant laws and regulations of all appropriate government authorities. Executive acknowledges and agrees that the Company has neither made any assurances nor any guarantees concerning the tax treatment of any payments or awards contemplated by or made pursuant to this Agreement. Executive has had the opportunity to retain a tax and financial advisor and fully understands the tax and economic consequences of all payments and awards made pursuant to the Agreement.

**13.10 Choice of Law.** All questions concerning the construction, validity and interpretation of this Agreement will be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written below.

**LEXEO THERAPEUTICS, INC.**

**By:** /s/ R. Nolan Townsend  
R. Nolan Townsend  
Chief Executive Officer

**Date:** September 28, 2023

**PAUL MCCORMAC**

/s/ Paul McCormac  
Chief Technology Officer

**Date:** September 28, 2023

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

**LEXEO THERAPEUTICS, LLC  
CONSULTING AGREEMENT**

This Consulting Agreement (the “**Agreement**”), made effective on this 9<sup>th</sup> day of October, 2020 (“**Effective Date**”) is entered into by LEXEO Therapeutics, LLC, a Delaware limited liability company (the “**Company**”), and Ronald G. Crystal, M.D. (the “**Consultant**”).

WHEREAS, the Company is engaged in the research and development of products based on gene therapy technologies; and

WHEREAS, the Consultant has extensive experience in gene therapy technologies, and the Company seeks to benefit from the Consultant’s expertise by retaining the Consultant as a consultant; and

WHEREAS, the Company and the Consultant desire to establish the terms and conditions under which the Consultant will provide services to the Company.

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

1. **Services.** The Consultant agrees to perform such consulting, advisory and related services to and for the Company as may be reasonably requested from time to time by the Company and agreed to by the Consultant, including, (a) consulting and advisory services to and for the Company with respect to matters related to gene therapies for diseases; (b) participation in corporate and research and development strategy sessions; and (c) advising on recruiting and interviewing (the “**Services**”).

2. **Term.** This Agreement shall commence on the Effective Date and shall continue for five (5) years (the “**Initial Term**”) and, unless sooner terminated in accordance with the provisions of Section 4, shall automatically renew for additional one-year terms each a “**Renewal Term**” (the Initial Term and any Renewal Term(s) shall be collectively referred to as the “**Consultation Period**”).

3. **Compensation.**

3.1 **Consulting Fees.** The Company shall pay to the Consultant an annual consulting fee of two hundred and fifty thousand dollars (\$250,000.00), payable in accordance with the Company’s normal payroll practices (payable no less frequently than [\*\*\*]) as in effect from time to time (the “**Consulting Fees**”). The Consulting Fee shall not begin to be paid until the closing of an Initial Financing. “**Initial Financing**” shall mean a financing or a liquidity event (e.g., product license), in either case, that generates proceeds in the minimum amount of [\*\*\*].

3.2 **Benefits.** The Consultant shall not be entitled to any benefits, coverages or privileges under this Agreement, including, without limitation, health insurance, social security, unemployment, medical or pension payments, made available to employees of the Company.

4. **Termination.** This Agreement may be terminated: (a) at the end of the Initial Term or any individual Renewal Term by either the Company or the Consultant upon not less than [\*\*\*] prior written notice to the other party; (b) for Cause (as defined below); or (c) at any time upon the mutual written consent of the parties hereto. In the event of termination, the Consultant shall be entitled to payment prior to the

effective date of termination that have not been previously paid. Such payment shall constitute full settlement of any and all claims of the Consultant of every description against the Company. “Cause” means (1) the willful or repeated failure or refusal by Consultant to substantially perform his material duties under this Agreement (other than such failure resulting from Consultant’s incapacity due to physical or mental illness; and it being agreed that failure of the Company to achieve operating results or similar poor performance of the Company shall not, in and of themselves, be deemed a failure to perform Consultant’s duties); (2) the plea of guilty or no contest or conviction or indictment of Consultant of any felony or any crime involving moral turpitude (other than misdemeanors for DUI or DWI); (3) Consultant’s commission of an act of fraud, embezzlement or material misappropriation of assets involving the Company or any of its subsidiaries or affiliates; (4) any material breach by Consultant of Consultant’s obligations under this Agreement; (5) any breach of any fiduciary duty owed to the Company or any of its subsidiaries or affiliates under the law or under this Agreement or any other written agreement or written covenant with the Company, unless the action giving rise to such breach was taken at the direction of the managing member or board of directors of the Company, as applicable, or was based on Consultant’s good faith belief that such action was in the best interests of the Company and/or its subsidiaries; or (6) any willful action under the law or under this Agreement or any other written agreement or written covenant with the Company that is reasonably likely, in the good faith opinion of a majority of the directors on the Board (other than the Consultant), to result in material harm to the reputation or business prospects of the Company or any of its subsidiaries or affiliates. In any event described in clauses (1), (4) or (6) above, such event will not constitute Cause unless Consultant shall have failed to cure such event (to the extent capable of cure) within [\*\*\*] after written notice thereof has been given to Consultant.

5. Cooperation. The Consultant shall use reasonable efforts in the performance of Consultant’s obligations under this Agreement. The Company shall provide such access to its information and property as may be reasonably required in order to permit the Consultant to perform Consultant’s obligations hereunder.

6. Proprietary Information and Inventions.

6.1 Proprietary Information.

(a) The Consultant, on the one hand, and the Company, on the other hand, each acknowledge that their relationship with each other is one of trust and confidence and that in the course of Consultant’s service to the Company, each such party will have access to and contact with the other’s Proprietary Information. The Consultant, on the one hand, and the Company, on the other, each will not disclose any Proprietary Information to any person or entity other than employees of the Company or use the same for any purposes (other than in the performance of the Services) without written approval by an officer of the Company or the Consultant, as applicable, either during or for [\*\*\*] after the Consultation Period, unless and until such Proprietary Information has become public knowledge without fault by the Consultant or the Company as applicable. As used, herein, the party disclosing Proprietary Information shall be the “**Disclosing Party**”, and the party receiving such Proprietary Information shall be the “**Receiving Party**”.

(b) For purposes of this Agreement, “**Proprietary Information**” shall mean, by way of illustration and not limitation, all information, whether or not in writing, whether or not patentable and whether or not copyrightable, or a private, secret or confidential nature, owned, possessed or used by the Disclosing Party, concerning the Disclosing Party’s business, business relationships or financial affairs, including, without limitation, any Invention, formula, vendor information, customer information, apparatus, equipment, trade secret, process, research, report, technical or research data, clinical data, know-how, computer program, software, software documentation, hardware design, technology, product, processes, methods, techniques, formulas, compounds, projects, developments, marketing or business plan, forecast, unpublished financial statement, budget, license, price, cost, customer, supplier or personnel information or employee list that is communicated to, learned of, developed or otherwise acquired by the Receiving Party in the course of Consultant’s Services as a consultant to the Company.

(c) The Receiving Party's obligations under this Section 6.1 shall not apply to any information that (i) was known to the Receiving Party at the time that it was communicated to, learned of or, otherwise, acquired by the Receiving Party hereunder, other than by previous disclosure by or on behalf of the Disclosing Party, as evidenced by the Receiving Party's written records, (ii) is or becomes known to the general public under circumstances involving no breach by the Receiving Party of the terms of this Section 6.1, (iii) is generally disclosed to third parties by the Disclosing Party without restriction on such third parties, (iv) is independently developed by the Receiving Party without the use of or reference to the Proprietary Information, as demonstrated by documentary evidence, or (v) is approved for release by written authorization of the Disclosing Party or an officer of the Disclosing Party, or (vi) with respect to the Consultant, arises from [\*\*\*] and that is [\*\*\*]. For purposes of this Section 6.1(c), [\*\*\*]

(d) The Receiving Party agrees that all files, documents, letters, memoranda, reports, records, data sketches, drawings, models, laboratory notebooks, program listings, computer equipment or devices, computer programs or other written, photographic, or other tangible material containing Proprietary Information, whether created by the Receiving Party or others, which shall come into Receiving Party's custody or possession, shall be and are the exclusive property of the Disclosing Party to be used by the Receiving Party only in the Company's business and shall not be copied or removed from the Company premises except in the pursuit of the business of the Company. All such materials or copies thereof and all tangible property of the Disclosing Party in the custody or possession of the Receiving Party shall be delivered to the Disclosing Party, upon the earlier of (i) a request by the Disclosing Party or (ii) the termination of this Agreement. After such delivery, the Receiving Party shall not retain any such materials or any such tangible property. Notwithstanding the above, the Receiving Party may keep one (1) copy of such Proprietary Information it has received in its respective confidential files, solely for the purpose of monitoring its rights and obligations under this Agreement.

(e) The Receiving Party agrees that Receiving Party's obligation not to disclose or to use information and materials of the types set forth in paragraphs (b) and (d) above, and Consultant's obligation to return materials and tangible property set forth in paragraph (d) above extends to such types of information, materials and tangible property of customers of the Disclosing Party or suppliers to the Disclosing Party or other third parties who may have disclosed or entrusted the same to the Receiving Party.

(f) The Consultant and the Company each acknowledge that each of them from time to time may have agreements with other persons or with the United States Government, or agencies thereof, that impose obligations or restrictions on them regarding inventions made during the course of work under such agreements or regarding the confidential nature of such work. The Consultant and the Company each agree to be bound by all such obligations and restrictions that are known to him and to take all action necessary to discharge the obligations of the Company and the Consultant, as applicable, under such agreements.

(g) The Company acknowledges that [\*\*\*] The Company agrees that [\*\*\*].

## 6.2 Inventions.

(a) All inventions, ideas, creations, discoveries, data, technical information, know-how, developments and innovations (whether or not patentable and whether or not copyrightable) which are conceived by the Consultant, solely or jointly with others or under Consultant's direction during



and in the course of the Consultant's performance of the Services provided under Section 1 of this Agreement for Company (collectively, the "Inventions"), shall be the sole property of the Company. The Consultant hereby assigns to the Company all Inventions and related patents, copyrights, trademarks, and other and intellectual property rights and applications therefor, in the United States and elsewhere. However, this paragraph shall not apply to Inventions (i) [\*\*\*], (ii) [\*\*\*], or (iii) [\*\*\*]

(b) Upon the request of the Company and at the Company's expense, the Consultant shall execute such further assignments, documents and other instruments as may be necessary or desirable to fully and completely assign all Inventions to the Company and to reasonably assist the Company in applying for, obtaining and enforcing patents or copyrights or other rights in the United States and in any foreign country with respect to any Invention.

(c) The Consultant shall promptly disclose to the Company all Inventions and will maintain adequate and current written records (in the form of notes, sketches, drawings and as may be specified by the Company to document the conception and/or first actual reduction to practice of any Invention. Such written records shall be available to and remain the sole property of the Company at all times.

(d) Notwithstanding the foregoing, the rights and obligations of the parties pursuant to this Section 6 shall be subject to the terms of the Addendum attached hereto.

7. Non-Solicitation. During the Consultation Period and for a period of [\*\*\*] thereafter, the Consultant shall not, either alone or in association with others, (i) solicit, or permit any organization directly or indirectly controlled by the Consultant to solicit, any employee of the Company to leave the employ of the Company; (ii) solicit for employment, hire or engage as an independent contractor, or permit any organization directly or indirectly controlled by the Consultant to solicit for employment, hire or engage as an independent contractor, any person who is employed or engaged by the Company; and/or (iii) solicit, divert or take away, the business or patronage of any of the clients, customers or accounts or prospective clients, customers or accounts, of the Company that were contacted, solicited or served by the Consultant on behalf of the Company during the term of the Consultant's engagement with the Company.

8. Other Agreements. The Consultant hereby represents that, except with regard to Consultant's employment obligations to WCMC or as the Consultant has disclosed in writing to the Company, the Consultant is not bound by the terms of any agreement with any third party to refrain from using or disclosing any trade secret or confidential or proprietary information in the course of Consultant's consultancy with the Company, to refrain from competing, directly or indirectly, with the business of such third party or to refrain from soliciting employees, customers or suppliers of such third party.

#### 9. Independent Contractor Status.

9.1 The Consultant shall perform all Services under this Agreement as an "independent contractor" and not as an employee or agent of the Company. Under this Agreement, the Consultant is not authorized to assume or create any obligation or responsibility, express or implied, on behalf of, or in the name of, the Company or to bind the Company in any manner.

9.2 The Consultant shall have the right to control and determine the time, place, methods, manner and means of performing the Services. In performing the Services, the amount of time devoted by the Consultant on any given day will be entirely within the Consultant's control, and the Company will rely on the Consultant to put in the amount of time necessary to fulfill the requirements of this Agreement. The Consultant will provide all equipment and supplies required to perform the Services. The Consultant is not required to attend regular meetings at the Company. However, upon reasonable notice, the Consultant shall meet with representatives of the Company at a location to be designated by the parties to this Agreement.

9.3 In the performance of the Services, the Consultant has the authority to control and direct the performance of the details of the Services, the Company being interested only in the results obtained.

9.4 The Consultant shall not use the Company's trade names, trademarks, service names or service marks without the prior approval of the Company. The Company shall not use the trade names, trademarks, logos, service names or service marks of WCMC, or any variation or adaptation thereof, without the prior written approval of WCMC.

9.5 The Consultant shall be solely responsible for all state and federal income taxes, unemployment insurance and social security taxes in connection with this Agreement and for maintaining adequate workers' compensation insurance coverage. The Consultant shall further be solely liable for any claim or liability of any kind (including penalties, fees or charges) resulting from the Consultant's failure to pay the taxes, penalties and payments referenced in this Section 9.5.

10. Non-Exclusivity. The Consultant retains the right to contract with other companies or entities for Consultant's consulting services without restriction. The Company retains the right to contract with other companies and/or individuals for consulting services without restriction.

11. Remedies. The Consultant acknowledges that any breach of the provisions of Sections 6 or 7 of this Agreement shall result in serious and irreparable injury to the Company for which the Company cannot be adequately compensated by monetary damages alone. The Consultant agrees, therefore, that, in addition to any other remedy the Consultant may have, the Company shall be entitled to enforce the specific performance of this Agreement by the Consultant and to seek both temporary and permanent injunctive relief (to the extent permitted by law).

12. Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed effective upon personal delivery or upon deposit in the United States Post Office, by registered or certified mail, postage prepaid, addressed to the other party at the address shown above, or at such other address or addresses as either party shall designate to the other in accordance with this Section 12.

13. Pronouns. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular forms of nouns and pronouns shall include the plural, and vice versa.

14. Entire Agreement. This Agreement and the Addendum attached hereto, together, constitute the entire agreement between the parties and supersede all prior agreements and understandings, whether written or oral, relating to the subject matter of this Agreement.

15. Amendment. This Agreement may be amended or modified only by a written instrument executed by both the Company and the Consultant.

16. Non-Assignability of Contract. This Agreement is personal to the Consultant and the Consultant shall not have the right to assign any of Consultant's rights or delegate any of Consultant's duties without the express written consent of the Company. Any non-consented-to assignment or delegation, whether express or implied or by operation of law, shall be void and shall constitute a breach and a default by the Consultant.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any other jurisdiction.

18. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, both parties and their respective successors and assigns, including any corporation with which, or into which, the Company may be merged or which may succeed to its assets or business, provided, however, that the obligations of the Consultant are personal and shall not be assigned by him.

19. Interpretation. If any restriction set forth in Section 6 or Section 7 is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable.

20. Survival. Sections 4 through 21 shall survive the expiration or termination of this Agreement.

21. Miscellaneous.

21.1 No delay or omission by the Company in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by the Company on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion.

21.2 The captions of the sections of this Agreement are for convenience of reference only and in no way define, limit or affect the scope or substance of any section of this Agreement.

21.3 In the event that any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**LEXEO THERAPEUTICS, LLC**

By: /s/ R. Nolan Townsend

Name: R. Nolan Townsend

Title: Chief Executive Officer

**CONSULTANT**

/s/ Ronald G. Crystal

Ronald G. Crystal, M.D.

**ADDENDUM TO CONSULTING AGREEMENT (“Addendum”)**

This Addendum is hereby incorporated into that certain Consultant Agreement Between Dr. Ronald G. Crystal, M.D. (“**Consultant**”) and Lexeo Therapeutics, LLC (“**Company**”) dated October 9, 2020 (“**Consulting Agreement**”).

1. The purpose of this Addendum is to ensure that Consultant’s commitments to Company are consistent with Consultant’s obligations to Cornell University and its Weill Cornell Medical College (collectively, “WCMC”). The undersigned agree that this Addendum is a part of the Consulting Agreement and further agree that if anything in the Consulting Agreement is inconsistent with this Addendum, this Addendum shall govern with respect to such inconsistency.

2. Company acknowledges that the terms and conditions of the Consulting Agreement are subordinate to obligations which Consultant has to WCMC as a WCMC faculty member and employee, and in the event that there is any conflict or inconsistency between terms of the Consulting Agreement and the Consultant’s obligations to WCMC, the obligations to WCMC will govern with respect to such conflict or inconsistency.

3. Company may not use the name, logo, or service mark of WCMC or any variation or adaptation thereof without the prior written approval of WCMC.

4. Company agrees and understands that Consultant is obliged to assign and has preemptively assigned to WCMC all of Consultant’s rights in intellectual property resulting from activities conducted in the course of Consultant’s employment at WCMC or supported entirely or partly by WCMC resources. Company has no rights by reason of the Consulting Agreement in any intellectual property that is subject to Consultant’s obligations to WCMC.

5. The undersigned acknowledge (i) that Consultant is entering into the Consulting Agreement, and providing services to Company thereunder, as a private individual and not as an employee or agent of WCMC; (ii) WCMC is not a party to the Consulting Agreement and has no liability or obligation thereunder; (iii) WCMC is intended as a third party beneficiary of this Addendum and certain provisions of this Addendum are for the benefit of WCMC and are enforceable by WCMC in its own name; and (iv) WCMC may have obligations to report this consulting relationship to funding agencies, potential research subjects and the general public, in compliance with federal regulations for promoting objectivity in research.

6. The above provisions shall be and hereby are in force and effect for the entire term of the Consulting Agreement between Consultant and Company.

<u>R. Nolan Townsend</u> Authorized Official of Company	<u>/s/ R. Nolan Townsend</u> Signature	<u>10/8/2020</u> Date
<u>Ronald G. Crystal, M.D.</u> Consultant	<u>/s/ Ronald G. Crystal</u> Signature	<u>10/8/2020</u> Date

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

## CONSULTING AGREEMENT

This Consulting Agreement (“Agreement”) is made by and between Dr. Eric Adler (“Consultant”) and LEXEO Therapeutics, Inc. (the “Company”) (each a “Party” and collectively the “Parties”). The Company and Consultant hereby agree as follows:

- 1. Effective Date.** This Agreement shall become effective upon the date of closing of the transactions contemplated by the Stock Purchase Agreement, dated July 15, 2021 by and among the Company, Stelios Therapeutics, Inc. and the other parties named therein (the “Effective Date”), and if such transactions do not close, this Agreement shall be *void ab initio*.
- 2. Services.** The Company hereby engages Consultant to serve as a member of the Company’s advisory board. Consultant agrees to advise the Company on [\*\*\*], and perform such other services, consistent with Consultant’s role, as may be reasonably requested by the Company (the “Services”). Consultant shall devote no more than [\*\*\*] to the Services, and in any event no more than may be permitted by Consultant’s position with the University of California at San Diego and the UC San Diego Health-Jacobs Medical Center (“UCSD”).
- 3. Bonus.** Consultant shall be paid a sign-on bonus equal to \$50,000, which shall be paid within [\*\*\*] following the Effective Date. Consultant may be eligible for additional bonus compensation as determined by the Company. The sign-on bonus shall be subject to claw back by the Company if Consultant is terminated by the Company pursuant to clause (iii) or (iv) of Section 6 hereof within the [\*\*\*] following the Effective Date.
- 4. Equity.** Subject to the approval of the Company’s Board of Directors (the “Board”), Consultant will be granted, as promptly as practicable following the Company’s first 409A valuation approved by the Board following the Effective Date, an option to purchase 505,366 shares, which is equal to [\*\*\*] of the Company’s fully-diluted issued and outstanding shares as of the date of this Agreement (the “Option”). The shares subject to the Option shall vest as follows: (i) 416,184 shares, which represent [\*\*\*] of the Company’s fully diluted issued and outstanding shares, shall vest in 48 equal monthly installments on the first day of each month following the Effective Date, subject to Consultant’s continuous service relationship with the Company on each applicable vesting date (the “Time Vesting Option”) and (ii) 89,182 shares, which represent [\*\*\*] of the Company’s fully-diluted issued and outstanding shares, shall vest upon the Company’s completion of the first milestone of an [\*\*\*] sponsored research program (the “Performance Condition”), subject to Consultant’s continuous service relationship with the Company through the date the Performance Condition is satisfied (the “Performance Vesting Option”). If, upon the satisfaction of the Performance Condition, 89,182 shares represents less than [\*\*\*] of the Company’s fully-diluted issued and outstanding shares, the Company shall issue to Consultant an option to purchase an additional number of shares such that total number of shares subject to the Performance Vesting Option equals [\*\*\*] of the Company’s fully-diluted issued and outstanding shares on the date the Performance Condition is satisfied. Notwithstanding anything to the contrary in this Section 4, in the event that (a) the Company consummates a Change in Control (as defined in the Company’s 2021 Equity Incentive Plan), the Option shall vest and become fully exercisable immediately prior to the consummation of such transaction and (b) in the event Consultant’s Services are terminated pursuant to clause (ii) or clause (vi) of Section 6 hereof, the Time Vesting Option shall accelerate [\*\*\*] subject in each case to Consultant’s execution of a standard release in favor of the Company, which release does not impose any restrictive covenants on Consultant beyond those already reflected in this Agreement. The exercise price per share of the Option will be equal to the fair

market value per share of the Company's common stock on the date the Option is granted, as determined by the Board in good faith based upon the Company's most recent 409A valuation report. The Option will be subject in all respects to the Company's stock plan and the associated stock option agreement provided by the Company (the "Equity Documents"). Any vested portion of the Option shall remain exercisable until the Option's expiration date, which shall be [\*\*\*] from the date of grant.

5. Independent Contractor. Consultant is not, nor shall Consultant be deemed to be at any time during the term of this Agreement, an employee of the Company, and therefore Consultant shall not be entitled to any benefits provided by the Company to its employees (including such items as health and disability benefits). Consultant's status and relationship with the Company shall be that of an independent contractor and consultant. Consultant shall not state or imply, directly or indirectly, that Consultant is empowered to bind the Company without the Company's prior written consent. Nothing herein shall create, expressly or by implication, a partnership, joint venture or other association between the Parties. Consultant shall be solely responsible for payment of all charges and taxes arising from his or her relationship to the Company as a Consultant.

6. Term of Agreement; Termination. The term of this Agreement and Consultant's Services hereunder shall commence as of the Effective Date of this Agreement. The term of this Agreement, and the Consultant's service relationship hereunder, shall end upon the earliest of (i) four (4) years from the date of this Agreement; (ii) [\*\*\*] days following the receipt by one Party of a written notice of termination from the other Party; (iii) the Consultant's material breach of this Agreement, which breach is not cured within [\*\*\*] days following receipt of written notice from the Company specifying in reasonable detail the nature of the breach; (iv) the Consultant's continued failure or refusal to perform the Services hereunder, which failure or refusal is not cured within [\*\*\*] days following receipt of written notice from the Company; (v) the Consultant's death or (vi) the Company's material breach of this Agreement, which breach is not cured within [\*\*\*] days following receipt of written notice from the Consultant specifying in reasonable detail the nature of the breach. Except as otherwise explicitly provided herein, Sections 8(c) and 10 through 12 of this Agreement shall survive the termination or expiration of this Agreement for any reason.

7. Warranties of Consultant. Consultant represents to the Company that, except as otherwise expressly set forth in this Agreement (i) with respect to any information, know-how, knowledge or data disclosed by Consultant to the Company in the performance of this Agreement, Consultant has the full and unrestricted right to disclose the same; (ii) Consultant is free to undertake the Services required by this Agreement, and there is, and shall be, no conflict of interest between Consultant's performance of this Agreement and any obligation Consultant may have to other parties; and (iii) all services rendered hereunder will be performed in compliance with all applicable laws and regulations and in a professional manner in accordance with the highest industry standards and practices.

#### 8. Certain Covenants of Consultant.

(a) Consultant agrees that during the term of this Agreement, Consultant shall not, directly or indirectly, engage in any business activity that directly competes, conflicts or interferes with the Company's business activity. Notwithstanding the foregoing sentence, the Company agrees that Consultant may continue to (i) perform services for UCSD and (ii) consult with [\*\*\*], *provided* that the [\*\*\*] does not conflict with Consultant's provision of services to the Company, and *further provided* that (to avoid doubt) the Company's acknowledgement of the [\*\*\*] in no way limits Consultant's obligations under this Agreement's other provisions (including without limitation Sections 8(c), 9, 10, 11 and 12). For clarity, nothing in this Agreement shall prevent Consultant from engaging in any business activity relating to adeno-associated virus-based approaches to treat genetic cardiomyopathies, so long as such business activities do not directly compete, conflict or interfere with the business activities conducted by the Company. Notwithstanding anything to the

contrary contained in this Section 8(a), in the event that, at any time during the term of this Agreement, the Company requests that Consultant perform Services for the Company with respect to [\*\*\*], and Consultant is then performing or has committed to perform services for another party with respect to [\*\*\*], Consultant may continue performing services for such other party provided that Consultant so informs the Company so that the Company may take appropriate steps to avoid Consultant participating in or otherwise having access to the Company's business activities relating to [\*\*\*].

(b) During Consultant's service relationship with the Company, Consultant agrees not to disclose or use in any way the confidential information or property of any third party, including without limitation [\*\*\*]. Consultant acknowledges and agrees that (x) Consultant's provision of services to the Company does not violate any contractual or other legal obligation Consultant has to [\*\*\*]; and (y) Consultant has provided the Company with a copy of any restrictive covenant obligation or other contractual obligation Consultant has to [\*\*\*] that may prohibit or limit Consultant's provision of services to the Company.

(c) During the term of this Agreement and for a period of [\*\*\*] thereafter, Consultant shall not recruit or otherwise solicit, entice, induce or divert, or attempt to solicit, entice, induce or divert, any employees or customers of the Company, or any of its subsidiaries or affiliates, to terminate their employment with, or otherwise cease or diminish their relationships with (as applicable), the Company or any of its subsidiaries or affiliates.

9. Indemnification. Consultant shall indemnify and hold the Company, its affiliates and their respective directors, officers, agents and employees harmless from and against all claims, demands, losses, damages and judgments, including court costs and attorneys' fees, arising out of or based upon Consultant's gross negligence or willful misconduct in connection with Consultant's performance of the Services hereunder.

10. Confidentiality. At all times, both during and after Consultant's service relationship with the Company, Consultant agrees to hold all Confidential Information (as hereinafter defined) of the Company (or other parties whose Confidential Information the Company has in its possession under obligations of confidentiality) in trust and strict confidence and, except as may be authorized by the Company in writing, shall not use for any purpose, nor disclose such Confidential Information to any person, association, company, entity or other organization (whether for profit or not for profit), other than in connection with the performance of the Services under this Agreement. As used herein, "Confidential Information" shall mean all knowledge and information which Consultant has acquired or may acquire as a result of, or related to, his or her relationship with the Company that is not publicly available, including but not limited to, information concerning the Company's business, finances, operations, strategic planning, research and development activities, products, research developments, improvements, processes, trade secrets, services, cost and pricing policies, formulae, diagrams, schematics, notes, data, memoranda, methods, know-how, techniques, inventions, and marketing strategies. Confidential Information shall also include information received by the Company from third parties under an obligation of confidentiality. Confidential Information shall not include information which (i) is or becomes generally available to the public other than by breach of this provision, or (ii) Consultant learns from a third party who is not under an obligation of confidence to the Company.

11. Ownership of Work Product and Enforcement of Intellectual Property. Consultant shall communicate in writing and disclose to the Company promptly and fully all concepts, ideas, inventions, formulae, algorithms, software code, trade secrets, know-how, technical or business innovations, writings, discoveries, designs, developments, methods, modifications, improvements, processes, databases, computer programs, techniques, graphics or images, audio or visual works or other works of authorship and patents or patent rights created, reduced to practice, or conceived by Consultant during the term of this Agreement (whether or not patentable or copyrightable and whether made solely by Consultant or



jointly with others), which result from the Services that Consultant performs for the Company or which result from information derived from the Company or its employees, agents or other consultants (all of the foregoing herein collectively and individually called "Works"). The Works shall be and remain the sole and exclusive property of the Company or its nominees whether or not patented or copyrighted and without regard to any termination of this Agreement. The Works and all related Intellectual Property Rights (as hereinafter defined) are being created at the instance of the Company and shall be deemed to be "works made for hire" under the United States copyright laws, and Consultant hereby does assign and transfer, and to the extent any such assignment cannot be made at present, will assign and transfer, to the Company and its successors and assigns all of Consultant's right, title and interest in all Works and all related Intellectual Property Rights. If any Works (or any Intellectual Property Right in or related to such Works or that claim or cover such Works) does not qualify for treatment as "works made for hire", or if Consultant retains any interest therein for any other reason, Consultant hereby assigns and transfers, and will assign and transfer, to the Company all ownership and interest in such Works and any and all Intellectual Property Rights in and to such Works or that claim or cover any such Works. Consultant will cooperate fully with the Company, both during and after his or her employment with the Company, with respect to the procurement, maintenance and enforcement of Intellectual Property Rights related to the Works. As used herein, "Intellectual Property Rights" means, collectively, all rights in, to and under patents, trade secret rights, copyrights, trademarks, service marks, trade dress, and similar rights of any type under the laws of any governmental authority, including without limitation, all applications and registrations relating to the foregoing.

Notwithstanding anything to the contrary in this Section 11, this Agreement does not obligate Consultant to assign to the Company any development that is developed entirely on Consultant's own time and does not relate to the business efforts or research and development efforts in which, during the period of Consultant's service relationship, the Company actually is engaged, and does not result from the use of premises or equipment owned or leased by the Company. However, Consultant will also promptly disclose to the Company any such developments for the purpose of determining whether they qualify for such exclusion, except to the extent that disclosure would constitute a violation of any policy of UCSD or the terms of any agreement to which Consultant is a party. For clarity, this Agreement does not obligate Consultant to assign to the Company any development that is developed by Consultant for UCSD or any other third party for whom Consultant is permitted to perform services pursuant to Section 8(a), and Consultant's obligations under this Section 11 are expressly subject to Consultant's obligations to disclose and assign certain intellectual property rights to UCSD. Consultant understands that to the extent this Agreement is required to be construed in accordance with the laws of any state which precludes a requirement in an employee agreement to assign certain classes of inventions made by an employee, this Section 12 will be interpreted not to apply to any invention that a court rules and/or the Company agrees falls within such classes. Consultant also hereby waives all claims to any moral rights or other special rights that Consultant may have or accrue in any Company-related developments.

12. Company Data. Any data or other materials furnished by the Company for use by Consultant in connection with the Services shall remain the sole property of the Company and shall be held in trust and confidence by Consultant in accordance with this Agreement. The Company may obtain the return of the Company data or other materials furnished to Consultant upon written notice to Consultant requesting such return, and in any event Consultant shall promptly return such data or materials upon termination of this Agreement and will not keep or make copies of any such data or materials.

13. Protected Disclosures. Consultant understands that nothing contained in this Agreement limits Consultant's ability to communicate with any federal, state or local governmental agency or commission, including to provide documents or other information, without notice to the Company. Consultant also understands that nothing in this Agreement limits Consultant's ability to share compensation information concerning Consultant or others, except that this does not permit Consultant to disclose compensation information concerning others that Consultant obtains because his job responsibilities require or allow access to such information.

14. Defend Trade Secrets Act of 2016. Consultant understands that pursuant to the federal Defend Trade Secrets Act of 2016, Consultant shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

15. Remedies Upon Breach. Consultant understands that the restrictions contained in Sections 8(c), 10, 11 and 12 of this Agreement are necessary for the protection of the business and goodwill of the Company and Consultant considers them to be reasonable for such purpose. Any breach of this Agreement is likely to cause the Company substantial and irrevocable damage and therefore, in the event of such breach, the Company, in addition to such other remedies which may be available, will be entitled to seek specific performance and other injunctive relief.

16. Miscellaneous. This Agreement together with all exhibits hereto, contains the entire understanding of the Parties with respect to the matters contained herein, and supersedes all proposals and agreements, written or oral, and all other communications between the Parties relating to the subject matter of this Agreement. In signing this Agreement, the Consultant is not relying on any promise of representation of the Company except as expressly set forth herein. Neither this Agreement nor any right or obligation hereunder or interest herein may be assigned or transferred by Consultant without the express written consent of the Company. The Company may assign this Agreement to its affiliates, successors and assigns, and the Consultant expressly consents to such assignment. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of laws rules. Any disputes relating to this Agreement or the Consultant's services shall be heard exclusively before California state or federal courts. The Parties expressly agree to such exclusive jurisdiction and fora and hereby waive any right to a trial by jury with respect to any such dispute. This Agreement may not be modified or amended except in writing signed or executed by Consultant and the Company. In case any provisions (or portions thereof) contained in this Agreement will, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein. If, moreover, any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it will be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it will then appear.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date last below written.

**CONSULTANT**

By: /s/ Eric Adler  
Name (Print): Eric Adler

Date: July 16<sup>th</sup> 2021

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend  
Name (Print) R. Nolan Townsend  
Title: Chief Executive Officer

Date: 7/15/2021

[ \*\*\* ] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

*Execution Version*

**STOCK PURCHASE AGREEMENT  
BY AND AMONG  
LEXEO THERAPEUTICS, INC.,  
STELIOS THERAPEUTICS, INC.,  
THE STOCKHOLDERS,  
AND  
STOCKHOLDERS' REPRESENTATIVE**

**Dated as of July 16, 2021**

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## INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
Exhibit A	Form of Escrow Agreement
Exhibit B	Form of Director and Officer Resignation and Release Letter
Exhibit C	Non-Exclusive License Permitted Liens



## STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of July 16, 2021, by and among LEXEO Therapeutics, Inc., a Delaware corporation (the “**Purchaser**”), Stelios Therapeutics, Inc., a Delaware corporation (the “**Company**”), The Cystinosis Research Foundation, Eric Adler, M.D., Farah Sheikh, Ph.D., Jeffrey M. Ostrove, Ph.D., and Stephanie Cherqui, Ph.D. (each, a “**Stockholder**” and, together, the “**Stockholders**”), and Jeffrey M. Ostrove, Ph.D., in his capacity as representative for Stockholders (“**Stockholders’ Representative**”).

### RECITALS

- A. The Stockholders constitute all of the legal and beneficial owners of all of the Company Stock as of the date of this Agreement.
- B. Subject to the terms and conditions set forth in this Agreement, the Purchaser desires to purchase from the Stockholders, and the Stockholders desire to sell to the Purchaser, all of the Company Stock owned by the Stockholders free from any and all Liens.
- C. Concurrently with the execution of this Agreement and as a material inducement to the willingness of the Purchaser to enter into this Agreement, each of the Eric Adler and Farah Sheikh (each, a “**Signing Consultant**”) will execute a Consulting Agreement with the Purchaser, in form and substance mutually agreeable to the Purchaser and such Signing Consultant, which shall become effective upon the Closing (collectively, the “**Signing Consultant Documents**”).

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements, covenants and other premises set forth herein, the mutual benefits to be gained by the performance thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the parties hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

For all purposes of this Agreement, the following terms shall have the following respective meanings:

“**2019 Financials**” means the Company’s consolidated balance sheet as of December 31, 2019 and the related consolidated statements of income, cash flow and stockholders’ equity.

“**2020 Financials**” means the Company’s consolidated balance sheet as of December 31, 2020 (the “**Balance Sheet Date**”) and the related consolidated statements of income, cash flow and stockholders’ equity.

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person. For purposes of this Agreement, “control,” when used with respect to any specified Person, means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities or by Contract, and the terms “controlling” and “controlled by” have correlative meanings to the foregoing.

“**Ancillary Agreements**” means the Escrow Agreement, the Spin-Out Documents, the Signing Consultant Documents, the Certificates, and all other agreements and certificates executed and delivered by or on behalf of the Stockholders, the Company or any officers of the Company in their capacity as such, in connection with this Agreement or any of the foregoing or any of the Transactions.

“**ARVC**” means arrhythmogenic right ventricular cardiomyopathy.

“**ARVC Program**” means all of the research, development and other activities relating to ARVC conducted by the Company, its Affiliates and/or its sublicensees, including the treatment of ARVC using a gene therapy modality delivering genes encoding connexin 43 or plakophilin-2.

“**Business**” means the conduct of all activities of the Company other than those exclusively related to the Spin-Out Assets.

“**Business Day(s)**” means each day that is not a Saturday, Sunday or other day on which the Purchaser is closed for business or banking institutions located in New York, New York or San Diego, California are authorized or obligated by Law or executive order to close.

“**CARES Act**” means the Coronavirus Aid, Relief, and Economic Security Act of 2020 (H.R. 748) and any similar applicable executive order or executive memo (including the Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster, dated August 8, 2020, and Internal Revenue Service Notice 2020-65) in any U.S. jurisdiction, and any similar applicable Law intended to address the consequences of COVID-19, including the Health and Economic Recovery Omnibus Emergency Solutions Act and the Health, Economic Assistance, Liability, and Schools Act.

“**Cash**” means the sum of the fair market value (expressed in United States Dollars as of immediately prior to the Closing) of (a) all cash and (b) all cash equivalents (including deposits, marketable securities and short term investments) of the Company, in each case as of immediately prior to the Closing (which shall include the amount of all uncleared deposits of the Company outstanding and exclude the amount of all uncleared checks or withdrawals of the Company outstanding).

“**Certificates**” means the certificates certifying (i) the FIRPTA Compliance Certificates delivered pursuant to Section 2.3(b)(i) and (ii) any other certificates delivered by or on behalf of the Company and/or an officer of the Company pursuant to Section 2.3(b).

“**Clinical Candidate Selection**” means a Company Product that has successfully completed the set of pre-clinical experiments that Purchaser determines (based on the practice that it consistently applies to its other products) is necessary for Purchaser to commence GLP toxicology studies for such Company Product.

“**Closing Cash Consideration**” means (a) Seven Million Dollars (\$7,000,000), minus (b) the unpaid Indebtedness, minus (c) the unpaid Transaction Expenses, minus (d) the Indemnification Escrow Amount.

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

**“Company Employee Plan”** means: (a) an employee benefit plan within the meaning of Section 3(3) of ERISA whether or not subject to ERISA; (b) stock option plans, stock purchase plans, bonus or incentive award plans, severance pay plans, programs or arrangements, deferred compensation arrangements or agreements, employment agreements, executive compensation plans, programs, agreements or arrangements, change in control plans, programs or arrangements, supplemental income arrangements, vacation plans, and all other employee benefit plans, agreements, and arrangements, not described in (a) above; and (c) plans or arrangements providing compensation to employee and non-employee directors, in each case in which the Company or any ERISA Affiliate sponsors, contributes to, or provides benefits under or through such plan, or has any obligation to contribute to or provide benefits under or through such plan, or if such plan provides benefits to or otherwise covers any current or former employee, officer or director of the Company or any ERISA Affiliate (or their spouses, dependents, or beneficiaries).

**“Company Stock”** means the outstanding shares of common stock of the Company, \$0.0001 par value per share.

**“Contract”** means any mortgage, indenture, lease, contract, license, covenant, plan, insurance policy, purchase order (including any related terms and conditions), work order or other agreement, instrument, arrangement, obligation, understanding or commitment, permit, concession or franchise, whether oral or written and including any amendment, waiver or modification made thereto.

**“CX43 Company Product”** means a Company Product for the treatment of ARVC with a gene therapy modality configured for the production of connexin-43 protein.

**“Dollars”** or **“\$”** means United States Dollars.

**“Environment”** means any soil, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwaters, drinking water supplies, land, sediments, surface or subsurface strata, flora, fauna, ambient air (including indoor air), and any other environmental medium or natural resource.

**“Environmental Law”** means any applicable federal, state or local law, common law, regulation, ordinance, bylaw or other applicable and binding legal authority, relating to: (a) the manufacture, transport, use, treatment, storage, disposal, recycling, export, Release or threatened Release of Hazardous Materials; (b) protection of human health and safety; or (c) pollution or protection of the Environment, including the Comprehensive Environmental Response, Compensation and Liability Act of 1960 (42 U.S.C. §9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), as amended by the Hazardous and Solid Waste Amendments of 1984, the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Water Act (33 U.S.C. §1321 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §3808 et seq.), and any similar federal, state or local laws.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“ERISA Affiliate”** means any entity that would have ever been considered a single employer with the Company under Section 4001(b) of ERISA or part of the same “controlled group” as the Company for purposes of Section 302(d)(3) of ERISA.

“**Escrow Agent**” means Acquiom Clearinghouse LLC, a Delaware limited liability company or another institution reasonably acceptable to parties hereto.

“**Escrow Agreement**” means the Escrow Agreement to be entered into at the Closing by and among the Purchaser, the Stockholders’ Representative and the Escrow Agent in the form attached hereto as Exhibit A.

“**Escrow Release Time**” means the first Business Day after the expiration of the Survival Date.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

“**FDA**” means United States Food and Drug Administration and any successor agency thereto.

“**Financials**” mean the 2019 Financials, the 2020 Financials and the Interim Financials.

“**GAAP**” means United States generally accepted accounting principles consistently applied.

“**Good Laboratory Practices**” or “**GLP**” means the then-current good laboratory practice standards promulgated or endorsed by the FDA, as defined in U.S. 21 C.F.R. Part 58 (or such other comparable regulatory standards in jurisdictions outside the United States, as they may be updated from time to time).

“**Governmental Entity**” means any federal, national, foreign, supranational, state, commonwealth, territorial, provincial, local or other government or political subdivision of any of the foregoing, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body of competent jurisdiction, or other similar body exercising executive, legislative, judicial, regulatory or administrative authority or functions of or pertaining to government or political subdivision including, in all cases, any authority or other quasi-governmental entity established to perform any of such functions.

“**Hazardous Material**” means: (a) any “hazardous substance”, “hazardous waste” or “hazardous material” defined as such in (or for purposes of) any Environmental Law; (b) petroleum, including any fraction thereof, and any petroleum product; (c) mold, radon, or asbestos; and (d) any other substance, regardless of physical form, that is subject to regulation, or for which standards of conduct are imposed, under any Environmental Law.

“**HIPAA**” means U.S. Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.), as amended by the HITECH ACT, and all regulations promulgated thereunder, including the Privacy Standards (45 C.F.R. Parts 160 and 164), the Electronic Transactions Standards (45 C.F.R. Parts 160 and 162), the Security Standards (45 C.F.R. Parts 160, 162 and 164), and the Breach Notification Rule (45 C.F.R. Parts 160 and 164 Parts A and D) as amended by the HITECH Act, the 21st Century Cures Act (Pub. L. 114-255), and as otherwise may be amended from time to time by Congress and/or rulemaking authority of the Secretary of the Department of Health and Human Services.

“**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 and its implementing regulations, including 42 C.F.R. §§ 412, 413, 422 and 495, as amended by the HIPAA Omnibus Rule, issued on January 25, 2013, effective as of March 26, 2013.

**“Health Care Law”** means any and all Laws of any Governmental Entity pertaining to health regulatory matters applicable to the business of the Company, including but not limited to the Federal Food, Drug and Cosmetic Act of 1938, as amended (the “FDCA”), the Public Health Service Act of 1944, as amended (the “PHSA”), and the regulations of the U.S. Food and Drug Administration (the “FDA”) promulgated thereunder, Medicare (Title XVIII of the Social Security Act) and Medicaid (Title XIX of the Social Security Act), the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Anti-Self-Referral Law (42 U.S.C. § 1395nn), the Anti-Inducement Law (42 U.S.C. § 1320a-7a(a)(5)), the civil False Claims Act (31 U.S.C. §§ 3729 et seq.), the administrative False Claims Law (42 U.S.C. § 1320a-7b(a)), the exclusion laws (42 U.S.C. § 1320a-7), the Prescription Drug Marketing Act of 1987, the Sunshine/Open Payments Law (42 U.S.C. § 1320a-7h), all regulations or guidance promulgated pursuant to such Laws, and any other federal, state or non-U.S. Law that regulates the design, development, testing, studying, manufacturing, processing, storing, importing or exporting, licensing, labeling or packaging, advertising, distributing, selling, pricing, or marketing of pharmaceutical products, or that is related to remuneration (including ownership) to or by physicians or other health care providers (including kickbacks) or the disclosure or reporting of the same, patient or program charges, record-keeping, claims processing, documentation requirements, medical necessity, referrals, the hiring of employees or acquisition of services or supplies from those who have been excluded from government health care programs, quality, safety, privacy, security, licensure, accreditation or any other aspect of providing health care products or services.

**“Indebtedness”** of any Person means, as of any specified date, the amount equal to the sum (without any double-counting) of the following obligations (whether or not then due and payable), to the extent they are either obligations of such Person or its Subsidiary or guaranteed by such Person or its Subsidiary, including through the grant of a security interest upon any assets of such Person or its Subsidiary: (a) all outstanding indebtedness for borrowed money owed to third parties or Affiliates; (b) all obligations for the deferred purchase price of property or services (including any potential future earn-out, purchase price adjustment, releases of “holdbacks” or similar payments) (“**Deferred Purchase Price**”); (c) all obligations evidenced by notes, bonds, debentures or other similar instruments (whether or not convertible) or arising under indentures; (d) all obligations arising out of any financial hedging, swap or similar arrangements; (e) all obligations of such Person as a lessee that would be required to be capitalized in accordance with GAAP; (f) all obligations in connection with any letter of credit, banker’s acceptance, guarantee, surety, performance or appeal bond, or similar credit transaction; (g) any unpaid commissions, bonuses, employee expenses, severance and paid time off, in each case, accrued or earned prior to or at the Closing, including the employer portion of any payroll, social security, unemployment or similar Tax imposed on such amounts (including any such Taxes deferred pursuant to the CARES Act); (h) any deferred revenues or prepayments (other than Transaction Expenses); (i) any unpaid Pre-Closing Taxes (for the avoidance of doubt calculated taking into account any gain recognized in the Spin-Out Documents); (j) any payables or other amounts owed to any Affiliate of the Company and any other accounts payable; (k) any mortgage or other obligation secured by a Lien; and (l) the aggregate amount of all accrued interest payable on such items under clauses (a) through (k) and prepayment premiums, penalties, breakage costs, “make whole amounts,” costs, expenses and other payment obligations of such Person that would arise (whether or not then due and payable) if all such items under clauses (a) through (k) were prepaid, extinguished, unwound and settled in full as of such specified date. For purposes of determining the Deferred Purchase Price obligations as of a specified date, such obligations shall be deemed to be the maximum amount of Deferred Purchase Price owing as of such specified date (whether or not then due and payable) or potentially owing at a future date. For the avoidance of doubt, Indebtedness shall not include any items included in the Transaction Expenses of the Company.

**“Indemnification Escrow Amount”** means an amount in cash equal to [\*\*\*].

**“Indemnification Escrow Fund”** means the Indemnification Escrow Amount plus any interest thereon and on any such interest, in accordance with the Escrow Agreement, as the same may be reduced from time to time by any payments to the Purchaser and the other Purchaser Indemnified Parties pursuant to Section 9.2, Section 9.4(e) or Section 9.5(b).

**“Indemnified Party”** means the Purchaser Indemnified Parties or the Seller Indemnified Parties, as applicable.

**“Indemnifying Party”** means the Purchaser or any of the Stockholders, as applicable.

**“Interim Financials”** means the Company’s unaudited consolidated balance sheet as of June 30, 2021 and the related unaudited consolidated statements of income, cash flow and stockholders’ equity.

**“Inventory”** means any and all materials, reagents, laboratory notebooks, laboratory equipment, laboratory animals (including any experimental mouse models), samples, gene therapy constructs, computer hard drives containing [\*\*\*,] works-in-progress, finished goods, supplies and other inventories of the Company and other related tangible materials necessary or useful for the Business, wherever situated.

**“IRS”** means the United States Internal Revenue Service.

**“Knowledge”** or **“Known”** means, with respect to the Company, the knowledge of [\*\*\*], after a reasonable investigation and inquiry.

**“Laws”** means all constitutions, laws (including common law doctrine), statutes, regulations, ordinances, codes, orders, decrees, judgments, writs, injunctions, decisions, rules, standards, and rulings or any other pronouncements having the effect of law, or any settlement to which such Person is a party under the jurisdiction of any court or enacted, issued, promulgated, enforced or entered by a Governmental Entity, along with any binding written interpretations or policies promulgated or issued under any of the foregoing.

**“Liability”** or **“Liabilities”** means debts, liabilities, commitments, losses, deficiencies, duties, charges, claims, damages, demands, costs, fees, Taxes, expenses and obligations (including guarantees, endorsements and other forms of credit support), whether accrued or fixed, absolute or contingent, matured or unmatured, known or unknown, on- or off-balance sheet, including those arising under any Contract, Law, statute, ordinance, regulation, rule, code, common law or other requirement or rule enacted or promulgated by any Governmental Entity or any litigation, court action or proceeding, lawsuit, originating application to an employment tribunal, or binding arbitration.

**“Lien”** means any lien, pledge, charge, claim, mortgage, security interest, defect in title, preemptive right, vesting limitation, community or marital property interest, right of first offer, notice, negotiation or refusal, transfer restriction of any kind or other encumbrance of any sort.

**“Loss”** means any claim, action, proceeding, loss, Liability, damage (excluding punitive and/or exemplary damages except in the case of a third-party claim), cost, interest, award, judgment, penalty, Tax, and expense, including reasonable attorneys’ and consultants’ fees and expenses and including any such reasonable out-of-pocket expenses incurred in connection with investigating, defending against or settling any of the foregoing, in each case, whether arising from a third-party or a direct claim.

“**made available to the Purchaser**” means (i) contained and accessible for a continuous period of at least [\*\*\*] immediately prior to the date of this Agreement in the virtual data room hosted by [\*\*\*] to which the Purchaser and its designated representatives had unrestricted access (the “**Data Room**”) and notification rights during such period or (ii) delivered by the Seller Parties or their representatives to the Purchaser or its representatives. Notwithstanding any to the contrary herein, the Data Room shall not include the folder in the virtual data room hosted by [\*\*\*] containing the Spin-Out Assets.

“**Material Adverse Effect**” means any state of facts, condition, change, development, event or effect that, either alone or in combination with any other state of facts, condition, change, development, event or effect, that has, or would be reasonably likely to have, material adverse effect on the Business or the assets (whether tangible or intangible), Liabilities, condition (financial or otherwise), operations of the Business or capitalization of the Company, but in each case shall not include the effect of facts, conditions, changes, developments, events or effects to the extent resulting from (a) conditions affecting the industry in which the Company operates generally, (b) war, terrorism or hostilities, (c) any changes in general economic or business conditions or the financial or securities markets generally, (d) any change in GAAP or applicable Laws (or interpretation thereof), (e) any acts of God, weather, natural disasters, earthquakes, epidemics, pandemics and disease outbreaks or any worsening thereof or actions taken in response thereto, or national or international political or social conditions, (f) any failure in and of itself (as distinguished from any fact, condition, change, development, event or effect (other than as described in clauses (a) – (e) of this definition) giving rise to or contributing to such failure) by the Company to meet any projections or forecasts for any period, and (g) taking any action required or permitted by this Agreement or taking or not taking any actions with the prior written consent of the Purchaser; provided, that in the case of clauses (a), (b), (c), (d), (e) and (g), such fact, condition, change, development, event or effect does not have any disproportionate or unique material adverse effect on the Company. For the avoidance of doubt, the Spin-Out and the transactions contemplated thereby shall not be deemed to be or deemed to have caused a Material Adverse Effect.

“**Milestone Payment**” means the milestone payments corresponding to the applicable milestones specified in Section 2.5.

“**Multiemployer Plan**” means an employee pension or welfare benefit plan to which more than one unaffiliated employer contributes and which is maintained pursuant to one or more collective bargaining agreements.

“**Permit**” means all licenses, authorizations, permits, certificates, approvals and clearances, consents registrations, accreditations, variances, qualifications, accreditations or other rights and privileges issued, or required, by any Governmental Entity or quasi-governmental authorities necessary for the Company to conduct the Business, in all material respects, as conducted on the date hereof.

“**Permitted Liens**” means (i) Liens for Taxes not yet delinquent in accordance with applicable Law or being contested in good faith through appropriate proceedings and for which adequate reserves have been established on the books of the Company and (ii) non-exclusive out-licenses entered into by the Company in the ordinary course of business, in each case listed on Exhibit C.

“**Person**” means an individual or entity, including a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a cooperative, a foundation, a joint venture, an unincorporated organization, or a Governmental Entity (or any department, agency, or political subdivision thereof).

**“Personal Information”** any and all data that identifies or relates to an individual that is regulated, protected or restricted by applicable Law, including all “Protected Health Information” or (“PHI”) (as such term is defined by HIPAA), or any similar term in the Company’s privacy policies or other public-facing statement, any information that is subject to any Privacy Law or regarding or capable of being associated with an individual consumer or device, including information that identifies, or could reasonably be used to identify (alone or in combination with other information) or is otherwise identifiable with a device or natural person, including name, physical address, telephone number, email address, financial account number, government-issued identifier (including Social Security number and driver’s license number), medical, health or insurance information, gender, date of birth, educational or employment information, any religious or political view or affiliation, marital or other status, photograph, face geometry or biometric information, and any other data used or intended to be used to identify, contact or precisely locate an individual. Personal Information may relate to any individual, including any user of any Internet or device application who views or interacts with any Company website or platform, or a current, prospective or former customer, employee or vendor of any Person. Personal Information includes information in any form, including paper, electronic and other forms.

**“PKP2 Company Product”** means a Company Product for the treatment of ARVC with a gene therapy modality delivering the plakophilin-2 gene.

**“Privacy Laws”** means any Law applicable to the business of the Company (i) relating to the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security, disposal, destruction, disclosure or transfer of Personal Information, (ii) governing privacy, data security, data or security breach notification, any penalties and compliance with any order, including, without limitation, HIPAA, the Gramm-Leach-Bliley Act, Section 5 of the Federal Trade Commission, California Online Privacy Protection Act, the Children’s Online Privacy Protection Act, Communications Decency Act, and Telephone Consumer Protection Act, and other United States state laws concerning privacy, the CAN-SPAM Act, the UK Data Protection Act 2018, the European General Data Protection Regulation (the “GDPR”), EU Directive 95/46/EC, EU Directive 2002/58/EC and any Laws or regulations implementing either or both of the GDPR, EU Directive 95/46/EC and EU Directive 2002/58/EC (each as amended from time to time), (ii) any applicable Laws requiring a person or Governmental Entity to be notified of any situation where there is, or reason to believe there has been, a loss, misuse, or unauthorized access, disclosure or acquisition of Personal Information; and (iii) all contractual obligations to which the Company is bound as relate to material compliance with (i) through (ii) above as applicable to the business of the Company.

**“Phase I Clinical Trial”** means a clinical trial of a pharmaceutical or biologic product with the endpoint of determining initial tolerance, safety, pharmacokinetic or pharmacodynamic information in single dose, single ascending dose, multiple dose or multiple ascending dose regimens, which is prospectively designed to generate sufficient data (if successful) to commence a Phase II Clinical Trial (or later clinical trial) of such a pharmaceutical or biologic product, as further defined in 21 C.F.R. 312.21(a), as amended from time to time, or the corresponding foreign regulations.

**“Pre-Closing Tax Period”** means any taxable period (or a portion thereof) ending on or prior to the end of the day on the Closing Date.

**“Pre-Closing Taxes”** means, without duplication, (a) any and all Taxes of the Company attributable to any Pre-Closing Tax Period, (b) all Taxes of the Stockholders, (c) any and all Taxes of any member of an Affiliated, consolidated, combined or unitary group of which the Company (or any predecessor thereof) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation 1.1502-6 or any analogous or similar state, local, or non-U.S. Laws, (d) any and all Taxes of any Person (other than the Company) imposed on the Company as a transferee or successor, by Contract or



pursuant to any Laws, which Taxes relates to an event or transaction occurring on or before the Closing Date, (e) the employer portion of any payroll or employment Taxes with respect to any payments arising as a result of the Transactions (including any such Taxes deferred pursuant to the CARES Act) attributable to a Pre-Closing Tax Period and (f) any Transfer Taxes allocated to the Sellers under Section 8.5. Notwithstanding the foregoing, Pre-Closing Taxes shall not include any Taxes taken into account in the final calculation of Closing Transaction Expenses or Closing Indebtedness.

**“Proceeding”** means an action, complaint, petition, suit, proceeding, investigation, claim, demand, arbitration, dispute, litigation, interference, audit, hearing, inquiry, investigation, self-disclosure, qui tam action, or other proceeding (whether civil, criminal, regulatory or otherwise), at law or in equity, commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Entity.

**“Purchase Price”** means the aggregate amount paid to the Stockholders pursuant to Section 2.1(b)(i) (as adjusted as contemplated by Section 2.3) and Section 2.1(b)(ii) (if ultimately paid to the Stockholders in accordance with the terms hereof and the Escrow Agreement).

**“Purchaser Indemnified Parties”** means the Purchaser, its Affiliates and its and their respective officers, directors, employees, agents and representatives.

**“Release”** or **“Released”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a Hazardous Material into the Environment.

**“Restricted Stockholder”** means [\*\*\*]

**“Securities Act”** means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

**“Seller Indemnified Parties”** means the Seller Parties, their Affiliates and their respective officers, directors, employees, agents and representatives.

**“Seller Parties”** means the Company and the Stockholders.

**“Spin-Out”** means the transaction(s) pursuant to which the Company transfers the Spin-Out Assets to a new and separate entity owned by the Stockholders.

**“Spin-Out Assets”** means the programs and assets (and related liabilities) exclusively relating to the items identified on Schedule I.

**“Spin-Out Documents”** means the agreements, documents and instruments necessary, proper or otherwise executed to consummate and make effective the Spin-Out and the transactions contemplated thereby.

**“Straddle Period”** means a taxable period beginning on or before, and ending after, the Closing Date.

**“Subsidiary”** of any Person means any corporation, partnership, limited liability company, cooperative, association or other organization (including any branch), whether incorporated or unincorporated, which is directly or indirectly controlled by such Person, whether through ownership of securities or otherwise.

“**Tax**” or “**Taxes**” means any and all U.S. federal, state, local and non-U.S. taxes, assessments and other governmental charges, duties (including stamp duty), fees, impositions of any kind whatsoever including taxes based upon or measured by gross receipts, income, profits, gains, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, environmental, employment, unclaimed property, escheat, excise and property taxes as well as public imposts, and social security charges (including health, unemployment, workers’ compensation and pension insurance), together with all interest, penalties, and additions imposed with respect to such amounts.

“**Tax Returns**” means any return, declaration, report, statement, information statement or other document filed or required to be filed with respect to Taxes, including any claims for refunds of Taxes,

any information returns and any amendments, schedules or supplements of any of the foregoing.

“**TNNI3 Company Product**” means a Company Product for the treatment of TNNI3-Associated HCM using a gene therapy modality.

“**TNNI3-Associated HCM**” means hypertrophic cardiomyopathy attributed to a pathogenic variant of the TNNI3 gene.

“**TNNI3-Associated HCM Program**” means all of the research, development and other activities relating to TNNI3-Associated HCM conducted by the Company, its Affiliates and/or its sublicensees, including research and development of a treatment of TNNI3-Associated HCM using a gene therapy modality.

“**Transaction Expenses**” means any Liabilities incurred by or on behalf of the Company (or any Affiliate or Stockholder thereof, if required to be paid by the Company) in connection with the negotiation and execution of this Agreement and/or the Ancillary Agreements (including all fees, costs and expenses of any brokers, accountants, financial advisors, attorneys, consultants, auditors and other experts), the performance of such Person’s and its pre-Closing Affiliates’ obligations hereunder and thereunder and the consummation of the Transactions (including any fees and expenses associated with obtaining any terminations, amendments, waivers, consents or approvals of any Person contemplated hereby), any Liabilities that may become due and payable by the Company as a result of the Transactions (including all brokers’, finders’ or similar fees owed by any such Person in connection with the Transactions) and any change of control payments, bonuses, severance, termination or retention obligations or similar amounts payable by or due from the Company that are triggered by the Transactions, the amount of any payroll or employment Taxes with respect to any such change of control payments, bonuses, severance, termination retention obligations or similar compensatory payments made by the Company to service providers in connection with the Transactions (including any such Taxes deferred pursuant to the CARES Act), any payments owed to the Stockholders (other than pursuant to the Signing Consultant Documents and the Purchase Price to be paid hereunder), and any payments or premiums for any tail insurance policy required by Section 6.11(a). For the avoidance of doubt, Transaction Expenses shall not include any items included in the Indebtedness of the Company.

“**Transactions**” means the Share Purchase and the other transactions contemplated hereby or by any Ancillary Agreement.

“**UCSD**” means the Regents of the University of California represented by its San Diego campus.

“UCSD License Agreements” means collectively, (i) that certain License Agreement, dated as of August 6, 2020, by and between the Company and UCSD (as amended or modified from time to time) related to “Drug Development for TNNI3 Mutations”, and (ii) that certain License Agreement, dated as of April 23, 2020, by and between the Company’s predecessor, ARVC Therapeutics, Inc., and The Regents of the University of California represented by its San Diego campus (as amended or modified from time to time) related to “A Gene Therapy Strategy to Restore Electrical and Cardiac Function in Arrhythmogenic Right Ventricular Cardiomyopathy.” Each (i) and (ii) individually referred to as a “UCSD License Agreement”.

“Willful Breach” means (a) a breach of a representation or warranty contained in [Article III](#), [Article IV](#) or [Article V](#) of this Agreement that the breaching party knows is or would reasonably be expected to constitute an intentional misrepresentation of such representation or warranty or (b) a breach of a covenant contained in this Agreement that the breaching party knows is or would reasonably be expected to constitute an intentional breach of such covenant.

Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Agreement	Preamble
Arbitrator	10.10
Charter Documents	3.1(a)
Claim Date	9.4(a)
Claims	6.3
Closing	2.2
Closing Cash	Article I
Closing Date	2.2
Company	Preamble
Company Intellectual Property	3.12(a)
Company Product	3.12(a)
Company Programs	3.12(a)
Company Registered Intellectual Property	3.12(a)
Company Representative	6.2(a)
Consideration Spreadsheet	2.1(b)
Consultant Proprietary Information Agreement	3.12(l)
Contingent Worker	3.21(a)
Contributor	3.12(l)
Cover, Covering or Covered	3.12(a)
Current Balance Sheet	3.6(a)
D&O Indemnified Parties	6.2(b)
Data Room	Article I
Deferred Purchase Price	Article I
Disclosure Schedule	Article III
EAR	3.26
Employee Proprietary Information Agreement	3.12(m)
Environmental Permits	3.18(a)
Excluded Claims	6.3
FCPA	3.27
Filing Date	10.10(b)
FIRPTA Compliance Certificates	2.4(b)(iii)
Fundamental Representations	9.1
Improvements	3.11(g)

Term	Section
Indemnified Party	9.3(a)
Indemnifying Stockholder Proceeds	9.3(b)
Infringement or Infringe	3.12(a)
Intellectual Property	3.12(a)
Interested Party	3.14(a)
ITAR	3.26
Material Contract or Material Contracts	3.13(b)
Moral Rights	3.12(a)
Objection Deadline	9.4(b)
Objection Notice	9.4(b)
OFAC	3.26
Officer's Certificate	9.4(a)
Official	3.27
Patents	3.12(a)
Payable Claim	9.4(d)
Pre-Closing Tax Period	Article I
Pre-Closing Taxes	Article I
Purchaser	Preamble
Purchaser Closing Deliveries	2.3(a)
Registered Intellectual Property	3.12(a)
Related Party Transaction	9.2(a)(vi)
Releasor	6.3
Remedies	3.3(c)
Resolved Claims	9.4(c)
Seller Parties	Preamble
Seller Party Closing Deliveries	2.4(b)
Settled Claims	9.4(c)
Share Purchase	2.1(a)
Signing Consultant	Recitals
Signing Consultant Documents	Recitals
Special Representations	9.1
Standard Form Agreements	3.12(h)
Stockholder or Stockholders	Preamble
Supplier	3.23
Survival Date	9.1
Tax Contest	8.2(a)
Third Party Claim	9.6
Trade Secrets	3.12(a)
Trademarks	3.12(a)
Transfer Taxes	8.5
Unresolved Claim	9.4(d)
Valid Claim	3.12(a)
WARN	3.21(d)

## ARTICLE II

### THE STOCK PURCHASE

#### 2.1 Purchase and Sale.

(a) Purchase and Sale of Company Stock. Upon the terms and subject to the conditions of this Agreement, at the Closing, the Stockholders shall sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser will purchase and acquire from the Stockholders, all of the Stockholders' right, title and interest in and to all of the outstanding Company Stock, free and clear of any and all Liens (the "**Share Purchase**"), in exchange for the consideration specified herein.

(b) Payments at the Closing on Company Stock. In full consideration for the transfer of Company Stock as set forth in Section 2.1(a), simultaneously with the Closing, the Purchaser shall:

(i) pay or cause to be paid to the Stockholders the Closing Cash Consideration, which payment shall be made by wire transfer of immediately available funds in accordance with a spreadsheet, in form and substance reasonably satisfactory to Purchaser (the "Consideration Spreadsheet"), delivered by the Stockholders to the Purchaser at least two (2) Business Days prior to Closing, containing (A) the name, and address of record, including each Stockholder's email address, if available; (B) the number of shares of Company Stock held by each Stockholder (on a certificate-by-certificate basis and including certificate numbers); (C) the respective pro rata portions of the Closing Cash Consideration and Milestone Payments each Stockholder is entitled to receive pursuant to this Section 2.1(b) and 2.6, respectively; and (D) wire instructions for each payment to be made by Purchaser or the Escrow Agent to the Stockholders;

(ii) pay or cause to be paid to the beneficiaries thereof all Indebtedness for borrowed money of the Company and Transaction Expenses set forth on the schedule delivered pursuant to Section 2.3(b)(i).

(iii) deposit, or cause to be deposited, the Indemnification Escrow Amount by wire transfer of immediately available funds with the Escrow Agent in accordance with Section 9.5.

(c) Withholding. The Purchaser (or any of its agents or Affiliates, as the case may be) shall be entitled to deduct and withhold from any payment pursuant to this Agreement such amounts as are required to be deducted or withheld under the Code or any other applicable Tax Law. To the extent amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom the withholding was made.

#### 2.2 Closing.

(a) Closing. The closing of the Share Purchase (the "**Closing**") shall take place remotely via the exchange of documents and signature pages on the date hereof, or at such other time and place as the parties hereto agree. The date on which the Closing occurs is herein referred to as the "**Closing Date.**"

(b) Cancellation of Stock Certificates. All stock certificates evidencing the Company Stock and surrendered by the Stockholders pursuant to this Agreement, if any, shall forthwith be cancelled or deemed cancelled effective as of Closing.

### 2.3 Closing Deliveries.

(a) Closing Deliveries of the Purchaser. In addition to the payments provided for in Section 2.1(b), at the Closing, the Purchaser shall have delivered or caused to be delivered to the Stockholders (collectively, the “**Purchaser Closing Deliveries**”):

(i) executed counterparts of each Ancillary Agreement to which the Purchaser is a party; and

(ii) a certificate from the Purchaser, validly executed by an authorized officer of the Purchaser, to the effect that, as of the Closing, the conditions set forth in Section 7.3(a) have been satisfied.

(b) Closing Deliveries of the Seller Parties. At the Closing, the Seller Parties shall have delivered or caused to be delivered to the Purchaser (collectively, the “**Seller Party Closing Deliveries**”):

(i) At least two (2) Business Days prior to the Closing Date, a schedule setting forth the unpaid Transaction Expenses and Indebtedness as of immediately prior to the Closing, in each case including the payee with respect to such Transaction Expenses or Indebtedness and such payee’s wire instructions.

(ii) executed counterparts of each Ancillary Agreement to which any Seller Party is a party;

(iii) IRS Forms W-9 duly executed by each Stockholder (the “**FIRPTA Compliance Certificates**”);

(iv) a certificate or certificates representing the Company Stock (or an affidavit of lost stock certificate) accompanied by a duly executed share transfer deed for the transfer to the Purchaser of the Company Stock, in form and substance reasonably satisfactory to the Purchaser;

(v) an executed Director and Officer Resignation and Release Letter in substantially the form attached hereto as Exhibit B, effective as of the Closing, for each officer and director of the Company (unless otherwise instructed in writing by the Purchaser prior to the Closing);

(vi) a certificate from the Company, validly executed by its Chief Executive Officer, to the effect that, as of the Closing, the conditions set forth in Sections 7.2(a), 7.2(b), and 7.2(c) have been satisfied;

(vii) a certificate, dated as of the Closing Date and executed on behalf of the Company by its Chief Executive Officer, certifying: (A) a true and complete copy of the Company’s certificate of incorporation, including all amendments thereto; (B) a true and complete copy of the Company’s bylaws, including all amendments thereto; and (C) resolutions of the Board of Directors of the Company and the stockholders of the Company approving, in accordance with the provisions of such certificate of incorporation, such bylaws and applicable Law, this Agreement, the Transactions and the other agreements contemplated by this Agreement to which the Company is a party, and the agreements contemplated thereby; and

(viii) certificates of good standing for the Company issued not earlier than five (5) Business Days prior to the Closing Date by the Secretary of State of the State of Delaware and each other state in which the Company is qualified to do business as a foreign corporation.

2.4 [Intentionally Omitted]

2.5 Contingent Consideration.

Purchaser shall pay the following Milestone Payments (as set forth in the table below) to the Stockholders, on a pro rata basis and in accordance with the Consideration Spreadsheet, due [\*\*\*] after the achievement of the applicable Milestone Event (as described in the table below). Within [\*\*\*] of achieving a Milestone, the Purchaser shall provide notice of such achievement to the Stockholders' Representative. Each Milestone Payment will only be payable once, upon the first achievement of the corresponding milestone event, regardless of the number of times it is achieved.

<u>Milestone Event</u>	<u>Milestone Payment</u>
Clinical Candidate Selection for the first of either the ARVC Program or the TNNI3-Associated HCM Program	[***]
Upon administration of the first dose to the first patient in a Phase I Clinical Trial in humans or any other clinical trial for a CX43 Company Product	[***]
Upon administration of the first dose to the first patient in a Phase I Clinical Trial in humans or any other clinical trial for a PKP2 Company Product	[***]
Upon administration of the first dose to the first patient in a Phase I Clinical Trial in humans or any other clinical trial for a TNNI3 Company Product in connection with the TNNI3-Associated HCM Program	[***]

**Aggregate Total Twenty Million Five Hundred Thousand Dollars (\$20,500,000)**

2.6 Further Action. If, at any time after the Closing, any further action is determined by Purchaser to be necessary to carry out the purposes of this Agreement or to vest the Purchaser with full right, title and possession of and to all rights and property of the Company, the officers and directors of the Company shall be fully authorized (in the name of the Company or otherwise) to take such action.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLER PARTIES**

The Seller Parties hereby severally, but not jointly, represents and warrants to the Purchaser as of the date hereof and as of the Closing, subject to such exceptions as are disclosed in the disclosure schedule (referencing the appropriate section and subsection numbers or disclosed in any other section or subsection of the disclosure schedule) supplied by the Seller Parties to the Purchaser (the "**Disclosure Schedule**") concurrently with the execution of this Agreement:

### 3.1 Organization; Authority and Enforceability.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to own, lease and operate its assets and properties and to carry on the Business as currently conducted. The Company is duly qualified or licensed as a foreign corporation to do business, and is in good standing, in each jurisdiction where the character or location of its assets or properties (whether owned, leased or licensed) or the nature of its activities make such qualification or licensing necessary to the Business as currently conducted except where the failure to be so qualified or licensed, individually or in the aggregate, both (i) has not had and would not reasonably be expected to have a Material Adverse Effect and (ii) has not had and would not be reasonably expected to have a material adverse effect on the ability of the Company to perform its obligations under this Agreement or any Ancillary Agreement to which it is a party or to consummate the Transactions and would not materially impede or delay or be reasonably expected to materially impede or delay the consummation of the Transactions. The Company has made available to the Purchaser a true and correct copy of its certificate of incorporation, as amended to date, and bylaws, as amended to date, each of which is in full force and effect on the date hereof (collectively, the “**Charter Documents**”). Except as set forth in Section 3.1(a)(i) of the Disclosure Schedule, the Board of Directors of the Company has not approved or proposed any amendments to the Charter Documents. Section 3.1(a)(ii) of the Disclosure Schedule lists the directors and officers of the Company. Section 3.1(a)(iii) of the Disclosure Schedule lists every state or foreign jurisdiction in which the Company has employees or facilities or otherwise has conducted material business since December 5, 2016. Section 3.1(a)(iv) of the Disclosure Schedule lists each predecessor entity of the Company and any other name under which the Company has previously operated.

(b) The Company has all requisite corporate power and authority to enter into this Agreement and any Ancillary Agreement to which it is a party and to consummate the Transactions. The execution, delivery and performance by the Company of this Agreement and the Ancillary Agreements to which it is a party, and the consummation of the Transactions, have been duly and validly authorized by all necessary corporate action on the part of the Company. This Agreement and the Ancillary Agreements to which the Company is a party have been duly and validly authorized, executed and delivered by the Company and the obligations of the Company hereunder and thereunder are or will be, upon such execution and delivery (and assuming due authorization, execution and delivery by the other parties hereto and thereto), valid, legally binding and enforceable against the Company in accordance with their respective terms, except that such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors’ rights generally, and is subject to general principles of equity.

### 3.2 Company Capital Structure.

(a) The authorized capital stock of the Company consists of 7,000,000 shares of Company Stock, of which 5,657,468 shares are issued and outstanding, and there is no other issued and outstanding capital stock of other securities of the Company and no commitments or agreements to issue any Company Stock or other securities of the Company. There are no shares held in the treasury of the Company. All of the issued and outstanding shares of Company Stock are duly authorized, validly issued, fully paid and non-assessable. There are no warrants, calls, rights, convertible securities, commitments or agreements of any character, written or oral, to which the Company is a party or by which the Company is bound obligating the Company to reduce its capital or issue, deliver, sell, repurchase, cancel or redeem, or



cause to be issued, delivered, sold, repurchased or redeemed, any shares of Company Stock or obligating the Company to grant or otherwise amend or enter into any such warrant, call, right, commitment or agreement. Except as set forth in Section 3.2(a)(ii) of the Disclosure Schedule, the Company has no outstanding options, restricted stock units, restricted shares, stock appreciation right, profit participation, “phantom equity” or any other type of equity instrument or any plan or similar arrangement pursuant to which it has reserved Company Stock for issuance; the Company has never promised (in writing or otherwise) any such equity instrument to any Person. There have been no (interim) dividends or other distributions with respect to any shares of Company Stock, and there are no declared or accrued but unpaid (interim) dividends or other distributions with respect to any shares of Company Stock. There are no outstanding bonds, debentures, notes or other obligations, granting its holder the right to vote on any matters on which stockholders of the Company may vote (or which are convertible into or exercisable for securities having the right to vote).

(b) All outstanding shares of Company Stock have been issued in compliance with all applicable federal, state, local or foreign statutes, Laws, including federal securities Laws and any applicable state securities or “blue sky” Laws.

(c) As a result of the Share Purchase, as of the Closing, the Purchaser will be the sole record and beneficial holder of all issued and outstanding Company Stock and all rights to acquire or receive any shares of Company Stock, whether or not such shares of Company Stock are outstanding. Section 3.2(c) of the Disclosure Schedule sets forth the capitalization of the Company immediately prior to the Closing, including the number and respective owner of shares of the issued and outstanding Common Stock.

(d) Except as contemplated hereby, there are no (i) voting trusts, proxies, or other agreements or understandings with respect to the voting stock of the Company, or (ii) agreements to which the Company is a party relating to the registration, sale or transfer (including agreements relating to rights of first refusal, co sale rights or “drag along” rights) of any Company Stock.

(e) Section 3.2(e) of the Disclosure Schedule lists all of the former owners of any Company Stock or other equity of the Company, and the date on which such Company Stock or other equity was sold or otherwise disposed of by such owners.

3.3 Subsidiaries. The Company does not have, and has never had, any Subsidiary. The Company does not control, directly or indirectly, or have (or has ever had) any direct or indirect equity participation or similar interest in, or any obligations to acquire any equity securities of or make any contribution to or debt or equity investment in, any Person.

3.4 No Conflict. The execution and delivery by the Company of this Agreement and any Ancillary Agreement to which it is a party, and the consummation of the Share Purchase or any other Transactions, will not conflict with or result in any violation of or default under (with or without notice or lapse of time, or both), or give rise to a right of notice or termination, cancellation, modification or acceleration of any right or obligation or loss of any benefit under, or require any consent, approval or waiver from any Person pursuant to, or result in the creation of any Lien upon the Company Stock pursuant to, (a) any provision of the Charter Documents, (b) the UCSD License Agreements, (c) any other Contract, or (d) any material Laws applicable to the Company or any of its properties or assets (whether tangible or intangible). Section 3.4 of the Disclosure Schedule sets forth all necessary consents, waivers and approvals of parties to any Contract to which the Company is a party or by which the Company’s properties or assets may be bound as are required thereunder in connection with the Transactions, or for any such Material Contract to remain in full force and effect without limitation, modification or alteration after the Closing so

as to preserve all rights of, and benefits to, the Company under such Contracts from and after the Closing. Following the Closing, the Company will continue to be permitted to exercise all of its rights under the Material Contract without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments which the Company would otherwise be required to pay pursuant to the terms of such Contracts had the Transactions not occurred.

3.5 Governmental Consents and Approvals. No consent, notice, waiver, approval, order or authorization of, or registration, declaration or filing with any Governmental Entity is required by, or with respect to, the Company in connection with the execution and delivery of this Agreement or any Ancillary Agreement to which the Company is a party or the consummation of the Share Purchase and the other Transactions, except for such consents, notices, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable securities Laws.

3.6 Company Financial Statements.

(a) The Financials have been made available to the Purchaser. The Financials are true and correct in all material respects, except (i) for adjustments made in the ordinary course of business which are not reflected on the Financials and (ii) that the Interim Financials do not contain footnotes and are subject to normal recurring year-end audit adjustments. The Financials present fairly the Company's financial condition, operating results and cash flows as of the dates and during the periods indicated therein (subject, in the case of the Interim Financials, to the exclusion of footnotes and normal year-end adjustments that, to the extent not reflected therein, are not material in amounts or nature) in all material respects. The Company's balance sheet as of the Balance Sheet Date is referred to hereinafter as the "**Current Balance Sheet.**"

3.7 No Undisclosed Liabilities, No Material Adverse Effect; Ordinary Course.

(a) To the knowledge of the Company, except as set forth on Section 3.7(a) of the Disclosure Schedule, the Company has no Liabilities of any type, whether or not accrued, absolute, contingent, matured, unmatured, known or unknown, on- or off-balance sheet, except for those which (i) have been reflected in the Current Balance Sheet or (ii) have arisen in the ordinary course of business consistent with past practices since the Balance Sheet Date and prior to the date hereof and are not material in nature or amount.

(b) Since the Balance Sheet Date, there has not occurred any Material Adverse Effect.

3.8 Accounts Receivable; Accounts Payable.

(a) All of the accounts receivable, whether billed or unbilled, of the Company arose in the ordinary course of business, and, to the Company's Knowledge, are not subject to any valid set-off or counterclaim, do not represent obligations for goods sold on consignment, on approval or on a sale-or-return basis or subject to any other repurchase or return arrangement and, to the Knowledge of the Company, are collectible except to the extent of reserves therefor set forth or reflected in the Current Balance Sheet or, for receivables arising subsequent to the Balance Sheet Date, as reflected on the books and records of the Company. No Person has any Lien on any accounts receivable of the Company and no agreement for deduction or discount has been made with respect to any accounts receivable of the Company other than in the ordinary course of business. The Company has no accounts receivable as of the date hereof.

(b) All accounts payable and notes payable of the Company arose in bona fide arm's length transactions in the ordinary course of business and no such account payable or note payable is delinquent by more than [\*\*\*] in its payment. Since the Balance Sheet Date, the Company has paid its accounts payable in the ordinary course of business and in a manner consistent with its past practices, and the Company has not materially delayed any such payments.

(c) Other than as set forth on Section 3.8(c) of the Disclosure Schedule, the Company has no outstanding Indebtedness as of immediately prior to the Closing.

### 3.9 Tax Matters.

(i) The Company has (A) prepared and timely filed all Tax Returns required to be filed by the Company and all such Tax Returns are true and correct in all material respects and have been completed in accordance with applicable Law, and (B) timely paid all Taxes that were due and payable (whether or not shown on a Tax Return). The Company is not currently the beneficiary of any extension of time within which to file any Tax Return.

(ii) The Company has paid or withheld with respect to their respective employees, stockholders and other third parties, all U.S. federal, state and non-U.S. income Taxes and social security charges and similar fees, Federal Insurance Contribution Act taxes, Federal Unemployment Tax Act taxes and other Taxes required to be paid or withheld, and have timely paid over any such Taxes over to the appropriate authorities.

(iii) There is no Tax deficiency outstanding, assessed or proposed in writing against the Company, nor has the Company executed any waiver of any statute of limitations on or extending the period for the assessment or collection of any Tax, which waiver or extension or still in effect.

(iv) No audit or other examination of any Tax Return of the Company is presently in progress, nor has the Company been notified in writing of any request for such an audit or other examination, and to the Knowledge of the Company, no such action or proceeding is being contemplated. No adjustment relating to any Tax Return filed by the Company has been proposed in writing by any Tax authority, which adjustment has not been resolved. There are no matters relating to Taxes under discussion between any Tax authority and the Company.

(v) The Company has delivered to the Purchaser or made available to the Purchaser, copies of all income and other material Tax Returns for the Company filed for all periods since and including the taxable period ended [\*\*\*].

(vi) No written claim has ever been made by a Tax authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction.

(vii) The Company (A) has never been a party to any Tax sharing, indemnification or allocation agreement, nor does the Company or owe any amount under any such agreement, other than any agreement entered into in the ordinary course of business, have been paid off immediately prior to the Closing and the primary purpose of which is unrelated to Taxes or Tax Returns, (B) has no Liability for the Taxes of any Person (other than Company) under Treasury Regulation §1.1502-6 (or any similar provision of state, local or non-U.S. Law), as a transferee or successor, by Contract, by operation of Law or otherwise, (C) has never been a party to any joint venture, partnership or other arrangement that is treated as a partnership for Tax purposes and (D) does not own nor has it ever owned an interest in any entity treated as a "controlled foreign corporation" (within the meaning of Section 957 of the Code) or "passive foreign investment company" (within the meaning of Section 1297 of the Code).

(viii) The Company is not, and has not been at any time, a “United States Real Property Holding Corporation” within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(ix) There are no Liens on the assets of the Company relating or attributable to Taxes other than Liens for Taxes not yet due and payable.

(x) The Company has not engaged in a “listed transaction,” as set forth in Section 6707A(c)(2) of the Code and Treasury Regulation §1.6011-4(b) or any similar provision of state, local or non-U.S. Law, or any transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation or other form of published guidance as a listed transaction as set forth in Section 6707A(c)(1) of the Code and Treasury Regulation §1.6011-4(b)(2).

(xi) The Company has not constituted either a “distributing corporation” or a “controlled corporation” in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code.

(xii) The Company will not be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of (A) any installment sale or open transaction disposition made prior to the Closing Date, (B) any prepaid amount or deferred revenue received or accrued prior to the Closing Date, (C) any “closing agreement,” as described in Section 7121 of the Code (or any corresponding provision of state, local or foreign income tax Law), (D) a change in the method of accounting made prior to the Closing Date, including any adjustment pursuant to Code Sections 481 or 263A (or any corresponding or similar provision of state, local, or foreign income Tax law), (E) the use of an improper method of accounting for a taxable period ending on or prior to the Closing Date, (F) any intercompany transaction or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local, or non-U.S. income Tax Law), with respect to transaction made on or prior to the Closing Date, (G) any application of Section 951 or Section 951A of the Code with respect to income earned or recognized or payments received prior to the Closing Date, or (H) any application of Section 952(c)(2) of the Code with respect to any reduction described in Code Section 952(c)(1)(A) for a taxable year ending on or before the Closing Date.

(xiii) The Company is not subject to any private letter ruling or closing agreement of the IRS or comparable rulings of any other Governmental Entity. There is no power of attorney given by or binding upon the Company with respect to Taxes for any period for which the statute of limitations (including any waivers or extensions) has not yet expired that is currently in effect.

(xiv) The Company is not a party to a gain recognition agreement under Section 367 of the Code that is currently in effect.

(xv) The Company has made available to the Purchaser all documentation relating to any Tax holidays or incentives currently applicable to the Company. To the Knowledge of the Company, no amounts attributable to any Tax holidays or Tax incentives will be required to be repaid or reimbursed by the Company as a result of the Transactions.

(xvi) The Company has not (i) claimed any “employee retention credit” pursuant to Section 2301 of the CARES Act or (ii) elected to defer any Taxes under the CARES Act or IRS Notice 2020-65 (or any corresponding or similar provision of state or local Tax law).

(xvii) The Company has not been and is not subject to Tax in a country other than its country of organization by virtue of having a place of business, a permanent establishment or branch in any country outside the country of its organization.

(xviii) The Company (and any predecessors of the Company or any entity merged or liquidated into the Company) has been a C corporation at all times since its inception.

3.10 Restrictions on Business Activities. There is no Contract (non-competition or otherwise), commitment, judgment, injunction, order or decree to which the Company is a party or, to the Company’s Knowledge, otherwise binding upon the Company which has or may reasonably be expected to have the effect of materially prohibiting or impairing any material business practice of the Company, any acquisition of property and assets (including tangible and intangible property and assets) by the Company, the conduct of Business, or otherwise limiting the freedom of the Company to engage in any line of business or to compete with any Person. Without limiting the generality of the foregoing and except as set forth on Section 3.10 of the Disclosure Schedule, the Company has not entered into any Contract under which the Company is restricted from developing, selling, licensing, manufacturing or otherwise distributing or commercializing any Company Intellectual Property or Company Products or from providing services to customers or potential customers or any class of customers, in any geographic area, during any period of time, or in any segment of the market, including by means of any grant of exclusivity.

3.11 Title to Real and Personal Properties; Absence of Liens.

(a) The Company does not own any real property, nor has the Company ever owned any real property.

(b) The Company has not entered into, nor is bound by, any lease, lease guaranty, sublease, agreement for the leasing, tenancy, license, other use or occupancy of, or otherwise granting a right in or relating to any real property nor is any Person in the course of acquiring any such rights or interests.

(c) The Company has good and valid title to, ownership of, or, in the case of leased properties and assets, valid leasehold interests in, all of its tangible properties and assets, real, personal and mixed, used or held for use in or necessary for the conduct of the Business as currently conducted, free and clear of any Liens, except Liens for Taxes not yet due and payable.

(d) All real property leases identified in the Disclosure Schedule were made on a good faith, arm’s length basis and on what the Company reasonably believes to have been the best available market terms. There are no agreements, contracts, terms, or special understandings between or among the Company, any lessor, or agents of any lessor regarding any real property leases that have not been disclosed in the Disclosure Schedule.

(e) Each of the real property leases identified in Section 3.11(e) of the Disclosure Schedule is valid and in full force and effect, and the Company has neither received nor provided any written or oral notice of any default or event that with notice of lapse of time, or both, would constitute a default by the Company or any other party thereto under any of the real property leases identified in the Disclosure Schedule. The Company has timely and fully performed all covenants and obligations under the property leases identified in the Disclosure Schedule. The Company has no existing offsets, defenses, counterclaims, or credits against rentals under any provision of the real property leases identified in the Disclosure Schedule, other than any security deposit.

(f) The Company has not previously assigned, transferred, or conveyed all or any part of its right, title, or interest under any of the real property leases identified in the Disclosure Schedule to any other Person.

(g) To the Knowledge of the Company: all improvements on the real property used by the Company, including the facilities, buildings, plants, structures, fixtures, fixed assets and personalty of a permanent nature annexed, affixed or attached to, located on, or forming part of such real property, and other improvements located thereon (collectively, the “**Improvements**”), are structurally sound, free of defects, in good condition and repair in all material respects (except for reasonable wear and tear not caused by neglect expected), consistent with all Laws, and adequate for the uses to which they are being put. Such real property, the Improvements thereon, and the use thereof for the purposes for which they are presently being used, are in each case in compliance with all applicable building, zoning, planning, subdivision, health, Environmental Laws, or other Laws, including, the Americans with Disabilities Act of 1990, and, to the Knowledge of the Company, there exists no such violation which could reasonably be expected to interfere with the present use of such real property and the Improvements. The Company is in compliance, and has at all times complied in all material respects, with all applicable Laws in its use and occupancy of the real property (including, without limitation, all Laws respecting zoning, planning, access by disabled persons, and Environmental Laws). There are no condemnation proceedings or eminent domain proceedings of any kind pending or, to the Knowledge of the Company, threatened against any such real property. The property and assets of the Company (after giving effect to the Spin-Out) constitute all of the properties and assets (whether real, personal or mixed and whether tangible or intangible) necessary and sufficient to permit to conduct the Business immediately after the Closing in the ordinary course of business consistent with past practice.

(h) To the Knowledge of Company, there is no action or proceeding pending or threatened relating to the real property identified in the Disclosure Schedule.

### 3.12 Intellectual Property.

(a) Definitions. For all purposes of this Agreement, the following terms shall have the following respective meanings:

“**Company Intellectual Property**” means any and all Intellectual Property that is owned, purported to be owned (in each case whether owned singularly or jointly with a third party or parties), filed by, held in the name of or licensed to the Company.

“**Company Product**” means any product (a) that was developed or is in development (including all modifications and/or derivatives thereof) by Company as of the Closing Date; (b) that was developed or is in development (including all modifications and/or derivatives thereof) by a Third Party as of the Closing Date and for which the Company has an option to obtain an exclusive license under the necessary and reasonably useful Patent Rights pursuant to that certain Letter Agreement dated April 20, 2021 (the “**Letter Agreement**”) from UCSD to Company related to [\*\*\*] or (c) that is developed by Company after the Closing Date but is Covered by a Patent that is either owned or exclusively licensed (including any intellectual property that is subject to the option in the Letter Agreement) by the Company as of the Closing Date or is a Patent that derives its priority from a Patent that is either owned or licensed (including any intellectual property that is subject to the option in the Letter Agreement) by the Company as of the Closing Date.

**“Company Programs”** means the ARVC Program, the TNNI3-Associated HCM Program and any other research and development programs currently or previously worked by or on behalf of Company, directed towards cardiovascular disease.

**“Company Registered Intellectual Property”** means all Registered Intellectual Property that is part of Company Intellectual Property.

**“Cover,” “Covering,” or “Covered”** means, with respect to a particular product and a Valid Claim of a Patent, the manufacture, use, sale, offer for sale, or importation by Company of the product, would infringe such Valid Claim or, in the case of a Patent that is a patent application, would infringe a Valid Claim in such patent application if it were to issue as a patent.

**“Infringement” or “Infringe”** means an assertion that a given item (whether tangible or not) infringes, misappropriates, dilutes, constitutes unauthorized use of or otherwise violates the Intellectual Property Rights of any Person.

**“Intellectual Property”** means, anywhere in the world, (i) patents and patent applications, including continuations, divisionals, renewals, extensions, provisionals, continuations-in-part, or reissues of patent applications and patents issuing thereon, industrial designs and other governmental grants for the protection of inventions or industrial designs, including patent rights, inventions, discoveries and invention disclosures (whether or not patented) (**“Patents”**), (ii) data, database rights, software, copyrights in published and unpublished works, copyright registrations and renewals thereof, applications for copyright registration, Moral Rights, rights of publicity and privacy, and mask work rights, and all derivatives, translations, adaptations and combinations of the foregoing whether registered or unregistered (**“Copyrights”**), (iii) proprietary, confidential and non-public inventions, improvements, ideas, trade secrets and confidential business information, whether patentable or unpatentable and whether or not reduced to practice, including all confidential formulae, research in progress, know-how, protocols, methods, processes, technical and clinical data, shop rights, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information and any media or other tangible embodiment thereof and all descriptions thereof (**“Trade Secrets”**), (iv) rights in registered and unregistered trademarks, trade names, logos, service marks, designs, emblems, signs, insignia, slogans, other similar designations of source or origin and general intangibles of like nature, and registrations and applications for registration for any of the foregoing, together with the goodwill of the Company or the Company’s business symbolized by any of the foregoing (**“Trademarks”**), (v) domain names, registrations for domain names and web addresses, (vi) analogous rights to those set forth above, including, without limitation, common law, statutory or contractual rights, and any other intellectual property rights in any jurisdiction, and (vii) rights to sue for past, present and future Infringement of the rights set forth above.

**“Moral Rights”** means moral rights in any Intellectual Property, including the right to the integrity of the work, the right to be associated with the work as its author by name or under a pseudonym and the right to remain anonymous.

**“Registered Intellectual Property”** means Intellectual Property that has been registered, filed, certified or otherwise perfected or recorded with or by any state, provincial, federal government or other public or quasi-public legal authority (including domain name registrars), or any applications for any of the foregoing.

**“Valid Claim”** means (a) any claim of an issued and unexpired Patent that has not been revoked, held invalid, or held unenforceable by a patent office or other governmental authority of competent jurisdiction in a final and non-appealable judgment; or (b) any pending claim of an unissued, pending patent application that (i) has not been abandoned or finally disallowed without the possibility of appeal or re-filing of the application and (ii) which application has not been pending for more than seven years since its earliest claimed priority date.

(b) **Company Products.** Section 3.12(b) of the Disclosure Schedule is a complete and accurate list of all current Company Products in development or to be developed by name, including all Company Products that have been developed, manufactured, made commercially available, marketed, distributed, supported or otherwise sold or licensed out in the last [\*\*\*] or for which Company has an option to develop and/or commercialize. Such schedule shall specify whether each of such Company Products and Company Technology were developed by or on behalf of the Company or provided by third parties (and if by third parties, the identity of such third parties (including, if applicable, UCSD)) to the Company.

(c) **Company Programs.** Section 3.12(c) of the Disclosure Schedule is a complete and accurate list of all current Company Programs in development by name and description. Such schedule shall specify whether each of such Company Programs were developed by or on behalf of the Company or provided by third parties (and if by third parties, the identity of such third parties (including, if applicable, UCSD)) to the Company. The Spin-Out Assets do not relate in any way to the ARVC Program or the TNNI3-Associated HCM Program.

(d) **Registered Intellectual Property.** Section 3.12(d) of the Disclosure Schedule sets forth a true, accurate and complete list and a brief description of (i) all Company Registered Intellectual Property and all material unregistered Trademarks used by the Company with respect to any Company Products (or otherwise used in the Business), (ii) any actions that must be taken by the Company within [\*\*\*] of the Closing Date with respect to any of the Company Registered Intellectual Property, including the payment of any registration, maintenance, renewal fees or taxes or the filing of any documents, applications or certificates, (iii) all license agreements and other similar contracts in effect on the date hereof pursuant to which any such Intellectual Property rights are licensed to or from the Company; (iv) any proceedings or actions before any court or tribunal (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) to which the Company is or was a party and in which claims are or were raised relating to the validity, enforceability, scope, ownership or Infringement of any of the Company Registered Intellectual Property, (v) any joint owners of Company Registered Intellectual Property, (vi) any Liens as to which the scheduled items are subject and (vii) an indication that the Company has elected to abandon the registration of an item, where applicable. The Company is listed in the records of the appropriate United States, state or foreign agency as the sole or joint owner of record for each patent, pending application and registration listed in the Disclosure Schedule as owned by the Company, and all joint owners, if applicable, are identified as joint owners. To the Knowledge of the Company, the appropriate individuals have been named as inventors on the patents and patent applications included in the Company Registered Intellectual Property.



(e) Effect of this Transaction. Except as set forth in Section 3.12(e) of the Disclosure Schedule, following the Closing, all Company Intellectual Property will be fully transferable, alienable and licensable by the Company or the Purchaser without restriction and without payment of any kind to any third party. Neither the execution, delivery or performance of this Agreement or the Ancillary Agreements to which the Company is a party, nor the consummation of any of the Transactions will, with or without notice or lapse of time, result in, or give any other Person the right or option to cause or declare: (i) a loss of, or Lien on, any Company Intellectual Property, any Company Product; (ii) a breach of or default under, or right to terminate or suspend performance of, any Contract; (iii) the release, disclosure or delivery of any Company Intellectual Property or Company Product by or to any escrow agent or other Person; (iv) the grant, assignment or transfer to any other Person of any license or other right or interest under, to or in any of the Company Intellectual Property; or (v) by the terms of any Contract, a reduction of any royalties, revenue sharing, or other payments the Company would otherwise be entitled to with respect to any Company Intellectual Property

(f) Title to Intellectual Property. The Company, except as otherwise indicated in one of the foregoing schedules, is the sole and exclusive owner of, is licensed to use, or otherwise has the necessary rights to use, each item of Company Intellectual Property and of each Company Product, free and clear of any Liens or any royalty or other payment obligations, except for Permitted Liens, as otherwise indicated in any of the foregoing schedules. Except where any of the foregoing schedules indicates joint ownership or licenses, the Company has the sole and exclusive right to bring a claim or suit against a third party for past, present Infringement of the Company Intellectual Property. Except as set forth in Section 3.12(g)(i) of the Disclosure Schedule, the Company has never (i) transferred ownership of, or granted any license (except pursuant to the Spin-Out Documents) ("Company Out-Licenses") with respect to, any Intellectual Property to any other Person, or (ii) permitted the rights of the Company in any Company Intellectual Property, that is or was at the time material to the Company, to enter into the public domain. Except for the licenses, sublicenses, option agreements related to Intellectual Property and other agreements disclosed in Section 3.12(f)(iii) of the Disclosure Schedule ("Company In-Licenses"), there are no agreements under which the Company is granted rights in any Intellectual Property rights owned by any third party (other than commercially available software licensed under "shrinkwrap" or "clickwrap" agreements for less than [\*\*\*]). The Company has not embedded any open source, copyleft or community source code in any of its products generally available or in development, including but not limited to any libraries or code licensed under any General Public License, Lesser General Public License or similar license arrangement, in each case in a manner that would (a) require (or purport to require) the source code of such software to be disclosed, distributed or made available, (b) prohibit (or purport to prohibit) the Company from charging for the distribution or use of the software or otherwise limit such software's use for commercial purposes, (c) make the Company's products redistributable by third parties at no charge or (d) require the Company to license its products with permission to create derivative works.

(g) Ownership of Intellectual Property. The Company Intellectual Property includes all material Intellectual Property that is used in or necessary for the conduct of the Business as it currently is conducted or as currently proposed to be conducted by the Company, including the design, development, manufacture, use, marketing, import, export, distribution, licensing out and sale of all Company Products without any known conflict with the rights of any Person. Except as set forth on Section 3.12(h)(i) of the Disclosure Schedule, no third party has licensed from the Company any Intellectual Property (other than agreements with subcontractors solely on a fee-for-service basis). The Company has obtained and possesses valid licenses to use all Company Software, including the software programs present on the computers and other software-enabled electronic devices that it owns or leases or that it has otherwise provided to its employees for their use in connection with the Business. Except for those certain commercially available software products under standard end-user object code internal-use license agreements or as set forth in Section 3.12(h)(ii) of the Disclosure Schedule, there are no outstanding options, licenses, agreements, claims, encumbrances or other Liens (other than Permitted Liens), or shared ownership interests of any kind relating to the Company Intellectual Property, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. To the Company's Knowledge, except as set forth in Section 3.12(h)(iii) of the Disclosure Schedule, it will not be necessary to use any inventions of any of its employees or consultants (or Persons it currently intends to hire) made prior to their employment by the Company.

(h) Standard Form Agreements. Copies of the Company's standard form of non-disclosure agreement and the Company's standard form, including attachments, of sale agreements, purchase orders and other similar documents of the Company Products (collectively, the "**Standard Form Agreements**"), have been made available to the Purchaser. Section 3.12(h) of the Disclosure Schedule lists all Contracts containing covenants not to sue or non-assertion provisions that relate to Intellectual Property.

(i) Valid Intellectual Property. With respect to each item of Company Registered Intellectual Property to the Company's Knowledge: (i) all necessary registration, maintenance and renewal fees have been paid, and all necessary documents and certificates have been filed with the relevant patent, copyright, trademark or other authorities in the jurisdiction of registration for the purposes of maintaining the Intellectual Property Rights therein; (ii) each such item is currently in material compliance with formal legal payment and filing requirements (including payment of filing, examination and maintenance fees and proofs of use and timely filing of affidavits of use and incontestability and renewal applications), in accordance with applicable Laws, in the jurisdiction of registration; (iii) each such item has been duly maintained and is subsisting, valid and enforceable; and (iv) no patent application filed by the Company for any Company Intellectual Property has been cancelled, abandoned, allowed to lapse or not renewed. To the Company's Knowledge, there are no facts, information, or circumstances, including any information or facts that would constitute prior art, that would render any item of the Company Registered Intellectual Property invalid or unenforceable, or would affect any pending application for any Company Registered Intellectual Property. The Company has never misrepresented, or failed to disclose, any facts or circumstances in any application for any item of Company Registered Intellectual Property that would constitute fraud or a misrepresentation with respect to such application or that would otherwise affect the enforceability of any Company Registered Intellectual Property. To the Company's Knowledge, no proceedings or actions before any court or tribunal (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) relating to the validity, enforceability, scope, ownership or Infringement of any of the Company Registered Intellectual Property have been threatened. The Company is not currently conducting the Business, nor is the Company using, applying for, or enforcing (or, failing to use or enforce) any Intellectual Property right in a manner that would result in the abandonment, cancellation, invalidity, or unenforceability of any Intellectual Property right (including without limitation the failure to preserve the confidentiality of non-public information), and the Company is not acting or failing to act in a way likely to result in the forfeiture or relinquishment of any Intellectual Property right.

(j) No Infringement. The operation of the Business as it has been conducted since the Company's inception, and as currently conducted and as is currently contemplated by the Company to be conducted by the Company, including the design, development, use, import, export, branding, advertising, promotion, marketing, manufacture, sale, distribution, publication and licensing out of any Company Product, to the Company's Knowledge has not, does not and will not Infringe when conducted in the same manner by Purchaser and/or the Company immediately following the Closing, any Intellectual Property Rights of any Person. The Company has not received written notice from any Person claiming that such operation or any act, any Company Product or any Company Intellectual Property Infringes any Intellectual Property Rights of any Person (nor (with respect to Company Products or Company Intellectual Property) does the Company have Knowledge of (i) anything that to Company's Knowledge constitutes any basis for the foregoing nor is the Company aware of any basis therefor or (ii) any threat thereof). No Company Product or Company Intellectual Property is subject to any Proceeding or outstanding decree, order, judgment or settlement agreement or stipulation that restricts in any manner the use, provision, transfer, assignment or licensing thereof by the Company or may affect the validity, registrability, use or enforceability of such Company Product or Company Intellectual Property.

(k) Restrictions on Business. Except as set forth in Section 3.12(k) of the Disclosure Schedule, neither this Agreement nor the Share Purchase will cause: (i) the Purchaser, any of its Affiliates or the Company to grant to any third party any right to or with respect to any Intellectual Property Rights owned by, or licensed to, any of them, (ii) the Purchaser, any of its Affiliates or the Company to be bound by, or subject to, any non-compete or other restriction on the operation or scope of their respective businesses (excluding any non-compete or other restriction that arises from any agreement to which the Purchaser or its Affiliates is a party but the Company is not a party) or (iii) the Purchaser, any of its Affiliates or the Company to be obligated to pay any royalties or other fees or consideration with respect to Intellectual Property Rights of any third party in excess of those payable by the Company in the absence of this Agreement or the Transactions, excluding any obligations that arises from any agreement to which the Purchaser or its Affiliates is a party but the Company is not a party.

(l) No Third Party Infringement. To the Knowledge of the Company no Person has in the past Infringed or is currently Infringing any Company Intellectual Property or the Company's rights therein or thereto. No such claims have been brought against any Person by the Company. Except as set forth in the UCSD License Agreements, the Company has the exclusive right to bring actions against any Person that has in the past Infringed or is currently Infringing any Company Intellectual Property and to retain any damages recovered in any such action.

(m) Proprietary Information Agreements. Copies of the Company's standard form of proprietary information, confidentiality and assignment agreement for employees (the "**Employee Proprietary Information Agreement**") and the Company's standard form of consulting agreement containing proprietary information, confidentiality and assignment provisions (the "**Consultant Proprietary Information Agreement**") have been made available to the Purchaser. All agreements with employees or consultants that deviate in any material respect from the Employee Proprietary Information Agreement or Consultant Proprietary Information Agreement are listed on Section 3.12(m) of the Disclosure Schedule. All current and former employees of the Company, and all current and former consultants of the Company, in each case who have been involved in the creation, invention or development of Intellectual Property for or on behalf of the Company (each, a "**Contributor**"), have executed and delivered (and are in compliance with) the applicable form of agreement. Section 3.12(m) of the Disclosure Schedule lists all Contributors involved in creating, inventing or developing the Patents of the Company. Each Contributor has assigned to the Company all Intellectual Property rights he or she owns that are related to the Company's business as now conducted and as presently proposed to be conducted. Without limiting the foregoing, no Contributor owns or has any right, including the right to assert any Moral Rights in the United States, to Company Products or Company Intellectual Property, nor has any Contributor made to the Company any unretracted material assertions with respect to any alleged ownership or rights. All Contributors who are or were, at the time of employment, residents of countries that recognize Moral Rights or whose employment relationships are or were governed by applicable laws in countries that recognize Moral Rights have executed written agreements with the Company that, to the fullest extent permitted under applicable law, waive for the benefit of the Company, all Moral Rights.

(n) All Material Information Furnished. As of the Closing Date, Company has furnished or made available to Purchaser or its agents or representatives all material information relating to the Company Programs and Inventory that has been requested by the Purchaser.

(o) Protection of Confidential Information. The Company has taken all commercially reasonable measures to establish and preserve the ownership of all Company Intellectual Property and the confidentiality and secrecy of any Trade Secrets. To the Knowledge of the Company, there has not been any breach or any violation of the confidentiality of any non-public confidential information or Trade Secrets of the Company. The Company is making lawful use of any confidential information or Trade Secrets of any third party. To the Knowledge of the Company, none of the employees, consultants, or independent contractors of the Company have any agreements or arrangements with any former employers relating to confidential information or Trade Secrets of such employers that would interfere with the activities of the Company or any of its Subsidiaries. To the Knowledge of the Company, none of the activities of the employees, consultants, or independent contractors of the Company assigned to such employees, consultants, or independent contractors of the Company by the Company violates any agreements or arrangements which such persons have with former employers or any other third party, including any non-competition, non-solicitation and/or confidentiality agreements. All current employees of the Company who have contributed to the development of the products or services of the Company in performance of their duties and responsibilities to the Company have executed written instruments that assign to the Company all right, title and interest in and to any and all Intellectual Property rights therein.

(p) No Government Funds. No funding, facilities or resources of any government, university, college, other educational institution, multi-national, bi-national or international organization or research center was used in the development of the Company Products or material Company Intellectual Property, except as disclosed in Schedule 3.12(q).

### 3.13 Material Contracts.

(a) Except as set forth in Section 3.13 of the Disclosure Schedule (specifying the appropriate paragraph), the Company is not a party to, and has no obligations, rights or benefits under:

(i) any Contract that restricts or purports to restrict the ability of the Company or any of its Affiliates to (A) conduct or compete with any line of business or operations or in any geographic area or during any period of time, or (B) solicit or engage any customer, vendor or service provider, or (C) beneficially own any assets, properties or rights, anywhere at any time;

(ii) any employment agreements, employee benefit, bonus, pension, profit-sharing or participation, stock option, share appreciation, stock purchase and similar plans and arrangements, or any severance pay, termination pay (in cash or otherwise), change of control and deferred compensation agreements or similar agreements or Contracts, between the Company and any employee of or consultant to the Company that provides for annual, aggregate compensation in excess of [\*\*\*];

(iii) any Contract for employment, consulting or independent contractor services that is not cancelable by the Company without penalty with not less than [\*\*\*] notice;

(iv) any Contract with any professional employer organization or similar entity or Person pursuant to which such entity or Person performs or provides the Company with employment, employer and/or human resources-related services (or similar administrative services) in regard to employees and/or Contingent Workers of or working for the Company;

(v) collective bargaining agreement or contract with any labor union;

- (vi) any confidentiality, noncompetition, nonsolicitation, invention assignment or other restrictive covenant agreement with any employee, officer, director or independent contractor;
- (vii) any settlement agreement or release agreement with any current or former employee or independent contractor;
- (viii) any agreement for the ownership of or investment in any Person, including investments in minority equity investments;
- (ix) any agreement between or among the Company, on one hand, and any of its equity holders, or any Person that is, to the Company's Knowledge, an Affiliate of the equity holders (other than the Company), on the other hand;
- (x) any indenture, trust agreement, loan agreement, note or Contract for Indebtedness and any Contract pursuant to which any assets or property are subject to a Lien (excluding Permitted Liens);
- (xi) any lease of personal property or other Contract affecting the ownership of, leasing of, or other interest in, any personal property;
- (xii) Company In-Licenses and Company Out-Licenses;
- (xiii) any surety or guarantee agreement or other similar undertaking with respect to contractual performance;
- (xiv) any Contract with a Supplier or for the purchase of equipment, materials, products, supplies or services by the Company in excess of [\*\*\*] in a calendar year;
- (xv) any Contract relating to capital expenditures and involving payments by the Company in excess of [\*\*\*] individually or [\*\*\*] in the aggregate;
- (xvi) any Contract relating to the disposition or acquisition of material assets, properties or any interest in any business enterprise outside the ordinary course of business;
- (xvii) any indemnification agreement entered into by the Company running to the benefit of any employee, officer or manager of the Company;
- (xviii) any Contract (including purchase orders) with a Customer or supplier in an amount or value in excess of [\*\*\*] in a calendar year;
- (xix) any agreement requiring the payment to any Person of a commission or fee other than in the ordinary course of business;
- (xx) any dealer, distribution, joint marketing, joint venture, partnership, strategic alliance, collaboration, Affiliate or development agreement or outsourcing arrangement, or other arrangement involving a sharing of profits, losses, costs or liabilities with another Person;
- (xxi) any distributor, broker, manufacturer's representative, franchise, agency, sales promotion, sales representative or similar agreement;

(xxii) any Contract that contains a right of first refusal, first offer, first negotiation, take or pay, exclusivity, minimum purchase commitments, or “**most favored nation**” provision in favor of any Person;

(xxiii) any Contract providing for the settlement of any Proceeding;

(xxiv) any sales representative, original equipment manufacturer, manufacturing, value added, remarketer, reseller, or independent software vendor, or other Contract for use or distribution of the Company Products, Company Intellectual Property or services of the Company;

(xxv) any Contracts under which a third party licenses or provides any Intellectual Property to the Company;

(xxvi) all Contracts with any Governmental Entity, including, without limitation, Government grants, or Government bids to which the Company is a party;

(xxvii) any benefit plan and all agreements providing for benefits under any benefit plan;

(xxviii) all policies of insurance and other similar agreements;

(xxix) all tax sharing agreements;

(xxx) all Contracts under which the Company has advanced or loaned any amount to any of its directors, officers, or employees; and

(xxxi) any other Contract that requires payments by the Company in excess of [\*\*\*] which is not cancelable by the Company without penalty within [\*\*\*]

(b) True and complete copies of each Contract disclosed in the Disclosure Schedule or required to be disclosed pursuant to this Section 3.13 as well as Section 3.12(h) of the Disclosure Schedule (each, a “**Material Contract**” and collectively, the “**Material Contracts**”) have been made available to the Purchaser.

(c) Each Material Contract to which the Company is a party or any of its properties or assets (whether tangible or intangible) is subject is a valid and binding agreement enforceable against the Company in accordance with its terms, and is in full force and effect with respect to the Company and, to the Knowledge of the Company, any other party thereto subject to (A) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (B) rules of law governing specific performance, injunctive relief and other equitable remedies. Except as set forth on Section 3.13(c) of the Disclosure Schedule, the Company is in material compliance with and has not materially breached, violated or defaulted under, or received notice that it has materially breached, violated or defaulted under, any of the terms or conditions of any Material Contract, nor to the Knowledge of the Company is any party obligated to the Company pursuant to any Material Contract subject to any material breach, violation or default thereunder, nor does the Company have Knowledge of any presently existing facts or circumstances that, with the lapse of time, giving of notice, or both would constitute such a material breach, violation or default by the Company or any such other party.

(d) Except as set forth on Section 3.13(d) of the Disclosure Schedule, the Company has performed all material obligations required to have been performed by the Company pursuant to each Material Contract.

#### 3.14 Interested Party Transactions.

(a) To the Knowledge of the Company, no (i) equityholder, officer, or director of the Company, (ii) Affiliate or immediate family member of any such Person listed in (i), or (iii) Person that any Person listed in (i) or (ii) has or has had an equity or other ownership or financial interest (each, an “**Interested Party**”), has or has had in the prior [\*\*\*], directly or indirectly, (A) any interest in any property (including real and personal property) or assets (including tangible and intangible assets) used or held for use in the Business, (B) any Person that furnished or sold, or furnishes or sells, services, products, or technology that the Company furnishes or sells, or proposes to furnish or sell, (C) any interest in any Person that purchases from or sells or furnishes to the Company any services, products or technology, or (D), except for agreements for the purchase or acquisition of equity in the Company, standard employee and consulting agreements (and agreements related thereto), and standard indemnification agreements, any interest in, or is a party to, any Contract or has any right or claim against the Company or any of its assets.

(b) All transactions pursuant to which any Interested Party has purchased any material services, products, or technology from, or sold or furnished any services, products or technology to, the Company that were entered into have been on an arms’ length basis.

3.15 Permits. The Company owns or possesses, and has owned and possessed at all times, all right, title and interest in and to all material Permits that are necessary to conduct the Business as previously and currently conducted. Section 3.15 of the Disclosure Schedule sets forth a true, correct and complete list of each material Permit owned, held or possessed by the Company as of the date hereof, and the date of issuance and expiration date of each such Permit (if any), and such Permits constitute all material Permits necessary for Company to own and operate the Business and to carry on the Business as currently conducted. The Company has provided accurate and complete copies of each Company Permit set forth in Section 3.15 of the Disclosure Schedule. The Company is, and has been for the duration the terms of each such Permit set forth in Section 3.15 of the Disclosure Schedule, in material compliance with the terms and conditions of such Permits, and all such Permits are valid and are in full force and effect, and there are no provisions in, or agreements relating to, any Permits that preclude or limit the Company from operating and carrying on the Business as currently conducted. No loss or expiration of any material Permit is pending or threatened (including as a result of the transactions contemplated by this Agreement). Except as indicated Section 3.15 of the Disclosure Schedule, all of the material Permits are transferable to Buyer and/or its Affiliates and will be transferred to Buyer and/or its Affiliates on the Closing Date. To the Knowledge of the Company, there is no pending or threatened Proceeding by or before any Governmental Entity to revoke, cancel, rescind, suspend, restrict, materially modify, or refuse to renew any Permit owned or held by the Company and all such Permits are now, and as of the Closing Date shall be, unrestricted, in good standing, in full force and effect and not subject to meritorious challenge. No event has occurred and no facts exist with respect to any such Permits that allow, or after notice or the lapse of time or both, would allow the suspension, revocation, or termination of any Permits, or would result in any other impairment in the rights of any holder thereof. The Company has not, at any time, received any written, or to the knowledge of the Company, oral, notice or communication from any Governmental Entity regarding any material violation of any such Permits (other than any surveys or deficiency reports for which a plan of correction that has been accepted or approved by the applicable Governmental Entity). The Company has delivered to Buyer accurate and complete copies of the most recent survey reports, deficiency notices, plans of correction and related correspondence received by the Company in connection with the Permits relating to the Business.

3.16 Litigation. There is, and in the last [\*\*\*] there has been, no Proceeding pending, or to the Knowledge of the Company, threatened, against the Company, its properties or assets (tangible or intangible) or any of the Company's employees, officers or directors (in their capacities as such), nor, to the Knowledge of the Company, are there any presently existing facts and circumstances that would constitute a reasonable basis therefor. There are no outstanding governmental orders and no unsatisfied judgments, penalties, or awards against or affecting the Company or any of its properties or assets.

3.17 Minute Books. The minutes of the Company made available to the Purchaser contain complete and accurate records of all material actions taken, and summaries of all meetings held, by the equityholders and the Board of Directors of the Company (and any committees thereof) since the time of incorporation of the Company. At the Closing, the minute books of the Company will be in the possession of the Company.

3.18 Environmental Matters.

(a) The Company is, and for the last [\*\*\*] has been (i) in compliance in all material respects with all applicable Environmental Laws, and (ii) in compliance in all material respects with all permits, certificates, licenses, approvals, registrations and authorizations required under all Environmental Laws in connection with the Business ("**Environmental Permits**"). All Environmental Permits are in full force and effect.

(b) To the Knowledge of the Company, the Company cannot be held responsible, and has not transported or disposed of, or allowed or arranged for any third party to transport or dispose of, any Hazardous Material to or at any location that is listed or proposed for listing on the National Priorities List promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Comprehensive Environmental Response, Compensation, and Liability Information System, or any equivalent list of sites for cleanup under any federal, state or local program.

(c) To the Knowledge of the Company, neither the Company, nor to the Company's Knowledge, any Person for whose conduct the Company may be held responsible, has Released any Hazardous Material on, in, from, under or at any property now or formerly owned, operated or leased by the Company, except as authorized by, and in compliance with, validly issued Environmental Permits. To the Knowledge of the Company, no Hazardous Material is present or has come to be located in the Environment at any property now or formerly owned, operated or leased by the Company in an amount, manner, condition or concentration that requires any reporting, notification, investigation, remediation, abatement or other response action by the Company pursuant to any Environmental Laws.

(d) There are no active or abandoned underground storage tanks present at, on, or under the real property owned, operated or leased by the Company.

(e) The Company has not: (i) received written notice under the citizen suit provisions of any Environmental Law; (ii) received any written notice, demand, complaint or claim under any Environmental Law; or (iii) to the Knowledge of the Company, been subject to or threatened (orally or in writing) with any governmental or citizen enforcement action with respect to any Environmental Law.



(f) The Company has provided or made available to the Purchaser all documents, records and information possessed by the Company concerning any environmental or health and safety matter relevant to the Business or to any property now or formerly owned, operated or leased by the Company, including environmental audits, environmental risk assessments, site assessments, documentation regarding waste disposal, Environmental Permits, and reports or correspondence submitted to or issued by any Governmental Entity.

3.19 Brokers' and Finders' Fees. The Company has not incurred, nor will incur, directly or indirectly, any Liability for brokerage or finders' fees or agents' commissions, fees related to investment banking or similar advisory services or any similar charges in connection with this Agreement or the Transaction, nor will the Purchaser, the Company, or the Stockholders incur, directly or indirectly, any such Liability based on arrangements made by or on behalf of the Company.

### 3.20 Employee Benefit Plans.

(a) Section 3.20(a) of the Disclosure Schedule sets forth a true, complete and correct list of every Company Employee Plan.

(b) Each Company Employee Plan that is intended to qualify under Section 401(a) of the Code is so qualified and has received a favorable determination or approval letter from the IRS with respect to such qualification, or may rely on an opinion letter issued by the IRS with respect to a prototype plan adopted in accordance with the requirements for such reliance, or has time remaining for application to the IRS for a determination of the qualified status of such Company Employee Plan for any period for which such Company Employee Plan would not otherwise be covered by an IRS determination and, to the knowledge of the Company, no event or omission has occurred that would cause any Company Employee Plan to lose such qualification.

(c) Each Company Employee Plan is, and has been operated in material compliance with applicable Laws and regulations and is and has been administered in all material respects in accordance with applicable Laws and regulations and with its terms. No claim, litigation or governmental or administrative proceeding, audit, investigation or other proceeding (other than those relating to routine claims for benefits) is pending or, to the Knowledge of the Company, threatened with respect to any Company Employee Plan or any fiduciary or service provider thereof, and, to the Knowledge of the Company, there is no reasonable basis for any such claim, litigation, audit, investigation or proceeding. All payments and/or contributions required to have been made with respect to all Company Employee Plans either have been timely made or have been accrued in accordance with the terms of the applicable Company Employee Plan and applicable Law. The Company Employee Plans satisfy in all material respects the minimum coverage and discrimination requirements under the Code.

(d) Neither the Company nor any ERISA Affiliate has ever maintained, contributed to, or been required to contribute to (i) any employee benefit plan that is or was subject to Title IV of ERISA, Section 412 of the Code, Section 302 of ERISA, (ii) a Multiemployer Plan, (iii) any funded welfare benefit plan within the meaning of Section 419 of the Code, (iv) any "multiple employer plan" (within the meaning of Section 210 of ERISA or Section 413(c) of the Code), or (v) any "multiple employer welfare arrangement" (as such term is defined in Section 3(40) of ERISA), and neither the Company nor any ERISA Affiliate has ever incurred any liability under Title IV of ERISA that has not been paid in full.

(e) None of the Company Employee Plans provides health care or any other non-pension benefits to any employees after their employment is terminated (other than as required by Part 6 of Subtitle B of Title I of ERISA or similar state law) and the Company has never promised to provide such post-termination benefits.

(f) Each Company Employee Plan may be amended, terminated, or otherwise modified by the Company to the greatest extent permitted by applicable law, including the elimination of any and all future benefit accruals thereunder and no employee communications or provision of any Company Employee Plan has failed to effectively reserve the right of the Company or the ERISA Affiliate to so amend, terminate or otherwise modify such Company Employee Plan. Neither the Company nor any of its ERISA Affiliates has announced its intention to modify or terminate any Company Employee Plan or adopt any arrangement or program which, once established, would come within the definition of a Company Employee Plan. Each asset held under each Company Employee Plan may be liquidated or terminated without the imposition of any redemption fee, surrender charge or comparable liability other than ordinary administration expenses. No Company Employee Plan provides health or disability benefits that are not fully insured through an insurance contract.

(g) Each Company Employee Plan that constitutes in any part a nonqualified deferred compensation plan within the meaning of Section 409A of the Code has been operated and maintained in all material respects in operational and documentary compliance with Section 409A of the Code and applicable guidance thereunder. No payment to be made under any Company Employee Plan is, or to the Knowledge of the Company, will be, subject to the penalties of Section 409A(a)(1) of the Code.

(h) No Company Employee Plan is subject to the laws of any jurisdiction outside the United States.

(i) No Company Employee Plan requires the Company to pay any tax “gross-up” or similar “make-whole” payments to any employee, director or consultant of the Company or an ERISA Affiliate.

### 3.21 Employment.

(a) The Company (and, if and to the extent applicable, any professional employer organization or similar Person engaged by the Company and any co-employer or joint-employer of the Company) (i) is, and at all times since the Company’s incorporation has been, in compliance, in all material respects, with all applicable Laws and collective bargaining agreements and arrangements, in each case respecting labor and employment matters, including Laws relating to employment practices, work authorization and immigration (including the Immigration Reform and Control Act of 1986 and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)), terms and conditions of employment, employee leave, fair employment practices, pay equity, restrictive covenants, discrimination, harassment, retaliation, whistleblowing, disability, fair labor standards, unemployment compensation, workers compensation, affirmative action, wrongful discharge, occupational safety and health, family and medical leave, wages and hours, (including with respect to overtime, minimum wage, wage and hour laws, and meal and rest breaks), the classification of Contingent Workers, the classification of employees as exempt or non-exempt for wage and hour purposes, and employee terminations, and in each case, with respect to any current or former employee, consultant, independent contractor, Contingent Worker, manager, partner or director of the Company or any ERISA Affiliate, (ii) does, and has at all times since the Company’s incorporation, withheld and reported all amounts required by applicable Laws or by agreement to be withheld and reported with respect to wages, salaries, bonuses, commissions, fees and any other compensation, remuneration and payments to any current or former employee, consultant, independent contractor, Contingent Worker, manager, partner or director of the Company or any ERISA

Affiliate, (iii) is not liable for any arrears of wages, salaries, bonuses, commissions, fees, severance pay, any other compensation or remuneration or reimbursement, any Taxes or any penalty for failure to comply with any of the foregoing, and (iv) is not liable for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Entity, with respect to unemployment compensation benefits, social security or other benefits or obligations for any current or former employee, consultant, independent contractor, Contingent Worker, manager, partner or director of the Company or any ERISA Affiliate (other than routine payments to be made in the normal course of business and consistent with past practice). There are no, and at no time since the Company's incorporation have there been any, actions, suits, litigations, governmental audits, governmental investigations, arbitrations, claims or administrative matters, formal or informal grievances, complaints, charges or proceedings pending, threatened in writing, or, to the Knowledge of the Company, otherwise threatened against the Company relating to any employment or labor matter or any Company Employee Plan, including without limitation with respect to wage and hour matters, the classification of Contingent Workers (as defined below), immigration and work authorization, discrimination, sexual harassment, other unlawful harassment, unfair labor practices, retaliation and restrictive covenant matters. There are no, and at no time during the past [\*\*\*] have there been any, pending, threatened in writing or, to the Knowledge of the Company, otherwise-threatened claims or actions against Company or any Company trustee under any worker's compensation policy or long-term disability policy. Section 3.21(a) of the Disclosure Schedule lists all Liabilities of the Company to any current or former employee, consultant, independent contractor, Contingent Worker, agency worker, manager, partner or director of the Company or any ERISA Affiliate that result or that would result from the termination by the Company or the Purchaser of such Person's employment or provision of services, a change of control of the Company, or a combination thereof. To the extent that the Company has engaged or engages the services of any Person as an independent contractor, consultant, temporary or leased worker, or other servant or agent who is or has been classified and treated as other than an "employee" and/or compensates or has compensated such Person other than through wages paid through payroll and reported on a form W-2 (each such Person, a "**Contingent Worker**"), the Company has properly classified and treated all such Persons in accordance with applicable Laws in all material respects, and for purposes of all employee benefit plans and perquisites. Neither the Company nor any ERISA Affiliate has, or has had at any time since the Company's incorporation, direct or indirect material Liability with respect to (i) any misclassification of any Person as an independent contractor (or other Contingent Worker) rather than as an "employee;" or (ii) the classification under wage and hour laws of any current or former employee, consultant, independent contractor, manager, partner or director.

(b) None of the employment policies or practices of the Company is currently being, or at any time during the past [\*\*\*] has been, audited or, to the Knowledge of the Company, investigated, by any Governmental Entity, and none of the employment policies or practices of the Company are currently subject to imminent audit or investigation by any Governmental Entity. The Company and the officers of the Company are not currently, and within the last [\*\*\*] have not been, subject to any order, decree, injunction, fine, penalty or judgment by any Governmental Entity or private settlement contract in respect of any labor or employment matters.

(c) The Company is not currently, and during the past [\*\*\*] has not been, a party to any collective bargaining agreements; and there are no labor unions or other organizations representing, or, to the Knowledge of the Company, purporting or attempting to represent, any employee of the Company, and the Company has no duty to bargain with any such union or organization with respect to wages, hours or other terms and conditions of employment of any of their employees or Contingent Workers. There currently are not and during the last [\*\*\*] there have not been any (i) strikes, slowdowns, work stoppages, lockouts, or threats thereof with respect to any employees or Contingent Workers of the Company, (ii) labor organizing campaigns with respect to any employees or Contingent Workers of the Company, or (iii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or with respect to any employees or Contingent Workers of the Company. The Company has not engaged in any unfair labor practice.

(d) In the [\*\*\*] prior to the date hereof, the Company has not effectuated (i) a “plant closing” or “business closing” (as defined in the Worker Adjustment and Retraining Notification Act (“**WARN**”) or any similar applicable Laws) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the Company, (ii) whether paid on a salary, hourly or commission basis and the employee’s actual annual a “mass layoff” or collective dismissal (as defined in WARN, or any similar applicable Laws) affecting any site of employment or facility of any of the Company or (iii) any other event that would have required advance notice under WARN or any similar applicable Laws. Section 3.21(d) of the Disclosure Schedule contains a complete and accurate list of each employee of the Company, if any, who has suffered an “employment loss” (as defined in WARN or similar applicable law) during the [\*\*\*] period preceding the date hereof and setting forth for each such person: (i) his/her name, (ii) date of hire, (iii) reason for the employment loss and (iv) his/her last job title(s), work location and department.

(e) Section 3.21(e) of the Disclosure Schedule contains a complete and accurate list of the current employees of the Company and shows with respect to each such employee (i) the employee’s position held, and principal place of employment, (ii) whether paid on a salary, hourly or commission basis and the employee’s actual annual base salary, hourly wage rate or other rates of compensation, as applicable, (iii) annual commission opportunity, (iv) bonus eligibility for the current year (and bonus paid for the prior year), (v) each employee’s designation as either exempt or non-exempt for wage and hour purposes, (vi) all other remuneration payable (including applicable rates) and other benefits provided or which the Company is bound to provide (whether at present or in the future) to each such employee, or any Person connected with any such employee, and includes, if any, particulars of all profit sharing, incentive and bonus arrangements to which the Company is a party, (vii) the date of hire, (viii) vacation and other paid time off eligibility for the current calendar year (including current balance of accrued unused vacation or other paid time off, and current accrual rate), (ix) status (i.e. active or inactive and if inactive, the type of leave and estimated duration), (x) any visa or work permit status and the date of expiration (if applicable), (xi) eligibility to Company car or travel expenses, (xii) the total amount of bonus, retention, severance and other amounts to be paid to such employee at the Closing or otherwise in connection with the transactions contemplated hereby, (xiii) average scheduled hours per week, (xiv) average over-time payments per month during the preceding twelve-month period for non-exempt employees and (xv) any performance, improvement or disciplinary issues contemplated or pending against such employee of which the Company has Knowledge.

(f) With respect to each current Contingent Worker, Section 3.21(f) of the Disclosure Schedule sets forth each such Contingent Worker’s role in the Business, initial date retained to perform services, the primary location from which services are performed, fee or compensation arrangements, average hours worked per week or month, any notice period required for termination of the engagement, and other material contractual terms.

(g) All employees of the Company are employed on an at-will basis and no employee is subject to any employment contract with the Company, whether oral or written.

(h) The Company is and since its inception has been, in compliance with all Laws regarding work authorization and immigration, including the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

(i) Section 3.21(i) of the Disclosure Schedule identifies each employee of the Company who is subject to a non-competition, non-solicitation, confidentiality and/or invention assignment agreement with the Company and includes a form of each such agreement.

(j) The Company is not a government contractor or subcontractor for purposes of any Laws with respect to the terms and conditions of employment, including without limitation, the Service Contracts Act or prevailing wage laws.

(k) In the last [\*\*\*], no allegations of sexual harassment have been made to the Company against any employee, officer, director or independent contractor of the Company and the Company has not otherwise become aware of any such allegations. To the knowledge of the Company, there are no facts that would reasonably be expected to give rise to claim of sexual harassment, other unlawful harassment or unlawful discrimination or retaliation against or involving the Company or any Company employee, director or independent contractor.

(l) In the past [\*\*\*], (i) no officer, Key Employee, employee that is material to the Business, or group of employees or Contingent Workers of the Company has or have indicated an intention to terminate his, her, or their employment or engagement with the Company, and (ii) the employment of no officer or employee that is material to the Business has been terminated for any reason.

(m) The consummation of the transactions contemplated in this Agreement will not (i) entitle any employee of the Company to severance pay, unemployment compensation, bonus payment or any other payment, (ii) accelerate the time of payment for vesting of, or increase the amount of compensation due to, any such employee, or (iii) entitle any such employee to terminate, shorten or otherwise change the terms of her, his or their employment.

(n) During the [\*\*\*] period preceding the date hereof, the Company has paid and continues to pay each of its employees in a manner that complies with the requirements of the Equal Pay Act and/or any other federal, state, or local Laws pertaining to the equal pay of employees. The Company has not conducted a self-evaluation of its employee pay practices that complies with the requirements of any federal, state, or local Laws permitting an affirmative defense to claims for the violation equal pay-related Laws.

(o) The Company is and at all relevant times has been in compliance with (i) COVID-19 related Laws, standards, regulations, orders and guidance (including without limitation relating to business reopening), including those issued and enforced by the Occupational Safety and Health Administration, the Centers for Disease Control, the Equal Employment Opportunity Commission, and any other state, local and/or other governmental body; (ii) the Families First Coronavirus Response Act (including with respect to eligibility for tax credits under such Act) and (iii) any other applicable COVID-19 related leave Law, whether state, local or otherwise.

3.22 Insurance. Section 3.22 of the Disclosure Schedule lists all material insurance policies and fidelity bonds, for which the coverage period has not expired, covering the assets, business, equipment, properties, operations, employees, officers and directors of the Company, including the type of coverage, the carrier, the amount of coverage, the term and the annual premiums of such policies. There are and have been no claims since the Company's inception for which an insurance carrier has denied or, to the Knowledge of the Company, threatened to deny coverage. All premiums due and payable under all such policies and bonds have been paid (or if installment payments are due, will be paid if incurred prior to the Closing Date), and the Company is otherwise in material compliance with the terms of such policies and bonds (or other policies and bonds providing substantially similar insurance coverage).

3.23 Suppliers. Section 3.23(a) of the Disclosure Schedule sets forth a list of the fifteen (15) largest suppliers by value of purchases from the Company (each, a “**Supplier**”) for each of the fiscal years ended December 31, 2020 and December 31, 2019. In the prior [\*\*\*], no Supplier has terminated or materially reduced its business relationship with the Company, and, to the Knowledge of the Company, there has been no written communication from any Supplier which would lead the Company to reasonably believe that such Supplier is planning to terminate or materially reduce its business relationships with the Company. In the [\*\*\*] prior to the Closing Date, there has not been any material adverse change in relations with any Supplier.

3.24 Regulatory. The Company is and since its incorporation has been in material compliance with the Health Care Laws, where applicable to the conduct of the Business. The Company has filed with the applicable Governmental Entities (including the FDA or any other Governmental Entity performing functions similar to those performed by the FDA) all material required filings, representations, declarations, listings, registrations, reports or submissions. All such filings, representations, declarations, listings, registrations, reports or submissions were in material compliance with applicable Health Care Laws when filed, and no material deficiency has been asserted by any applicable Governmental Entity with respect to any such filings, representations, declarations, listing, registrations, reports or submissions. The Company has not received any material written, or to the Company’s Knowledge, oral, notice or other material correspondence from any Governmental Entity, including the FDA or any other Governmental Entity, with respect to any Company Product. There is no pending or, to the Company’s Knowledge, threatened action, suit, claim, order, injunction, investigation or proceeding of any nature pending or threatened, or enforcement of any sort arising under any applicable Health Care Law, the FDA or any other Governmental Entity regarding the Company. All Company Products are being and have been developed, manufactured, distributed, used, processed, packaged, labeled, stored and tested in compliance in all material respects with applicable Health Care Law. Neither the Company nor, to the Knowledge of the Company, any officer, director, employee, contractor or agent on its behalf has (i) made an untrue statement of a material fact or fraudulent statement to the FDA or any Governmental Entity responsible for enforcement or oversight with respect to Health Care Laws, or (ii) failed to disclose a material fact required to be disclosed to the FDA or other such Governmental Entity or (iii) committed any other act, made any statement or failed to make any statement, that (in any such case) establishes a reasonable basis for FDA to invoke its policy respecting “Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities” set forth in FDA’s Compliance Policy Guide Sec. 120.100 (CPG 7150.09) or for any other Governmental Entity to invoke any similar policy. No Company officer or agent is the subject of any pending or threatened investigation by the FDA pursuant to its Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities Final Policy. All applications, notifications, submissions, information, claims, reports and statistics and other data that have been utilized, or prepared with the intention to be utilized, as the basis for or submitted in connection with any regulatory or marketing approvals or material Permits from the FDA or any other Governmental Entity relating to the Company Products were true, correct and complete in all material respects as of the date of preparation and submission, as applicable, and any necessary or required update, change, correction or modification to such applications, submissions, information and data have been submitted to the FDA or other Governmental Entity. The Company has maintained their regulatory communications, filings and submissions regarding the Company Products in a manner reasonably in accordance with industry standards. Neither the Company nor any current or previous member or shareholder with 5% or greater interest, officer, director, member of senior management, employee of the Company: (A) had a civil

monetary penalty assessed against it under section 1128A of the Social Security Act or any regulations promulgated thereunder; (B) has been convicted of, charged with, indicted or investigated for a Medicare, Medicaid or other Federal Health Care Program related offense, or convicted of, charged with, indicted or investigated for a violation of federal or state law relating to fraud, theft, embezzlement, breach of fiduciary responsibility, financial misconduct, obstruction of an investigation or controlled substances, (C) has been excluded or suspended from participation in any Federal Health Care Program, excluded, suspension or debarment under 21 U.S.C. § 335a or from human clinical research or has been disbarred, suspended or are otherwise ineligible to participate in any Federal Health Care Program or been subject to any order or consent decree of, or criminal or civil fine or penalty imposed by, any Governmental Entity related to, fraud, theft, embezzlement, breach of fiduciary responsibility, financial misconduct, or obstruction of an investigation of controlled substances, or (D) has committed any offense that may reasonably serve as the basis for any such exclusion, suspension, disbarment or other ineligibility.

3.25 Privacy. Company has at all times (i) complied in all material respects with all applicable Privacy Laws and (ii) maintained, continues to maintain and has complied in all material respects with each Company's policies regarding privacy and data security, including (A) all privacy policies and similar disclosures published on each web site of the Company or otherwise communicated in writing to users of any such web site and other third parties, (B) any written notice from the Company to or written consent received by the Company from the provider or subject of Personal Information, (C) any contractual commitment made by the Company in writing with respect to such Personal Information, (D) any written assurance otherwise made available by the Company to the persons to whom the Personal Information relates. The Company has a privacy policy that incorporates all disclosures to data subjects required by the applicable Privacy Laws, and the privacy policy has been provided to data subjects whose Personal Information is processed by the Company as controller.

3.26 Export Controls and Governmental Sanctions. The Company has at all times been in compliance with all applicable trade laws, including import and export control laws, trade embargoes, and anti-boycott laws, and, except as specifically authorized by a Permit, license exception, or other permit or applicable authorization of a Governmental Entity, or has not: (a) exported, reexported, transferred, or brokered the sale of any goods, services, technology, or technical data to any destination to which, or individual for whom, a license or other authorization is required under the U.S. Export Administration Regulations (the "**EAR**," 15 C.F.R. § 730 et seq.), the International Traffic in Arms Regulations (the "**ITAR**," 22 C.F.R. § 120 et seq.), or the U.S. economic sanctions administered by the Office of Foreign Assets Control ("**OFAC**," 31 C.F.R. Part 500 et seq.); (b) exported, reexported, or transferred any goods, services, technology, or technical data to, on behalf of, or for the benefit of any person or entity (i) designated as a Specially Designated National or appearing on OFAC's Consolidated Sanctions List, or (ii) on the Denied Persons, Entity, or Unverified Lists of the Bureau of Industry and Security, or (iii) on the Debarred List of the Directorate of Defense Trade Controls (if applicable); (c) exported any goods, services, technology, or technical data that have been or will be used for any purposes associated with nuclear activities, missiles, chemical or biological weapons, or terrorist activities, or that have been or will be used, transshipped or diverted contrary to applicable U.S. trade controls; (d) exported, reexported, transferred, or imported any goods, services, technology, or technical data to or from Cuba, Crimea, Iran, Libya, North Korea, Syria, or Sudan during a time at which such country/region and/or its government was subject to U.S. trade embargoes under OFAC regulations, the EAR, or any other applicable statute or executive order; (e) manufactured any defense article as defined in the ITAR, including within the United States and without regard to whether such defense article was subsequently exported, without being registered and in good standing with the Directorate of Defense Trade Controls, U.S. Department of State; (f) imported any goods except in full compliance with the import and customs laws of the United States, including but not limited to Title 19 of the United States Code, Title 19 of the Code of Federal Regulations, and all other regulations

administered or enforced by the Bureau of Customs and Border Protection; or (g) violated the antiboycott prohibitions, or failed to comply with the reporting requirements, of the EAR (15 C.F.R. § 760) and the Tax Reform Act of 1976 (26 U.S.C. § 999). The Company has obtained all required Permits for each item made or exported by the Company and has obtained or identified the correct Export Control Classification Number (under the Commerce Control List of the EAR) or United States Munitions List Category (of the ITAR) for each item. Section 3.26 of the Disclosure Schedule sets forth a true and accurate table identifying each of the items exported, designed, fabricated, developed, produced, or manufactured by the Company over the last five (5) years, including, for each item, the correct Export Control Classification Number (under the Commerce Control List of the EAR) or United States Munitions List Category (of the ITAR), the date such classification was made, and an indication whether the item was self-classified or was the result of an agency determination. The Company has in place adequate controls to ensure compliance with any applicable laws pertaining to the export and import of goods, services, and technology, including without limitation the EAR, the ITAR, the U.S. economic sanctions administered by OFAC, and the import and customs laws. Neither the Company nor its predecessors has undergone or is undergoing, any audit, review, inspection, investigation, survey or examination by a Governmental Entity relating to export, import, or other trade-related activity. To the Knowledge of the Company, there are no threatened claims, nor presently existing facts or circumstances that would constitute a reasonable basis for any future claims, with respect to exports, imports, or other trade-related activity by the Company or its predecessors.

**3.27 Foreign Corrupt Practices and Anti-Bribery.** Neither the Company nor its directors, managers, partners, officers or employees nor, to the Knowledge of the Company, any third party representative of the Company with respect to any matter relating to the Company, (a) has used or is using any corporate funds for any illegal contributions, gifts, entertainment or other unlawful expenses relating to political activity, (b) has used or is using any corporate funds for any direct or indirect unlawful payments to any foreign or domestic governmental officials or employees or any other Person, (c) has violated or is violating any provision of the Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**"), 15 U.S.C. §§ 78dd 1 *et seq.* or its equivalent in any jurisdiction where the Company conducts business, if the Company were subject thereto, (d) has established or maintained, or is maintaining, any unlawful fund of corporate monies or other properties or (e) has made any bribe, unlawful rebate, payoff, influence payment, kickback or other unlawful payment of any nature. To the Knowledge of the Company, the Company has in place adequate controls and systems to ensure compliance with applicable laws pertaining to anticorruption, including the FCPA, in each of the jurisdictions in which the Company currently does business or has done business in the last [\*\*\*]. To the Knowledge of the Company, no event, fact or circumstance has occurred in the [\*\*\*] prior to the date hereof or exists that is reasonably likely to result in a finding of noncompliance with any applicable law relating to anticorruption. Neither the Company nor its directors, managers, partners, officers or employees nor, to the Knowledge of the Company, any third party representative of the Company with respect to any matter relating to the Company, has taken or failed to take any action which would cause the Company to be in violation of the FCPA, or any rules or regulations thereunder if such law, rules and regulations were applicable thereto. Neither the Company nor its directors, managers, partners, officers or employees nor, to the Knowledge of the Company, any third party representative of the Company with respect to any matter relating to the Company, has offered, paid, promised to pay, or authorized, or will offer, pay, promise to pay, or authorize, directly or indirectly, the giving of money or anything of value to any Official, or to any other Person while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any Official, for the purpose of: (i) influencing any act or decision of such Official in his, her or its official capacity, including a decision to fail to perform his, her or its official duties or functions; or (ii) inducing such Official to use his, her or its influence with any Governmental Entity to affect or influence any act or decision of such Governmental Entity, or to obtain an improper advantage in order to assist the Company or any third-party in obtaining or retaining business for or with, or directing business to, the Company. For purposes of this Agreement, an "**Official**" shall include any appointed or elected official, any government employee, any political party, party official, or candidate for political office, or any officer, manager, director or employee of any Governmental Entity.



3.28 Bank Accounts. Section 3.28 of the Disclosure Schedule lists the names, account numbers, authorized signatories and locations of all banks and other financial institutions at which the Company has an account or safe deposit box and the name of each Person authorized to draft on or have access to any such account or safe deposit box.

3.29 No Other Representation and Warranties. Except for the representations and warranties contained in this Article III, neither of the Company nor any representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Company, or any representation or warranty arising from statute or otherwise at law with respect to the Company. The Seller Parties acknowledges that except for the representations and warranties contained in the Article V or under any Ancillary Agreement to which the Purchaser is a party, neither the Purchaser nor any representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Purchaser, or any representation or warranty arising from statute or otherwise at law with respect to the Purchaser.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS

Each Stockholder, on behalf of himself, hereby represents and warrants to the Purchaser as of the date hereof and as of the Closing, subject to such exceptions as are specifically disclosed in the Disclosure Schedule:

4.1 Power and Capacity; Enforceability. Such Stockholder possesses all requisite capacity necessary to enter into this Agreement and any Ancillary Agreements to which she, he or they is/are a party and to consummate the Transactions. This Agreement and any Ancillary Agreements to which such Stockholder is a party have been duly executed and delivered by such Stockholder and the obligations of such Stockholder hereunder and thereunder are or will be, upon such execution and delivery (and assuming the due authorization, execution and delivery by the other parties hereto and thereto), valid, legally binding and enforceable against such Stockholder in accordance with their respective terms.

4.2 No Conflict.

(a) The execution, delivery and performance by such Stockholder of this Agreement and any Ancillary Agreements to which such Stockholder is a party, and the consummation of the Share Purchase or any other Transactions will not conflict with or result in any violation of or default under (with or without notice or lapse of time, or both), or give rise to a right of notice or termination, cancellation, modification or acceleration of any right or obligation or loss of any benefit under, or require any consent, approval or waiver from any Person pursuant to, or result in the creation of any Lien upon the Company Stock pursuant to (i) any Contract or order to which such Stockholder is subject or (ii) any Laws applicable to such Stockholder or such Stockholder's assets (whether tangible or intangible).

(b) No consent, notice, waiver, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by, or with respect to, such Stockholder in connection with the execution and delivery of this Agreement or the Ancillary Agreements to which such Stockholder is a party, or the consummation of the Share Purchase and the other Transactions except for such consents, notices, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable securities Laws.

4.3 Title to Shares. Such Stockholder owns of record and beneficially all of the outstanding Company Stock listed beside such Stockholder's name on Schedule 4.3, and has, except as set forth on Section 4.3 of the Disclosure Schedule, good and valid title to such Company Stock, free and clear of all Liens and, at Closing, shall deliver to the Purchaser (provided, that Purchaser is in compliance with the terms of this Agreement) good and valid title to such Company Stock, free and clear of all Liens. Such Stockholder does not own, and does not have the right to acquire, directly or indirectly, any other Company Stock. Such Stockholder is not a party to any option, warrant, purchase right, or other Contract or commitment that could require such Stockholder to sell, transfer, or otherwise dispose of any Company Stock (other than this Agreement). Such Stockholder is not a party to any voting trust, proxy, or other agreement or understanding with respect to the voting of any share capital of the Company.

4.4 Litigation. There is no Proceeding pending, or, to the knowledge of such Stockholder, threatened, against such Stockholder that seek to restrain or enjoin the consummation of the Transactions, nor, to the knowledge of such Stockholder, are there any presently existing facts or circumstances that would constitute a reasonable basis therefor. There are no outstanding governmental orders and no unsatisfied judgments, penalties or awards against or affecting such Stockholder's ability to transfer the Company Stock pursuant to the terms of this Agreement.

4.5 No Other Representation and Warranties. Except for the representations and warranties contained in Article III and this Article IV, neither such Stockholder nor any representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of such Stockholder, or any representation or warranty arising from statute or otherwise at law with respect to such Stockholder. Such Stockholder acknowledges that except for the representations and warranties contained in the Article V or under any Ancillary Agreement to which the Purchaser is a party, neither the Purchaser nor any representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Purchaser, or any representation or warranty arising from statute or otherwise at law with respect to the Purchaser.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

The Purchaser hereby represents and warrants to the Seller Parties as of the date hereof and as of the Closing:

5.1 Organization; Authority and Enforceability.

(a) The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to own, lease and operate its assets and properties and to carry on its business as it is now being conducted.

(b) The Purchaser has all requisite corporate power and authority to enter into this Agreement and any Ancillary Agreements to which it is a party and to consummate the Transactions. The execution and delivery by the Purchaser of this Agreement and any Ancillary Agreements to which it is a party and the consummation of the Transactions have been duly and validly authorized by all necessary

corporate action on the part of the Purchaser. This Agreement and any Ancillary Agreements to which the Purchaser is a party have been duly and validly authorized, executed and delivered by the Purchaser and the obligations of the Purchaser hereunder and thereunder are or will be, upon such execution and delivery (and assuming due authorization, execution and delivery by the other parties hereto and thereto), valid, legally binding and enforceable against the Purchaser in accordance with their respective terms.

5.2 No Conflict. The execution and delivery by the Purchaser of this Agreement and any Ancillary Agreement to which the Purchaser is a party, and the consummation of the Share Purchase or any other Transactions, will not conflict with or result in any violation or default under (with or without notice or lapse of time, or both), or give rise to a right of notice or termination, cancellation, modification or acceleration of any right or obligation or loss of any benefit under (a) any provision of any organizational documents of the Purchaser, (b) any Contract to which the Purchaser is a party or by which any of the Purchaser's properties or assets may be bound, or (c) Laws applicable to the Purchaser or any of its properties or assets (whether tangible or intangible).

5.3 Consents. No consent, notice, waiver, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by, or with respect to, the Purchaser in connection with the execution and delivery of this Agreement and the Ancillary Agreement to which the Purchaser is a party or the consummation of the Share Purchase and the other Transactions, except for such consents, notices, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable securities Laws.

5.4 Sufficiency of Funds. The Purchaser has and will have sufficient cash on hand or other sources of immediately available funds at the Closing to enable it to pay the Closing Cash Consideration, fund the Indemnification Escrow Amount and consummate the Share Purchase and the other Transactions contemplated herein.

5.5 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Purchaser.

5.6 Litigation. There is no Proceeding pending, or, to the knowledge of the Purchaser, threatened, against the Purchaser that seek to restrain or enjoin the consummation of the Transactions, nor, to the knowledge of the Purchaser, are there any presently existing facts or circumstances that would constitute a reasonable basis therefor.

5.7 No Other Representation and Warranties. Except for the representations and warranties contained in this Article V, neither the Purchaser nor any representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Purchaser, or any representation or warranty arising from statute or otherwise at law with respect to the Purchaser. The Purchaser acknowledges that except for the representations and warranties contained in Article III and Article IV or under any Ancillary Agreement to which the Company or any of the Stockholders is a party, none of the Company, the Stockholders, nor representative thereof has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Company or the Stockholders, or any representation or warranty arising from statute or otherwise at law with respect to the Company or the Stockholders.

## ARTICLE VI

### COVENANTS

6.1 Public Disclosure. The content and issuance of any press release or third-party communication announcing the consummation of this Agreement, the Ancillary Agreements or the Transactions immediately following the Closing shall be mutually agreed by the Purchaser and the Stockholders' Representative; provided, however, that the consent of the Stockholders' Representative shall not be unreasonably withheld, conditioned or delayed.

6.2 Indemnification of Officers and Directors.

(a) Prior to Closing Date, the Company shall purchase and fully pay the premium (or include the premium payable as a Transaction Expense if not paid prior to the Closing) for directors' and officers' fiduciary liability run-off insurance which shall provide run-off coverage for [\*\*\*] following the Closing Date, which shall by its terms survive the Closing, having limits, terms and conditions no less favorable than the terms of such insurance policies currently maintained by the Company and the Company shall cause such insurance to be bound not later than the Closing Date.

(b) The indemnification provisions applicable to directors, officers and employees of the Company as set forth in the Charter Documents as of the date hereof and any indemnification agreement by and between the Company and such directors, officers and/or employees are incorporated herein by reference as if set forth herein in full. The Purchaser agrees that all rights to indemnification or exculpation existing in favor of, and all limitations on the personal liability of, each present and former director and officer of the Company (the "**D&O Indemnified Parties**") provided for therein shall continue for the full duration of the statute of limitations or [\*\*\*], whichever is shorter (or during the continuation of any claim which was asserted during such time period). Nothing set forth herein shall require the maintenance or continuation of any provision of the organizational documents of the Company by the Purchaser or any of its successors, and it is intended that this Section 6.2(b) is a full and complete alternative in lieu thereof.

(c) The obligations under this Section 6.2 shall not be terminated or modified in such a manner as to adversely affect the Stockholders without the consent of a majority of the Stockholders (it being expressly agreed that the D&O Indemnified Parties to whom this Section 6.2 applies shall be third party beneficiaries of this Section 6.2 and shall be entitled to enforce the covenants contained herein).

6.3 Release. Effective for all purposes as of the Closing, each Stockholder acknowledges and agrees, on behalf of himself and each of her, his or their Affiliates, heirs, successors, assigns and agents (each, a "**Releasor**"), that the Stockholder, on behalf of himself and the other Releasors, hereby irrevocably and unconditionally releases the Purchaser and its Affiliates (including the Company), and their respective Affiliates, successors and assigns, present or former directors, officers, employees, and agents, from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages or causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, existing or prospective, relating to such Stockholder's investment in, ownership of any securities in, any rights to proceeds upon the sale of, any rights or assets of, or employment by, the Company (collectively, "**Claims**"); provided, however, that the foregoing release shall not cover Claims (a) arising from rights of such Stockholder under this Agreement and the Ancillary Agreements, (b) payable as Indebtedness or Transaction Expenses, (c) for any Milestone Payment, (d) for accrued wages and reimbursable expenses payable in the ordinary course of business in the current payroll cycle or, (e) any rights to indemnification,

exculpation or advancement of expenses set forth in any directors and officers liability insurance policy of the Company, organizational documents of the Company, or any contract that was entered into prior to the date of this Agreement that is binding on the Company (collectively, “**Excluded Claims**”). Such released Claims include (except as otherwise excluded as an Excluded Claim), to the maximum extent permitted by applicable Laws, any and all Claims: (i) relating to or arising out of such employment, the end of such employment and/or the terms and conditions of such employment; (ii) of or for employment discrimination, harassment or retaliation under any local, state or federal law or ordinance, including without limitation Title VII or the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, as amended the Equal Pay Act of 1963, as amended, or the Americans with Disabilities Act of 1990, as amended; (iii) under the Family and Medical Leave Act of 1993, as amended, or under similar state or local law; (iv) under the federal Worker Adjustment Retraining and Notification Act or any similar state or local law; (v) under the Employee Retirement Income Security Act of 1974, as amended (excluding claims for accrued, vested benefits under any pension or welfare benefit plan, subject to the terms of the applicable plan and applicable Law); (vi) under any other federal, state or local statute, law, rule or regulation of the applicable jurisdiction; (vii) for wages (excluding accrued wages payable in the ordinary course of business in the current payroll cycle), bonuses, incentive compensation, stock, options or other equity-based incentives, severance, vacation pay or any other compensation or benefits; (viii) under or for violation of any public policy or Contract (express or implied); (ix) for any tort, or otherwise arising under common law; (x) arising under any policies, practices or procedures of the Company; (xi) any and all Claims for wrongful or constructive discharge, breach of Contract (express or implied), infliction of emotional distress, defamation; and (xii) any and all Claims for costs, fees, or other expenses, including attorneys’ fees incurred in these matters. Each Stockholder represents and acknowledges that she, he or they has/have read this release and understands its terms and has been given an opportunity to ask questions of the Company’s representatives, and to consult with independent legal counsel of her, his or their own choosing. Each Stockholder further represents that in signing this release she, he or they does/do not rely, and has not relied, on any representation or statement not set forth in this release made by any representative of the Purchaser or anyone else with regard to the subject matter, basis or effect of this release or otherwise. Each Stockholder hereby acknowledges and agrees that neither the release provided hereunder nor the furnishing of the consideration for the release given hereunder will be deemed or construed at any time to be an admission by any released party or Releasor of any improper or unlawful conduct. Each Stockholder hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim, or commencing, instituting or causing to be commenced, any action, proceeding, charge, complaint, or investigation of any kind against any of the released parties, in any forum whatsoever (including any administrative agency), that is based upon any claim purported to be released hereunder. Notwithstanding the foregoing or anything to the contrary in this release, it is understood and agreed that the release given herein does not prohibit any Releasor from filing an administrative charge with the Equal Employment Opportunity Commission or similar equal employment opportunity/anti-discrimination administrative agency (federal, state or local).

Each Stockholder, however, waives any right to monetary or other recovery in connection with any such charge and/or in the event any such federal, state or local administrative agency pursues any claims on such Stockholder’s behalf or otherwise in connection with any such charge or relating to such Stockholder’s employment with the Company or any successor or assign. This release may be pleaded by any released party as a full and complete defense regarding any matter purported to be released hereby and may be used as the basis for an injunction against any action at law or equity instituted or maintained against them regarding such matter in violation of this Agreement. In the event any claim is brought or maintained by a Releasor against any released party in violation of this Agreement, such Stockholder shall be responsible for all costs and expenses, including reasonable attorneys’ fees, incurred by the released parties in defending same. Each Stockholder expressly acknowledges that the release contained herein applies to all Claims, regardless of whether such Claims are known or unknown, suspected or unsuspected, existing or prospective, and include Claims which, if known by the releasing party, might materially affect its decision to enter into this Section 6.2 (other than the Excluded Claims). Each Stockholder has considered and taken into account the possible existence of such Claims in determining to execute and deliver this Agreement.

6.4 Data Room. The Company shall deliver or shall cause the Stockholders' Representative to deliver to the Purchaser on the date of Closing a complete copy on a USB flash drive or by other electronic means of all documents made available in the Data Room as of the date of this Agreement (but at least three (3) hours prior to the execution thereof).

6.5 Non-Competition/Non-Solicitation.

(a) Each Restricted Stockholder and her, his or their Affiliates over which she, he or they has/have control shall not, directly or indirectly, for a period of [\*\*\*] after the Closing Date, engage (whether as owner, employee, operator, manager, consultant or otherwise) anywhere in the world in any business that competes with the Business as conducted by the Company as of the Closing Date. Notwithstanding the foregoing, each Restricted Stockholder and her, his or their Affiliates shall not be prohibited by this Section 6.5(a) from (i) acquiring or owning less than five percent (5%) of the outstanding voting power of any publicly traded company on a passive basis; (ii) work for a Person (a) that is not primarily engaged in the Business and (b) for which the Business does not generate a significant portion of such Person's aggregate revenue; provided that (1) the Restricted Stockholder does not personally participate in the Business and (b) the services provided by the Restricted Stockholder to such Person do not primarily relate to or assist with the Business; or (iii) work as a professor of the for a college, university or other academic institution.

(b) Each Restricted Stockholder and her, his or their Affiliates over which she, he or they has/have control shall not, nor shall she, he or they permit any of her, his or their Affiliates to, directly or indirectly, for a period of [\*\*\*] after the Closing Date, (i) other than for the benefit of the Company or the Purchaser, divert or take away any business from or with, any customer, supplier, agent or distributor of the Company, or solicit, call upon, or attempt to induce any such customer, supplier, agent or distributor to terminate or adversely affect or materially reduce their business relationship with the Company, or (ii) contact, solicit or approach for the purpose of offering employment to, or hire (whether as an employee, consultant, agent, independent contractor or otherwise), any employee employed or full-time consultant engaged by the Company during the [\*\*\*] period preceding such contact, solicitation or approach (provided, that the foregoing clause shall not prohibit each Restricted Stockholder or her, his or their Affiliates from making a general solicitation not targeting any such employee or consultant).

(c) Each Restricted Stockholder, for himself and on behalf of her, his or their Affiliates, agrees that the scope of the restrictive provisions set forth in this Section 6.5 are reasonable with respect to subject matter, time and scope and that the provisions contained in this Section 6.5 are a material inducement to the Purchaser's entering into this Agreement and but for the provisions contained in this Section 6.5, the Purchaser would not have entered into this Agreement. In the event that any court determines that the subject matter, duration or geographic scope, or all of the foregoing, is unreasonable and that such provision is to that extent unenforceable, the Purchaser and each Restricted Stockholder, for itself or himself and on behalf of each of her, his or their or its Affiliates, agree that the provision shall remain in full force and effect for the greatest time period and for the broadest subject matter and in the greatest area, as the case may be, that would not render it unenforceable. It is specifically understood and agreed that any breach of the provisions of this Section 6.5 by each Restricted Stockholder or any of her, his or their Affiliates will result in irreparable injury to the Purchaser, that the remedy at law alone will be

an inadequate remedy for such breach and that, in addition to any other remedy it may have, the Purchaser shall be entitled to enforce the specific performance of this Section 6.5 by such Restricted Stockholder and her, his or their Affiliates through both temporary and permanent injunctive relief without the necessity of proving actual damages and without posting a bond, but without limitation of the Purchaser's right to damages and any and all other remedies available to the Purchaser, it being understood that injunctive relief is in addition to, and not in lieu of, such other remedies. Should a court of competent jurisdiction determine that Restricted Stockholder has breached Section 6.5(a) or 6.5(b) above, the term of the restrictions set forth in Section 6.5(a) or 6.5(b), as applicable, shall be tolled by the duration of such breach. For the avoidance of doubt, the parties hereto acknowledge and agree that the restrictions set forth in this Section 6.5 are independent of and in addition to any restrictions set forth in the Signing Consultant Documents and/or any other Contract between the Purchaser or any of its Affiliates (including the Company), on the one hand, and any Restricted Stockholder, on the other hand (including the remainder of this Agreement). Each Restricted Stockholder acknowledges and agrees that she, he or they has/have received, or is receiving, substantial consideration in connection with the Transactions. No breach by Purchaser or any of its Affiliates of any contractual or other obligations it or they have to any Stockholder shall constitute a defense, or a limitation of, the enforcement of this Section 6.5 against such Stockholder. The prevailing party in any Proceeding to enforce this Section 6.5, in addition to all other remedies available at law, in equity, and under contract, shall be entitled to an award against the other party to cover the costs of such Proceeding, including reasonable attorneys' fees and expenses.

(d) Cooperation. For a period of [\*\*\*] following the Closing, the Stockholders' Representative shall make reasonable efforts to respond to reasonable requests by the Purchaser relating to the operation or finances of the Company prior to Closing.

(e) Payment of Indebtedness. From and after the Closing, the Seller Parties shall be solely responsible for the payment of any Indebtedness of the Company arising prior to the Closing.

## ARTICLE VII

### CONDITIONS TO SHARE PURCHASE

7.1 Conditions to Closing of the Share Purchase. The respective obligations of the Purchaser and the Stockholders to effect the Share Purchase shall be subject to the satisfaction or written waiver, at or prior to the Closing, of the following conditions:

(a) No Order. No Governmental Entity shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, executive order, decree, injunction, order or other legal restraint (whether temporary, preliminary or permanent) which is in effect and which has the effect of making the Share Purchase, this Agreement, any of the Ancillary Agreements or any of the Transactions illegal or otherwise prohibiting or preventing the consummation of the Share Purchase, this Agreement, any of the Ancillary Agreements or any of the Transactions.

(b) No Injunctions; Restraints; Illegality. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Share Purchase, this Agreement, any of the Ancillary Agreements or any of the Transactions shall be in effect.

7.2 Conditions to Obligations of the Purchaser. The obligations of the Purchaser to effect the Share Purchase shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may be waived, in writing, exclusively by the Purchaser:

(a) Representations, Warranties and Covenants. (i) Each of the representations and warranties contained in Article III and Article IV of this Agreement shall be (A) true and correct as of the date hereof and (B) true and correct in all material respects (without giving effect to “material,” “material adverse effect,” “Material Adverse Effect” or any other materiality qualifications in such representations and warranties) as of the Closing as though such representations and warranties were made as of the Closing, except for those representations and warranties that refer to facts existing at a specific date, which shall be true, correct and complete in all material respects (without giving effect to “material,” “material adverse effect,” “Material Adverse Effect” or any other materiality qualifications in such representations and warranties) as of such date; and (ii) each of the Seller Parties shall have performed and complied in all material respects with all covenants and obligations under this Agreement and any Ancillary Agreement to which such Seller Party is a party that are required to be performed and complied with by such Seller Party as of or prior to the Closing.

(b) Litigation. There shall be no action, suit, claim, order, injunction or proceeding of any nature pending, or threatened, against any Seller Party, the Purchaser, their respective properties or assets or any of their respective Affiliates, officers or directors arising out of, or in any way connected with, the Share Purchase, this Agreement, any Ancillary Agreements or the other Transactions or otherwise seeking any of the results set forth in Section 7.1(a) or 7.1(b).

(c) Closing Deliveries. Each of the Seller Party Closing Deliveries shall have been delivered to the Purchaser.

7.3 Conditions to Obligations of the Stockholder. The obligations of the Stockholder to effect the Share Purchase shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may be waived, in writing, exclusively by the Company:

(a) Representations, Warranties and Covenants. (i) Each of the representations and warranties contained in Article V of this Agreement shall be (A) true and correct as of the date hereof and (B) true and correct in all material respects (without giving effect to “material,” “material adverse effect,” or any other materiality qualifications in such representations and warranties) as of the Closing as though such representations and warranties were made as of the Closing, except for those representations and warranties that refer to facts existing at a specific date, which shall be true, correct and complete in all material respects (without giving effect to “material,” “material adverse effect,” or any other materiality qualifications in such representations and warranties) as of such date; and (ii) the Purchaser shall have performed and complied in all material respects with all covenants and obligations under this Agreement and the Ancillary Agreements to which it is a party that are required to be performed and complied with by the Purchaser as of or prior to the Closing.

(b) Closing Deliveries. Each of the Purchaser Closing Deliveries shall have been delivered to the Stockholder.



## ARTICLE VIII

### TAX MATTERS

#### 8.1 Tax Returns.

(a) The Purchaser shall prepare and timely file, or shall cause to be prepared and timely filed, all Tax Returns of the Company required to be filed after the Closing Date for taxable periods ending on or before the Closing Date and any Straddle Period; provided, that with respect to any Tax Return for a taxable period ending on or prior to the Closing Date, (i) such Tax Return shall be prepared in a manner consistent with past practice of the Company unless otherwise required by applicable Law and (ii) if such Tax Return reflects a Tax for which the Seller Parties may be required to indemnify the Purchaser, the Purchaser shall provide such Tax Return to the Stockholders for their review and comment at least ten (10) days prior to the date on which such Tax Return is to be filed (or as soon as is reasonably practicable) and Purchaser shall consider in good faith the reasonable comments of the Stockholder with respect to such Tax Return. For the avoidance of doubt, the parties hereto agree to apply Revenue Procedure 2011-29, 2011-18 IRB to any success based fees within in scope of such Revenue Procedure.

#### 8.2 Tax Contests.

(a) The Purchaser shall promptly notify the Stockholders in writing upon receipt by the Purchaser or the Company of notice in writing of any audit or other administrative proceeding or inquiry or judicial proceeding involving Taxes that could reasonably be expected to give rise to a claim for indemnification under Section 9.2(a) (a “**Tax Contest**”); provided, that the failure of the notified party to give any other party notice as provided herein shall not relieve such other party of its indemnification obligations under Article IX except to the extent that such other party is prejudiced thereby.

(b) The Purchaser shall have the right to control and conduct any Tax Contest, provided that (i) the Purchaser shall keep the Stockholders reasonably informed of all material developments on a timely basis, (ii) the Purchaser shall provide to the Stockholders copies of any written material correspondence received from the Tax authority related to such Tax Contest, (iii) the Stockholders may participate in any such contest with representation of its choice at the Stockholders’ sole expense and (iv) the Purchaser shall not settle or compromise any Tax Contest without the prior written consent of a majority of the Stockholders, such consent not to be unreasonably withheld, conditioned or delayed.

(c) In the event of any conflict or overlap between the provisions of this Section 8.2 and Section 9.6, the provisions of this Section 8.2 shall control.

8.3 Straddle Periods. For purposes of this Agreement, in order to apportion appropriately any Taxes relating to a Straddle Period, the portion of any Taxes that are allocable to the portion of the Straddle Period ending on and including the Closing Date shall be (a) in the case of income Taxes and all other Taxes that are not imposed on a periodic basis, the amount that would be payable if the taxable year or period ended on the Closing Date based on an interim closing of the books (and for such purpose, the Tax period of any controlled foreign corporation, partnership or other pass-through entity in which the Company holds a beneficial interest shall be deemed to terminate at such time) and (b) in the case of any Taxes that are imposed on a periodic basis, the amount of such Taxes for the relevant period multiplied by a fraction the numerator of which shall be the number of days from the beginning of the period up to and including the Closing Date and the denominator of which shall be the number of days in the entire period. For the avoidance of doubt, exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period after the Closing Date in proportion to the number of days in each period by an interim closing of the books as of the Closing, other than with respect to any property placed into service after the Closing.

8.4 Tax Cooperation. The Purchaser, the Company and the Stockholders shall cooperate fully, as and to the extent reasonably requested by the other parties hereto, in connection with the filing, preparation and review of Tax Returns, and any Tax audits, Tax proceedings or other Tax-related claims (including claims under this Agreement). Such cooperation shall include providing records and information that are reasonably relevant to any such matters and in their possession (or if not in their possession, if reasonably able to obtain), making employees available on a mutually convenient basis to provide additional information, and explaining any materials provided pursuant to this Section 8.4. The Purchaser, the Company and the Stockholders shall not destroy or dispose of any Tax workpapers, schedules or other materials and documents in their possession or under their control supporting Tax Returns of the Company for Pre-Closing Tax Periods until the seventh (7th) anniversary of the Closing Date.

8.5 Transfer Taxes. All sales, use, transfer, value added, goods and services, gross receipts, excise, conveyance and documentary, stamp, recording, registration, conveyance and similar Taxes incurred in connection with the Transactions pursuant to this Agreement, [\*\*\*] The Purchaser shall timely file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes and the Stockholders shall join in the execution of any such Tax Returns to the extent required by applicable Law.

8.6 Tax Refunds. Within [\*\*\*] after receipt, the Purchaser shall forward to the Stockholders, on a pro-rata basis, any refund of Taxes of the Company, together with any interest received thereon, which are attributable to a Pre-Closing Tax Period.

## ARTICLE IX

### SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION; ESCROW

9.1 Survival of Representations and Warranties. All of the representations and warranties of the parties set forth in this Agreement or the Certificates shall survive until the [\*\*\*] anniversary of the Closing Date (the “**Survival Date**”); provided, that in the event of any fraud or Willful Breach by a Seller Party with respect to the representations and warranties set forth in Article III, and the Stockholders with respect to the representations and warranties set forth in Article IV, such claim shall survive without limitation; provided, further, that (a) the representations and warranties contained in Sections 3.12 (Intellectual Property) and 3.24 (Regulatory) (collectively, the “**Special Representations**” and individually, each a “**Special Representation**”) (and the portion of the Certificates relating thereto) shall survive until the [\*\*\*] anniversary of the Closing Date, (b) the representations and warranties of the Company and the Stockholders contained in Sections 3.1 (Organization; Authority and Enforceability), 3.2 (Company Capital Structure), 3.3 (Subsidiaries), 3.4(a), (b) and (d) (No Conflict), 3.9 (Tax Matters), 3.19 (Brokers’ and Finders’ Fees), 4.1 (Power and Capacity; Enforceability), 4.2(a)(ii) (No Conflict) and 4.3 (Title to Shares) (collectively, the “**Fundamental Representations**” and individually, each a “**Fundamental Representation**”) (and the portion of the Certificates relating thereto) shall survive until thirty (30) days following the expiration of the statute of limitations applicable to the subject matter thereof, and (c) the representations and warranties of the Purchaser contained in Sections 5.1 (Organization; Authority and Enforceability), and 5.5 (No Brokers) (and the portion of the Certificates relating thereto) shall survive until [\*\*\*] following the expiration of the statute of limitations applicable to the subject matter thereof. The covenants and indemnities (other than for breach of representation and warranties as provided

for in the prior sentence) of a party hereunder shall survive until [\*\*\*] following the expiration of the statute of limitations applicable to the subject matter thereof (or such longer period as specified in the applicable covenant). If an Officer's Certificate asserting a claim for indemnification hereunder is received, (x) in the case of representations and warranties that survive until the Survival Date, on or before the Survival Date, (y) in the case of the Special Representations and the Fundamental Representations, before the date on which such representation or warranty ceases to survive, or (z) in the case of the covenants and indemnities (other than for breach of representation and warranties as provided for in the clauses (x) and (y)), before the date on which such covenant or indemnity ceases to survive, then the claims arising in connection with such Officer's Certificate shall survive for the benefit of all Indemnified Parties beyond the expiration of the applicable survival period for such representation, warranty, covenant or indemnity until such claims are fully and finally resolved. The parties further acknowledge that the time periods set forth in this Section 9.1 for the assertion of claims under this Agreement are the result of arms' length negotiation among the parties and that they intend for the time periods to be enforced as agreed by the parties.

## 9.2 Indemnification.

(a) Subject to the provisions of this Article IX, from and after the Closing, the Stockholders agree, severally, but not jointly, to indemnify and hold harmless the Purchaser Indemnified Parties, from and against, and shall compensate and reimburse the Purchaser Indemnified Parties for, all Losses incurred or sustained by the Purchaser Indemnified Parties, or any of them, directly or indirectly, arising under, in connection with or as a result of any of the following:

(i) any breach of a representation or warranty made by the Company in this Agreement or any Certificate delivered by the Company to the Purchaser in connection with the Closing;

(ii) any failure by the Company to perform or comply with any covenant or agreement applicable to the Company contained in this Agreement and required to be performed or complied with as of or prior to the Closing;

(iii) any fraud, or any Willful Breach of any provision of this Agreement or any Certificate, to the extent committed as of or prior to the Closing, by the Company or any authorized representative thereof;

(iv) any claims, threatened claims or any proceedings with respect to the Spin-Out Assets;

(v) any claims or threatened claims by or purportedly on behalf of any holder or former holder of any shares of Company Stock, or in respect of any rights to acquire Company Stock, any claim or threatened claims alleging violations of fiduciary duty, or any claims or threatened claims by any Person claiming to have rights to any portion of the consideration payable hereunder;

(vi) any claims or threatened claims by or purportedly on behalf of any Person with respect to any transaction or agreement between the Company and any Interested Party initiated or consummated as of or prior to the Closing (each, a "**Related Party Transaction**"), including claims or threatened claims alleging violations of fiduciary duty;

(vii) any unpaid Transaction Expenses or unpaid Indebtedness of the Company incurred prior to the Closing that was not taken into account in the calculation of the Closing Cash Consideration; and/or

(viii) any Pre-Closing Taxes.

(b) Subject to the provisions of this Article IX, from and after the Closing, each Stockholder agrees to indemnify and hold harmless the Purchaser Indemnified Parties, from and against, and shall compensate and reimburse the Purchaser Indemnified Parties for, all Losses incurred or sustained by the Purchaser Indemnified Parties, or any of them, directly or indirectly, arising under, in connection with or as a result of any of the following:

(i) any breach of a representation or warranty made such Stockholder in this Agreement any Certificate delivered by such Seller to the Purchaser in connection with the Closing;

(ii) any failure by such Stockholders to perform or comply with any covenant or agreement applicable to such Stockholder contained in this Agreement; and/or

(iii) any fraud, or any Willful Breach of any provision of this Agreement or any Certificate, to the extent committed as of or prior to the Closing, by such Stockholder or any authorized representative thereof.

(c) Subject to the provisions of this Article IX, from and after the Closing, the Purchaser agrees to indemnify and hold harmless the Seller Indemnified Parties, from and against, and shall compensate and reimburse the Seller Indemnified Parties for, all Losses incurred or sustained by the Seller Indemnified Parties, or any of them, directly or indirectly, arising under, in connection with or as a result of any of the following:

(i) any breach of a representation or warranty made such Purchaser in Article V of this Agreement or any Certificate delivered by the Purchaser to the Seller Party in connection with the Closing;

(ii) any failure by the Purchaser to perform or comply with any covenant or agreement applicable to the Purchaser contained in this Agreement; and/or

(iii) any fraud, or any Willful Breach of any provision of this Agreement or any Certificate, to the extent committed as of or prior to the Closing, by the Purchaser or any authorized representative thereof.

(d) For the purpose of this Article IX only, when determining the amount of Losses suffered by an Indemnified Party as a result of, any breach, inaccuracy or failure, any representation, warranty, covenant or agreement set forth in this Agreement that is qualified or limited in scope as to material, material adverse effect, Material Adverse Effect, or any other materiality qualifications or limitations shall be deemed to be made or given without such qualification or limitation.

(e) The Stockholders shall not have any right of contribution, indemnification or right of advancement from the Purchaser or any of its Affiliate with respect to any Loss claimed by a Purchaser Indemnified Party.

(f) This Article IX shall constitute the exclusive remedy after the Closing for recovery of Losses by the Indemnified Parties as a result of breaches of the matters specified in Sections 9.2(a), 9.2(b), and/or 9.2(c), provided, that notwithstanding anything herein to the contrary, nothing in this Agreement shall limit the rights or remedies of the Purchaser or any other Purchaser Indemnified Party (i) in the case of fraud or Willful Breach (including pursuant to Sections 9.2(a)(iii) or 9.2(b)(iii)), (ii) against a signatory to an Ancillary Agreement for matters relating to such Ancillary Agreement (other than a Certificate), (iii) with respect to specific performance, injunctive and other equitable relief, or (iv) claims relating to Related Party Transactions. Without limiting the foregoing, the provisions of this Article IX will not prevent or limit a cause of action under Section 6.4 to obtain an injunction or injunctions to prevent breaches of covenants contained in this Agreement.

### 9.3 Maximum Payments; Remedy.

(a) The Purchaser Indemnified Parties shall not be entitled to any recovery resulting from Section 9.2(a)(i) until such time (if at all) as the total amount of all Losses that have been suffered or incurred by any one or more of such Indemnified Parties with respect to such matters exceeds [\*\*\*] in the aggregate (the “**Deductible**”); and in such event, the Purchaser Indemnified Parties shall, subject to the limitations set forth in the remaining subsections of this Section 9.3, be entitled to be indemnified against and compensated and reimbursed to the extent all Losses from the first Dollar thereof; provided, that the limitations set forth in this Section 9.3(a) shall not apply to any indemnification claims relating to (i) any breach of any representation or warranty that involves fraud or Willful Breach (including pursuant to Sections 9.2(a)(iii) or 9.2(b)(iii)) or (ii) any breach of the Special Representations or the Fundamental Representations.

(b) The maximum amount that the Purchaser Indemnified Parties may recover from the Stockholders under Sections 9.2(a)(i) and 9.2(b)(i) shall be limited to the Indemnification Escrow Amount; provided, that (i) in the case of any breach or inaccuracy of the Special Representations, the maximum amount that the Purchaser Indemnified Parties may recover from the Stockholders shall be limited to \$[\*\*\*] and (ii) in the case of any breach of the Fundamental Representations, the maximum amount that the Purchaser Indemnified Parties may recover from the Stockholders shall be limited to \$[\*\*\*] plus the maximum aggregate amount of all Milestone Payments that become payable (prior to any application of any setoff right) under this Agreement (including any amounts in the Indemnification Escrow Fund) (the “**Indemnifying Stockholder Proceeds**”). Absent fraud or Willful Breach by the Company, the Stockholders or any of their respective authorized representatives (including pursuant to Sections 9.2(a)(iii) or 9.2(b)(iii)), the maximum amount that the Purchaser Indemnified Parties may recover from the Stockholders under Section 9.2(a) shall be limited to the Indemnifying Stockholder Proceeds. Notwithstanding anything contained herein to the contrary, nothing herein shall limit the recovery amount against the Stockholders, or remedies available to a Purchaser Indemnified Party, for claims pursuant to Section 9.2(a)(vii) or for fraud or Willful Breach by the Company, the Stockholders or any of their respective authorized representatives (including pursuant to Section 9.2(a)(iii)); provided, however, that no Stockholder shall be liable for the fraud or Willful Breach of another Stockholder or such other Stockholder’s authorized representative.

(c) For the avoidance of doubt, if and solely to the extent the amount of a Loss is recovered by an Indemnified Party through the actual payment of a Payable Claim to such Indemnified Party, the same amount of such Loss may not be recovered again by such Indemnified Party by reason of such Loss being subject to indemnification under more than one provision of this Agreement.

(d) The maximum amount that the Seller Indemnified Parties may recover from the Purchaser under Section 9.2(c)(i) shall be limited to the amounts in the Indemnification Escrow Amount.

(e) Except in the case of fraud or Willful Misconduct, each Indemnified Party agrees to take commercially reasonable actions to mitigate any Losses and to make and pursue any claims for insurance and/or other payments available from third parties with respect to Losses for which it will seek indemnification hereunder, with all mitigation costs to be included in the amount of Losses arising under the applicable indemnified claim. An Indemnified Party's right to indemnification pursuant to this Article IX on account of any Losses will be reduced by all insurance of the Indemnified Party indemnification or contribution proceeds actually received by such Indemnified Party or their Affiliates in respect of those Losses, net of applicable costs and expenses involved in seeking such recovery. The applicable Indemnified Parties shall remit to the applicable Indemnifying Parties any such insurance or other third party proceeds that are paid to such Indemnified Parties with respect to such Losses for which such Indemnified Parties have been previously indemnified pursuant to this Article IX.

#### 9.4 Claims for Indemnification; Resolution of Conflicts.

(a) Making a Claim for Indemnification; Officer's Certificate. An Indemnified Party may seek recovery of Losses pursuant to this Article IX by delivering to the Purchaser (if the Indemnifying Party is a Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) an Officer's Certificate in respect of such claim. The date of such delivery of an Officer's Certificate is referred to herein as the "**Claim Date**" of such Officer's Certificate (and the claims for indemnification contained therein). For purposes hereof, "**Officer's Certificate**" means a certificate signed by any authorized representative of an Indemnified Party (or, in the case of an Indemnified Party who is an individual, signed by such individual) stating that an Indemnified Party has paid, sustained, incurred or accrued, or reasonably anticipates that it will have to pay, sustain, incur or accrue Losses, and including, to the extent reasonably practicable, a non-binding, preliminary estimate of the amounts of such Losses and a reasonable description of the circumstances surrounding such Claim and the provisions of this Agreement under which such party is claiming indemnification; provided, that the Officer's Certificate need only specify such information to the knowledge of such officer or such Indemnified Party as of the Claim Date, shall not limit any of the rights or remedies of any Indemnified Party, and may be updated and amended from time to time by the Indemnified Party by delivering an updated or amended Officer's Certificate to the Stockholders.

(b) Objecting to a Claim for Indemnification. The Purchaser (if the Indemnifying Party is a Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) may object, in whole or in part, to a claim for indemnification set forth in an Officer's Certificate by delivering to the applicable Indemnified Party seeking indemnification a written statement of objection to the claim made in the Officer's Certificate (an "**Objection Notice**"); provided, that, to be effective, such Objection Notice must (A) be delivered to the Indemnified Party pursuant to Section 10.3 prior to 5:00 p.m. New York time on the [\*\*\*] following the Claim Date of the Officer's Certificate (such deadline, the "**Objection Deadline**" for such Officer's Certificate and the claims for indemnification contained therein) and (B) set forth in reasonable detail the nature of the objections to the claim in respect of which the objection is made.

(c) Resolution of Conflicts. In case the Purchaser or the Stockholders' Representative, as applicable, timely delivers an Objection Notice in accordance with Section 9.4(b) hereof, the Purchaser (if the Indemnifying Party is a Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) and the applicable Indemnified Parties shall attempt in good faith to agree upon

the rights of the respective parties with respect to each of such claims. If the Purchaser (if the Indemnifying Party is a Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) reach an agreement, a memorandum setting forth such agreement shall be prepared and signed by all applicable parties (any claims covered by such an agreement, "**Settled Claims**"). Any amounts required to be paid as a result of a Settled Claim shall be paid by the Indemnifying Party to the Indemnified Parties pursuant to the Settled Claim within [\*\*\*] days of the applicable claim becoming a Settled Claim, subject to Sections 9.4(e) and 9.5. If the Purchaser (if the Indemnifying Party is a Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) and the Indemnified Parties are unable to reach an agreement, the matter specified in the Objection Notice shall be resolved pursuant to Section 10.10 (any claims resolved pursuant thereto, "**Resolved Claims**").

(d) Payable and Unresolved Claims. A "**Payable Claim**" means a claim for indemnification of Losses under this Article IX, to the extent that such claim has not yet been satisfied (including by release to the Indemnified Party of cash from the Indemnification Escrow Fund), that is (i) a Resolved Claim, or (ii) a Settled Claim. An "**Unresolved Claim**" means any claim for indemnification of Losses under this Article IX delivered to the Stockholders' Representative prior to the Escrow Release Time specified in any Officer's Certificate delivered pursuant to Section 9.4(a), to the extent that such claim is not a Payable Claim and has not been satisfied (including by release to the Indemnified Party of cash from the Indemnification Escrow Fund).

(e) Escrow Amount; Recovery of Losses.

(i) Subject to Sections 9.4(b) and 9.4(c) above, by virtue of this Agreement and as partial security for the indemnity obligations provided for in Sections 9.2(a) hereof, subject to the terms of this Agreement, the Purchaser Indemnified Parties shall have the right, and shall be required, in the manner provided in this Section 9.4(e) and Section 9.5(b), to recover the amount of any Losses with respect to which the Purchaser Indemnified Parties are entitled to indemnification under Section 9.2(a) (A) first by the release from the Indemnification Escrow Fund until the Indemnification Escrow Fund has been exhausted, and (B) second, directly from the Stockholders (severally, but not jointly, based on their pro rata portions of the Closing Cash Consideration).

(ii) At the Escrow Release Time, if and to the extent the value of the Indemnification Escrow Fund exceeds the aggregate amount of Unresolved Claims, then the amount of such excess shall be paid to the Stockholders. From and after the Escrow Release Time until such time as all Unresolved Claims are resolved or, if earlier, such time as the Indemnification Escrow Fund has been fully depleted pursuant to 9.4(e)(i), the Purchaser shall promptly deliver to the Stockholders' Representative a notice, as each Unresolved Claim becomes resolved as either a Payable Claim or a claim that is not a Payable Claim, of such resolution and either (A) if and to the extent such Unresolved Claim has been resolved as a Payable Claim, the Purchaser shall specify the amount of such Payable Claim, and payment of such amount shall be made to the Indemnified Parties from the Indemnification Escrow Fund, and (B) if and to the extent such Unresolved Claim has been resolved as not a Payable Claim, the Purchaser shall specify the amount, if any, corresponding to the amount by which such portion of such Unresolved Claim exceeds the aggregate amount of the remaining Unresolved Claims and the amount of such excess shall be paid to the Stockholders.

## 9.5 Escrow Arrangements.

(a) Escrow Fund. At the Closing, the Purchaser will deposit the Indemnification Escrow Amount with the Escrow Agent, without any act of the Seller Parties, such deposit of the Indemnification Escrow Amount to constitute an escrow fund to be governed by the terms set forth in the Escrow Agreement.

### (b) Satisfaction of Claims.

(i) If payment is to be made to a Purchaser Indemnified Party from the Indemnification Escrow Fund pursuant to Section 9.4(e), the Purchaser and the Stockholders' Representative shall promptly deliver joint written instructions to the Escrow Agent directing the Escrow Agent to release from the Indemnification Escrow Fund to the applicable Purchaser Indemnified Party the amount of cash so payable.

(ii) If payment is to be made to any of the Stockholders from the Indemnification Escrow Fund pursuant to Section 9.4(e), the Purchaser and the Stockholders' Representative shall promptly deliver joint written instructions to the Escrow Agent directing the Escrow Agent to release to such Stockholder(s) the amount of cash so payable.

## 9.6 Third Party Claims.

(a) If the Purchaser or the Seller Parties, as applicable, become aware of a third party claim (a "**Third Party Claim**") which the applicable Indemnified Party reasonably believes may result in a claim for indemnification by an Indemnified Party pursuant to this Article IX (except for claims with respect to indemnification pursuant to Section 9.2(a)(vi) or for breach of the representations and warranties set forth in Section 3.9, which shall be governed by Section 8.2), the Indemnified Party shall notify the Purchaser (if the Indemnifying Party is the Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) promptly of such claim (including a reasonable description of such claim).

(b) The Purchaser (if the Indemnifying Party is the Purchaser) or the Stockholders' Representative (if the Indemnifying Party is one or more Stockholders) shall have the right, at its option within [\*\*\*] of such notice, to assume the defense of any such matter with its own counsel. During such [\*\*\*] period, the Indemnified Party may (at the Indemnifying Party's expense) make such filings, including motions for continuance (and answers if a motion for continuance has not been granted), as may be necessary to preserve the parties' positions and rights with respect to such claim.

(c) If, in accordance with the foregoing, the Indemnifying Party is entitled to elect and does elect, to assume the defense of and indemnification for any such matter, then:

(i) notwithstanding anything to the contrary contained in this Agreement, the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnified Party against any attorneys' fees or other expenses incurred on behalf of the Indemnified Party in connection with such matter following the Indemnifying Party's election to assume the defense of such matter, unless (x) the Indemnifying Party fails to defend diligently the action or proceeding within [\*\*\*] after receiving notice of such failure from the Indemnified Party, (y) the Indemnified Party reasonably shall have concluded (upon advice of its counsel) that there may be one or more legal defenses available to such Indemnified Party or other Indemnified Parties that are not available to the Indemnifying Party, or (z) the Indemnified Party reasonably shall have concluded (upon advice of its counsel) that, with respect to such claims, the Indemnified Party and the Indemnifying Party may have different, conflicting, or adverse legal positions or interests;



(ii) the Indemnified Party shall, at the expense of the Indemnifying Party, make available to the Indemnifying Party all books, records and other documents and materials that are under the direct or indirect control of the Indemnified Party or any of the Indemnified Party's agents and that the counsel to the Indemnifying Party considers reasonably necessary or desirable for the defense of such matter, and cooperate in all reasonable respects with, and make its employees and advisors reasonably available upon prior written request or otherwise render reasonable assistance to, the Indemnifying Party and its agents;

(iii) the Indemnifying Party shall not, without the written consent of the Indemnified Party, which shall not be unreasonably withheld or delayed, settle or compromise any pending or threatened Third Party Claim in respect of which indemnification may be sought hereunder (whether or not the Indemnified Party is an actual or potential party to such Third Party Claim) or consent to the entry of any judgment in connection with such Third Party Claim (it being acknowledged that the Indemnified Party's consent shall not be deemed unreasonably withheld or delayed if such settlement, compromise or judgment (w) does not, to the extent that the Indemnified Party may have any liability with respect to such Third Party Claim, include as an unconditional term thereof the delivery by the claimant or plaintiff to the Indemnified Party of a written release of the Indemnified Party from all liability in respect of such Third Party Claim, (x) includes any statement as to or an admission of fact, culpability or a failure to act, by or on behalf of the Indemnified Party, (y) in any manner involves any injunctive relief against the Indemnified Party or may materially and adversely affect the Indemnified Party, or (z) the Third Party Claim would reasonably be expected to result in Losses that are not entirely recoverable from the Indemnification Escrow Amount in the Indemnification Escrow Fund under the Escrow Agreement); and

(iv) the Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to direct the defense. Subject to Section 9.6(c)(1), the fees and disbursements of such counsel shall be at the expense of the Indemnified Party.

(d) If the Indemnifying Party elects not to, or is not entitled to, assume the defense of such matter, or fails to defend diligently such matter within [\*\*\*] after receiving notice of such failure from the Indemnified Party, then the Indemnified Party shall be permitted to defend or compromise such matter with the assistance of counsel selected by it; provided, that the Indemnified Party shall not settle, adjust or compromise such matter, or admit any liability with respect to such matter, without the prior written consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed.

9.7 Setoff. In addition to any rights of setoff or other similar rights that Purchaser or any of the other Indemnified Parties may have at common law or otherwise, Purchaser shall have the right to withhold and deduct any sum that has been determined to be owed to any Indemnified Parties under this Article IX from any amount otherwise payable by any Indemnified Party to any Seller Parties pursuant to this Agreement, including such Seller Parties' portion of any Milestone Payment.

9.8 Tax Treatment of Indemnification Payments. All indemnification payments made by Seller under this Agreement shall be treated by the parties as adjustments to the Purchase Price for tax purposes, unless otherwise required by law.

## ARTICLE X

### GENERAL PROVISIONS

#### 10.1 Appointment of Sellers' Representative.

(a) Each Stockholder irrevocably constitutes and appoints Stockholders' Representative as such Stockholders' true and lawful attorney-in-fact and agent and authorizes Stockholders' Representative acting for such Stockholder and in such Stockholder's name, place and stead, in any and all capacities to do and perform every act and thing required or permitted to be done in connection with this Agreement, as fully to all intents and purposes as such Stockholder might or could do in person, including taking any and all action on behalf of such Stockholder from time to time as contemplated hereunder. Each Stockholder grants unto Stockholders' Representative full power and authority to do and perform each and every act and thing necessary or desirable to be done in connection with the transactions contemplated by this Agreement, as fully to all intents and purposes as such Stockholder might or could do in person, hereby ratifying and confirming all Stockholders' Representative may lawfully do or cause to be done by virtue hereof. Each Stockholder acknowledges and agrees that upon execution of this Agreement, upon any delivery by Stockholders' Representative of any waiver, amendment, agreement, opinion, certificate or other document executed by Stockholders' Representative, such Stockholder shall be bound by such documents or action as fully as if such Stockholder had executed and delivered such documents. Upon the death, disability or incapacity of Stockholders' Representative appointed pursuant to Section 10.1, each Stockholder acknowledges and agrees that Stockholders' Representative's executor, guardian or legal representative, as the case may be, shall appoint a replacement reasonably believed by such person as capable of carrying out the duties and performing the obligations of Stockholders' Representative hereunder within [\*\*\*] of such death, disability or incapacity. Each Stockholder agrees that Purchaser shall be entitled to rely on any action taken by Stockholders' Representative, on behalf of Stockholders, pursuant to Section 10.1(a) (each, an "Authorized Action"), and that each Authorized Action shall be binding pro rata on each Stockholder as fully as if such Stockholder had taken such Authorized Action. Notwithstanding anything to the contrary in this Agreement or any other agreement, instrument or document related to the transactions contemplated in this Agreement, including agreements, instruments or documents entered into following the Closing (collectively, "Ancillary Agreements"), the Stockholders' Representative shall only have the power or authority to act regarding matters pertaining to the Stockholders as a group and not individually, shall not have the power or authority to treat any particular Stockholder in a manner different from any other Stockholder (except as consistent with such Stockholder's pro rata portions of the Closing Cash Consideration or as otherwise in accordance with this Agreement), and shall not have any power or authority to take any action (including without limitation by amending, modifying or waiving any provision of this Agreement or any other Ancillary Agreement or otherwise) or enter into any agreement that (i) adds to or results in an increase of any Stockholder's indemnity or other obligations or liabilities under this Agreement or any Ancillary Agreement (including without limitation imposing joint or joint and several liability on the Stockholders or any change to the nature of the indemnity obligations or the limitations on the Stockholders' liability), (ii) results in the amounts payable under this Agreement or an Ancillary Agreement to any Stockholder being distributed in any manner other than as specified pursuant to this Agreement or an Ancillary Agreement, (iii) alters the consideration payable to any Stockholder pursuant to this Agreement or an Ancillary Agreement (except in accordance with the contingencies, conditions and other provisions set forth in this Agreement), or (iv) binds any Stockholder to any obligations or restrictions applicable to such Stockholder beyond the subject matter of an indemnifiable claim, in each case without such Stockholder's prior written approval (which the Stockholders' Representative has no authority to give on behalf of such Stockholder). For the avoidance of doubt, the Stockholders' Representative consenting to all or a portion of an indemnification claim, or entering into a settlement agreement with respect thereto, in accordance with the procedures, limitations of liability and Stockholders' Representative authority set forth in this Agreement (as of the date of this Agreement and as amended in compliance the terms of this Agreement) shall not be deemed to implicate or require the prior written approval of Stockholders pursuant to (i) through (iii) of the previous sentence.

10.2 Amendment and Waiver. This Agreement may be amended, and any provision of this Agreement may be waived by an instrument in writing signed by the Stockholders' Representative, the Company and the Purchaser; provided that any such amendment or waiver will be binding upon Stockholders only if such amendment or waiver is set forth in a writing executed by Stockholders' Representative, and any such amendment or waiver will be binding upon the Company and Purchaser only if such amendment or waiver is set forth in a writing executed by the Company and Purchaser. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or waive any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement. No waiver of any of the provisions of this Agreement shall be effective unless in writing and no waiver shall be deemed to, nor shall any waiver, constitute a waiver of any other provisions, regardless of whether similar, nor shall any waiver constitute a continuing waiver.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed delivered, given and received (a) when delivered in person, (b) when transmitted by email or facsimile (with written confirmation of completed transmission), (c) on the third (3rd) Business Day following the mailing thereof by certified or registered mail (return receipt requested) or (d) when delivered by an express courier (with written confirmation of delivery) to the parties hereto at the following addresses (or to such other address or facsimile number as such party may have specified in a written notice given to the other parties):

- (a) if to the Purchaser or, following the Closing, the Company, to:

LEXEO Therapeutics, Inc.

[\*\*\*]

Email: [\*\*\*]

with copies (which shall not constitute notice) to:

[\*\*\*]

Email: [\*\*\*]

and

[\*\*\*]

Email: [\*\*\*]

and

[\*\*\*]

[\*\*\*]

Attention: [\*\*\*]

Email: [\*\*\*]

(b) if to the Stockholders or the Stockholders' Representative, to:

[\*\*\*], as Stockholders' Representative

[\*\*\*]

Email: [\*\*\*]

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

[\*\*\*]

[\*\*\*]

Attention: [\*\*\*]

Email: [\*\*\*]

10.4 Expenses. Except as otherwise specified in this Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the Transactions shall be borne by the party incurring such costs and expenses.

10.5 Interpretation. Unless a clear contrary intention appears: (a) the singular number shall include the plural, and vice versa; (b) reference to any gender includes each other gender; (c) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (d) "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation"; (e) all references in this Agreement to "Schedules," "Sections," "Annexes" and "Exhibits" are intended to refer to Schedules, Sections, Annexes and Exhibits to this Agreement, except as otherwise indicated; (f) the table of contents and headings in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement, and shall not be referred to in connection with the construction or interpretation of this Agreement; (g) "or" is used in the inclusive sense of "and/or"; (h) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding"; (i) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof; and (j) "shall" and "will" shall have the same meaning hereunder.

10.6 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Any signature page delivered electronically or by facsimile (including transmission by Portable Document Format or other fixed image form) shall be binding to the same extent as an original signature page.

10.7 Entire Agreement; Assignment. This Agreement, the exhibits and annexes hereto, the Disclosure Schedule, the other schedules, the non-disclosure agreements and the Ancillary Agreements: (a) constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings both written and oral (including any letter of intent, term sheet or related discussions), among the parties with respect to the subject matter hereof, and (b) shall not be assigned by operation of law or otherwise, except that the Purchaser may assign its rights and delegate its obligations hereunder (i) in connection with a sale of the Purchaser or a sale of all or substantially all of its assets, (ii) to one or more of its Affiliates as long as the Purchaser remains ultimately liable for all of the Purchaser's obligations hereunder and (iii) to any lender of the Purchaser or its Affiliates as collateral security.

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

10.9 **Other Remedies.** Except as otherwise set forth herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. Without prejudice to remedies at law, the parties shall be entitled to specific performance or other equitable relief, including injunctive relief, in the event of a breach or threatened breach of this Agreement.

10.10 **Arbitration; Submission to Jurisdiction; Consent to Service of Process.**

(a) All disputes, claims, or controversies arising out of or relating to the Agreement, the Ancillary Agreements (other than as expressly set forth therein) or any other agreement or document executed and delivered pursuant to the Agreement (other than as expressly set forth therein) or the negotiation, breach, validity or performance hereof and thereof or the Transactions, including claims of fraud or fraud in the inducement, and including as well the determination of the scope or applicability of this agreement to arbitrate, shall be resolved solely and exclusively by binding arbitration administered by JAMS in New York, New York, before a single arbitrator (the “**Arbitrator**”). Except as modified in this Section, the arbitration shall be administered pursuant to JAMS’s Comprehensive Rules and Procedures. The parties further agree that this arbitration shall apply equally to requests for temporary, preliminary or permanent injunctive relief, except that in the case of temporary or preliminary injunctive relief any party may proceed in court without prior arbitration for the purpose of avoiding immediate and irreparable harm or to enforce its rights under Section 6.2, Section 6.3 or Section 6.4.

(b) The parties covenant and agree that the arbitration hearing shall commence within thirty (30) days of the date on which a written demand for arbitration is filed by any party hereto (the “**Filing Date**”). The hearing shall be no more than five (5) Business Days. In connection with the arbitration, the Arbitrator shall have the power to order the production of documents by each party and any third-party witnesses. In addition, each party may take up to three (3) depositions as of right, with each deposition limited to eight (8) hours, excluding breaks, and the Arbitrator may grant additional depositions upon good cause shown. For purposes of determining the number of depositions as of right, multiple petitioners or multiple respondents shall each respectively be deemed one party. The Arbitrator shall not have the power to order the answering of interrogatories or the response to requests for admission. The Arbitrator’s award shall be made and delivered within ninety (90) days of the Filing Date, shall be binding and final as between the parties, and a judgment may be entered upon the award in any court having jurisdiction thereof. The Arbitrator’s decision shall set forth a reasoned basis for any award of damages or finding of liability. The parties covenant and agree that the arbitration shall conclude within six (6) months of the Filing Date, and the Arbitrator shall be provided notice of such six-month limit (and agreed to abide by it) prior to her, his or their or her appointment as Arbitrator.

(c) The parties will (i) bear their own attorneys' fees, costs and expenses in connection with the arbitration, and (ii) share equally in the fees and expenses charged by the Arbitrator; provided, that the prevailing party shall be awarded its share of the Arbitrator's fees and expenses and all other costs and expenses, including attorneys', consultants' and experts' fees; provided, further, that any party unsuccessfully refusing to comply with the award or an order of the Arbitrator shall be liable for costs and expenses, including attorneys', consultants' and experts' fees, incurred by the other party in enforcing the award or order. If the Arbitrator determines a party to be the prevailing party under circumstances where the prevailing party obtained relief on some but not all of the claims and counterclaims, the Arbitrator may award the prevailing party an appropriate percentage of the costs and expenses incurred by the prevailing party.

(d) Subject in all cases to the foregoing, each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of the state or federal courts located within New York, New York, in connection with any matter based upon, arising out of or relating to this Agreement or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by the laws of the State of New York for such Persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process. Each party agrees not to commence any legal proceedings related hereto except in such courts.

10.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, regardless of the Laws that might otherwise govern under applicable principles of conflicts of laws thereof.

10.12 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AND ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

10.13 Rules of Construction. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

10.14 No Third Party Beneficiary. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any Person other than the parties hereto or their respective successors and assigns any rights, remedies, or Liabilities under or by reason of this Agreement except that (i) Article IX shall also be for the benefit of the Indemnified Parties and (ii) Section 6.2, from and after (and subject to the occurrence of) the Closing, shall be for the benefit of the D&O Indemnified Parties, and (iii) Section 6.3 shall also be for the benefit of the Affiliates of the Purchaser (which shall include, from and after the Closing, the Company).

10.15 Tax Advice. Other than as expressly set forth in this Agreement, no party to this Agreement makes any representations or warranties to any other party regarding the Tax treatment of the Transactions pursuant to this Agreement or any of the Tax consequences to any other party of this Agreement or the Transactions. Each party to this Agreement acknowledges that it is relying solely on its own Tax advisors in connection with this Agreement and the Transactions.

10.16 Disclosure Schedule. The Disclosure Schedule shall be arranged in separate parts corresponding to the numbered and lettered sections and subsections contained in this Agreement, and the information disclosed in any numbered or lettered part shall be deemed to relate to and to qualify only the particular representation or warranty of any Seller Party set forth in the corresponding numbered or lettered section or subsection of this Agreement, except to the extent that (a) such information is explicitly cross-referenced in another part of the Disclosure Schedule, or (b) it is readily apparent on the face of the disclosure that such information qualifies another representation and warranty of any Seller Party in this Agreement.

10.17 Waiver of Conflicts. Each of the parties hereto acknowledges and agrees, on its own behalf and on behalf of its directors, shareholders, partners, officers, employees, and Affiliates that the Company is the client of [\*\*\*], and not any of the individual Stockholders. After the Closing, it is possible that Firm will represent the Stockholders, the Stockholders' Representative and their respective Affiliates (individually and collectively, the "Post-Closing Stockholder Group") in connection with the transactions contemplated herein or in the Indemnification Escrow Agreement, the Indemnification Escrow Amount and any claims made thereunder pursuant to this Agreement or the Escrow Agreement. Purchaser and the Company hereby agree that [\*\*\*] (or any successor) may represent the Post-Closing Seller Group in the future in connection with issues that may arise under this Agreement or the Escrow Agreement, the administration of the Indemnification Escrow Amount and any claims that may be made thereunder pursuant to this Agreement or the Escrow Agreement. [\*\*\*] (or any successor) may serve as counsel to all or a portion of the Post-Closing Seller Group or any director, shareholder, partner, officer, employee, representative, or Affiliate of the Post-Closing Seller Group, in connection with any litigation, claim or obligation arising out of or relating to this Agreement, the Escrow Agreement, or the transactions contemplated by this Agreement or the Escrow Agreement. Each of the parties hereto consents thereto, and waives any conflict of interest arising therefrom, and each such party shall cause any Affiliate thereof to consent to waive any conflict of interest arising from such representation. Each of the parties hereto acknowledges that such consent and waiver is voluntary, that it has been carefully considered, and that the parties have consulted with counsel or have been advised they should do so in this connection. Communications between the Company and [\*\*\*] will become the property of the Sellers' Representative and the Sellers following closing and will not be disclosed to Purchaser without the consent of the Sellers' Representative.

10.18 Attorney-Client Privilege. Notwithstanding the Closing, Purchaser and the Company agree that neither the Company nor Purchaser shall have the right to assert the attorney-client privilege as to pre-closing and post-closing communications between the Stockholders or the Company (for the Company, only with respect to pre-Closing communications), on one hand, and its counsel, [\*\*\*], on the other hand, to the extent that the privileged communications relate to this Agreement or any of the ancillary agreements or to the transactions contemplated hereby. The parties agree that only the Stockholders shall be entitled to assert or waive such attorney-client privilege in connection with such communications following the Closing. The files generated and maintained by [\*\*\*] as a result of [\*\*\*] representation of the Company in connection with this Agreement or any of the ancillary agreements or any of the transactions contemplated hereby or thereby shall be and become the exclusive property of the Stockholders and shall be segregated from [\*\*\*] files related to all other elements of its representation of the Company prior to the Closing (which shall remain the property of the Company). The attorney-client privilege may be waived on behalf of the Stockholders only by the Stockholders' Representative. The foregoing shall not extend to (i) any communication unrelated to this Agreement, any of the ancillary agreements or the transactions contemplated hereby or thereby, (ii) communications between the Stockholders or the Company, on the one hand, and any Person other than [\*\*\*], on the other hand, or (iii) any post-Closing communications between the Company and [\*\*\*] or any other legal counsel.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Purchaser, the Company and the Stockholders have caused this Agreement to be signed, all as of the date first written above.

**LEXEO Therapeutics, Inc.**

By: /s/ R. Nolan Townsend

\_\_\_\_\_  
Name: R. Nolan Townsend

Title: Chief Executive Officer

**Stelios Therapeutics, Inc.**

By: /s/ Jeffrey M. Ostrove

\_\_\_\_\_  
Name: Jeffrey M. Ostrove, Ph.D.

Title: Chief Executive Officer

**[Signature Page – Stock Purchase Agreement]**



**The Cystinosis Research Foundation**

By: /s/ Nancy Stack

Name: Nancy Stack

Title: Authorized Signatory

/s/ Eric Adler

**Eric Adler, M.D.**

/s/ Farah Sheikh

**Farah Sheikh, Ph.D.**

/s/ Jeffrey M. Ostrove

**Jeffrey M. Ostrove, Ph.D.**

/s/ Stephanie Cherqui

**Stephanie Cherqui, Ph.D.**

**[Signature Page – Stock Purchase Agreement]**

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**JEFFREY M. OSTROVE, PH.D.**  
(as Stockholders' Representative)

/s/ Jeffrey M. Ostrove

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**[Signature Page – Stock Purchase Agreement]**

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**Schedule I**

**[\*\*\*]**

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**Exhibit A**

Form of Escrow Agreement

[\*\*\*]

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**Exhibit B**

Form of Director and Officer Resignation and Release Letter

[\*\*\*]

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**Exhibit C**

Non-Exclusive License Permitted Liens

[\*\*\*]

\*\*\* = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Execution Copy

**LICENSE AGREEMENT**  
**BETWEEN**  
**LEXEO THERAPEUTICS, INC.**  
**AND**  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
**FOR**  
**\*\*\***

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## LICENSE AGREEMENT

This agreement (“Agreement”) is entered into by and between **LEXEO Therapeutics, Inc.**, a Delaware corporation having an address at 430 East 29th Street, 14<sup>th</sup> Floor, New York, NY 10016 (“LICENSEE”) and **The Regents of the University of California**, a California public corporation having its statewide administrative offices at 1111 Franklin Street, Oakland, California 94607- 5200 (“UNIVERSITY”), represented by its San Diego campus having an address at University of California, San Diego, Office of Innovation and Commercialization, Mail Code 0910, 9500 Gilman Drive, La Jolla, California 92093-0910 (“UC San Diego”).

This Agreement is effective on the date of the last signature (“Effective Date”).

### RECITALS

WHEREAS, the invention disclosed in UC SAN DIEGO Disclosure Docket No. below (“Invention”)

Docket #  
[\*\*\*]

Title  
[\*\*\*]

was made in the course of research at UC San Diego by [\*\*\*] (hereinafter, and collectively the “Inventors”), and is covered by Patent Rights as defined below;

WHEREAS, each Inventor is an employee of UC San Diego, and is obligated to assign all of their rights, titles and interests in the Invention to UNIVERSITY;

WHEREAS, LICENSEE is desirous of obtaining an exclusive license to Patent Rights and an exclusive license to Technology from UNIVERSITY for commercial development, use, and sale of the Invention, and the UNIVERSITY is willing to grant such rights; and

WHEREAS, the research was sponsored in part by the Government of the United States of America and as a consequence this license is subject to overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and applicable regulations.

NOW, THEREFORE, the parties agree as follows:

### ARTICLE 1. DEFINITIONS

The terms, as defined herein, have the same meanings in both their singular and plural forms.

**1.1 “Acquisition Price”** has the meaning set forth in Paragraph 10.3.

**1.2 “Affiliate”** means any corporation, firm, limited liability company, partnership or other entity that directly or indirectly Controls or is Controlled by or is under common control with LICENSEE.

**1.3 “Control”** means (i) having the actual, present capacity to elect a majority of the directors of such entity; (ii) having the power to direct at least fifty percent (50%) of the voting rights entitled to elect directors; or (iii) in any country where the local law will not permit foreign equity participation of a majority, ownership or control, directly or indirectly, of the maximum percentage of such outstanding stock or voting rights permitted by local law.

**1.4 “Change of Control”** has the meaning set forth in Paragraph 10.3.

**1.5 “Confidential Information”** has the meaning set forth in Paragraph 10.2(a).

**1.6 “Effective Date”** has the meaning set forth in the preamble.

**1.7 “Field”** means all diagnostic and therapeutic uses.

**1.8 “Licensed Methods”** means any method claimed in Patent Rights (as defined below), the use of which would constitute, but for the license granted to LICENSEE under this Agreement, an infringement, an inducement to infringe or contributory infringement, of any pending or issued claim within Patent Rights.

**1.9 “Licensed Product”** means any service, composition or product which is composed of or incorporates, or is directly or indirectly discovered, developed and/or identified using, the Inventions or Licensed Methods, or that is claimed in Patent Rights, or the manufacture, use, sale, offer for sale, or importation of which would constitute, but for the license granted to LICENSEE under this Agreement, an infringement, an inducement to infringe or contributory infringement, of any issued claim within Patent Rights. By way of clarification, “Licensed Product” shall [\*\*\*].

**1.10 “LICENSEE”** has the meaning set forth in the preamble.

**1.11 “Indemnitees”** has the meaning set forth in Paragraph 8.2(a).

**1.12 “Invention”** has the meaning set forth in the Recitals.

**1.13 “Inventors”** has the meaning set forth in the Recitals.

**1.14 “Net Sales”** means the total of the gross invoice prices of Licensed Products sold or leased by LICENSEE, Sublicensee, Affiliate, or any combination thereof, less the sum of the following actual and customary deductions where applicable and separately listed: cash, trade, or quantity discounts, credits, refunds or rebates (as allowed under applicable law); sales tax, use tax, tariff, custom and import/export duties or other excise taxes imposed on sales of Licensed Product (except for value-added and income taxes imposed on the sales of Licensed Product in foreign countries); transportation charges; and credits to customers, including allowances, charge backs or rebates actually granted because of rejections or returns. For purposes of calculating Net Sales, transfers to a Sublicensee or an Affiliate of Licensed Product under this Agreement for (a) end use (but not resale) by the Sublicensee or Affiliate shall be treated as sales by LICENSEE at list price of LICENSEE, or (b) resale by a Sublicensee or an Affiliate shall be treated as sales at the list price of the Sublicensee or Affiliate. Net Sales shall not include reasonable quantities of Licensed Products provided without charge for charitable, promotional, pre-clinical, clinical, regulatory, or governmental purposes.

1.15 “**Non-Affiliate Assignment**” has the meaning set forth in Paragraph 10.3.

1.16 “**Non-Affiliate Assignment Payment**” has the meaning set forth in Paragraph 10.3.

1.17 “**Patent Costs**” means all out-of-pocket expenses for the preparation, filing, prosecution, and maintenance of all United States and foreign patents included in Patent Rights. Patent Costs include out-of-pocket expenses for patentability opinions, inventorship determination, preparation and prosecution of patent application, re-examination, re-issue, interference, post-grant review and other administrative proceedings in patent offices, and opposition activities, and the like, related to patents or applications in Patent Rights.

1.18 “**Patent Rights**” means UNIVERSITY’s rights in the claims of any of the following: (a) any patent or patent applications containing claims that cover the Inventions, (b) the patents and patent applications listed in Exhibit A, and (c) continuing applications of subsections (a) and (b) above, including divisions, substitutions, and continuations-in-part (but only to the extent the claims thereof are entirely supported in the specification and entitled to the priority date of the parent application); any patents issuing on said applications including reissues, reexaminations and extensions; and any corresponding foreign applications or patents covered by subsections (a) through (c) above.

1.19 “**Sponsor’s Rights**” means all the applicable provisions of any license to the United States Government executed by UNIVERSITY and the overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and applicable governmental implementing regulations.

1.20 “**Sublicense**” means an agreement into which LICENSEE enters with a third party that is not an Affiliate for the purpose of (a) granting certain rights; (b) granting an option to certain rights; or (c) forbearing the exercise of any enforcement rights, in each case granted to LICENSEE under this Agreement. “Sublicensee” means a third party with whom LICENSEE enters into a Sublicense.

1.21 “**Sublicense Fees**” means all upfront fees, milestone payments and similar license fees received by LICENSEE from its Sublicensees in consideration for the grant of a Sublicense, but excluding: (i) any royalty payments; (ii) payments for [\*\*\*] (iii) [\*\*\*]; and (iv) payments and reimbursement of [\*\*\*]. For the purpose of the above paragraph, [\*\*\*].

1.22 “**Sublicense Revenues**” has the meaning set forth in Paragraph 4.1(b).

1.23 “**Technology**” means the written nonpublic technical information, if any, relating to the Invention which the Inventors provided to LICENSEE prior to the Effective Date and which is detailed in Exhibit C.

1.24 “**Term**” means the period of time beginning on the Effective Date and ending on the expiration date of the longest-lived Patent Rights on a country-by-country basis.

1.25 “**Territory**” means (a) for Technology, worldwide, to the extent UNIVERSITY may lawfully grant such Technology rights; and (b) for Patent Rights, worldwide, to the extent Patent Rights exist in a respective jurisdiction.

1.26 “UC San Diego” has the meaning set forth in the preamble.

1.27 “UNIVERSITY” has the meaning set forth in the preamble.

1.28 “University Inspector” has the meaning set forth in Paragraph 4.2(b).

1.29 “Valid Claim” means (a) a claim of an issued and unexpired patent included within Patent Rights, which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise or (b) any claim of a pending patent application of Patent Rights, which claim was filed and is prosecuted in good faith with the goal of ultimately reaching allowable claims, and has not been abandoned or finally disallowed without the possibility of appeal or refiling of such application.

## ARTICLE 2. GRANTS

2.1 **License.** Subject to the limitations set forth in this Agreement and Sponsor’s Rights, to the extent that it may lawfully do so, UNIVERSITY hereby grants to LICENSEE an exclusive, sublicensable, license under Patent Rights to make, use, sell, offer for sale, and import Licensed Products and an exclusive license to use Technology, in the Field within the Territory and during the Term. LICENSEE may extend such license to its Affiliates, provided that LICENSEE will be responsible for such Affiliates.

### 2.2 Sublicense.

- (a) The license granted in Paragraph 2.1 includes the right of LICENSEE to grant Sublicenses to third parties during the Term, but only for as long as [\*\*\*].
- (b) With respect to Sublicense granted pursuant to Paragraph 2.2(a), LICENSEE shall:
  - (i) not [\*\*\*] for the license grant under Sublicense [\*\*\*] in a timely fashion, which [\*\*\*];
  - (ii) to the extent applicable, include all of the rights of and obligations due to UNIVERSITY (and, if applicable, the Sponsor’s Rights) and contained in this Agreement;
  - (iii) promptly provide UNIVERSITY with a copy of each Sublicense issued which may be reasonably redacted; and
  - (iv) collect and guarantee payment of all payments due, directly or indirectly, to UNIVERSITY from Sublicensees and summarize and deliver all reports due, directly or indirectly, to UNIVERSITY from Sublicensees.

(c) Upon termination of this Agreement for any reason, UNIVERSITY, at its sole discretion, shall determine whether LICENSEE shall cancel or assign to UNIVERSITY any and all Sublicenses, provided, however, UNIVERSITY will not unreasonably withhold its permission allowing LICENSEE to assign to UNIVERSITY any Sublicenses, provided further, that if the Sublicensee requests an assignment, UNIVERSITY will accept such assignment of the Sublicense, provided (i) that the Sublicensee is in good standing upon termination of this Agreement; (ii) [\*\*\*]; and (iii) to the extent UNIVERSITY is legally able to accept such assignment. In no case, however, will UNIVERSITY be bound by duties and obligations contained in any Sublicense that extends beyond the duties and obligations of the UNIVERSITY set forth in this Agreement. For the avoidance of doubt, Affiliate's rights extended by LICENSEE also terminate upon termination of this Agreement.

**2.3 Reservation of Rights.** UNIVERSITY reserves the right to:

- (a) use the Invention, Technology, and Patent Rights for educational and research purposes;
- (b) publish or otherwise disseminate any information about the Invention, Technology, and Patent Rights at any time; and
- (c) allow other nonprofit institutions to use, publish, or otherwise disseminate any information about Invention, Technology and Patent Rights for educational and research purposes.

**ARTICLE 3. CONSIDERATION**

**3.1 Fees and Royalties.** The parties hereto understand that the fees and royalties payable by LICENSEE to UNIVERSITY under this Agreement are partial consideration for the license granted herein to LICENSEE under Technology and Patent Rights. LICENSEE shall pay UNIVERSITY:

- (a) a license issue fee of Twenty Thousand dollars (US\$20,000), no later than [\*\*\*] after the Effective Date. This Paragraph 3.1(a) will survive the termination, expiration or assignment of this Agreement.
- (b) the following license maintenance fees per year are payable on the [\*\*\*][\*\*\*] of the Effective Date and annually thereafter on each anniversary; provided however, that LICENSEE's obligation to pay this fee shall end on the date when LICENSEE is commercially selling a Licensed Product:

<u>Maintenance Fee</u>	<u>Anniversary</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

- (c) LICENSEE shall pay UNIVERSITY the following milestone payments within [\*\*\*] of achievement of such milestone by LICENSEE or any Sublicensee for [\*\*\*]:

If [\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

If [\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

For the sake of clarity, should [\*\*\*], then [\*\*\*]. For example, [\*\*\*]. Also, [\*\*\*].

(d) an earned royalty on Net Sales of Licensed Products by LICENSEE, Sublicensees and/or Affiliates as follows:

**Running Royalties on Licensed Products**

**Annual Net Sales**

**Royalty Percentage**

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

In the event LICENSEE is required to pay royalties to one or more third parties for patent rights necessary to make, use or sell Licensed Products, LICENSEE may deduct [\*\*\*] from the earned royalties payable to UNIVERSITY for every [\*\*\*] LICENSEE actually pays to said third parties; provided, however, in no event shall the amount payable to UNIVERSITY be less than [\*\*\*] of the amount otherwise due.

LICENSEE shall be required to pay the following minimum annual royalties commencing on the first commercial sale of a Licensed Product:

**Minimum Annual Royalty**

[\*\*\*]

[\*\*\*]

[\*\*\*]

**Year(s)**

[\*\*\*]

[\*\*\*]

[\*\*\*]

(e) [\*\*\*] of all Sublicense Fees received by LICENSEE from its Sublicensees that are not royalties; provided, however, that following (i) [\*\*\*] or (ii) [\*\*\*], whichever occurs first, the percentage of Sublicense Fees due to UNIVERSITY shall be reduced to [\*\*\*].

All fees and royalty payments specified in Paragraphs 3.1(a) through 3.1(e) above shall be paid by LICENSEE pursuant to Paragraph 4.3 and shall be delivered by LICENSEE to UNIVERSITY as noted in Paragraph 10.1.

**3.2 Patent Costs.** LICENSEE shall reimburse UNIVERSITY all Patent Costs incurred in the Territory within [\*\*\*] days] following the date an itemized invoice is sent from UNIVERSITY to LICENSEE. [\*\*\*]

**3.3 Due Diligence.**

(a) LICENSEE shall, either directly or through its Affiliate(s) or Sublicensee(s)

(i) diligently develop, manufacture, and sell Licensed Products;

(ii) achieve the milestones described in Exhibit B; and

(iii) spend not less than [\*\*\*] for the development of Licensed Products within [\*\*\*] from the Effective Date, which includes the amounts that LICENSEE is paying to UNIVERSITY pursuant to a Sponsored Research Agreement currently being negotiated.

(b) If LICENSEE fails to perform any of its obligations specified in Paragraphs 3.3(a)(i)-(iii), UNIVERSITY shall have the right and option to either terminate this Agreement or change LICENSEE's exclusive license under Patent Rights to a nonexclusive license. This right, if exercised by UNIVERSITY, supersedes the rights granted in Article 2. Notwithstanding the foregoing, if LICENSEE fails to meet a diligence provision for a Licensed Product despite having diligently pursued the provision at issue, as demonstrated in progress reports or other communication provided to UNIVERSITY or by receipt of notice from the FDA (or equivalent foreign regulatory agency, if applicable) of a delay or denial of approval for a Licensed Product, UNIVERSITY agrees to extend such milestone obligations with respect to the Licensed Product and discuss in good faith with LICENSEE about the extension period.

## ARTICLE 4. REPORTS, RECORDS AND PAYMENTS

### 4.1 Reports.

#### (a) Progress Reports.

Beginning [\*\*\*] after the Effective Date and within [\*\*\*] after the end of each of LICENSEE's fiscal years until the first commercial sale of a Licensed Product, LICENSEE shall furnish UNIVERSITY with a written report on the progress of its efforts during the immediately preceding fiscal year to develop and commercialize Licensed Products. The report shall provide a discussion, [\*\*\*], of [\*\*\*], provided that LICENSEE shall only be required to provide such sales projections after a BLA (or equivalent filing) has been made to a regulatory authority. LICENSEE's fiscal year begins on January 1st.

#### (b) Royalty Reports.

After the first commercial sale of a Licensed Product anywhere in the world, LICENSEE shall submit to UNIVERSITY annual royalty reports on or before [\*\*\*]. Each royalty report shall cover LICENSEE's (and each Affiliate's and Sublicensee's) most recently completed calendar year and shall show:

- (i) the date of first commercial sale of a Licensed Product in each country;
- (ii) the gross sales and Net Sales during the most recently completed calendar year and the royalties, in US dollars, payable with respect thereto;
- (iii) the number of each type of Licensed Product sold;
- (iv) Sublicense Fees and royalties ("Sublicense Revenues") received during the most recently completed calendar year in US dollars, payable with respect thereto;
- (v) the method used to calculate the royalties; and
- (vi) the exchange rates used.

If no sales of Licensed Products have been made and no Sublicense Revenues have been received by LICENSEE during any reporting period, LICENSEE shall so report. The reports referred to in this Paragraph 4.1(b) should be marked with the following title and case number: [\*\*\*] Reports shall be submitted as an attachment to UC SAN DIEGO's email address: [\*\*\*].

### 4.2 Records & Audits.

(a) LICENSEE shall keep, and shall require its Affiliates and Sublicensees to keep, accurate and correct records of all Licensed Products manufactured, used, sold, offered for sale, and imported and Sublicense Fees received under this Agreement. Such records shall be retained by LICENSEE for at least [\*\*\*] following a given reporting period.

(b) At a mutually agreeable time, all records shall be available during normal business hours for inspection at the expense of UNIVERSITY by UNIVERSITY's Internal Audit Department or by a Certified Public Accountant selected by UNIVERSITY (a "University Inspector") and in compliance with the other terms of this Agreement for the sole purpose of verifying reports and payments or other compliance issues. Records reviewed remain subject to the provisions set forth in Paragraph 10.2.



Such University Inspector shall not disclose to UNIVERSITY any information other than information relating to the accuracy of reports and payments made under this Agreement or other compliance issues. In the event that any such inspection shows an underreporting and underpayment in excess of [\*\*\*] for any [\*\*\*] period, then LICENSEE shall pay the cost of the audit as well as any additional sum that would have been payable to UNIVERSITY had the LICENSEE reported correctly plus an interest charge at a rate of [\*\*\*]. Such interest shall be calculated from the date the correct payment was due to UNIVERSITY up to the date when such payment is actually made by LICENSEE. For underpayment not in excess of [\*\*\*] for any [\*\*\*] period, LICENSEE shall pay the difference within [\*\*\*] without interest charge inspection cost.

#### **4.3 Payments.**

- (a) All fees, reimbursements and royalties due to UNIVERSITY shall be paid in United States dollars and all checks shall be made payable to [\*\*\*], and sent to UNIVERSITY according to Paragraph 10.1 (Correspondence).
- (b) **Royalty Payments.**
  - (i) Royalties shall accrue when [\*\*\*].
  - (ii) LICENSEE shall pay earned royalties annually on or before each anniversary of the Effective Date. Each such payment shall be for earned royalties accrued within LICENSEE's most recently completed calendar year.
- (c) Late Payments. In the event royalty, reimbursement and/or fee payments are not received by UNIVERSITY when due, LICENSEE shall pay to UNIVERSITY interest charges at a rate of [\*\*\*], or the highest rate allowed by law, whichever is higher. Such interest shall be calculated from [\*\*\*].
- (d) Taxes. Taxes imposed by any governmental agency on LICENSEE on any payments to be made to UNIVERSITY by LICENSEE hereunder shall be paid by LICENSEE without deduction from any payment due to UNIVERSITY hereunder.

### **ARTICLE 5. PATENT MATTERS**

#### **5.1 Patent Prosecution and Maintenance.**

(a) Provided that LICENSEE is reimbursing UNIVERSITY for its Patent Costs on a timely basis pursuant to Paragraph 3.2, UNIVERSITY shall diligently prosecute and maintain the United States and, if available, foreign patents, and applications in Patent Rights using counsel of its choice. For purposes of clarity, if LICENSEE is not current in reimbursing UNIVERSITY for such Patent Costs in accordance with the time period set forth in Paragraph 3.2, UNIVERSITY shall have no obligation to incur any new Patent Costs under this Agreement or to further prosecute Patent Rights or file any new patent applications under Patent Rights upon written notice to LICENSEE (such as email notices). UNIVERSITY shall provide LICENSEE with copies of all relevant documentation relating to such prosecution and an opportunity to review and provide comments relating thereto. LICENSEE shall keep this documentation provided by UNIVERSITY confidential. The

counsel shall take instructions only from UNIVERSITY, and all patents and patent applications in Patent Rights shall be assigned solely to UNIVERSITY. UNIVERSITY shall take into good faith consideration any comments provided by LICENSEE with respect to documentation relating to such prosecution and any actions recommended by LICENSEE to protect the Licensed Products contemplated to be sold by LICENSEE under this Agreement. UNIVERSITY shall in any event control all patent filings and all patent prosecution decisions and related filings (e.g., responses to office actions) shall be at UNIVERSITY's final discretion (prosecution includes, but is not limited to, interferences, oppositions and any other inter partes or ex parte matters originating in a patent office).

(b) Should LICENSEE elect to terminate its reimbursement obligations with respect to any patent application or patent in Patent Rights in a specific country, LICENSEE shall have no further license with respect to such Patent Rights under this Agreement for such country. Non-payment of any portion of Patent Costs with respect to any application or patent may be deemed by UNIVERSITY as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. UNIVERSITY is not obligated at any time to file, prosecute, or maintain Patent Rights in a country, where, for that country's patent application or patent LICENSEE is not paying Patent Costs, or to file, prosecute, or maintain Patent Rights to which LICENSEE has terminated its license hereunder.

## **5.2 Patent Infringement.**

(a) If UNIVERSITY (based on actual knowledge of the licensing professional responsible for administering this Invention), or LICENSEE learns of potential infringement of commercial significance of any patent licensed under this Agreement, the knowledgeable party promptly will inform the other party of the infringement and provide evidence of infringement available to the knowledgeable party ("Infringement Notice"). In a jurisdiction where LICENSEE has exclusive rights under this Agreement, neither UNIVERSITY, nor LICENSEE will notify a third party (including the infringer) of infringement or put such third party on notice of the existence of any Patent Rights without first obtaining consent of the other. UNIVERSITY and LICENSEE agree to discuss and determine how best to proceed. If LICENSEE notifies a third party of infringement or puts such third party on notice of the existence of any Patent Rights regarding such infringement without first obtaining the written consent of UNIVERSITY and UNIVERSITY is sued for declaratory judgment (or its equivalent), UNIVERSITY will have the right to terminate this Agreement immediately, notwithstanding Paragraph 7.1. UNIVERSITY and LICENSEE will use diligent efforts to cooperate with each other to terminate such infringement without litigation. Subject to statutory deadlines, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, then LICENSEE may initiate suit (or earlier depending on an applicable statutory deadline to file); and, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, and LICENSEE has not initiated suit, then UNIVERSITY may initiate suit.

Notwithstanding the foregoing: (1) UNIVERSITY may not be joined in any suit without its prior written consent; (2) LICENSEE may not admit liability or wrongdoing on behalf of UNIVERSITY without its prior written consent; (3) Each party will cooperate with the other in litigation initiated under Paragraph 5.2, but at the expense of the party who initiated the suit; (4) If UNIVERSITY is joined in any suit under Paragraph 5.2, LICENSEE will pay all of UNIVERSITY's costs; (5) If UNIVERSITY is a party to a suit under Paragraph 5.2, then the recovery to UNIVERSITY will be greater than or equal to [\*\*\*] of net recoveries; (6) Any agreement made by LICENSEE for purposes of settling litigation or other dispute regarding Patent Rights will comply with the requirements of Paragraph 2.2 (Sublicense); and (7) If LICENSEE or UNIVERSITY (but not both) sues a third party for infringement of Patent Rights, then the non-suing party may not thereafter sue such infringer for the acts of infringement raised in the suit.

### **5.3 Patent Marking.**

LICENSEE shall mark all Licensed Products made, used, sold, offered for sale, or imported under the terms of this Agreement, or their containers, in accordance with the applicable patent marking laws. LICENSEE shall be responsible for all monetary and legal liabilities arising from or caused by (a) failure to abide by applicable patent marking laws and (b) any type of incorrect or improper patent marking.

## **ARTICLE 6. EXPORT CONTROL AND REGISTRATION**

**6.1 Export Control.** LICENSEE shall observe all applicable United States and foreign laws with respect to the transfer of Licensed Products, Technology, and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations and the Export Administration Regulations.

**6.2 Governmental Approval or Registration.** If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, LICENSEE shall assume all legal obligations to do so. LICENSEE shall make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

**6.3 Preference for United States Industry.** If LICENSEE sells a Licensed Product in the US, LICENSEE shall manufacture said product substantially in the US to the extent such is required under the applicable provisions of 35 U.S.C. §§200-212, unless a waiver is obtained from the appropriate governmental agency. UNIVERSITY agrees to provide all reasonable assistance to LICENSEE to apply for and obtain such a waiver.

## **ARTICLE 7. TERMINATION OR EXPIRATION OF THE AGREEMENT**

### **7.1 Termination by UNIVERSITY.**

(a) UNIVERSITY may terminate this Agreement if LICENSEE:

- (i) is delinquent on any report or payment;
- (ii) is not diligently developing and commercializing Licensed Product in accordance with obligations under Paragraph 3.3;
- (iii) misses a milestone described in Exhibit B;

(iv) is in breach of any provision;

(v) provides any intentionally misleading and false report; or

(vi) files a claim including in any way the assertion that any portion of UNIVERSITY's Patent Rights is invalid or unenforceable.

(b) Termination under this Paragraph 7.1 will take effect [\*\*\*] after written notice by UNIVERSITY unless LICENSEE remedies the problem in that [\*\*\*] period, provided that this cure period shall be extended for an additional [\*\*\*] period if LICENSEE is working in good faith to remedy the problem.

#### **7.2 Termination by LICENSEE.**

(a) LICENSEE shall have the right at any time and for any reason to terminate this Agreement in whole or on a Licensed Product-by-Licensed Product, country-by-country basis, upon a [\*\*\*] written notice to UNIVERSITY. Said notice shall state LICENSEE's reason for terminating this Agreement.

(b) Any termination under Paragraph 7.2(a) shall not relieve LICENSEE of any obligation or liability accrued under this Agreement prior to termination or rescind any payment made to UNIVERSITY or action by LICENSEE prior to the time termination becomes effective. Termination shall not affect in any manner any rights of UNIVERSITY arising under this Agreement prior to termination.

**7.3 Survival on Termination or Expiration.** The rights and obligations under Paragraphs and Articles 2.2(c) (Sublicense), 3.1(a) (license issue fee), 4.2 (Records & Audits), 7.3 (Survival on Termination or Expiration), 8.1, 8.2(a) and 8.2(d) (Limited Warranty and Indemnification), 9.1 (Use of Names and Trademarks), 10.2(a)-(c) (Secrecy), 10.5 (Failure to Perform) and 10.6 (Governing Laws) shall survive the termination or expiration of this Agreement.

### **ARTICLE 8. LIMITED WARRANTY AND INDEMNIFICATION**

#### **8.1 No Warranty.**

(a) The license granted herein and the associated Technology are provided "AS IS" and without WARRANTY OF MERCHANTABILITY or WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or any other warranty, express or implied. UNIVERSITY makes no representation or warranty that the Licensed Product, or the use of Patent Rights or Technology will not infringe any other patent or other proprietary rights.

UNIVERSITY WILL NOT BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST BUSINESS, ENHANCED DAMAGES FOR INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION OF TECHNOLOGY, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO THIS

AGREEMENT FOR ALL CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF UNIVERSITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ALSO, UNIVERSITY WILL NOT BE LIABLE FOR ANY DIRECT DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO PATENT RIGHTS TO THE EXTENT ASSIGNED, OR OTHERWISE LICENSED, BY UNIVERSITY'S INVENTORS TO THIRD PARTIES.

(b) Nothing in this Agreement shall be construed as:

- (i) a warranty or representation by UNIVERSITY as to the validity, enforceability, or scope of any Patent Rights or Technology;
- (ii) a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or shall be free from infringement of patents of third parties;
- (iii) an obligation to bring or prosecute actions or suits against third parties for patent infringement or misappropriation of Technology except as provided in Paragraph 5.2 hereof;
- (iv) conferring by implication, estoppel or otherwise any license or rights under any patents of UNIVERSITY other than Patent Rights, or any technology other than Technology, regardless of whether those patents are dominant or subordinate to Patent Rights;
- (v) an obligation to furnish any know-how not provided in Patent Rights and Technology; or
- (vi) an obligation to update or provide assistance regarding, Technology.

## **8.2 Indemnification and Insurance.**

(a) LICENSEE will, and will require Sublicensees to indemnify, hold harmless, and defend UNIVERSITY and its officers, employees, and agents; the sponsors of the research that led to the Invention and Technology; and the creators of Technology and inventors of patents or patent applications under Patent Rights, and their employers (collectively, the "Indemnitees"); against any and all claims, suits, losses, damages, costs, fees, and expenses brought by third parties against such Indemnitees to the extent resulting from, or arising out of LICENSEE's exploitation of this license or any Sublicense. This indemnification will include, but will not be limited to, any product liability. Notwithstanding the foregoing, LICENSEE shall not be required to indemnify any Indemnitee to the extent such claim is due to the gross negligence or willful misconduct of an Indemnitee.

(b) LICENSEE, at its sole cost and expense, shall insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain insurance as follows:

(i) commercial general liability insurance (contractual liability included) with limits of at least:

[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]

If the above insurance is written on a claims-made form, it shall continue for [\*\*\*] following termination or expiration of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the Effective Date;

(ii) Worker’s Compensation as legally required in the jurisdiction in which the LICENSEE is doing business; and

(iii) the coverage and limits referred to above shall not in any way limit the liability of LICENSEE.

(c) LICENSEE shall furnish UNIVERSITY with certificates of insurance showing compliance with all requirements. Such certificates shall:

(i) provide for [\*\*\*] advance written notice to UNIVERSITY of any modification; (ii) indicate that UNIVERSITY has been endorsed as an additional insured party under the coverage referred to above; and (iii) include a provision that the coverage shall be primary and shall not participate with nor shall be excess over any valid and collectable insurance or program of self-insurance carried or maintained by UNIVERSITY.

(d) UNIVERSITY shall notify LICENSEE in writing of any claim or suit brought against UNIVERSITY in respect of which UNIVERSITY intends to invoke the provisions of this Article 8. LICENSEE shall keep UNIVERSITY informed on a current basis of its defense of any claims under this Article 8. LICENSEE will not settle any claim against UNIVERSITY without UNIVERSITY’s written consent, where (a) such settlement would include any admission of liability or wrongdoing on the part of UNIVERSITY or other Indemnitees, (b) such settlement would impose any restriction on UNIVERSITY or Indemnitees’ conduct of any of its activities, or (c) such settlement would not include an unconditional release of UNIVERSITY or other Indemnitees from all liability for claims that are the subject matter of the settled claim.

**ARTICLE 9. USE OF NAMES AND TRADEMARKS**

9.1 Except as provided in 9.3, nothing contained in this Agreement confers any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of UNIVERSITY by LICENSEE without prior written approval by UNIVERSITY (including contraction, abbreviation or simulation of any of the foregoing). Unless required by law, the use by LICENSEE of the name, “the Regents of the University of California” or the name of any campus of the University of California in advertising, publicity, or other promotional activities is prohibited, without the express written consent of UNIVERSITY.

**9.2** UNIVERSITY may disclose to the Inventors the terms and conditions of this Agreement upon their request. If such disclosure is made, UNIVERSITY shall request the Inventors not to disclose such terms and conditions to others.

**9.3** UNIVERSITY may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third parties, but UNIVERSITY shall not disclose the financial terms of this Agreement to third parties, except where UNIVERSITY is required by law to do so, such as under the California Public Records Act. LICENSEE hereby grants permission for UNIVERSITY (including UC SAN DIEGO) to include LICENSEE's name and a link to LICENSEE's website in UNIVERSITY's, and UC SAN DIEGO's annual reports and on UNIVERSITY's (including UC SAN DIEGO's) websites that showcase innovation and commercialization stories.

## ARTICLE 10. MISCELLANEOUS PROVISIONS

**10.1 Correspondence.** Any notice or payment required to be given to either party under this Agreement shall be deemed to have been properly given and effective:

- (a) on the date of delivery if delivered in person,
- (b) five (5) days after mailing if mailed by first-class or certified mail, postage paid, to the respective addresses given below, or to such other address as is designated by written notice given to the other party, or
- (c) upon confirmation by recognized national overnight courier, confirmed facsimile transmission, or confirmed electronic mail, to the following addresses or facsimile numbers of the parties.

If sent to LICENSEE:

[\*\*\*]

*with a copy to:*

[\*\*\*]

If sent to UNIVERSITY by mail:

[\*\*\*]

If sent to UNIVERSITY by overnight delivery:

[\*\*\*]

**10.2 Secrecy.**

(a) "Confidential Information" shall mean information relating to the Invention and disclosed by one party to the other party during the Term, which if disclosed in writing shall be marked "Confidential", or if first disclosed otherwise, shall within [\*\*\*] of such disclosure be reduced to writing by one party and sent to the other party. The Technology shall be deemed to be Confidential Information.

(b) Each party shall:

(i) use the Confidential Information for the sole purpose of performing under the terms of this Agreement;

(ii) safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own data of a similar nature;

(iii) not disclose Confidential Information to others (except to its employees, agents or consultants who are bound to such party by a like obligation of confidentiality; provided that in the case where the UNIVERSITY is the recipient, UNIVERSITY shall have the right to disclose such Confidential Information to its employees without requiring the employees to sign a separate non-disclosure agreement; provided further that UNIVERSITY shall remain responsible for any breach of the obligation of confidentiality of its employees, agents or consultants to the extent required by law) without the express written permission of the other party, except that LICENSEE shall not be prevented from using or disclosing any of the Confidential Information that:

(A) LICENSEE can demonstrate by written records was previously known to it;

(B) is now, or becomes in the future, public knowledge other than through acts or omissions of LICENSEE;

(C) is lawfully obtained by LICENSEE from sources independent of UNIVERSITY; or

(D) is required to be disclosed by law or a court of competent jurisdiction.

(c) The secrecy obligations of both parties with respect to Confidential Information shall continue for a period ending [\*\*\*] from the termination date of this Agreement.

(d) Notwithstanding the foregoing, UNIVERSITY may disclose to the Inventors, senior administrators employed by UNIVERSITY, and individual Regents the terms and conditions of this Agreement upon their request. If such disclosure is made, UNIVERSITY shall request the individuals not disclose such terms and conditions to others. UNIVERSITY may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third parties, but UNIVERSITY shall not disclose the negotiable financial terms of this Agreement to third parties, except where UNIVERSITY is required by law to do so, such as under the California Public Records Act.

**10.3 Assignability.** This Agreement may be assigned by UNIVERSITY, but is personal to LICENSEE and assignable by LICENSEE only with the written consent of UNIVERSITY; provided however that LICENSEE may assign this Agreement without the written consent of UNIVERSITY to (i) an Affiliate of LICENSEE or (ii) in connection with LICENSEE's sale of all or substantially all of the business (whether structured as a merger, asset sale, exclusive license or otherwise) to which this Agreement relates (any such event, a "Change of Control"). LICENSEE



agrees promptly to notify UNIVERSITY in writing of any assignment and/or Change of Control and such assignee or transferee must agree in writing to be bound by the terms and conditions of this Agreement. In the event that LICENSEE wishes to (i) assign this Agreement for any reason other than assignment to an Affiliate (a "Non-Affiliate Assignment") or (ii) in the event of any Change of Control of LICENSEE, LICENSEE shall pay to UNIVERSITY a one-time payment on the first to occur of either (i) in the event of the signing of a Non-Affiliate Assignment, an amount of [\*\*\*] within [\*\*\*] after the signing of such Non-Affiliate Assignment (the "Non-Affiliate Assignment Payment"), or (ii) in the event of the closing of a Change of Control of LICENSEE, a one-time payment based on the Acquisition Price (as determined below), within [\*\*\*] after the closing of such Change of Control (the "Change of Control Payment"):

An amount of:

[\*\*\*]  
[\*\*\*]  
[\*\*\*]

When the Acquisition Price of LICENSEE is:

[\*\*\*]  
[\*\*\*]  
[\*\*\*]

"Acquisition Price" shall be calculated by LICENSEE prior to the closing of the Change of Control, which "Acquisition Price" shall equal [\*\*\*]. Any [\*\*\*].

**10.4 No Waiver.** No waiver by either party of any breach or default of any agreement set forth in this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default.

**10.5 Failure to Perform.** In the event of a failure of performance due under this Agreement and if it becomes necessary for either party to undertake legal action against the other on account thereof, then the prevailing party shall be entitled to reasonable attorneys' fees in addition to costs and necessary disbursements.

**10.6 Governing Laws.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

**10.7 Force Majeure.** A party to this Agreement may be excused from any performance required herein if such performance is rendered impossible or unfeasible due to any catastrophe or other major event beyond its reasonable control, including, without limitation, war, riot, and insurrection; laws, proclamations, edicts, ordinances, or regulations; strikes, lockouts, or other serious labor disputes; and floods, fires, explosions, or other natural disasters. When such events have abated, the non-performing party's obligations herein shall resume.

**10.8 Headings.** The headings of the several paragraphs are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

**10.9 Entire Agreement.** This Agreement, including Exhibits A, B, and C embodies the entire understanding of the parties and supersedes all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.

**10.10 Amendments.** No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each party.

**10.11 Severability.** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been contained in it.

**10.12 Counterparts.** This Agreement may be executed in one or more counterparts, each of which together will constitute one and the same Agreement. For purposes of executing this Agreement, a facsimile (including a PDF image delivered via email) copy of this Agreement, including the signature pages, will be deemed an original. The parties agree that neither party will have any rights to challenge the use or authenticity of a counterpart of this Agreement based solely on that its signature, or the signature of the other party, on such counterpart is not an original signature.

*IN WITNESS WHEREOF*, both UNIVERSITY and LICENSEE have executed this Agreement, in duplicate originals, by their respective and duly authorized officers on the day and year written.

**LEXEO  
THERAPEUTICS, INC.:**

By: /s/ Chris Holterhoff  
(Signature)

Chris Holterhoff

VP, Business & Corporate Development

Date: 10/4/2021

**THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA**

By: /s/ Donna Shaw  
(Signature)

Donna Shaw, Ph.D.

Associate Director, Office of Innovation and Commercialization

Date: 10/1/2021

\*\*\*

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**EXHIBIT B — DUE DILIGENCE MILESTONES**

[\*\*\*]

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\*\*\* = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

**LICENSE AGREEMENT**  
**BETWEEN**  
**ARVC THERAPEUTICS, INC.**  
**AND**  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
**FOR**  
**\*\*\***

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## LICENSE AGREEMENT

This agreement (“Agreement”) is entered into by and between **ARVC Therapeutics, Inc.** a Delaware corporation having an address at 1396 Rubenstein Ave, Cardiff by the Sea, CA 92007 (“LICENSEE”) and **The Regents of the University of California**, a California public corporation having its statewide administrative offices at 1111 Franklin Street, Oakland, California 94607-5200 (“UNIVERSITY”), represented by its San Diego campus having an address at University of California, San Diego, Office of Innovation and Commercialization, Mail Code 0910, 9500 Gilman Drive, La Jolla, California 92093-0910 (“UC San Diego”).

This Agreement is effective on the date of the last signature (“Effective Date”).

### RECITALS

WHEREAS, the invention disclosed in UC SAN DIEGO Disclosure Docket No. below (“Invention”)

Docket#  
[\*\*\*]

Title  
[\*\*\*]

was made in the course of research at UC San Diego by [\*\*\*] (hereinafter, and collectively the “Inventors”), and is covered by Patent Rights as defined below;

WHEREAS, the Inventor is an employee of UC San Diego, and is obligated to assign all of his right, title and interest in the Invention to UNIVERSITY;

WHEREAS, LICENSEE is desirous of obtaining an exclusive license to Patent Rights from UNIVERSITY for commercial development, use, and sale of the Invention, and the UNIVERSITY is willing to grant such rights;

WHEREAS, the research was sponsored in part by the Government of the United States of America and as a consequence this license is subject to overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and applicable regulations; and

NOW, THEREFORE, the parties agree as follows:

### ARTICLE 1. DEFINITIONS

The terms, as defined herein, have the same meanings in both their singular and plural forms.

1.1 “**Affiliate**” means any corporation, firm, limited liability company, partnership or other entity that directly or indirectly Controls or is Controlled by or is under common control with LICENSEE. “Control” means (i) having the actual, present capacity to elect a majority of the directors of such entity; (ii) having the power to direct at least fifty percent (50%) of the voting rights entitled to elect directors; or (iii) in any country where the local law will not permit foreign equity participation of a majority, ownership or control, directly or indirectly, of the maximum percentage of such outstanding stock or voting rights permitted by local law.

1.2 “**Combination Product**” means any product which is a Licensed Product (as defined below) and contains other product(s) or product component(s) that is not an excipient, diluant, adjuvant, buffer and the like and (i) does not use Invention or Patent Rights (as defined below); (ii) the sale, use or import by itself does not contribute to or induce the infringement of Patent Rights; (iii) is sold separately by LICENSEE, its Sublicensee (as defined below) or an Affiliate; and (iv) enhances the market price of the final product(s) sold, used or imported by LICENSEE, its Sublicensee, or an Affiliate.

1.3 “**Field**” means all diagnostic and therapeutic uses.

1.4 “**Licensed Methods**” means any method claimed in Patent Rights (as defined below), the use of which would constitute, but for the license granted to LICENSEE under this Agreement, an infringement, an inducement to infringe or contributory infringement, of any pending or issued claim within Patent Rights.

1.5 “**Licensed Product**” means any service, method, composition or product which is composed of or incorporates, or is directly or indirectly discovered, developed and/or identified using, the Inventions or Licensed Methods, or that is claimed in Patent Rights, or the manufacture, use, sale, offer for sale, or importation of which would constitute, but for the license granted to LICENSEE under this Agreement, an infringement, an inducement to infringe or contributory infringement, of any issued claim within the Patent Rights. By way of clarification, “Licensed Product” shall [\*\*\*].

1.6 “**Net Sales**” means the total of the gross invoice prices of Licensed Products sold or leased by LICENSEE, Sublicensee, Affiliate, or any combination thereof, less the sum of the following actual and customary deductions where applicable and separately listed: cash, trade, or quantity discounts, credits, refunds or rebates (as allowed under applicable law); sales tax, use tax, tariff, custom and import/export duties or other excise taxes imposed on sales of Licensed Product (except for value-added and income taxes imposed on the sales of Licensed Product in foreign countries); transportation; and credits to customers, including allowances, charge backs or rebates actually granted because of rejections or returns. For purposes of calculating Net Sales, transfers to a Sublicensee or an Affiliate of Licensed Product under this Agreement for (a) end use (but not resale) by the Sublicensee or Affiliate shall be treated as sales by LICENSEE at list price of LICENSEE, or (b) resale by a Sublicensee or an Affiliate shall be treated as sales at the list price of the Sublicensee or Affiliate. Net Sales shall not include reasonable quantities of Licensed Products without charge for charitable, promotional, pre-clinical, clinical, regulatory, or governmental purposes.

1.7 “**Patent Costs**” means all out-of-pocket expenses for the preparation, filing, prosecution, and maintenance of all United States and foreign patents included in Patent Rights. Patent Costs include out-of-pocket expenses for patentability opinions, inventorship determination, preparation and prosecution of patent application, re-examination, re-issue, interference, post-grant review and other administrative proceedings in patent offices, and opposition activities, and the like, related to patents or applications in Patent Rights.

1.8 **“Patent Rights”** means UNIVERSITY’s rights in the claims of any of the following: (a) any patent or patent applications containing claims that cover the Inventions, (b) the patents and patent applications listed in Exhibit A, and (c) continuing applications of subsections (a) and (b) above, including divisions, substitutions, and continuations-in-part (but only to the extent the claims thereof are entirely supported in the specification and entitled to the priority date of the parent application); any patents issuing on said applications including reissues, reexaminations and extensions; and any corresponding foreign applications or patents covered by subsections (a) through (c) above.

1.9 **“Sponsor Rights”** means all the applicable provisions of any license to the United States Government executed by UNIVERSITY and the overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and applicable governmental implementing regulations.

1.10 **“Sublicense”** means an agreement into which LICENSEE enters with a third party that is not an Affiliate for the purpose of (a) granting certain rights; (b) granting an option to certain rights; or (c) forbearing the exercise of any enforcement rights, granted to LICENSEE under this Agreement. “Sublicensee” means a third party with whom LICENSEE enters into a Sublicense.

1.11 **“Sublicense Fees”** means all upfront fees, milestone payments and similar license fees received by LICENSEE from its Sublicensees in consideration for the grant of a Sublicense, but excluding: (i) any royalty payments; (ii) payments for [\*\*\*]; (iii) [\*\*\*]; and (iv) payments and reimbursement of [\*\*\*]. For the purpose of the above paragraph, [\*\*\*].

1.12 **“Term”** means the period of time beginning on the Effective Date and ending on the expiration date of the longest lived Patent Rights on a country-by-country basis.

1.13 **“Territory”** means worldwide, to the extent Patent Rights exist.

1.14 **“Valid Claim”** means (a) a claim of an issued and unexpired patent included within the Patent Rights, which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise or (b) any claim of a pending patent application of Patent Rights, which claim was filed and is prosecuted in good faith with the goal of ultimately reaching allowable claims.

## ARTICLE 2. GRANTS

2.1 **License.** Subject to the limitations set forth in this Agreement and Sponsor’s Rights, to the extent that it may lawfully do so, UNIVERSITY hereby grants to LICENSEE an exclusive, sublicensable, license under Patent Rights to make, use, sell, offer for sale, and import Licensed Products in the Field within the Territory and during the Term. LICENSEE may extend such license to its Affiliates, provided that LICENSEE will be responsible for such Affiliates.

2.2 **Sublicense.**

(a) The license granted in Paragraph 2.1 includes the right of LICENSEE to grant Sublicenses to third parties during the Term, but only for as long as [\*\*\*].

(b) With respect to Sublicense granted pursuant to Paragraph 2.2(a), LICENSEE shall:

- (i) not [\*\*\*] for the license grant under Sublicense [\*\*\*];
- (ii) to the extent applicable, include all of the rights of and obligations due to UNIVERSITY (and, if applicable, the Sponsor's Rights) and contained in this Agreement;
- (iii) promptly provide UNIVERSITY with a copy of each Sublicense issued which may be reasonably redacted; and
- (iv) collect and guarantee payment of all payments due, directly or indirectly, to UNIVERSITY from Sublicensees and summarize and deliver all reports due, directly or indirectly, to UNIVERSITY from Sublicensees.

(c) Upon termination of this Agreement for any reason, UNIVERSITY, at its sole discretion, shall determine whether LICENSEE shall cancel or assign to UNIVERSITY any and all Sublicenses however, UNIVERSITY will not unreasonably withhold its permission allowing LICENSEE to assign to UNIVERSITY any Sublicenses, provided (i) that the Sublicensee is in good standing upon termination of this Agreement; (ii) [\*\*\*], and (iii) to the extent UNIVERSITY is legally able. In no case, however, will UNIVERSITY be bound by duties and obligations contained in any Sublicense that extends beyond the duties and obligations of the UNIVERSITY set forth in this Agreement. For the avoidance of doubt, Affiliate's rights extended by LICENSEE also terminate upon termination of this Agreement.

**2.3 Reservation of Rights.** UNIVERSITY reserves the right to:

- (a) use the Invention and Patent Rights for educational and research purposes;
- (b) publish or otherwise disseminate any information about the Invention and Patent Rights at any time; and
- (c) allow other nonprofit institutions to use, publish, or otherwise disseminate any information about Invention and Patent Rights for educational and research purposes.

**2.4 Participation Rights** If LICENSEE proposes to sell any equity securities or securities that are convertible into equity securities of LICENSEE, then UNIVERSITY and/or its Assignee (as defined below) will have the right to purchase up to [\*\*\*] of the securities issued in each such offering on the same terms and conditions as are offered to the other purchasers in each such financing. LICENSEE shall provide [\*\*\*] advanced written notice of each such financing, including reasonable detail regarding the terms and purchasers in the financing. For purposes of this Section 2.4, the term "Assignee" means [\*\*\*]. These rights will be subject to customary exceptions (e.g., equity securities issued as incentives to employees, board members and other service providers and equity securities issued as consideration in lending or leasing transactions, mergers or acquisitions, licenses, collaborations, partnerships and similar transactions, in each case approved by LICENSEE's board of directors). This right shall terminate after the LICENSEE raises a minimum of [\*\*\*]. This paragraph [\*\*\*]. Notwithstanding the foregoing, the participation rights provided for herein shall be cumulative (and not additive) with all other similar obligations that LICENSEE may be subject to from time to time, and LICENSEE's compliance or satisfaction of this provision or any other similar provision that LICENSEE is subject to shall be deemed to satisfy all obligations hereunder or any other similar provision to which LICENSEE is subject.

**ARTICLE 3. CONSIDERATION**

3.1 **Fees and Royalties.** The parties hereto understand that the fees and royalties payable by LICENSEE to UNIVERSITY under this Agreement are partial consideration for the license granted herein to LICENSEE under Patent Rights. LICENSEE shall pay UNIVERSITY:

(a) A license issue fee of Twenty Thousand dollars (US\$20,000), no later than [\*\*\*] after the Effective Date. This Paragraph 3.1(a) will survive the termination, expiration or assignment of this Agreement.

(b) The following license maintenance fees per year as set forth below and payable on the [\*\*\*][\*\*\*] of the Effective Date and annually thereafter on each anniversary; provided however, that LICENSEE's obligation to pay this fee shall end on the date when LICENSEE is commercially selling a Licensed Product:

<u>Maintenance Fee</u>	<u>Anniversary</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(c) LICENSEE shall pay UNIVERSITY the following milestone payments upon achievement of such milestone by LICENSEE or any Sublicensee for a [\*\*\*]:

<b>If</b> [***]	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
<b>If</b> [***]	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]
	[***]	[***]

For the sake of clarity, should [\*\*\*], then [\*\*\*]. For example, [\*\*\*]. Also, [\*\*\*].

(d) an earned royalty on Net Sales of Licensed Products by LICENSEE, Sublicensees and/or Affiliates as follows:

<b>Running Royalties on Licensed Products</b>	<b>Annual Net Sales</b>	<b>Royalty percentage</b>
	[***]	[***]
	[***]	[***]
	[***]	[***]

provided, however, that the earned royalty due on Net Sales of Combination Product by LICENSEE and/or its Affiliate(s) shall be calculated as below:

[\*\*\*]:  
[\*\*\*]  
[\*\*\*].

In the event LICENSEE is required to pay royalties to one or more third parties for patent rights necessary to make, use or sell Licensed Products, LICENSEE may deduct [\*\*\*] from the earned royalties payable to UNIVERSITY for every [\*\*\*] LICENSEE actually pays to said third parties; provided, however, in no event shall the amount payable to UNIVERSITY be less than [\*\*\*] of the amount otherwise due.

LICENSEE shall be required to pay the following minimum annual royalties commencing on the first commercial sale of a Licensed Product:

<b><u>Minimum Annual Royalty</u></b>	<b><u>Year(s)</u></b>
[***]	[***]
[***]	[***]
[***]	[***]

(e) [\*\*\*] of all Sublicense Fees received by LICENSEE from its Sublicensees that are not royalties; provided, however, that following (i) [\*\*\*] or (ii) [\*\*\*], whichever occurs first, the percentage of Sublicense Fees due to UNIVERSITY shall be reduced to [\*\*\*].

All fees and royalty payments specified in Paragraphs 3.1(a) through 3.1(e) above shall be paid by LICENSEE pursuant to Paragraph 4.3 and shall be delivered by LICENSEE to UNIVERSITY as noted in Paragraph 10.1.

3.2 **Patent Costs.** LICENSEE shall reimburse UNIVERSITY all Patent Costs incurred in the Territory within [\*\*\*] following the date an itemized invoice is sent from UNIVERSITY to LICENSEE. For past Patent Costs a payment plan will be established.

### 3.3 **Due Diligence.**

- (a) LICENSEE shall, either directly or through its Affiliate(s) or Sublicensee(s):
- (i) use commercially reasonable efforts to diligently develop, manufacture, and sell Licensed Products;
  - (ii) achieve the milestones described in Exhibit B;
  - (iii) after [\*\*\*] from the Effective Date, annually spend not less than [\*\*\*] for the development of Licensed Products.

(b) If LICENSEE fails to perform any of its obligations specified in Paragraphs 3.3(a)(i)-(iii), then UNIVERSITY shall have the right and option to either terminate this Agreement or change LICENSEE's exclusive license under Patent Rights to a nonexclusive license. This right, if exercised by UNIVERSITY, supersedes the rights granted in Article 2. Notwithstanding the foregoing, the deadlines for the diligence milestones set forth shall be extended for up to [\*\*\*] by the length of any delay caused by a regulatory authority where such delay by the regulatory authority was not the result of the LICENSEE's actions or inactions and was not the result of LICENSEE's failure to abide by the regulatory authority's instructions or LICENSEE's failure to provide data to a regulatory authority in the form and manner required by such regulatory authority. In such event, UNIVERSITY agrees to discuss with LICENSEE revising the diligence obligations of LICENSEE with respect to the Licensed Product.

## **ARTICLE 4. REPORTS, RECORDS AND PAYMENTS**

### 4.1 **Reports.**

(a) **Progress Reports.**

Beginning [\*\*\*] after the Effective Date and within [\*\*\*] days after the end of each of LICENSEE's fiscal years until the first commercial sale, Licensee shall furnish UNIVERSITY with a written report on the progress of its efforts during the immediately preceding fiscal year to develop and commercialize Licensed Products. The report shall provide a discussion, [\*\*\*], of [\*\*\*]. LICENSEE's fiscal year begins on January 1st.

(b) **Royalty Reports.**

After the first commercial sale of a Licensed Product anywhere in the world, LICENSEE shall submit to UNIVERSITY annual royalty reports on or before [\*\*\*]. Each royalty report shall cover LICENSEE's (and each Affiliate's and Sublicensee's) most recently completed calendar year and shall show:

- (i) the date of first commercial sale of a Licensed Product in each country;
- (ii) the gross sales and Net Sales during the most recently completed calendar year and the royalties, in US dollars, payable with respect thereto;
- (iii) the number of each type of Licensed Product sold;

- (iv) Sublicense Fees and royalties received during the most recently completed calendar year in US dollars, payable with respect thereto;
- (v) the method used to calculate the royalties; and
- (vi) the exchange rates used.

If no sales of Licensed Products have been made and no Sublicense revenue has been received by LICENSEE during any reporting period, LICENSEE shall so report. The reports referred to in this Paragraph 4.1(b) should be marked with the following title and case number: [\*\*\*]. Reports shall be submitted as an attachment to UC SAN DIEGO's email address: [\*\*\*].

#### 4.2 Records & Audits.

(a) LICENSEE shall keep, and shall require its Affiliates and Sublicensees to keep, accurate and correct records of all Licensed Products manufactured, used, sold, offered for sale, and imported and Sublicense Fees received under this Agreement. Such records shall be retained by LICENSEE for at least [\*\*\*] following a given reporting period.

(b) All records shall be available during normal business hours for inspection at the expense of UNIVERSITY by UNIVERSITY's Internal Audit Department or by a Certified Public Accountant selected by UNIVERSITY and in compliance with the other terms of this Agreement for the sole purpose of verifying reports and payments or other compliance issues. Such inspector shall be subject to a reasonable confidentiality agreement and such inspector shall not disclose to UNIVERSITY any information other than information relating to the accuracy of reports and payments made under this Agreement or other compliance issues. In the event that any such inspection shows an under reporting and underpayment in excess of [\*\*\*] for any [\*\*\*] period, then LICENSEE shall pay the cost of the audit as well as any additional sum that would have been payable to UNIVERSITY had the LICENSEE reported correctly, plus an interest charge at a rate of [\*\*\*]. Such interest shall be calculated from the date the correct payment was due to UNIVERSITY up to the date when such payment is actually made by LICENSEE. For underpayment not in excess of [\*\*\*] for any [\*\*\*] period, LICENSEE shall pay the difference within [\*\*\*] without interest charge or inspection cost.

#### 4.3 Payments.

(a) All fees, reimbursements and royalties due UNIVERSITY shall be paid in United States dollars and all checks shall be made payable to [\*\*\*], and sent to UNIVERSITY according to Paragraph 10.1 (Correspondence).

##### (b) Royalty Payments.

(i) Royalties shall accrue when [\*\*\*].

(ii) LICENSEE shall pay earned royalties annually on or before [\*\*\*] of each calendar year. Each such payment shall be for earned royalties accrued within LICENSEE's most recently completed calendar year.

(c) **Late Payments.** In the event royalty, reimbursement and/or fee payments are not received by UNIVERSITY when due, LICENSEE shall pay to UNIVERSITY interest charges at a rate of [\*\*\*], or the highest rate allowed by law, whichever is higher. Such interest shall be calculated from [\*\*\*].



(d) **Taxes.** Taxes imposed by any governmental agency on any payments to be made to UNIVERSITY by LICENSEE hereunder shall be paid by LICENSEE without deduction from any payment due to UNIVERSITY hereunder.

## ARTICLE 5. PATENT MATTERS

### 5.1 Patent Prosecution and Maintenance.

- (a) Provided that LICENSEE has reimbursed UNIVERSITY for Patent Costs pursuant to Paragraph 3.2, UNIVERSITY shall diligently prosecute and maintain the United States and, if available, foreign patents, and applications in Patent Rights using counsel of its choice. For purposes of clarity, if LICENSEE is not current in reimbursing UNIVERSITY for such Patent Costs in accordance with the time period set forth in Section 3.2, UNIVERSITY shall have no obligation to incur any new Patent Costs under this Agreement or to further prosecute Patent Rights or file any new patent applications under Patent Rights. UNIVERSITY shall provide LICENSEE with copies of all relevant documentation relating to such prosecution and LICENSEE shall keep this documentation confidential. The counsel shall take instructions only from UNIVERSITY, and all patents and patent applications in Patent Rights shall be assigned solely to UNIVERSITY. UNIVERSITY shall take into good faith consideration any actions recommended by LICENSEE to protect the Licensed Products contemplated to be sold by LICENSEE under this Agreement. UNIVERSITY shall in any event control all patent filings and all patent prosecution decisions and related filings (e.g., responses to office actions) shall be at UNIVERSITY's final discretion (prosecution includes, but is not limited to, interferences, oppositions and any other *inter partes* or *ex parte* matters originating in a patent office).
- (b) Should LICENSEE elect to terminate its reimbursement obligations with respect to any patent application or patent in Patent Rights in a specific country, LICENSEE shall have no further license with respect to such Patent Rights under this Agreement for such country. Non-payment of any portion of Patent Costs with respect to any application or patent may be deemed by UNIVERSITY as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. UNIVERSITY is not obligated at any time to file, prosecute, or maintain Patent Rights in a country, where, for that country's patent application or patent LICENSEE is not paying Patent Costs, or to file, prosecute, or maintain Patent Rights to which LICENSEE has terminated its license hereunder.

## 5.2 Patent Infringement.

(a) If UC SAN DIEGO (based on actual knowledge of the licensing professional responsible for administering this Invention), or LICENSEE learns of potential infringement of commercial significance of any patent licensed under this Agreement, the knowledgeable party promptly will inform the other party of the infringement and provide evidence of infringement available to the knowledgeable party (“Infringement Notice”). In a jurisdiction where LICENSEE has exclusive rights under this Agreement, neither UNIVERSITY, nor LICENSEE will notify a third party (including the infringer) of infringement or put such third party on notice of the existence of any Patent Rights without first obtaining consent of the other. UNIVERSITY and LICENSEE agree to discuss and determine how best to proceed. If LICENSEE notifies a third party of infringement or puts such third party on notice of the existence of any Patent Rights regarding such infringement without first obtaining the written consent of UNIVERSITY and UNIVERSITY is sued for declaratory judgment (or its equivalent), UNIVERSITY will have the right to terminate this Agreement immediately, notwithstanding Paragraph 7.1. UNIVERSITY and LICENSEE will use diligent efforts to cooperate with each other to terminate such infringement without litigation. Subject to statutory deadlines, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, then LICENSEE may initiate suit (or earlier depending on an applicable statutory deadline to file); and, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, and LICENSEE has not initiated suit, then UNIVERSITY may initiate suit.

Notwithstanding the foregoing: (1) UNIVERSITY may not be joined in any suit without its prior written consent; (2) LICENSEE may not admit liability or wrongdoing on behalf of UNIVERSITY without its prior written consent; (3) Each party will cooperate with the other in litigation initiated under Paragraph 5.2, but at the expense of the party who initiated the suit; (4) If UNIVERSITY is joined in any suit under Paragraph 5.2, LICENSEE will pay all of UNIVERSITY’s costs; (5) If UNIVERSITY is a party to a suit under Paragraph 5.2, then the recovery to UNIVERSITY will be greater than or equal to [\*\*\*] of net recoveries; (6) Any agreement made by LICENSEE for purposes of settling litigation or other dispute regarding Patent Rights will comply with the requirements of Paragraph 2.2 (Sublicense); and (7) If LICENSEE or UC SAN DIEGO (but not both) sues a third party for infringement of Patent Rights, then the non-suing party may not thereafter sue such infringer for the acts of infringement raised in the suit.

## 5.3 Patent Marking.

LICENSEE shall mark all Licensed Products made, used, sold, offered for sale, or imported under the terms of this Agreement, or their containers, in accordance with the applicable patent marking laws. LICENSEE shall be responsible for all monetary and legal liabilities arising from or caused by (a) failure to abide by applicable patent marking laws and (b) any type of incorrect or improper patent marking.

## ARTICLE 6. EXPORT CONTROL AND REGISTRATION

6.1 **Export Control.** LICENSEE shall observe all applicable United States and foreign laws with respect to the transfer of Licensed Products, and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations and the Export Administration Regulations.

**6.2 Governmental Approval or Registration.** If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, LICENSEE shall assume all legal obligations to do so. LICENSEE shall make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

**6.3 Preference for United States Industry.** If LICENSEE sells a Licensed Product or Combination Product in the US, LICENSEE shall manufacture said product substantially in the US to the extent such is required under the applicable provisions of 35 U.S.C. §§200-212, unless a waiver is obtained from the appropriate governmental agency. UNIVERSITY agrees to provide all reasonable assistance to LICENSEE to apply for and obtain such a waiver.

## **ARTICLE 7. TERMINATION OR EXPIRATION OF THE AGREEMENT**

### **7.1 Termination by UNIVERSITY.**

- (a) UNIVERSITY may terminate this Agreement if LICENSEE:
  - (i) is delinquent on any report or payment;
  - (ii) is not diligently developing and commercializing Licensed Product in accordance with obligations under Section 3.3;
  - (iii) misses a milestone described in Exhibit B, subject to the provisions of Section 3.3(b);
  - (iv) is in breach of any provision;
  - (v) provides any intentionally misleading and false report; or
  - (vi) files a claim including in any way the assertion that any portion of UNIVERSITY's Patent Rights is invalid or unenforceable.
- (b) Termination under this Paragraph 7.1 will take effect [\*\*\*] after written notice by UNIVERSITY unless LICENSEE remedies the problem in that [\*\*\*].

### **7.2 Termination by LICENSEE.**

- (a) LICENSEE shall have the right at any time and for any reason to terminate this Agreement in whole or on a Licensed Product-by-Licensed Product, country-by-country basis, upon a [\*\*\*] written notice to UNIVERSITY. Said notice shall state LICENSEE's reason for terminating this Agreement.
- (b) Any termination under Paragraph 7.2(a) shall not relieve LICENSEE of any obligation or liability accrued under this Agreement prior to termination or rescind any payment made to UNIVERSITY or action by LICENSEE prior to the time termination becomes effective. Termination shall not affect in any manner any rights of UNIVERSITY arising under this Agreement prior to termination.

**7.3 Survival on Termination or Expiration.** The rights and obligations under Paragraphs and Articles 2.4 (Participation Rights), 3.1(a) (license issue fee), 4 (Reports, Records and Payments), 8 (Limited Warranty and Indemnification), 9 (Use of Names and Trademarks), 10.2 (Secrecy), 10.3 (Assignability), and 10.5 (Failure to Perform) shall survive the termination or expiration of this Agreement.

## ARTICLE 8. LIMITED WARRANTY AND INDEMNIFICATION

### 8.1 No Warranty.

- (a) The license granted herein is provided "AS IS" and without WARRANTY OF MERCHANTABILITY or WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or any other warranty, express or implied. UNIVERSITY makes no representation or warranty that the Licensed Product, or the use of Patent Rights will not infringe any other patent or other proprietary rights.

UNIVERSITY WILL NOT BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST BUSINESS, ENHANCED DAMAGES FOR INTELLECTUAL PROPERTY INFRINGEMENT, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ALL CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF UNIVERSITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ALSO, UNIVERSITY WILL NOT BE LIABLE FOR ANY DIRECT DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO PATENT RIGHTS TO THE EXTENT ASSIGNED, OR OTHERWISE LICENSED, BY UNIVERSITY'S INVENTORS TO THIRD PARTIES.

- (b) Nothing in this Agreement shall be construed as:

(i) a warranty or representation by UNIVERSITY as to the validity, enforceability, or scope of any Patent Rights;

(ii) a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or shall be free from infringement of patents of third parties;

(iii) an obligation to bring or prosecute actions or suits against third parties for patent infringement except as provided in Paragraph 5.2 hereof;

(iv) conferring by implication, estoppel or otherwise any license or rights under any patents of UNIVERSITY other than Patent Rights, or any technology, regardless of whether those patents are dominant or subordinate to Patent Rights; or

(v) an obligation to furnish any know-how not provided in Patent Rights.

**8.2 Indemnification and Insurance.**

(a) LICENSEE will, and will require Sublicensees to indemnify, hold harmless, and defend UNIVERSITY and its officers, employees, and agents; the sponsors of the research that led to the Invention; and the inventors of patents or patent applications under Patent Rights, and their employers (collectively, the "Indemnitees"); against any and all claims, suits, losses, damages, costs, fees, and expenses brought by third parties against such Indemnitees to the extent resulting from, or arising out of Licensee's exploitation of this license or any Sublicense. This indemnification will include, but will not be limited to, any product liability. Notwithstanding the foregoing, Licensee shall not be required to indemnify any Indemnitee to the extent such claim is due to the gross negligence or willful misconduct of an Indemnitee.

(b) LICENSEE, at its sole cost and expense, shall insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain insurance as follows:

(i) commercial general liability insurance (contractual liability included) with limits of at least:

[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]

If the above insurance is written on a claims-made form, it shall continue for [\*\*\*] following termination or expiration of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the Effective Date;

(ii) Worker's Compensation as legally required in the jurisdiction in which the LICENSEE is doing business; and

(iii) the coverage and limits referred to above shall not in any way limit the liability of LICENSEE.

(c) LICENSEE shall furnish UNIVERSITY with certificates of insurance showing compliance with all requirements. Such certificates shall:

(i) provide for [\*\*\*]' advance written notice to UNIVERSITY of any modification; (ii) indicate that UNIVERSITY has been endorsed as an additional insured party under the coverage referred to above; and (iii) include a provision that the coverage shall be primary and shall not participate with nor shall be excess over any valid and collectable insurance or program of self-insurance carried or maintained by UNIVERSITY.

(d) UNIVERSITY shall notify LICENSEE in writing of any claim or suit brought against UNIVERSITY in respect of which UNIVERSITY intends to invoke the provisions of this Article. LICENSEE shall keep UNIVERSITY informed on a current basis of its defense of any claims under this Article. LICENSEE will not settle any claim against UNIVERSITY without UNIVERSITY's written consent, where (a) such settlement would include any admission of liability or wrongdoing on the part of UNIVERSITY or other indemnified party, (b) such settlement would impose any restriction on UNIVERSITY /indemnified party's conduct of any of its activities, or (c) such settlement would not include an unconditional release of UNIVERSITY/indemnified party from all liability for claims that are the subject matter of the settled claim.

## ARTICLE 9. USE OF NAMES AND TRADEMARKS

9.1 Except as provided in 9.3, nothing contained in this Agreement confers any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of UNIVERSITY by LICENSEE without prior written approval by UNIVERSITY (including contraction, abbreviation or simulation of any of the foregoing). Unless required by law, the use by LICENSEE of the name, "The Regents of the University of California" or the name of any campus of the University of California in advertising, publicity, or other promotional activities is prohibited, without the express written consent of UNIVERSITY.

9.2 UNIVERSITY may disclose to the Inventors the terms and conditions of this Agreement upon their request. If such disclosure is made, UNIVERSITY shall request the Inventors not disclose such terms and conditions to others.

9.3 UNIVERSITY may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third parties, but UNIVERSITY shall not disclose the financial terms of this Agreement to third parties, except where UNIVERSITY is required by law to do so, such as under the California Public Records Act. LICENSEE hereby grants permission for UNIVERSITY (including UC SAN DIEGO) to include LICENSEE's name and a link to LICENSEE's website in UNIVERSITY's, and UC SAN DIEGO's annual reports and on UNIVERSITY's (including UC SAN DIEGO's) websites that showcase innovation and commercialization stories.

## ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 **Correspondence.** Any notice or payment required to be given to either party under this Agreement shall be deemed to have been properly given and effective:

- (a) on the date of delivery if delivered in person,
- (b) five (5) days after mailing if mailed by first-class or certified mail, postage paid, to the respective addresses given below, or to such other address as is designated by written notice given to the other party, or
- (c) upon confirmation by recognized national overnight courier, confirmed facsimile transmission, or confirmed electronic mail, to the following addresses or facsimile numbers of the parties.

If sent to LICENSEE:

[\*\*\*]with a copy to:

[\*\*\*]If sent to UNIVERSITY by mail:

[\*\*\*]If sent to UNIVERSITY by overnight delivery:

[\*\*\*]

## 10.2 **Secrecy.**

(a) "Confidential Information" shall mean information relating to the Invention and disclosed by UNIVERSITY to LICENSEE during the Term of this Agreement, which if disclosed in writing shall be marked "Confidential", or if first disclosed otherwise, shall within [\*\*\*] days of such disclosure be reduced to writing by UNIVERSITY and sent to LICENSEE.

(b) LICENSEE shall:

(i) use the Confidential Information for the sole purpose of performing under the terms of this Agreement;

(ii) safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own data of a similar nature;

(iii) not disclose Confidential Information to others (except to its employees, agents or consultants who are bound to LICENSEE by a like obligation of confidentiality) without the express written permission of UNIVERSITY, except that LICENSEE shall not be prevented from using or disclosing any of the Confidential Information that:

(A) LICENSEE can demonstrate by written records was previously known to it;

(B) is now, or becomes in the future, public knowledge other than through acts or omissions of LICENSEE;

(C) is lawfully obtained by LICENSEE from sources independent of UNIVERSITY; or

(D) is required to be disclosed by law or a court of competent jurisdiction.

(c) The secrecy obligations of LICENSEE with respect to Confidential Information shall continue for a period ending [\*\*\*] from the termination date of this Agreement.

(d) Notwithstanding the foregoing, UNIVERSITY may disclose to the Inventors, senior administrators employed by UNIVERSITY, and individual Regents the terms and conditions of this Agreement upon their request. If such disclosure is made, UNIVERSITY shall request the individuals not disclose such terms and conditions to others. UNIVERSITY may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third parties, but UNIVERSITY shall not disclose the negotiable financial terms of this Agreement to third parties, except where UNIVERSITY is required by law to do so, such as under the California Public Records Act.

10.3 **Assignability.** This Agreement may be assigned by UNIVERSITY, but is personal to LICENSEE and assignable by LICENSEE only with the written consent of UNIVERSITY; provided however that LICENSEE may assign this Agreement without consent to (i) an affiliate of LICENSEE or (ii) in connection with the sale of all or substantially all of the business (whether structured as a merger, asset sale, exclusive license or otherwise) to which this Agreement relates as long as the successor agrees to assume all the terms and conditions of this Agreement. Upon the first assignment of this Agreement by LICENSEE, LICENSEE shall pay UNIVERSITY a one-time fee. Such one-time fee shall be (i) a [\*\*\*] assignment fee if LICENSEE merges with, or assigns this Agreement to, a UNIVERSITY start-up company, including GenStem, that is currently up to date on payments, due diligence milestones, and that already has an assignment fee in at least one of its agreements signed with UC SAN DIEGO, or (ii) if in connection with such first assignment this Agreement is instead assigned to an entity which does not fulfill the criteria in (i), [\*\*\*] of the purchase price or a [\*\*\*] fee (whichever is greater) shall be paid to UNIVERSITY within [\*\*\*] days of such assignment.

10.4 **No Waiver.** No waiver by either party of any breach or default of any agreement set forth in this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default.

10.5 **Failure to Perform.** In the event of a failure of performance due under this Agreement and if it becomes necessary for either party to undertake legal action against the other on account thereof, then the prevailing party shall be entitled to reasonable attorneys' fees in addition to costs and necessary disbursements.

10.6 **Governing Laws.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

10.7 **Force Majeure.** A party to this Agreement may be excused from any performance required herein if such performance is rendered impossible or unfeasible due to any catastrophe or other major event beyond its reasonable control, including, without limitation, war, riot, and insurrection; laws, proclamations, edicts, ordinances, or regulations; strikes, lockouts, or other serious labor disputes; and floods, fires, explosions, or other natural disasters. When such events have abated, the non-performing party's obligations herein shall resume.

10.8 **Headings.** The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

10.9 **Entire Agreement.** This Agreement, including Exhibits A, B, C, and D embodies the entire understanding of the parties and supersedes all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.

10.10 **Amendments.** No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each party.

10.11 **Severability.** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been contained in it.



IN WITNESS WHEREOF, both UNIVERSITY and LICENSEE have executed this Agreement, in duplicate originals, by their respective and duly authorized officers on the day and year written.

**ARVC  
THERAPEUTICS, INC.:**

By: /s/ Jeffrey M. Ostrove, Ph.D.  
(Signature)

Jeffrey M. Ostrove, Ph.D.

CEO

Date: 4/23/2020

**THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA**

By: /s/ Donna Shaw, Ph.D.  
(Signature)

Donna Shaw, Ph.D.

Associate Director, Office of Innovation and  
Commercialization

Date: 4/23/2020

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**Exhibit A – Patent Rights**

[\*\*\*]

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**Exhibit B – Due Diligence Milestones**

[\*\*\*]

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

## LICENSE AGREEMENT

This agreement (“Agreement”) is entered into as of the date of last signature below (the “Effective Date”) by and between STELIOS THERAPEUTICS, INC., a Delaware corporation having an address at 1396 Rubenstein Avenue, Cardiff by the Sea, California 92007 (“LICENSEE”) and The Regents of the University of California, a California public corporation having its statewide administrative offices at 1111 Franklin Street, Oakland, California 94607-5200 (“UNIVERSITY”), represented by its San Diego campus having an address at University of California, San Diego, Office of Innovation and Commercialization, Mail Code 0910, 9500 Gilman Drive, La Jolla, California 92093-0910 (“UC SAN DIEGO”).

## BACKGROUND

A. The invention disclosed in UC SAN DIEGO Disclosure Docket No. [\*\*\*] (“Invention”) was made in the course of research at UC SAN DIEGO by [\*\*\*] (hereinafter and collectively, the “Inventors”) and are covered by Patent Rights as defined below.

B. LICENSEE is desirous of obtaining an exclusive license to Patent Rights and a non-exclusive license to Technology from UNIVERSITY for commercial development, use, and sale of the Invention, and the UNIVERSITY is willing to grant such rights.

The parties agree as follows:

## ARTICLE 1. DEFINITIONS

The terms, as defined herein, have the same meanings in both their singular and plural forms.

1.1 “Affiliate” means any corporation, firm, limited liability company, partnership or other entity that directly or indirectly Controls or is Controlled by or is under common control with LICENSEE. “Control” means (i) having the actual, present capacity to elect a majority of the directors of such entity; (ii) having the power to direct at least fifty percent (50%) of the voting rights entitled to elect directors; or (iii) in any country where the local law will not permit foreign equity participation of a majority, ownership or control, directly or indirectly, of the maximum percentage of such outstanding stock or voting rights permitted by local law.

1.2 “Commercially Reasonable Efforts” means exerting the efforts and employing the resources that would normally and objectively be exerted or employed by a similarly situated company in its industry for a product of similar market potential, profit potential and strategic value at a similar stage of its product life, taking into account the competitiveness of the relevant marketplace, the patent, intellectual property and development positions of third parties, the applicable regulatory situation, the pricing/reimbursement situation, the commercial viability of the product and other relevant development and commercialization factors based upon then-prevailing conditions. Commercially Reasonable Efforts shall in no case involve a shelving of the development, marketing or sale of Licensed Products or a suspension of the diligent pursuit of needed governmental approval for Licensed Products for a period longer than [\*\*\*].

1.3 “Field” means all diagnostic and therapeutic uses.

1.4 “Licensed Product” means any service, composition or product which is composed of or incorporates, or is directly or indirectly discovered, developed and/or identified using, the Technology, or that is covered by a valid claim in the Patent Rights, or the manufacture, use, sale, offer for sale, or importation of which would constitute, but for the license granted to LICENSEE under this Agreement, an infringement, an inducement to infringe or contributory infringement, of any pending or issued claim within the Patent Rights.

1.5 “Net Sales” means the total of the gross invoice prices of Licensed Products sold or leased by LICENSEE, Sublicensee, Affiliate, or any combination thereof, less the sum of the following actual and customary deductions where applicable and separately listed: cash, trade, or quantity discounts, credits, refunds or rebates (as allowed under applicable law); sales tax, use tax, tariff, custom and import/export duties or other excise taxes imposed on sales of Licensed Product (except for value-added and income taxes imposed on the sales of Licensed Product in foreign countries); transportation charges; and credits to customers, including allowances, charge backs or rebates actually granted because of rejections or returns. For purposes of calculating Net Sales, transfers to a Sublicensee or an Affiliate of Licensed Product under this Agreement for (a) end use (but not resale) by the Sublicensee or Affiliate shall be treated as sales by LICENSEE at list price of LICENSEE, or (b) resale by a Sublicensee or an Affiliate shall be treated as sales at the list price of the Sublicensee or Affiliate. Net Sales shall not include reasonable quantities of Licensed Products provided without charge for charitable, promotional, pre-clinical, clinical, regulatory, or governmental purposes.

1.6 “Patent Costs” means all out-of-pocket expenses for the preparation, filing, prosecution, and maintenance of all United States and foreign patents included in Patent Rights. Patent Costs include out-of-pocket expenses for patentability opinions, inventorship determination, preparation and prosecution of patent application, re-examination, re-issue, interference, post-grant review and other administrative proceedings in patent offices, and opposition activities, and the like, related to patents or applications in Patent Rights.

1.7 “Patent Rights” means UNIVERSITY’s rights in the claims of any of the following: (a) any patent or patent applications containing claims that cover the Inventions, (b) the U.S. patents and patent applications listed in Exhibit A; and (c) continuing applications thereof including divisions, substitutions, and continuations-in-part (but only to the extent the claims thereof are entirely supported in the specification and entitled to the priority date of the parent application); any patents issuing on said applications including reissues, reexaminations and extensions; and any corresponding foreign applications or patents covered by subsections (a) through (c) above.

1.8 “Sublicense” means an agreement into which LICENSEE enters with a third party that is not an Affiliate for the purpose of (a) granting certain rights; (b) granting an option to certain rights; or (c) forbearing the exercise of any rights, in each case granted to LICENSEE under this Agreement. “Sublicensee” means a third party with whom LICENSEE enters into a Sublicense.

1.9 “Sublicense Fees” means all upfront fees, milestone payments and similar license fees received by LICENSEE from its Sublicensees in consideration for the grant of a Sublicense, but excluding: (i) any royalty payments; (ii) payments for [\*\*\*]; (iii) [\*\*\*] and (iv) payments and reimbursement of [\*\*\*]. For the purpose of the above paragraph, [\*\*\*].

1.10 "Technology" means the written nonpublic technical information, if any, relating to the Invention which the Inventors provided to LICENSEE prior to the Effective Date and which is detailed in Exhibit C.

1.11 "Term" means the period of time beginning on the Effective Date and ending on the expiration date of the longest-lived Patent Rights.

1.12 "Territory" means (a) for Technology, worldwide, to the extent UNIVERSITY may lawfully grant such Technology rights; and (b) for Patent Rights, worldwide, to the extent Patent Rights exist in a respective jurisdiction.

1.13 "Valid Claim" means (a) any claim of an issued and unexpired patent of Patent Rights, which has not been finally rejected, revoked, or declared invalid or unenforceable by a patent office or court of competent jurisdiction by a decision, which is unappealable or unappealed or (b) any claim of a pending patent application of Patent Rights, which claim was filed and is prosecuted in good faith with the goal of ultimately reaching allowable claims and has not been disclaimed, abandoned, or finally disallowed without the possibility of appeal or refiling of such application.

## ARTICLE 2. GRANTS

2.1 **License.** Subject to the limitations set forth in this Agreement and to the extent that it may lawfully do so, UNIVERSITY hereby **grants** to LICENSEE an exclusive license under Patent Rights to make, use, sell, offer for sale, and import Licensed Products and a non-exclusive license to use Technology, in the Field within the Territory and during the Term. LICENSEE may extend such license to its AFFILIATES, provided that LICENSEE will be responsible for such AFFILIATES.

### 2.2 **Sublicense.**

(a) The license granted in Paragraph 2.1 includes the right of LICENSEE to grant Sublicenses to third parties during the Term but only for as long as [\*\*\*].

(b) With respect to Sublicense granted pursuant to Paragraph 2.2(a), LICENSEE shall:

(i) not [\*\*\*] for the license grant under Sublicense [\*\*\*];

(ii) to the extent applicable, include all the rights of and obligations due to UNIVERSITY and contained in this Agreement;

(iii) promptly provide UNIVERSITY with a copy of each Sublicense issued which may be reasonably redacted; and

(iv) collect and guarantee payment of all payments due, directly or indirectly, to UNIVERSITY from Sublicensees and summarize and deliver all reports due, directly or indirectly, to UNIVERSITY from Sublicensees.

(c) Upon termination of this Agreement for any reason, UNIVERSITY, at its sole discretion, shall determine whether LICENSEE shall cancel or assign to UNIVERSITY any and all Sublicenses; provided, however, that if the Sublicensee requests an assignment, UNIVERSITY will accept such assignment of the Sublicense, provided (i) that the Sublicensee is in good standing upon termination of this Agreement; (ii) [\*\*\*]; and (iii) to the extent UNIVERSITY is legally able to accept such assignment. In no case, however, will UNIVERSITY be bound by duties and obligations contained in any Sublicense that extends beyond the duties and obligations of the UNIVERSITY set forth in this Agreement. For the avoidance of doubt, AFFILIATES' rights extended by LICENSEE also terminate upon termination of this Agreement.

2.3 **Reservation of Rights.** UNIVERSITY reserves the right to:

- (a) use the Invention, Technology, and Patent Rights for educational and research purposes;
- (b) publish or otherwise disseminate any information about the Invention, Technology, and Patent Rights at any time; and
- (c) allow other nonprofit institutions to use, publish, or otherwise disseminate any information about Invention, Technology, and Patent Rights for educational and research purposes.

**ARTICLE 3. CONSIDERATION**

3.1 **Fees and Royalties.** The parties hereto understand that the fees and royalties payable by LICENSEE to UNIVERSITY under this Agreement are partial consideration for the license granted herein to LICENSEE under Technology and Patent Rights. LICENSEE shall pay UNIVERSITY:

- (a) a license issue fee of twenty thousand dollars (US\$20,000), no later than [\*\*\*] after the Effective Date;

This Paragraph 3.1(a) will survive the termination, expiration or assignment of this Agreement.

- (b) the following license maintenance fees per year and payable on the [\*\*\*] of the Effective Date and annually thereafter on each anniversary; provided however, that (i) such maintenance fees will be creditable against earned royalties in any given payment period and (ii) LICENSEE's obligation to pay this fee shall end on the date when LICENSEE is commercially selling a Licensed Product

<u>Maintenance Fee</u>	<u>Anniversary</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

- (c) LICENSEE shall pay UNIVERSITY the following milestone payments within [\*\*\*] of achievement for each time such event occurs with regard to [\*\*\*]:

<u>Amount</u>	<u>Event</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

- (d) During the Term, LICENSEE shall pay UNIVERSITY an earned royalty of [\*\*\*] on annual Net Sales of Licensed Products by LICENSEE, Sublicensees, and/or Affiliates; provided, however, that in the event LICENSEE is required to pay royalties to one or more third parties for patent rights necessary to make, use or sell Licensed Products, LICENSEE may deduct [\*\*\*] from the earned royalties payable to UNIVERSITY for every [\*\*\*] LICENSEE actually pays to said third parties; provided, however, in no event shall the amount payable to UNIVERSITY be less than [\*\*\*] of the amount otherwise due; and

(e) [\*\*\*] of all Sublicense Fees until [\*\*\*], at which time the percentage of Sublicense Fees due to UNIVERSITY shall be reduced to [\*\*\*].

All fees and royalty payments specified in Paragraphs 3.1(a) through 3.1(e) above shall be paid by LICENSEE pursuant to Paragraph 4.3 and shall be delivered by LICENSEE to UNIVERSITY as noted in Paragraph 10.1.

3.2 **Patent Costs.** LICENSEE shall reimburse UNIVERSITY for all past (prior to the Effective Date) Patent Costs and future (on or after the Effective Date) Patent Costs incurred in the Territory within [\*\*\*] following the date an itemized invoice is sent from UNIVERSITY to LICENSEE. [\*\*\*].

### 3.3 Due Diligence.

(a) LICENSEE shall, either directly or through its Affiliate(s) or Sublicensee(s) use Commercially Reasonable Efforts to:

(i) diligently develop, manufacture, and sell Licensed Products; and

(ii) achieve the milestones described in Exhibit B.

(b) If LICENSEE fails to perform any of its obligations specified in Paragraphs 3.3(a)(i)-(ii), then UNIVERSITY shall have the right and option to either terminate this Agreement or change LICENSEE's exclusive license under Patent Rights to a nonexclusive license. This right, if exercised by UNIVERSITY, supersedes the rights granted in Article 2. Notwithstanding the foregoing, the deadlines for the diligence milestones set forth in Paragraph 3.3.(a) shall be extended for up to two (2) years by the proportionate length of any delay caused by an applicable regulatory authority where such delay by the applicable regulatory authority was not the result of the LICENSEE's actions or inactions and was not the result of LICENSEE's failure to abide by the applicable regulatory authority's instructions or LICENSEE's failure to provide data to the applicable regulatory authority in the form and manner required by such regulatory authority. For clarity, any extension of a diligence milestone will automatically extend each subsequent diligence milestone by the same amount of time.

## ARTICLE 4. REPORTS, RECORDS AND PAYMENTS

### 4.1 Reports.

(a) **Progress Reports.** Beginning [\*\*\*] after the Effective Date and within [\*\*\*] after the end of each of LICENSEE's fiscal years until the first commercial sale of a Licensed Product, Licensee shall furnish UNIVERSITY with a written report on the progress of its efforts during the immediately preceding fiscal year to develop and commercialize Licensed Products. The report shall provide a discussion, [\*\*\*], of [\*\*\*]. LICENSEE's fiscal year begins on January 1.

(b) **Royalty Reports.** After the first commercial sale of a Licensed Product anywhere in the world, LICENSEE shall submit to UNIVERSITY annual royalty reports on or before [\*\*\*]. Each royalty report shall cover LICENSEE's (and each Affiliate's and Sublicensee's) most recently completed calendar year and shall show:

(i) the date of first commercial sale of a Licensed Product in each country;



- (ii) the gross sales, deductions as provided in Paragraph 1.4 (Net Sales), and Net Sales during the most recently completed calendar year and the royalties, in US dollars, payable with respect thereto;
- (iii) the number of each type of Licensed Product sold;
- (iv) Sublicense Fees and royalties received during the most recently completed calendar year in US dollars, payable with respect thereto;
- (v) the method used to calculate the royalties; and
- (vi) the exchange rates used.

If no sales of Licensed Products have been made and no Sublicense Fees have been received by LICENSEE during any reporting period, LICENSEE shall so report. The reports referred to in this Paragraph 4.1(b) should be marked with the following title and case number: [\*\*\*] Reports shall be submitted as an attachment to UC SAN DIEGO's email address: [\*\*\*].

#### 4.2 Records & Audits.

(a) LICENSEE shall keep, and shall require its Affiliates and Sublicensees to keep, accurate and correct records of all Licensed Products manufactured, used, sold, offered for sale, and imported and Sublicense Fees received under this Agreement. Such records shall be retained by LICENSEE for at least [\*\*\*] following a given reporting period.

(b) All records shall be available during normal business hours for inspection at the expense of UNIVERSITY by UNIVERSITY's Internal Audit Department or by a Certified Public Accountant selected by UNIVERSITY and in compliance with the other terms of this Agreement for the sole purpose of verifying reports and payments or other compliance issues. Such inspector shall be subject to a confidentiality agreement with LICENSEE and such inspector shall not disclose to UNIVERSITY any information other than information relating to the accuracy of reports and payments made under this Agreement or other compliance issues. In the event that any such inspection shows an under reporting and underpayment in excess of [\*\*\*] for any [\*\*\*], then LICENSEE shall pay the cost of the audit as well as any additional sum that would have been payable to UNIVERSITY had the LICENSEE reported correctly, plus an interest charge at a rate of [\*\*\*] per year. Such interest shall be calculated from the date the correct payment was due to UNIVERSITY up to the date when such payment is actually made by LICENSEE. For underpayment not in excess of [\*\*\*] for any [\*\*\*], LICENSEE shall pay the difference within [\*\*\*] without interest charge or inspection cost.

#### 4.3 Payments.

(a) All fees, reimbursements and royalties due UNIVERSITY shall be paid in United States dollars and all checks (should payment by wire not be possible) shall be made payable to[\*\*\*], and sent to UNIVERSITY according to Paragraph 10.1 (Correspondence).

(b) **Royalty Payments.** Royalties shall accrue when [\*\*\*]. LICENSEE shall pay earned royalties annually on or before February 28 of each calendar year. Each such payment shall be for earned royalties accrued within LICENSEE's most recently completed calendar year.

(c) **Late Payments.** In the event royalty, reimbursement and/or fee payments are not received by UNIVERSITY when due, LICENSEE shall pay to UNIVERSITY interest charges at a rate of [\*\*\*]. Such interest shall be calculated from [\*\*\*].

(d) **Taxes.** Taxes imposed by any governmental agency on any payments to be made to UNIVERSITY by LICENSEE hereunder shall be paid by LICENSEE without deduction from any payment due to UNIVERSITY hereunder.

## **ARTICLE 5. PATENT MATTERS**

### **5.1 Patent Prosecution and Maintenance.**

(a) Provided that LICENSEE has reimbursed UNIVERSITY for Patent Costs pursuant to Paragraph 3.2, UNIVERSITY shall diligently prosecute and maintain the United States and, if available, foreign patents, and applications in Patent Rights using counsel of its choice. For purposes of clarity, if LICENSEE is not current in reimbursing UNIVERSITY for such Patent Costs in accordance with the time period set forth in Section 3.2, UNIVERSITY shall have no obligation to incur any new Patent Costs under this Agreement or to further prosecute Patent Rights or file any new patent applications under Patent Rights. UNIVERSITY shall provide LICENSEE with copies of all relevant documentation relating to such prosecution and LICENSEE shall keep this documentation confidential. The counsel shall take instructions only from UNIVERSITY, and all patents and patent applications in Patent Rights shall be assigned solely to UNIVERSITY. UNIVERSITY shall take into consideration any actions recommended by LICENSEE to protect the Licensed Products contemplated to be sold by LICENSEE under this Agreement. UNIVERSITY shall in any event control all patent filings and all patent prosecution decisions and related filings (e.g., responses to office actions) shall be at UNIVERSITY's final discretion (prosecution includes, but is not limited to, interferences, oppositions and any other inter partes or ex parte matters originating in a patent office).

(b) Should LICENSEE elect to terminate its reimbursement obligations with respect to any patent application or patent in Patent Rights, LICENSEE shall have no further license with respect to such Patent Rights under this Agreement. Non-payment of any portion of Patent Costs with respect to any application or patent may be deemed by UNIVERSITY as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. UNIVERSITY is not obligated at any time to file, prosecute, or maintain Patent Rights in a country, where, for that country's patent application or patent LICENSEE is not paying Patent Costs, or to file, prosecute, or maintain Patent Rights to which LICENSEE has terminated its license hereunder.

### **5.2 Patent Infringement.**

(a) If UC SAN DIEGO (based on actual knowledge of the licensing professional responsible for administering this Invention) or LICENSEE learns of potential infringement of commercial significance of any patent licensed under this Agreement, the knowledgeable party promptly will inform the other party of the infringement and provide evidence of infringement available to the knowledgeable party ("Infringement Notice"). In a jurisdiction where LICENSEE has exclusive rights under this Agreement, neither UNIVERSITY nor LICENSEE will notify a third party (including the infringer) of infringement or put such third party on notice of the existence of any Patent Rights without first obtaining consent of the other. UNIVERSITY and LICENSEE agree to discuss and determine how best to proceed. If LICENSEE notifies a third party of infringement or puts such third party on notice of the existence of any Patent Rights regarding such infringement without first obtaining the written consent of UNIVERSITY and UNIVERSITY is sued for declaratory judgment (or its equivalent), UNIVERSITY will have the right to terminate this Agreement immediately, notwithstanding Paragraph 7.1. UNIVERSITY and LICENSEE will use diligent efforts to cooperate with each other to terminate such infringement without litigation. Subject to statutory deadlines, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, then LICENSEE may initiate suit (or earlier depending on an applicable statutory deadline to file); and, if such infringement has not ended within [\*\*\*] of the effective date of the Infringement Notice, and LICENSEE has not initiated suit, then UNIVERSITY may initiate suit.

(b) Notwithstanding the foregoing: (1) UNIVERSITY may not be joined in any suit without its prior written consent; (2) LICENSEE may not admit liability or wrongdoing on behalf of UNIVERSITY without its prior written consent; (3) Each party will cooperate with the other in litigation initiated under Paragraph 5.2, but at the expense of the party who initiated the suit; (4) If UNIVERSITY is joined in any suit under Paragraph 5.2, LICENSEE will pay all of UNIVERSITY's costs; (5) If UNIVERSITY is a party to a suit under Paragraph 5.2, then the recovery to UNIVERSITY will be greater than or equal to [\*\*\*] of net recoveries; (6) Any agreement made by LICENSEE for purposes of settling litigation or other dispute regarding Patent Rights will comply with the requirements of Paragraph 2.2 (Sublicense); and (7) If LICENSEE or UC SAN DIEGO (but not both) sues a third party for infringement of Patent Rights, then the non-suing party may not thereafter sue such infringer for the acts of infringement raised in the suit.

### 5.3 Patent Marking.

LICENSEE shall mark all Licensed Products made, used, sold, offered for sale, or imported under the terms of this Agreement, or their containers, in accordance with the applicable patent marking laws. LICENSEE shall be responsible for all monetary and legal liabilities arising from or caused by (a) failure to abide by applicable patent marking laws and (b) any type of incorrect or improper patent marking.

## ARTICLE 6. EXPORT CONTROL AND REGISTRATION

6.1 **Export Control.** LICENSEE shall observe all applicable United States and foreign laws with respect to the transfer of Licensed Products, Technology, and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations and the Export Administration Regulations.

6.2 **Governmental Approval or Registration.** If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, LICENSEE shall assume all legal obligations to do so. LICENSEE shall make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

## ARTICLE 7. TERMINATION OR EXPIRATION OF THE AGREEMENT

### 7.1 Termination by UNIVERSITY.

(a) UNIVERSITY may terminate this Agreement if LICENSEE:

- (i) is delinquent on any report or payment;
- (ii) is not diligently developing and commercializing Licensed Product in accordance with obligations under Section 3.3;
- (iii) misses a milestone described in Exhibit B, subject to the provisions of Section 3.3(b);
- (iv) is in breach of any provision;
- (v) provides any intentionally false report; or

(vi) files a claim including in any way the assertion that any portion of UNIVERSITY's Patent Rights is invalid or unenforceable.

(b) Termination under this Paragraph 7.1 will take effect [\*\*\*] after written notice by UNIVERSITY unless LICENSEE remedies the problem in that [\*\*\*] period.

#### **7.2 Termination by LICENSEE.**

(a) LICENSEE shall have the right at any time and for any reason to terminate this Agreement in whole or on a Licensed Product-by-Licensed Product, country-by-country basis, upon a [\*\*\*] written notice to UNIVERSITY. Said notice shall state LICENSEE's reason for terminating this Agreement.

(b) Any termination under Paragraph 7.2(a) shall not relieve LICENSEE of any obligation or liability accrued under this Agreement prior to termination or rescind any payment made to UNIVERSITY or action by LICENSEE prior to the time termination becomes effective. Termination shall not affect in any manner any rights of UNIVERSITY arising under this Agreement prior to termination.

**7.3 Survival on Termination or Expiration.** The rights and obligations under Paragraphs and Articles 3.1(a) (license issue fee), 4 (Reports, Records and Payments), 8 (Limited Warranty and Indemnification), 9 (Use of Names and Trademarks), 10.2 (Secrecy), 10.3 (Assignability), and 10.5 (Failure to Perform) shall survive the termination or expiration of this Agreement.

### **ARTICLE 8. LIMITED WARRANTY AND INDEMNIFICATION**

#### **8.1 No Warranty.**

(a) The license granted herein and the associated Technology are provided "AS IS" and without WARRANTY OF MERCHANTABILITY or WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or any other warranty, express or implied. UNIVERSITY makes no representation or warranty that the Licensed Product or the use of Patent Rights or Technology will not infringe any other patent or other proprietary rights.

UNIVERSITY WILL NOT BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST BUSINESS, ENHANCED DAMAGES FOR INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION OF TECHNOLOGY, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ALL CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF UNIVERSITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ALSO, UNIVERSITY WILL NOT BE LIABLE FOR ANY DIRECT DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, OR AFFILIATES ARISING OUT OF OR RELATED TO PATENT RIGHTS TO THE EXTENT ASSIGNED, OR OTHERWISE LICENSED, BY UNIVERSITY'S INVENTORS TO THIRD PARTIES.

(b) Nothing in this Agreement shall be construed as:

- (i) a warranty or representation by UNIVERSITY as to the validity, enforceability, or scope of any Patent Rights or Technology;
- (ii) a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or shall be free from infringement of patents of third parties;
- (iii) an obligation to bring or prosecute actions or suits against third parties for patent infringement or misappropriation of Technology except as provided in Paragraph 5.2 hereof;
- (iv) conferring by implication, estoppel or otherwise any license or rights under any patents of UNIVERSITY other than Patent Rights, or any technology other than Technology, regardless of whether those patents are dominant or subordinate to Patent Rights;
- (v) an obligation to furnish any know-how not provided in Patent Rights and Technology; or
- (vi) an obligation to update or provide assistance regarding Technology.

## **8.2 Indemnification.**

(a) LICENSEE will, and will require Sublicensees to, indemnify, hold harmless, and defend UNIVERSITY and its officers, employees, and agents; the sponsors of the research that led to the Invention and Technology; and the creators of Technology and inventors of patents or patent applications under Patent Rights, and their employers (collectively, the "Indemnitees"); against any and all claims, suits, losses, damages, costs, fees, and expenses brought by third parties against such Indemnitees to the extent resulting from, or arising out of Licensee's exercise of this license or any Sublicense. This indemnification will include, but will not be limited to, any product liability. Notwithstanding the foregoing, Licensee shall not be required to indemnify any Indemnitee to the extent such claim is due to the gross negligence or willful misconduct of an Indemnitee in with the exercise of this Agreement.

(b) UNIVERSITY shall notify LICENSEE in writing of any claim or suit brought against UNIVERSITY in respect of which UNIVERSITY intends to invoke the provisions of this Article. LICENSEE shall keep UNIVERSITY informed on a current basis of its defense of any claims under this Article. LICENSEE will not settle any claim against UNIVERSITY without UNIVERSITY's written consent, where (a) such settlement would include any admission of liability or wrongdoing on the part of UNIVERSITY or other indemnified party, (b) such settlement would impose any restriction on UNIVERSITY/indemnified party's conduct of any of its activities, or (c) such settlement would not include an unconditional release of UNIVERSITY/indemnified party from all liability for claims that are the subject matter of the settled claim.

## **8.3 Insurance.**

(a) LICENSEE, at its sole cost and expense, shall insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain insurance as follows:

- (i) commercial general liability insurance (contractual liability included) with limits of at least: [\*\*\*]

If the above insurance is written on a claims-made form, it shall continue for [\*\*\*] following termination or expiration of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the Effective Date;

- (ii) Worker's Compensation as legally required in the jurisdiction in which the LICENSEE is doing business; and

(iii) the coverage and limits referred to above shall not in any way limit the liability of LICENSEE.

(b) LICENSEE shall furnish UNIVERSITY with certificates of insurance showing compliance with all requirements. Such certificates shall: (i) provide for [\*\*\*] advance written notice to UNIVERSITY of any modification; (ii) indicate that UNIVERSITY has been endorsed as an additional insured party under the coverage referred to above; and (iii) include a provision that the coverage shall be primary and shall not participate with nor shall be excess over any valid and collectable insurance or program of self-insurance carried or maintained by UNIVERSITY.

#### ARTICLE 9. USE OF NAMES AND TRADEMARKS

Nothing contained in this Agreement confers any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of UNIVERSITY by LICENSEE without prior written approval by UNIVERSITY (including contraction, abbreviation or simulation of any of the foregoing). LICENSEE hereby grants permission for UNIVERSITY (including UC SAN DIEGO) to include LICENSEE's name and a link to LICENSEE's website in UNIVERSITY's and UC SAN DIEGO's annual reports and on UNIVERSITY's (including UC SAN DIEGO's) websites that showcase innovation and commercialization stories.

#### ARTICLE 10. MISCELLANEOUS PROVISIONS

**10.1 Correspondence.** Any notice or payment required to be given to either party under this Agreement shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person, (b) five (5) days after mailing if mailed by first-class or certified mail, postage paid, to the respective addresses given below, or to such other address as is designated by written notice given to the other party, or (c) upon confirmation by recognized national overnight courier, confirmed facsimile transmission, or confirmed electronic mail, to the following addresses or facsimile numbers of the parties.

If sent to LICENSEE:

[\*\*\*]

*with a copy to:*

[\*\*\*]

If sent to UNIVERSITY by mail:

[\*\*\*]

If sent to UNIVERSITY by overnight delivery:

[\*\*\*]

#### 10.2 Secrecy.

(a) "Confidential Information" shall mean information relating to the Invention and disclosed by UNIVERSITY to LICENSEE during the Term, which if disclosed in writing shall be marked "Confidential", or if first disclosed otherwise, shall within [\*\*\*] of such disclosure be reduced to writing by UNIVERSITY and sent to LICENSEE. The Technology will be deemed to be Confidential Information.

(b) LICENSEE shall:

- (i) use the Confidential Information for the sole purpose of performing under the terms of this Agreement;
- (ii) safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own data of a similar nature;
- (iii) not disclose Confidential Information to others (except to its employees, agents or consultants who are bound to LICENSEE by a like obligation of confidentiality) without the express written permission of UNIVERSITY, except that LICENSEE shall not be prevented from using or disclosing any of the Confidential Information that:
  - (A) LICENSEE can demonstrate by written records was previously known to it;
  - (B) is now, or becomes in the future, public knowledge other than through acts or omissions of LICENSEE;
  - (C) is lawfully obtained by LICENSEE from sources independent of UNIVERSITY; or
  - (D) is required to be disclosed by law or a court of competent jurisdiction.

(c) The secrecy obligations of LICENSEE with respect to Confidential Information shall continue for a period ending [\*\*\*] from the termination date of this Agreement.

(d) Notwithstanding the foregoing, UNIVERSITY may disclose to the Inventors, senior administrators employed by UNIVERSITY, and individual Regents the terms and conditions of this Agreement upon their request. If such disclosure is made, UNIVERSITY shall request the individuals not disclose such terms and conditions to others. UNIVERSITY may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third parties, but UNIVERSITY shall not disclose the negotiable financial terms of this Agreement to third parties, except where UNIVERSITY is required by law to do so, such as under the California Public Records Act.

**10.3 Assignability.** This Agreement may be assigned by UNIVERSITY, but is personal to LICENSEE and assignable by LICENSEE only with the written consent of UNIVERSITY; provided however that LICENSEE may assign this Agreement without the written consent of University to (i) an Affiliate of LICENSEE or (ii) an acquirer of all or substantially all of the business (whether structured as a merger, asset sale, exclusive license or otherwise) to which this Agreement relates as long as (a) such acquirer agrees to assume all the terms and conditions of this Agreement and (b) solely with respect to the first assignment of this Agreement, within [\*\*\*] of such assignment, LICENSEE or such acquirer shall pay UNIVERSITY an assignment fee equal to the greater of (x) [\*\*\*] of the acquisition price or (y) [\*\*\*].

**10.4 No Waiver.** No waiver by either party of any breach or default of any agreement set forth in this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default.

**10.5 Failure to Perform.** In the event of a failure of performance due under this Agreement and if it becomes necessary for either party to undertake legal action against the other on account thereof, then the prevailing party shall be entitled to reasonable attorneys' fees in addition to costs and necessary disbursements.

**10.6 Governing Laws.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

10.7 **Force Majeure.** A party to this Agreement may be excused from any performance required herein if such performance is rendered impossible or unfeasible due to any catastrophe or other major event beyond its reasonable control, including, without limitation, war, riot, and insurrection; laws, proclamations, edicts, ordinances, or regulations; strikes, lockouts, or other serious labor disputes; and floods, fires, explosions, or other natural disasters. When such events have abated, the non-performing party's obligations herein shall resume.

10.8 **Headings.** The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

10.9 **Entire Agreement.** This Agreement, including Exhibits A and B, embodies the entire understanding of the parties and supersedes all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.

10.10 **Amendments.** No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each party.

10.11 **Severability.** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been contained in it.

10.12 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which together will constitute one and the same Agreement. For purposes of executing this Agreement, a facsimile (including a PDF image delivered via email) copy of this Agreement, including the signature pages, will be deemed an original. The parties agree that neither party will have any rights to challenge the use or authenticity of a counterpart of this Agreement based solely on that its signature, or the signature of the other party, on such counterpart is not an original signature.

*IN WITNESS WHEREOF*, both UNIVERSITY and LICENSEE have executed this Agreement by their respective and duly authorized officers on the day and year written

STELIOS THERAPEUTICS, INC.:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

By: /s/ Jeffrey M. Ostrove  
(Signature)

By: /s/ Donna Shaw, Ph.D.  
(Signature)

Name: Jeffrey M. Ostrove

Donna Shaw, Ph.D.

Title: CEO

Associate Director, Office of Innovation and Commercialization

Date: 8/6/2020

Date: 8/5/2020



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Exhibit A – Patent Rights

[\*\*\*]

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Exhibit B – Due Diligence Milestones

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[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Execution Version

### **RESEARCH AGREEMENT**

This Agreement is made by and between Lexeo Therapeutics, Inc. (“Company”) with offices at 430 East 29th Street, 14th Floor, New York, NY 10016, and The Regents of the University of California on behalf of its San Diego campus, having its office at 9500 Gilman Drive, La Jolla, CA 92093-0934, (“University”), (each may be individually referred to as a “Party” and collectively, as the “Parties”), effective as of the date of last signature below (“Effective Date”).

WHEREAS, it is in the mutual interest of Company and University that research be conducted on a project entitled [\*\*\*];

WHEREAS, Company desires to financially support said Project at University;

NOW, THEREFORE, the Parties agree as follows:

1. **SCHEDULE** - The Project shall be conducted in accordance with the scope of work attached hereto as Exhibit A (the “Scope of Work” or “SOW”), which SOW is incorporated into this Agreement by this reference solely for the purpose of describing the scope of work to be performed under this Agreement. The term of this Agreement shall be for two years from the Effective Date (the “Term”), unless sooner terminated as herein provided. The Term may be extended or renewed by the parties’ formal Amendment to this Agreement, as signed by an officer or designated authorized representative of both Parties, in accordance with Section 18(h) of this Agreement.
2. **BUDGET** - Company shall support the Project by a grant of USD\$ [\*\*\*] (the “Total Budget Amount”), representing support of [\*\*\*] toward Program 1: [\*\*\*], and [\*\*\*] toward Program 2: [\*\*\*]. The grant amount shall cover all direct and indirect costs of the Project, as set forth in the budget (the “Budget”) attached hereto as part of Exhibit A and incorporated into this cost-reimbursable Agreement. If at any time the Project Working Group has reason to believe that the cost of the Project will be greater than the Total Budget Amount, University shall notify Company immediately in writing to that effect, and shall provide a revised budget of the cost of completion of the Project, together with its justification for such increase, with such notice. Sponsor shall not be obligated to reimburse University for the costs incurred in excess of the Total Budget Amount unless and until Sponsor has notified University in writing that the revised budget is accepted via formal Amendment to this Agreement (the “Revised Total Budget Amount”). Upon expenditure of the Total Budget Amount or the Revised Total Budget Amount, as applicable, University’s obligation to continue performance of the Project shall cease and the Project shall be deemed to be terminated as of the date that University ceases performance of the Project.
3. **PAYMENT** - Upon execution of this Agreement, the University will submit an advance payment invoice to Company for the advancement to University of University’s estimated reimbursable expenses, shown by major categories, to be incurred by the University to perform the Project during the first three months after the Effective Date (the “Initial Payment”). The Initial Payment shall be due within [\*\*\*] after Company’s receipt of the applicable invoice.

Payment shall be made to “The Regents of the University of California” and sent to the following address if by mail:

[\*\*\*]

Checks being delivered via courier (e.g., FedEx) shall be sent to the following address:

[\*\*\*]

University shall forward invoices to Company at the following address:

[\*\*\*]

At least [\*\*\*] thereafter, the University will submit an advance payment invoice to Company to request that the University be advanced the estimated reimbursable costs shown by major cost categories for the ensuing [\*\*\*]. Company will make the payment to the University within [\*\*\*] of receipt of the invoice. The total amount requested in any advance payment invoice will not, together with amounts already paid by Company pursuant to prior advance payment invoices, exceed the Total Budget Amount or the Revised Total Budget Amount, as applicable.

From the Effective Date until [\*\*\*] days after the completion of the Project, Company may at any time request that University provide a formal report of expenditures shown by major cost categories in accordance with the budget justification in Exhibit A (“Budget Justification”). In addition, University shall provide Company with supporting documentation for the expenditures set forth in the most recent Budget Justification provided by University within [\*\*\*] days after (a) the [\*\*\*] of the Effective Date; and (b) notice of termination of this Agreement is given by either Party or on the date of expiration of this Agreement, as applicable.

4. **PRINCIPAL INVESTIGATOR** - The research is to be conducted by University under the direction of [\*\*\*] (“Principal Investigator”) who will be responsible for the direction of the Project, including all budgeting, in accordance with applicable University policies. If the Principal Investigator becomes unable to continue to conduct the Study for reasons beyond the Principal Investigator’s reasonable control, or if the Principal Investigator leaves the employment of the University, and the University and Company do not agree on a qualified replacement principal investigator, either Party may terminate this Agreement with [\*\*\*] written notice to the other Party pursuant to Section 17.

5. **PROJECT WORKING GROUP**

- a. *Specific Responsibilities.* The Project Working Group will be comprised of representatives of University and Company (“PWG”) and will meet to discuss the Project at least [\*\*\*] (or as otherwise agreed to by the PWG) and at Company’s additional expense, if in person, to (i) coordinate activities relating to the Project between University and Weill Cornell, (ii) review and discuss the Project activities and any Research Results (defined below). (iii) review any proposed changes to the scope of work for the Project, the timeline for the Project and/or the Project budget, including approving the updated budget for the subsequent year on or prior to [\*\*\*], (iv) ensure the Parties are

working in good faith together on the Project and communicating on a regular basis; (v) subject each milestone to verification of acceptability by Company to ensure that such milestone was performed pursuant to the requirements set forth in the Scope of Work, (vi) determine whether any adjustments to the Total Budget Amount or the Revised Total Budget Amount as applicable are necessary based on progress to date on the Project, and (vii) perform such other functions as appropriate, to further the purposes of this Agreement, in each case as may be assigned to the Parties pursuant to this Agreement or as may be agreed to in writing by all of the Parties by formal Amendment of this Agreement. Each Party will determine on a PWC meeting-by-PWC meeting basis which of its representatives will attend.

## 6. CONFIDENTIALITY

- a. Confidential Information. “Confidential Information” means any information which is disclosed by or on behalf of one Party (“Disclosing Party”) to the other Party (“Receiving Party”) in the performance of the Project under this Agreement and which is marked as “Confidential” at the time of disclosure, or (i) in the case of oral disclosures, identified at the time of such oral disclosure as confidential and reduced to writing and marked as “Confidential” within [\*\*\*] days of oral disclosure; (ii) if not marked, information is regarded as “Confidential” if a reasonable person in the relevant field would consider such information to be the Institution’s confidential information given its content and the circumstances of the disclosure. The confidentiality obligations set forth in this Section 6 do not apply to any information that: (a) was known to the Receiving Party prior to its receipt from Disclosing Party as shown by contemporaneous evidence, (b) is independently developed by the Receiving Party without use of or reference to the Confidential Information of Disclosing Party, (c) becomes known generally to the public at any time through no fault of Receiving Party, or (d) was disclosed to Receiving Party by a third party whom Receiving Party reasonably believed to have a right to disclose the information. The Receiving Party will use the Disclosing Party’s Confidential Information solely for the purposes of the Project.
- b. Duty to Safeguard Confidential Information. Receiving Party will maintain the Disclosing Party’s Confidential Information in confidence, except that Receiving Party may disclose or permit disclosure of any of the Disclosing Party’s Confidential Information to its directors, officers, employees, and agents who need to know such Confidential Information to conduct the Project and who are subject to confidentiality obligations with respect to the Confidential Information no less restrictive than those set forth herein as a condition of their employment. Receiving Party will promptly, upon discovery of any disclosure or use of Disclosing Party’s Confidential Information not authorized hereunder, notify Disclosing Party and take reasonable steps to prevent any further unauthorized disclosure or unauthorized use of Disclosing Party’s Confidential Information. Notwithstanding the foregoing, Receiving Party may disclose Disclosing Party’s Confidential Information pursuant to an order of a court or other governmental authority of competent jurisdiction, provided that the Receiving Party (a) promptly notifies Disclosing Party of such order, (b) gives Disclosing Party an opportunity to oppose such disclosure, and (iii) takes reasonable efforts to minimize the disclosure of such Confidential Information.

- c. Company Materials. Company may, from time to time, provide, or request a third party to provide, University with biological, chemical or physical materials for use in the Project, (the "Materials"). The Materials will be deemed to be confidential and proprietary to Company for purposes of this Agreement and shall be held securely by University. Accordingly, University will not (a) transfer or permit the transfer of the Materials to any third party or (b) modify or create derivatives or improvements or permit the modification of or creation of derivatives of, or improvements on, the Materials without Company's prior written consent, and will use the Materials solely for purposes of conducting the Project as described in the SOW.
- d. Rights in Confidential Information and Materials. As between the Parties, Disclosing Party is and will remain the exclusive owner of its Confidential Information. Company, or the applicable owner, is and will remain the exclusive owner of the Company's Confidential Information disclosed by or on behalf of Company and the Materials provided by or on behalf of Company to University under this Agreement and all preexisting intellectual property rights therein prior to the Effective Date, and all intellectual property rights in which any of the foregoing obtains on or after the Effective Date but separate and apart from the Project. No option, license, or conveyance of such rights to University or any third party regarding the Confidential Information or Materials is granted or implied under this Agreement.

#### **7. RIGHTS IN DATA AND REPORTING**

Subject to Paragraph 6 ("Confidentiality") of this Agreement, University shall have the right to copyright, publish, disclose, disseminate and use, in whole and in part, any data and information developed by University. University will deliver to Company reports of data from the Project in a format and frequency as mutually agreed to between the Principal Investigator and the Company ("Research Results") no less frequently than once every [\*\*\*]. The Principal Investigator will submit written reports summarizing the research conducted under the Project to Company once each calendar quarter during the Term and will submit a comprehensive final report summarizing key supporting data and additional analyses for the preceding studies (collectively; the "Research Reporting") to Company within [\*\*\*] days of the earlier of (a) completion of the Project and (b) the expiration or termination of this Agreement. Subject to University's first right to publish in accordance with Section 9 of this Agreement, University hereby grants to Company an exclusive, worldwide, perpetual, sublicensable, irrevocable, transferable, fully paid-up, royalty-free license under University's interest in the Research Results and Research Reporting to use, reproduce, modify, adapt, translate, distribute, perform and display the Research Results and Research Reporting for any purposes.

ALL INFORMATION, DATA AND REPORTS ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

8. USE OF NAME/PUBLICITY - It is agreed by each Party that it will not under any circumstance use the name of the other Party or its employees in any advertisement, press release or publicity with reference to this Agreement, without prior written approval of the other Party.

9. **PUBLICATION** - University shall have the first right to publish the results of the work conducted by University under this Agreement to the extent such results do not contain Confidential Information of Company, provided, Company has the opportunity to review and comment on any proposed manuscripts, abstracts, presentations, or other publications (a "Publication") describing said work at least [\*\*\*] days prior to the intended date of submission for publication. University agrees to reasonably consider Company's comments prior to publication, provided that, if Company notifies University within such [\*\*\*] that such proposed Publication contains Confidential Information of Company, University will delete such Confidential Information prior to publication. Notwithstanding the foregoing, if the proposed Publication contains patentable information, University will, if requested by Company, (a) withhold publication for up to an additional [\*\*\*] to allow for the filing of patent applications in accordance with Section 10 or (b) at University's option, delete such information and publish as set forth herein.

10. **PATENT RIGHTS** - Inventorship of inventions, developments or discoveries arising from research conducted under this Agreement shall be determined in accordance with inventorship under United States Patent Law, Title 35 United States Code. Ownership shall follow inventorship.

- a. **Company Inventions** - All rights to inventions or discoveries made, developed, created, conceived, reduced to practice or invented hereunder solely by Company's or its Affiliates employees or agents or representatives (each, a "Company Invention") without use of the University employees or facilities shall belong to Company. Notwithstanding the foregoing and anything to the contrary set forth herein, if Company provides any Materials to University that are proprietary to Company and/or any third party ("Proprietary Materials"), Company and University hereby agree to use best efforts to determine an appropriate and fair allocation of ownership of inventions or discoveries using or incorporating such Proprietary Materials upon disclosure of such inventions or discoveries to the University, taking into consideration factors such as whether the contribution or use of such Proprietary Materials or Confidential Information of Company results in a new vector construct or materially increases the functionality or activity of a vector construct developed by the Principal Investigator prior to receipt of such Proprietary Materials or Confidential Information.
- b. **University Inventions** - All rights to inventions made or invented hereunder solely by University's employees or agents (each, a "University Invention") shall belong to the University and shall be disposed of in accordance with University policy.
- c. **Joint Inventions** - All rights to inventions made or invented hereunder jointly by or on behalf of employees or agents from both University and Company whether or not at the University facility (each, a "Joint Invention") shall be jointly-owned by Company and University.
- d. **Procedures**
  - i. University will make prompt written disclosure to Company of all University Inventions and Joint Inventions. Company shall treat disclosures of University Inventions as Confidential Information of University in accordance with the obligations set forth in Section 6.



- ii. To the extent legally able, University shall grant to Company a royalty-free license to develop, make, use, sell, offer for sale, import, commercialize and otherwise exploit University's interest in any University Inventions or Joint Inventions that necessarily use or necessarily incorporate Materials or Confidential Information.
  - iii. Upon such written disclosure, during the Negotiation Period set forth in Section 10(e) or if Company has exercised its Option under Section 10(e) of this Agreement and University does not intend to file a patent for protection of University Invention(s), then upon Company's request and expense, University agrees to file the necessary papers for obtaining patent protection for such University Invention in any and all countries of the world which Company determines are of sufficient interest to merit such filing, provided that Company shall bear all costs for such filing and reimburse University of its reasonable costs related thereto.
  - iv. Unless otherwise agreed to by the Parties, patent applications relating to a Joint Invention will be filed, prosecuted and maintained by Company. [\*\*\*]. University and Company will together select independent patent counsel satisfactory to both parties to prepare and prosecute any such applications.
  - v. Patent applications relating to a Company Invention will be filed, prosecuted and maintained by Company, [\*\*\*], using patent counsel acceptable to Company in its sole discretion.
  - vi. With respect to patent applications filed pursuant to Section 10(d)(iii), both parties will have the right to review and comment upon applications and correspondence with the relevant patent office and will be provided with drafts thereof sufficiently in advance to reasonably allow for such review and comment.
  - vii. University agrees that it will cause to be signed by concerned University personnel all documents of assignment or other documents necessary to obtain patent protection as set forth herein, and that University will do whatever Company reasonably requests to obtain and maintain such patent rights as required by this Agreement, at the reasonable expense of Company.
  - viii. If Company elects not to have a patent application filed in any country with respect to a particular Joint Invention, Company will advise University of such fact within [\*\*\*] days from the date such invention was disclosed to Company by University. University may then, at its own expense, file and prosecute a patent application claiming such invention, and such patent application and any patents issuing therefrom will not be included within the license option granted to Company pursuant to Section 10(e), and University will be free to license its rights in such patent application and any resulting patent to any party upon prior written notice to Company.
- e. License; Option. To the extent legally able, the University hereby grants Company a first right to obtain a non-exclusive or exclusive (at the election of Company in its sole discretion), royalty-bearing, perpetual and transferable worldwide license, with the right to grant sublicenses through multiple tiers, to University's interest in any University Invention or in any Joint Invention ("Option"). Company shall advise University in

writing within [\*\*\*] of any disclosure made to the Company pursuant to Section 10(d)(i) of a University Invention or Joint Invention whether or not it wishes to exercise the Option. During such Option period, in the event University does not intend to file a patent for protection of the University Invention, then upon Company's request, University agrees to file patent application(s) of such University Invention provided that Company shall bear all costs for such filing and reimburse University for its reasonable costs related thereto. The Parties will have [\*\*\*] from the date of election to negotiate and conclude an exclusive license agreement (as may be extended as set forth in this Section 10(e), the "Negotiation Period"). Such period may be further extended by mutual written agreement of the parties. Such license shall contain reasonable terms and shall require diligent performance by Company for the timely commercial development and early marketing of such inventions, and include Company's continuing obligation to pay patent costs. If the license has not been concluded within the period described above, rights to the University Inventions and Joint Inventions disclosed hereunder shall be disposed of in accordance with University policies, with no further obligation to Company; provided that University will not enter into an agreement with a third party regarding the sale or license of such University Inventions on terms that are materially more favorable to the third party than those terms last offered to Company for one year after the negotiations between Company and University are terminated. For clarity, during and before the Negotiation Period described above, with respect to a particular University Invention, to the extent legally able, University shall not grant to any third party any rights in or otherwise encumber such University Invention in any manner that would prevent University from granting to Company an exclusive license as contemplated hereunder.

#### **11. INDEMNIFICATION**

- a. Company shall defend, indemnify and hold University, its directors, officers, agents, and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages brought by a third party arising out of the performance of this Agreement by Company, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of, or a material breach of this Agreement by, Company, its directors, officers, agents or employees.
- b. University shall defend, indemnify and hold Company, its directors, officers, agents and, employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages brought by a third party arising out of the performance of this Agreement by University, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of, or a material breach of this Agreement by, University, its directors, officers, agents, or employees.

12. **INDEMNIFICATION PROCEDURE** - The Parties' indemnification obligations set forth in Section 11 are conditioned upon the Party claiming indemnification thereunder (the "Indemnified Party") (a) promptly notifying the other Party (the "Indemnifying Party") of a claim (provided, however, that failure to provide such notice will relieve the Indemnifying Party from its liability or

obligation hereunder only to the extent of any material prejudice as a direct result of such failure); (b) promptly giving the Indemnifying Party the right to control and direct the investigation, preparation, defense and settlement of such claim with counsel of the Indemnifying Party's own choosing; and (c) giving assistance and full cooperation for the defense of same. Without limiting the foregoing, the Indemnified Party will have the right to reasonably participate, at its own expense, in the defense or settlement of any claim.

13. **LIMIT OF LIABILITY** - EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS AND DAMAGES AND LIABILITIES ARISING OUT A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS OR INTELLECTUAL PROPERTY OBLIGATIONS, IN NO EVENT WILL EITHER PARTY, EMPLOYEES, OFFICERS, AGENTS OR REPRESENTATIVES BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR LOST PROFITS, REGARDLESS OF WHETHER THE PARTY WAS ADVISED, HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY OF THE FOREGOING.

13. **SUPPLIES AND EQUIPMENT** - In the event that University purchases equipment hereunder, title to such equipment shall vest in University.

14. **EXCUSABLE DELAYS** - In the event of a delay caused by inclement weather, fire, flood, strike or other labor dispute, act of God, act of governmental officials or agencies, or any other cause beyond the reasonable control of a Party, such Party shall be excused from performance hereunder for the period of time attributable to such delay as set forth in this Section 15, which may extend beyond the time lost due to one or more of the causes mentioned above. In the event of any such delay, this Agreement may be revised by changing the Budget, performance period and other provisions, as appropriate, by mutual agreement of the parties.

15. **NOTICE** - Notices shall be deemed given when: (a) sent by email; (b) delivered personally; (b) sent by confirmed facsimile; or (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid. Whenever any notice is to be given hereunder, it shall be in writing and sent to the following address:

University: [\*\*\*]

Company: [\*\*\*]

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

[\*\*\*]

16. **TERMINATION** - This Agreement may be terminated early by Company at any time upon the giving of [\*\*\*] prior written notice to University. Written notice of early termination shall be directed to the appropriate individual named in Section 16 of this Agreement. Upon the giving of notice of early termination by Company, as of the effective termination date, University shall exert its best efforts to terminate any outstanding commitments. Should University have costs incurred by it for all work performed through the effective early termination date, including outstanding obligations which cannot be canceled and that are not covered by the payments already received in accordance with Exhibit A Company shall reimburse University for all remaining costs. University shall

furnish, within [\*\*\*] of the effective date of early termination, a final invoice for settlement of all remaining costs to be reimbursed or if the final Budget Justification and supporting document delivered by University pursuant to Section 3 indicates that University has not utilized all of the advance payment made by Company during the Term then University shall promptly refund to Company such amounts. Upon the giving of notice of termination by University, as of the effective termination date Company shall have no additional liability for any costs or obligations. If this cost-reimbursable Agreement expires in accordance with Section 1, the obligations in this Section 17 do not apply to either Company or University. Each Party's obligations of confidentiality with respect to the other's Party's Confidential Information will survive for a period of [\*\*\*] following the termination or expiration of this Agreement. Upon termination of this Agreement. Receiving Party shall, at Disclosing Party's option and expense, either return or destroy any Materials in University's possession and the other Party's Confidential Information provided, however, that the Receiving Party may retain one copy of Confidential Information in a secure location for purposes of compliance with this Agreement and Applicable Law.

#### 17. MISCELLANEOUS

- a. Severability. In the event that any provision of this Agreement is found to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable, as mutually negotiated in good faith between the Parties, and the remainder shall continue in effect, to the extent consistent with the intent of the Parties as of the Effective Date.
- b. Relationship of the Parties. Nothing in this Agreement shall be construed to place the parties in an agency, employment, franchise, joint venture, or partnership relationship. Neither Party shall have the authority to obligate or bind the other in any manner, and, with the exception of third party Indemnified Parties, nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third parties. Neither Party shall represent to the contrary, either expressly, implicitly or otherwise.
- c. Governing Law. All disputes, claims or controversies arising out of this Agreement, or the negotiation, validity or performance of this Agreement or the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the State of California without regard to its rules of conflict of laws.
- d. Assignment: Binding Effect. Neither Party may assign this Agreement in whole or in part without the prior written consent of the other Party, except that a Party may make such an assignment without the other Party's consent to its Affiliates or to a third party successor of, or transferee to, assets of such Party to which this Agreement relates. whether in a merger, sale of stock, sale of assets or other transaction.
- e. No Waiver. Failure by either Party to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision.
- f. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

- g. Construction. This Agreement has been negotiated by each of the Parties and each of their respective counsel. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either Party. All notices, communications and discussions pertaining to this Agreement, whether oral or written, shall be conducted in the English language, including any enforcement proceedings.
- h. Complete Agreement. This Agreement, including the exhibits hereto, which are hereby incorporated into this Agreement by this reference, constitutes the entire agreement between the parties with respect to the subject matter hereof. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments or quotations, except for agreements UC reference #s [\*\*\*] and [\*\*\*] and clarification purposes. Nothing in this Agreement will affect the rights already granted in prior License Agreements UC reference [\*\*\*]. For clarity purposes, royalties and any licensing terms included those License Agreements shall still apply. This Agreement may not be modified or waived, in whole or part, except in writing and signed by an officer or duly authorized representative of both Parties.

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have each caused its duly authorized representative to execute and deliver this Agreement as of the Effective Date.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ON  
BEHALF OF ITS SAN DIEGO CAMPUS

LEXIO THERAPEUTICS, INC.

By: /s/ Suzanne Wolff  
(signature)

Name: Suzanne Wolff  
Title: Principal Contract Officer  
Date: 12/3/2021

By: /s/ R. Nolan Townsend  
(signature)

Name: R. Nolan Townsend  
Title: CEO  
Date: 12/3/2021

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**Exhibit A: Scope of Work and Budget**

[\*\*\*]

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**Exhibit B:**

[\*\*\*]



**FIRST AMENDMENT TO THE RESARCH AGREEMENT BETWEEN  
LEXEO THERAPEUTICS, INC.  
AND  
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
ON BEHALF OF ITS SAN DIEGO CAMPUS**

This First Amendment (“**Amendment**”) by and between Lexeo Therapeutics, Inc. located at 345 Park Avenue South, Sixth Floor, New York, NY 10010 (“**Sponsor**”) and The Regents of the University of California on behalf of its San Diego Campus, located at 9500 Gilman Drive #0934, La Jolla, CA 92093-0934 (“**Institution**”) is made and effective as of the last date of signature (“**Effective Date**”).

WHEREAS, Sponsor and Institution entered into the Research Agreement, effective on December 3, 2021 (“**Agreement**”), to conduct a research project entitled [\*\*\*] (“**Project**”);

WHEREAS Sponsor and Institution mutually desire to amend the Agreement as set forth below;

NOW THEREFORE, in consideration of the premises and mutual covenants herein, the parties agree as follows:

1. Section 3, Payment, Sentence 5 shall be deleted and replaced with the following:  
University shall forward invoices to Company at the following address:  
[\*\*\*]  
[\*\*\*]  
[\*\*\*]
2. Section 16, Notice, “**Company**” and the addresses that follow shall be deleted and replaced with the following:  
Company: [\*\*\*]  
[\*\*\*]  
[\*\*\*]
3. Exhibit A: Scope of Work and Budget shall be deleted and replaced with the attached Exhibit A: Updated Scope of Work and Budget.
4. Capitalized terms used herein that are not otherwise defined shall have the same meanings ascribed to such terms in the Agreement;
5. If the terms of the Agreement in any way conflict with or are otherwise inconsistent with the terms of this Amendment, the terms of this Amendment shall govern and control.
6. Except as modified herein, the above-referenced Agreement shall remain in full force and effect and is hereby incorporated by references. The Agreement, as amended and modified, constitutes the entire agreement and understanding between the parties.

7. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the Effective Date.

**THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA,**

**LEXEO THERAPEUTICS, INC.**

**on behalf of its San Diego Campus**

*/s/ Samantha Friedman*

\_\_\_\_\_  
Name: Samantha Friedman

Title: Principal Manager

Date: 4/5/2023

*/s/ R. Nolan Townsend*

\_\_\_\_\_  
Name: R. Nolan Townsend

Title: Chief Executive Officer

Date: 4/5/2023

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Exhibit A: Updated Scope of Work and Budget

\*\*\*

[ \*\*\* ] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Execution Version

## **RESEARCH AGREEMENT**

This Agreement is made by and between Lexeo Therapeutics, Inc. (“Company”) with offices at 430 East 29th Street, 14th Floor, New York, NY 10016, and The Regents of the University of California on behalf of its San Diego campus, having its office at 9500 Gilman Drive, La Jolla, CA 92093-0934, (“University”), (each may be individually referred to as a “Party” and collectively, as the “Parties”), effective as of the date of last signature below (“Effective Date”).

WHEREAS, it is in the mutual interest of Company and University that research be conducted on a project entitled [\*\*\*];

WHEREAS, Company desires to financially support said Project at University;

NOW, THEREFORE, the Parties agree as follows:

1. **SCHEDULE** - The Project shall be conducted in accordance with the scope of work attached hereto as Exhibit A (the “Scope of Work” or “SOW”), which SOW is incorporated into this Agreement by this reference solely for the purpose of describing the scope of work to be performed under this Agreement. The term of this Agreement shall be for two years from the Effective Date (the “Term”), unless sooner terminated as herein provided. The Term may be extended or renewed by the parties’ formal Amendment to this Agreement, as signed by an officer or designated authorized representative of both Parties, in accordance with Section 18(h) of this Agreement.
2. **BUDGET** - Company shall support the Project by a grant of [\*\*\*]. The grant amount shall cover all direct and indirect costs of the Project, as set forth in the budget (the “Budget”) attached hereto as part of Exhibit A and incorporated into this cost-reimbursable Agreement. If at any time the Project Working Group has reason to believe that the cost of the Project will be greater than the Total Budget Amount, University shall notify Company immediately in writing to that effect, and shall provide a revised budget of the cost of completion of the Project, together with its justification for such increase, with such notice. Sponsor shall not be obligated to reimburse University for the costs incurred in excess of the Total Budget Amount unless and until Sponsor has notified University in writing that the revised budget is accepted via formal Amendment to this Agreement (the “Revised Total Budget Amount”). Upon expenditure of the Total Budget Amount or the Revised Total Budget Amount, as applicable, University’s obligation to continue performance of the Project shall cease and the Project shall be deemed to be terminated as of the date that University ceases performance of the Project.
3. **PAYMENT** - Upon execution of this Agreement, the University will submit an advance payment invoice to Company for the advancement to University of University’s estimated reimbursable expenses, shown by major categories, to be incurred by the University to perform the Project during [\*\*\*] (the “Initial Payment”). The Initial Payment shall be due within [\*\*\*] after Company’s receipt of the applicable invoice.

Payment shall be made to “The Regents of the University of California” and sent to the following address if by mail:

[\*\*\*]

Checks being delivered via courier (e.g., FedEx) shall be sent to the following address:

[\*\*\*]

University shall forward invoices to Company at the following address:

[\*\*\*]

At least [\*\*\*], the University will submit an advance payment invoice to Company to request that the University be advanced the estimated reimbursable costs shown by major cost categories for the ensuing [\*\*\*]. Company will make the payment to the University within [\*\*\*] of receipt of the invoice. The total amount requested in any advance payment invoice will not, together with amounts already paid by Company pursuant to prior advance payment invoices, exceed the Total Budget Amount or the Revised Total Budget Amount, as applicable.

From the Effective Date until [\*\*\*] after the completion of the Project, Company may at any time request that University provide a formal report of expenditures shown by major cost categories in accordance with the budget justification in Exhibit A (“Budget Justification”). In addition, University shall provide Company with supporting documentation for the expenditures set forth in the most recent Budget Justification provided by University within [\*\*\*] after (a) the [\*\*\*]; and (b) notice of termination of this Agreement is given by either Party or on the date of expiration of this Agreement, as applicable.

**4. PRINCIPAL INVESTIGATOR** - The research is to be conducted by University under the direction of [\*\*\*] (“Principal Investigator”) who will be responsible for the direction of the Project, including all budgeting, in accordance with applicable University policies. If the Principal Investigator becomes unable to continue to conduct the Study for reasons beyond the Principal Investigator’s reasonable control, or if the Principal Investigator leaves the employment of the University, and the University and Company do not agree on a qualified replacement principal investigator, either Party may terminate this Agreement with [\*\*\*]’ written notice to the other Party pursuant to Section 17.

**5. PROJECT WORKING GROUP**

- a. *Specific Responsibilities.* The Project Working Group will be comprised of representatives of University and Company (“PWG”) and will meet to discuss the Project at least [\*\*\*] (or as otherwise agreed to by the PWG) and at Company’s additional expense, if in person, to (i) coordinate activities relating to the Project between University and Weill Cornell, (ii) review and discuss the Project activities and any Research Results (defined below), (iii) review any proposed changes to the scope of work for the Project, the timeline for the Project and/or the Project budget, including approving the updated budget for the subsequent year on or prior to [\*\*\*], (iv) ensure the Parties are working in good faith together on the Project and communicating on a regular basis; (v) subject each milestone to verification of acceptability by Company to ensure that such milestone was performed pursuant to the requirements set forth in the Scope of Work, (vi) determine whether any adjustments to the Total Budget Amount or the Revised Total Budget Amount as applicable are necessary based on progress to date on the Project, and

(vii) perform such other functions as appropriate, to further the purposes of this Agreement, in each case as may be assigned to the Parties pursuant to this Agreement or as may be agreed to in writing by all of the Parties by formal Amendment of this Agreement. Each Party will determine on a PWC meeting-by-PWC meeting basis which of its representatives will attend.

## 6. CONFIDENTIALITY

- a. Confidential Information. “Confidential Information” means any information which is disclosed by or on behalf of one Party (“Disclosing Party”) to the other Party (“Receiving Party”) in the performance of the Project under this Agreement and which is marked as “Confidential” at the time of disclosure, or (i) in the case of oral disclosures, identified at the time of such oral disclosure as confidential and reduced to writing and marked as “Confidential” within [\*\*\*] of oral disclosure; (ii) if not marked, information is regarded as “Confidential” if a reasonable person in the relevant field would consider such information to be the Institution’s confidential information given its content and the circumstances of the disclosure. The confidentiality obligations set forth in this Section 6 do not apply to any information that: (a) was known to the Receiving Party prior to its receipt from Disclosing Party as shown by contemporaneous evidence, (b) is independently developed by the Receiving Party without use of or reference to the Confidential Information of Disclosing Party, (c) becomes known generally to the public at any time through no fault of Receiving Party, or (d) was disclosed to Receiving Party by a third party whom Receiving Party reasonably believed to have a right to disclose the information. The Receiving Party will use the Disclosing Party’s Confidential Information solely for the purposes of the Project.
- b. Duty to Safeguard Confidential Information. Receiving Party will maintain the Disclosing Party’s Confidential Information in confidence, except that Receiving Party may disclose or permit disclosure of any of the Disclosing Party’s Confidential Information to its directors, officers, employees, and agents who need to know such Confidential Information to conduct the Project and who are subject to confidentiality obligations with respect to the Confidential Information no less restrictive than those set forth herein as a condition of their employment. Receiving Party will promptly, upon discovery of any disclosure or use of Disclosing Party’s Confidential Information not authorized hereunder, notify Disclosing Party and take reasonable steps to prevent any further unauthorized disclosure or unauthorized use of Disclosing Party’s Confidential Information. Notwithstanding the foregoing, Receiving Party may disclose Disclosing Party’s Confidential Information pursuant to an order of a court or other governmental authority of competent jurisdiction, provided that the Receiving Party (a) promptly notifies Disclosing Party of such order, (b) gives Disclosing Party an opportunity to oppose such disclosure, and (iii) takes reasonable efforts to minimize the disclosure of such Confidential Information.
- c. Company Materials. Company may, from time to time, provide, or request a third party to provide, University with biological, chemical or physical materials for use in the Project, (the “Materials”). The Materials will be deemed to be confidential and proprietary to Company for purposes of this Agreement and shall be held securely by University. Accordingly, University will not (a) transfer or permit the transfer of the Materials to any third party or (b) modify or create derivatives or improvements or permit the modification of or creation of derivatives of, or improvements on, the Materials without Company’s prior written consent, and will use the Materials solely for purposes of conducting the Project as described in the SOW.

- d. **Rights in Confidential Information and Materials.** As between the Parties, Disclosing Party is and will remain the exclusive owner of its Confidential Information. Company, or the applicable owner, is and will remain the exclusive owner of the Company's Confidential Information disclosed by or on behalf of Company and the Materials provided by or on behalf of Company to University under this Agreement and all preexisting intellectual property rights therein prior to the Effective Date, and all intellectual property rights in which any of the foregoing obtains on or after the Effective Date but separate and apart from the Project. No option, license, or conveyance of such rights to University or any third party regarding the Confidential Information or Materials is granted or implied under this Agreement.

## **7. RIGHTS IN DATA AND REPORTING**

Subject to Paragraph 6 ("Confidentiality") of this Agreement, University shall have the right to copyright, publish, disclose, disseminate and use, in whole and in part, any data and information developed by University. University will deliver to Company reports of data from the Project in a format and frequency as mutually agreed to between the Principal Investigator and the Company ("Research Results") no less frequently than once every [\*\*\*]. The Principal Investigator will submit written reports summarizing the research conducted under the Project to Company once each calendar quarter during the Term and will submit a comprehensive final report summarizing key supporting data and additional analyses for the preceding studies (collectively, the "Research Reporting") to Company within [\*\*\*] of the earlier of (a) completion of the Project and (b) the expiration or termination of this Agreement. Subject to University's first right to publish in accordance with Section 9 of this Agreement, University hereby grants to Company an exclusive, worldwide, perpetual, sublicensable, irrevocable, transferable, fully paid-up, royalty-free license under University's interest in the Research Results and Research Reporting to use, reproduce, modify, adapt, translate, distribute, perform and display the Research Results and Research Reporting for any purposes.

ALL INFORMATION, DATA AND REPORTS ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

8. **USE OF NAME/PUBLICITY** - It is agreed by each Party that it will not under any circumstance use the name of the other Party or its employees in any advertisement, press release or publicity with reference to this Agreement, without prior written approval of the other Party.

9. **PUBLICATION** - University shall have the first right to publish the results of the work conducted by University under this Agreement to the extent such results do not contain Confidential Information of Company, provided, Company has the opportunity to review and comment on any proposed manuscripts, abstracts, presentations, or other publications (a "Publication") describing said work at least [\*\*\*] prior to the intended date of submission for publication. University agrees to reasonably consider Company's comments prior to publication, provided that, if Company notifies University within such [\*\*\*] period that such proposed Publication contains Confidential Information of Company, University will delete such Confidential Information prior to publication. Notwithstanding the foregoing, if the proposed Publication contains patentable information, University will, if requested by Company, (a) withhold publication for up to an additional [\*\*\*] to allow for the filing of patent applications in accordance with Section 10 or (b) at University's option, delete such information and publish as set forth herein.

10. **PATENT RIGHTS** - Inventorship of inventions, developments or discoveries arising from research conducted under this Agreement shall be determined in accordance with inventorship under United States Patent Law, Title 35 United States Code. Ownership shall follow inventorship.

- a. Company Inventions - All rights to inventions or discoveries made, developed, created, conceived, reduced to practice or invented hereunder solely by Company's or its Affiliates employees or agents or representatives (each, a "Company Invention") without use of the University employees or facilities shall belong to Company. Notwithstanding the foregoing and anything to the contrary set forth herein, if Company provides any Materials to University that are proprietary to Company and/or any third party ("Proprietary Materials"), Company and University hereby agree to use best efforts to determine an appropriate and fair allocation of ownership of inventions or discoveries using or incorporating such Proprietary Materials upon disclosure of such inventions or discoveries to the University, taking into consideration factors such as whether the contribution or use of such Proprietary Materials or Confidential Information of Company results in a new vector construct or materially increases the functionality or activity of a vector construct developed by the Principal Investigator prior to receipt of such Proprietary Materials or Confidential Information.
- b. University Inventions - All rights to inventions made or invented hereunder solely by University's employees or agents (each, a "University Invention") shall belong to the University and shall be disposed of in accordance with University policy.
- c. Joint Inventions - All rights to inventions made or invented hereunder jointly by or on behalf of employees or agents from both University and Company whether or not at the University facility (each, a "Joint Invention") shall be jointly-owned by Company and University.
- d. Procedures
  - i. University will make prompt written disclosure to Company of all University Inventions and Joint Inventions. Company shall treat disclosures of University Inventions as Confidential Information of University in accordance with the obligations set forth in Section 6.
  - ii. To the extent legally able, University shall grant to Company a royalty-free license to develop, make, use, sell, offer for sale, import, commercialize and otherwise exploit University's interest in any University Inventions or Joint Inventions that necessarily use or necessarily incorporate Materials or Confidential Information.
  - iii. Upon such written disclosure, during the Negotiation Period set forth in Section 10(e) or if Company has exercised its Option under Section 10(e) of this Agreement and University does not intend to file a patent for protection of University Invention(s), then upon Company's request and expense, University agrees to file the necessary papers for obtaining patent protection for such University Invention in any and all countries of the world which Company determines are of sufficient interest to merit such filing, provided that Company shall bear all costs for such filing and reimburse University of its reasonable costs related thereto.



- iv. Unless otherwise agreed to by the Parties, patent applications relating to a Joint Invention will be filed, prosecuted and maintained by Company, [\*\*\*]. University and Company will together select independent patent counsel satisfactory to both parties to prepare and prosecute any such applications.
  - v. Patent applications relating to a Company Invention will be filed, prosecuted and maintained by Company, [\*\*\*], using patent counsel acceptable to Company in its sole discretion.
  - vi. With respect to patent applications filed pursuant to Section 10(d)(iii), both parties will have the right to review and comment upon applications and correspondence with the relevant patent office and will be provided with drafts thereof sufficiently in advance to reasonably allow for such review and comment.
  - vii. University agrees that it will cause to be signed by concerned University personnel all documents of assignment or other documents necessary to obtain patent protection as set forth herein, and that University will do whatever Company reasonably requests to obtain and maintain such patent rights as required by this Agreement, at the reasonable expense of Company.
  - viii. If Company elects not to have a patent application filed in any country with respect to a particular Joint Invention, Company will advise University of such fact within [\*\*\*] from the date such invention was disclosed to Company by University. University may then, at its own expense, file and prosecute a patent application claiming such invention, and such patent application and any patents issuing therefrom will not be included within the license option granted to Company pursuant to Section 10(e), and University will be free to license its rights in such patent application and any resulting patent to any party upon prior written notice to Company.
- e. License; Option. To the extent legally able, the University hereby grants Company a first right to obtain a non-exclusive or exclusive (at the election of Company in its sole discretion), royalty-bearing, perpetual and transferable worldwide license, with the right to grant sublicenses through multiple tiers, to University's interest in any University Invention or in any Joint Invention ("Option"). Company shall advise University in writing within [\*\*\*] of any disclosure made to the Company pursuant to Section 10(d)(i) of a University Invention or Joint Invention whether or not it wishes to exercise the Option. During such Option period, in the event University does not intend to file a patent for protection of the University Invention, then upon Company's request, University agrees to file patent application(s) of such University Invention provided that Company shall bear all costs for such filing and reimburse University for its reasonable costs related thereto. The Parties will have [\*\*\*] from the date of election to negotiate and conclude an exclusive license agreement (as may be extended as set forth in this Section 10(e), the "Negotiation Period"). Such period may be further extended by mutual written agreement of the parties. Such license shall contain reasonable terms and shall require diligent performance by Company for the timely commercial development and early marketing of such inventions, and include Company's continuing obligation to pay patent costs. If the license has not been concluded within the period described above,

rights to the University Inventions and Joint Inventions disclosed hereunder shall be disposed of in accordance with University policies, with no further obligation to Company; provided that University will not enter into an agreement with a third party regarding the sale or license of such University Inventions on terms that are materially more favorable to the third party than those terms last offered to Company for one year after the negotiations between Company and University are terminated. For clarity, during and before the Negotiation Period described above, with respect to a particular University Invention, to the extent legally able, University shall not grant to any third party any rights in or otherwise encumber such University Invention in any manner that would prevent University from granting to Company an exclusive license as contemplated hereunder.

**11. INDEMNIFICATION**

- a. Company shall defend, indemnify and hold University, its directors, officers, agents, and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages brought by a third party arising out of the performance of this Agreement by Company, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of, or a material breach of this Agreement by, Company, its directors, officers, agents or employees.
- b. University shall defend, indemnify and hold Company, its directors, officers, agents and, employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages brought by a third party arising out of the performance of this Agreement by University, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of, or a material breach of this Agreement by, University, its directors, officers, agents, or employees.

**12. INDEMNIFICATION PROCEDURE** - The Parties' indemnification obligations set forth in Section 11 are conditioned upon the Party claiming indemnification thereunder (the "Indemnified Party") (a) promptly notifying the other Party (the "Indemnifying Party") of a claim (provided, however, that failure to provide such notice will relieve the Indemnifying Party from its liability or obligation hereunder only to the extent of any material prejudice as a direct result of such failure); (b) promptly giving the Indemnifying Party the right to control and direct the investigation, preparation, defense and settlement of such claim with counsel of the Indemnifying Party's own choosing; and (c) giving assistance and full cooperation for the defense of same. Without limiting the foregoing, the Indemnified Party will have the right to reasonably participate, at its own expense, in the defense or settlement of any claim.

**13. LIMIT OF LIABILITY** - EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS AND DAMAGES AND LIABILITIES ARISING OUT A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS OR INTELLECTUAL PROPERTY OBLIGATIONS, IN NO EVENT WILL EITHER PARTY, EMPLOYEES, OFFICERS, AGENTS OR REPRESENTATIVES BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR LOST PROFITS, REGARDLESS OF WHETHER THE PARTY WAS ADVISED, HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY OF THE FOREGOING.

14. **SUPPLIES AND EQUIPMENT** - In the event that University purchases equipment hereunder, title to such equipment shall vest in University.

15. **EXCUSABLE DELAYS** - In the event of a delay caused by inclement weather, fire, flood, strike or other labor dispute, act of God, act of governmental officials or agencies, or any other cause beyond the reasonable control of a Party, such Party shall be excused from performance hereunder for the period of time attributable to such delay as set forth in this Section 15, which may extend beyond the time lost due to one or more of the causes mentioned above. In the event of any such delay, this Agreement may be revised by changing the Budget, performance period and other provisions, as appropriate, by mutual agreement of the parties.

16. **NOTICE** - Notices shall be deemed given when: (a) sent by email; (b) delivered personally; (b) sent by confirmed facsimile; or (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid. Whenever any notice is to be given hereunder, it shall be in writing and sent to the following address:

University: [\*\*\*]

Company: [\*\*\*]

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

[\*\*\*]

17. **TERMINATION** - This Agreement may be terminated early by Company at any time upon the giving of [\*\*\*] prior written notice to University. Written notice of early termination shall be directed to the appropriate individual named in Section 16 of this Agreement. Upon the giving of notice of early termination by Company, as of the effective termination date, University shall exert its best efforts to terminate any outstanding commitments. Should University have costs incurred by it for all work performed through the effective early termination date, including outstanding obligations which cannot be canceled and that are not covered by the payments already received in accordance with Exhibit A, Company shall reimburse University for all remaining costs. University shall furnish, within [\*\*\*] of the effective date of early termination, a final invoice for settlement of all remaining costs to be reimbursed or if the final Budget Justification and supporting document delivered by University pursuant to Section 3 indicates that University has not utilized all of the advance payment made by Company during the Term, then University shall promptly refund to Company such amounts. Upon the giving of notice of termination by University, as of the effective termination date Company shall have no additional liability for any costs or obligations. If this cost-reimbursable Agreement expires in accordance with Section 1, the obligations in this Section 17 do not apply to either Company or University. Each Party's obligations of confidentiality with respect to the other's Party's Confidential Information will survive for a period of [\*\*\*] following the termination or expiration of this Agreement. Upon termination of this Agreement, Receiving Party shall, at Disclosing Party's option and expense, either return or destroy any Materials in University's possession and the other Party's Confidential Information provided, however, that the Receiving Party may retain one copy of Confidential Information in a secure location for purposes of compliance with this Agreement and Applicable Law.

## 18. MISCELLANEOUS

- a. Severability. In the event that any provision of this Agreement is found to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable, as mutually negotiated in good faith between the Parties, and the remainder shall continue in effect, to the extent consistent with the intent of the Parties as of the Effective Date.
- b. Relationship of the Parties. Nothing in this Agreement shall be construed to place the parties in an agency, employment, franchise, joint venture, or partnership relationship. Neither Party shall have the authority to obligate or bind the other in any manner, and, with the exception of third party Indemnified Parties, nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third parties. Neither Party shall represent to the contrary, either expressly, implicitly or otherwise.
- c. Governing Law. All disputes, claims or controversies arising out of this Agreement, or the negotiation, validity or performance of this Agreement, or the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the State of California without regard to its rules of conflict of laws.
- d. Assignment; Binding Effect. Neither Party may assign this Agreement in whole or in part without the prior written consent of the other Party, except that a Party may make such an assignment without the other Party's consent to its Affiliates or to a third party successor of, or transferee to, assets of such Party to which this Agreement relates, whether in a merger, sale of stock, sale of assets or other transaction.
- e. No Waiver. Failure by either Party to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision.
- f. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- g. Construction. This Agreement has been negotiated by each of the Parties and each of their respective counsel. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either Party. All notices, communications and discussions pertaining to this Agreement, whether oral or written, shall be conducted in the English language, including any enforcement proceedings.
- h. Complete Agreement. This Agreement, including the exhibits hereto, which are hereby incorporated into this Agreement by this reference, constitutes the entire agreement between the parties with respect to the subject matter hereof. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments or quotations, except for agreements UC reference [\*\*\*] and clarification purposes. Nothing in this Agreement will affect the rights already granted in prior License Agreements UC reference [\*\*\*]. For clarity purposes, royalties and any licensing terms included those License Agreements shall still apply.. This Agreement may not be modified or waived, in whole or part, except in writing and signed by an officer or duly authorized representative of both Parties.

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have each caused its duly authorized representative to execute and deliver this Agreement as of the Effective Date.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ON  
BEHALF OF ITS SAN DIEGO CAMPUS

By: /s/ Suzanne Wolff  
(signature)

Name: Suzanne Wolff  
Title: Principal Contract Officer  
Date: 12/3/2021

LEXEO THERAPEUTICS, INC.

By: /s/ R. Nolan Townsend CEO  
(signature)

Name: R. Nolan Townsend CEO  
Title: CEO  
Date: 12/3/21

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**Exhibit A: Scope of Work and Budget**

[\*\*\*]

**FIRST AMENDMENT TO THE RESEARCH AGREEMENT BETWEEN  
LEXEO THERAPEUTICS, INC.**

**AND**

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ON BEHALF OF ITS SAN DIEGO CAMPUS**

This First Amendment (“**Amendment**”) by and between **Lexeo Therapeutics, Inc.** located at 345 Park Avenue South, Sixth Floor, New York, NY 10010 (“**Sponsor**”) and **The Regents of the University of California on behalf of its San Diego Campus**, located at 9500 Gilman Drive #0934, La Jolla, CA 92093-0934 (“**Institution**”) is made and effective as of the last date of signature (“**Effective Date**”).

WHEREAS, Sponsor and Institution entered into the Research Agreement, effective on December 2, 2021 (“**Agreement**”), to conduct a research project entitled [\*\*\*] (“**Project**”);

WHEREAS, Sponsor and Institution mutually desire to amend the Agreement as set forth below;

NOW THEREFORE, in consideration of the premises and mutual covenants herein, the parties agree as follows:

1. Section 3, Payment, Sentence 5 shall be deleted and replaced with the following:

University shall forward invoices to Company at the following address:

[\*\*\*]

2. Section 4, Principal Investigator, Sentence 1 shall be deleted and replaced with the following:

The research is to be conducted by University under the direction of [\*\*\*] (“**Principal Investigator**”) who will be responsible for the direction of the Project, including all budgeting, in accordance with applicable University policies.

3. Section 16, Notice, “**Company**” and the addresses that follow shall be deleted and replaced with the following:

Company: [\*\*\*]

4. Exhibit A: Scope of Work and Budget, shall be deleted and replaced with the attached Exhibit A: Updated Scope of Work and Budget.
5. Capitalized terms used herein that are not otherwise defined shall have the same meanings ascribed to such terms in the Agreement;
6. If the terms of the Agreement in any way conflict with or are otherwise inconsistent with the terms of this Amendment, the terms of this Amendment shall govern and control.

7. Except as modified herein, the above-referenced Agreement shall remain in full force and effect and is hereby incorporated by references. The Agreement, as amended and modified, constitutes the entire agreement and understanding between the parties.
8. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the Effective Date.

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, on  
behalf of its San Diego Campus**

**LEXEO THERAPEUTICS, INC.**

*/s/ Suzanne Wolff*

\_\_\_\_\_  
Name: Suzanne Wolff  
Title: Principal Manager  
Date: 4/11/2023

*/s/ R. Nolan Townsend*

\_\_\_\_\_  
Name: R. Nolan Townsend  
Title: Chief Executive Officer  
Date: 4/19/2023



\*\*\*

**FIRST LICENSE AGREEMENT**

**BETWEEN**

**LEXEO THERAPEUTICS, LLC**

**AND**

**CORNELL UNIVERSITY**

**FOR**

**DOCKET NO. D-6083**

**DOCKET NO. D-9134**

**DOCKET NO. D-9179**

**DOCKET NO. D-9187**

**DOCKET NO. D-9232**

**DOCKET NO. D-9325**

**DOCKET NO. D-9471**

**DOCKET NO. D-9472**

**CTL CONTRACT NO. [\*\*\*]**

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**FIRST LICENSE AGREEMENT**

This First License Agreement (this “**Agreement**”) is made by and between LEXEO Therapeutics, LLC, a Delaware limited liability company, having an office at 430 East 29<sup>th</sup> Street, 14<sup>th</sup> Floor, New York, NY 10016 (“**LICENSEE**”), and Cornell University, a New York education corporation (“**Cornell**”), as represented by its Cornell Center for Technology Licensing (“**CTL**”) at 395 Pine Tree Road, Suite 310, Ithaca, NY 14850. Cornell and LICENSEE each may be referred to herein as a “**Party**” and together as the “**Parties**.”

This Agreement is effective on the date of the last signature hereto (the “**Effective Date**”).

**RECITALS**

*WHEREAS*, certain inventions were made in the course of research at Cornell by Dr. Ronald G. Crystal (“**Dr. Crystal**”) and certain of his colleagues at Cornell (collectively with Dr. Crystal, the “**Cornell Inventors**”) and are listed in Appendix A (the “**Inventions**”);

*WHEREAS*, the research leading to one of the Inventions (Cornell Docket D-6083) was carried out in part at Albert Einstein College of Medicine (“**Einstein**”) by [\*\*\*] (the “**Einstein Inventor**”) and together with the Cornell Inventors, the “**Inventors**”), and Cornell and Einstein are in discussions about filing a divisional application that would be jointly owned by Einstein and Cornell, which would become the Nonexclusive Patent Rights (as hereinafter defined);

*WHEREAS*, the Cornell Inventors are employees of Cornell, and they are obligated to assign all of their right, title and interest in the Inventions to Cornell and have done so;

*WHEREAS*, LICENSEE entered into an Option Agreement (Cornell Contract No. [\*\*\*]) with Cornell, effective [\*\*\*] (the “**Option**”), with respect to additional inventions by the Cornell Inventors;

*WHEREAS*, Cornell desires that the Inventions, the Patent Rights, the Nonexclusive Patent Rights, and the Technology (each, as hereinafter defined) be developed and utilized to the fullest possible extent so that their benefits can be enjoyed by the general public;

*WHEREAS*, LICENSEE has provided a brief business plan to Cornell, a copy of which is attached herein as Appendix F, describing its plans to commercialize the Inventions, the Patent Rights, the Nonexclusive Patent Rights, and the Technology under this Agreement;

*WHEREAS*, LICENSEE intends to form the Special Purpose Entity (as hereinafter defined) to develop the Inventions and other inventions made by the Cornell Inventors under the Option, and intends to provide central services thereto; and

*WHEREAS*, LICENSEE understands that Cornell may publish or otherwise disseminate information concerning the Inventions and the Technology at any time and that LICENSEE is paying consideration hereunder for its early access to the Inventions and the Technology, and the associated intellectual property rights, not continued secrecy therein.

## ARTICLE 1. DEFINITIONS

The terms, as defined herein, shall have the same meanings in both their singular and plural forms.

- 1.1 “**Affiliate**” means, with respect to LICENSEE or the Special Purpose Entity, any corporation or other person or business in which LICENSEE or the Special Purpose Entity owns or controls, directly or indirectly, at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers, or in which LICENSEE or the Special Purpose Entity is owned or controlled directly or indirectly by any corporation or other person or business or group of persons which owns at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers; but in any country where the local law does not permit foreign equity participation of at least fifty percent (50%), then an “Affiliate” includes any company in which LICENSEE or the Special Purpose Entity owns or controls or is owned or controlled by, directly or indirectly, the maximum percentage of outstanding stock, units of membership, or voting rights permitted by local law. Notwithstanding the foregoing, Dr. Crystal shall not be considered an Affiliate of LICENSEE or the Special Purpose Entity for purposes of this Agreement.
- 1.2 “**BLA**” means (a) in the United States, a Biologics License Application, as defined in the United States Public Health Service Act (42 U.S.C. §262), and applicable regulations promulgated thereunder by the FDA, or any equivalent application that replaces such application, (b) in the European Union, a marketing authorization, as defined in applicable regulations of the European Medicines Agency, and (c) in any other country, the relevant equivalent to the foregoing.
- 1.3 “**Commercially Reasonable Efforts**” means, with respect to any person, such efforts that are consistent with the efforts and resources used by a biopharmaceutical company of similar size and market capitalization as such person in the exercise of its commercially reasonable business practices relating to an exercise of a right or performance of an obligation under this Agreement, including the research, development, manufacture and commercialization of a pharmaceutical or biologic compound or product, as applicable, at a similar stage in its research, development or commercial life as the relevant Licensed Product, and that has commercial and market potential similar to the relevant Licensed Product, taking into account issues of intellectual property coverage, safety and efficacy, stage of development, product profile, competitiveness of the marketplace, proprietary position, regulatory exclusivity, anticipated or approved labeling, present and future market and commercial potential, the likelihood of receipt of Regulatory Approval, profitability (including pricing and reimbursement status achieved or likely to be achieved), amounts payable to licensors of patent or other intellectual property rights, alternative products and legal issues.

- 1.4 “**Completion**” means, with respect to a Phase II Clinical Trial or Phase III Clinical Trial, the earlier of (a) [\*\*\*] following the database lock for such clinical trial and (b) the completion of a final study report by LICENSEE for such clinical trial.
- 1.5 “**Confidential Information**” means: (a) information, including Technology, relating to the Inventions and disclosed by the lead Cornell Inventor under Paragraph 2.4(b) or by CTL to LICENSEE during the Term, which if disclosed in writing shall be marked “Confidential”, or if first disclosed otherwise by CTL, shall within [\*\*\*] of such disclosure be reduced to writing by CTL and sent to LICENSEE; and (b) reports provided by LICENSEE to CTL hereunder.
- 1.6 “**Cover**”, “**Covering**” or “**Covered**” means, with respect to a Valid Claim and a Licensed Product or Licensed Method, that the manufacture, use, offer for sale, sale or importation of the Licensed Product or the use of the Licensed Method, as applicable, would infringe, induce infringement of, or contribute to infringement of, a Valid Claim in the country in which such activity occurred, if not for the License granted hereunder. For the purposes of this definition, a Valid Claim in a pending application shall be treated as though it had issued for the period of time described in clause (b) of the definition of “Valid Claim” below.
- 1.7 “**Data**” means the data that: (a) is listed under technical information on Appendix C; or (b) is otherwise generated by Dr. Crystal’s laboratory located at Cornell to the extent it: (i) exists as of the Effective Date; and (ii) supports or otherwise directly relates to the Licensed Product Activity; provided that, in each case, any Data related to any patients shall be de-identified.
- 1.8 “**Excluded Entity**” means, as of the grant of any Sublicense or assignment permitted under this Agreement, any corporation or other business entity, government or governmental entity, or individual that: (a) is in active litigation, arbitration proceedings or other contractual dispute with Cornell; (b) is engaged in “**patent troll**” or other similar activities; or (c) is on any list of prohibited governments, individuals or entities enacted under United States economic sanctions or anti-boycott laws.
- 1.9 “**Field**” means all human and non-human prophylactic and therapeutic uses of Licensed Products.
- 1.10 “**First Commercial Sale**” means the first commercial sale of a Licensed Product by LICENSEE or any Affiliate or Sublicensee in a country in an arms’-length transaction to a third-party following receipt of applicable Regulatory Approval of such Licensed Product in such country.
- 1.11 “**FDA**” means the United States Food and Drug Administration.
- 1.12 “**FFDCA**” means the United States Federal Food, Drug, and Cosmetic Act, as set forth at 21 U.S.C. ch. 9 §301 et seq., as may be amended from time to time, together with any rules, regulations and requirements promulgated thereunder (including all additions, supplements, extensions and modifications thereto).

- 1.13 “**Generic Equivalent**” means: (a) for any small molecule, any product with the same active ingredient and route of administration as a Licensed Product (including pursuant to Section 505(b)(2) of the FDCA or any foreign equivalent with respect to such Licensed Product) that is legally marketed for the same Indication as said Licensed Product by a third-party who is not an Affiliate, Sublicensee or Distributor of LICENSEE or the Special Purpose Entity; and (b) for any biologic, any product with a “highly similar” active ingredient(s) as such Licensed Product, as the phrase “highly similar” is used in 42 U.S.C. § 262(i)(2), and subject to the factors set forth in FDA’s Guidance for Industry, “Quality Considerations in Demonstrating Biosimilarity to a Reference Protein Product,” (February 2012), at Section VI, and any successor FDA guidance thereto, or any foreign equivalent, that is legally marketed for the same Indication as said Licensed Product by a third-party who is not an Affiliate, Sublicensee or Distributor of LICENSEE or the Special Purpose Entity.
- 1.14 “**Helper Plasmid**” means the helper plasmid specified in Appendix C (*i.e.*, [\*\*\*]), and Progeny, Unmodified Derivatives, and Modifications thereof.
- 1.15 “**IND**” means any Investigational New Drug application, filed with the FDA pursuant to Part 312 of Title 21 of the U.S. Code of Federal Regulations, including any supplements or amendments thereto. References herein to IND shall include, to the extent applicable, any comparable filing(s) outside the United States (such as a Clinical Trial Application in the countries that are officially recognized as member states of the European Union). “**IND 018406**” means IND 018406 originally sponsored by Cornell for use of the AAVrh10.hAPOE vector to treat APOE4 homozygotes who are at risk or have Alzheimer’s disease.
- 1.16 “**Indication**” means any human disease, condition or syndrome, or sign or symptom of, or associated with, a human disease, condition or syndrome in a particular target patient population; it being understood that: (a) different line therapies for the same disease or condition, such as (for example) first-line treatment for a disease or condition as compared to second-line treatment for such same disease or condition, shall not be deemed to be a different Indication; and (b) all variants of a single disease or condition (*e.g.*, variants of colon cancer or variants of prostate cancer), whether classified by severity or otherwise, shall be treated as the same Indication.
- 1.17 “**Know-How**” means the know-how that is: (a) listed under technical information on Appendix C; or (b) is otherwise generated by Dr. Crystal’s laboratory located at Cornell to the extent it: (i) exists as of the Effective Date; and (ii) supports, is necessary or useful for, or otherwise directly relates to the Licensed Product Activity.
- 1.18 “**License**” means the license granted by Cornell to LICENSEE pursuant to Paragraph 2.1.

- 1.19 “**Licensed Method**” means any method that uses any Materials, or any IND included in any Portfolio, or the use, practice and performance of which is Covered by a Valid Claim. For the purpose of this Agreement, LICENSEE agrees that the above definition shall be interpreted as [\*\*\*].
- 1.20 “**Licensed Product**” means any service, composition or product that: (a) is Covered by a Valid Claim; (b) is based on any IND included in any Portfolio; (c) uses any Materials; or (d) is produced by or enabled by a Licensed Method. For the purpose of this Agreement, LICENSEE agrees that the above definition shall be interpreted as [\*\*\*]. Notwithstanding anything to the contrary, the Parties acknowledge that to the extent any service, composition or product (x) uses, incorporates or is based on only the Know-How and/or Data licensed hereunder, (y) does not use any Materials or IND included in any Portfolio, and (z) does not infringe, on a country-by-country basis, the Valid Claim of any Patent Rights or Nonexclusive Patent Rights, then such service, composition or product shall not constitute a “**Licensed Product**” for purposes of this Agreement.
- 1.21 “**Licensed Product Activity**” means the research, commercialization, development or manufacturing of any Licensed Product in the Field.
- 1.22 “**LICENSEE Research Expenditure**” means all expenditures incurred by or on behalf of LICENSEE or any Affiliate or Sublicensee in connection with preclinical and/or clinical drug development activities with respect to Licensed Products, including: test method development and stability testing, toxicology, formulation, process development, qualification and validation, manufacture scale-up, development-stage manufacturing, quality assurance/quality control, clinical trials, statistical analysis and report writing, regulatory affairs with respect to the foregoing and all other activities necessary or useful or otherwise requested or required by a Regulatory Authority or as a condition or in support of obtaining or maintaining a Regulatory Approval.
- 1.23 “**Major Market**” means any of the following countries or jurisdictions: [\*\*\*].
- 1.24 “**Major Biopharmaceutical Company**” means: (a) a publicly traded pharmaceutical company whose market capitalization exceeds [\*\*\*] at the end of the company’s most recent fiscal year preceding the effective date of the proposed Sublicense to such company by LICENSEE or by the Special Purpose Entity; or (b) a company whose products or services primarily use biotechnology methods for their production, design or delivery and whose annual sales exceed [\*\*\*] for the company’s most recent fiscal year preceding the effective date of the proposed Sublicense to such company by LICENSEE or by the Special Purpose Entity as shown on the company’s financial statements that are audited by a nationally recognized accounting firm.
- 1.25 “**Materials**” means Original Material, Progeny, Unmodified Derivatives, and Modifications. Materials shall not include other substances created or synthesized by the LICENSEE or any Affiliate, Contractor, or Sublicensee if such other substances are independent of any Original Materials, Modifications, Progeny, or Unmodified Derivatives.



- 1.26 “**Modifications**” shall mean substances generated by LICENSEE, Affiliates, Contractors, or Sublicensees, that contain or incorporate, in whole or in part, the Original Material, Progeny, and/or Unmodified Derivatives.
- 1.27 “**Net Sales**” means, with respect to a Licensed Product for any period, the total amount billed or invoiced on sales of such Licensed Product during such period by LICENSEE or any Affiliate or Sublicensee to third-parties (including wholesalers or Distributors), in bona fide arm’s-length transactions, less the following deductions, in each case related specifically to such Licensed Product and actually allowed and taken by such third-parties and not otherwise recovered by or reimbursed to LICENSEE or any Affiliate or Sublicensee:
- (a) trade, cash and quantity discounts;
  - (b) price reductions or rebates, retroactive or otherwise, imposed by, negotiated with or otherwise paid to governmental authorities or other payees;
  - (c) taxes on sales (such as sales, value added, or use taxes) to the extent added to the sale price and set forth separately as such in the total amount invoiced; provided, however, with respect to value-added taxes (“**VAT**”), only the first VAT LICENSEE or any Affiliate or Sublicensee withholds and pays to the government on behalf of a foreign customer for the sale of the Licensed Product may be deducted, provided that any VAT refund received by LICENSEE or any Affiliate or Sublicensee for which a deduction was previously made during the Term shall be added to the Net Sales of the period during which such VAT refund is received;
  - (d) amounts repaid or credited by reason of rejections, defects, return goods allowance, recalls or returns, or because of retroactive price reductions, including rebates or wholesaler charge backs;
  - (e) the portion of administrative fees paid during the relevant time period to group purchasing organizations, pharmaceutical benefit managers or Medicare Prescription Drug Plans relating to such Licensed Product;
  - (f) any invoiced amounts that are not collected and are written off by LICENSEE or any Affiliate or Sublicensee, including bad debts, provided that (i) such amount shall not exceed, for a given reporting period under Paragraph 4.1, [\*\*\*], and (ii) if the debt is thereafter paid, the corresponding credit amount shall be added to the Net Sales of the period during which it is paid;
  - (g) that portion of the annual fee on prescription drug manufacturers imposed by the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (as amended) and reasonably allocable to sales of such Licensed Product; and
  - (h) freight, insurance, import/export, and other transportation charges to the extent added to the sale price and set forth separately as such in the total amount invoiced, as well as any fees for services provided by wholesalers and warehousing chains related to the distribution of such Licensed Product.

Net Sales shall not include transfers or dispositions for charitable, promotional, pre-clinical, clinical, regulatory, or governmental purposes for which, in each case, no consideration is received. Net Sales shall include the amount of fair-market value of all other consideration received by LICENSEE or any Affiliate or Sublicensee in respect of such Licensed Product, whether such consideration is in cash, payment in kind, exchange or other form. Net Sales shall not include sales between or among LICENSEE or any Affiliate or Sublicensee after which the purchaser resells the Licensed Product, which resale shall be included in Net Sales; sales between or among LICENSEE or any Affiliate or Sublicensee for end-use by the purchaser shall be included in Net Sales.

Net Sales shall be calculated in accordance with the standard internal policies and procedures of LICENSEE or any Affiliate or Sublicensee which must be in accordance with the consolidated financial statements of LICENSEE prepared in accordance with US GAAP or IFRS, as applicable. There shall be no double counting in determining the foregoing deductions from gross amounts invoiced to calculate "Net Sales" hereunder.

If any Licensed Product contains two (2) or more active pharmaceutical ingredients and is sold either as a fixed dose/unit or as separate doses/units in a single package (a "**Combination Product**"), then the Net Sales for such Combination Product in each country or jurisdiction shall be calculated as follows:

(w) If LICENSEE or any Affiliate or Sublicensee separately sells in such country or other jurisdiction, (i) a product containing, as its sole active ingredient, the sole active ingredient in the Licensed Product (the "**Licensed Compound**") that is contained in such Combination Product (the "**Mono Product**") and (ii) products containing, as their sole active ingredients, the other active ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying actual Net Sales of such Combination Product by the fraction  $A/(A+B)$  where: "A" is LICENSEE's (or any Affiliate's or Sublicensee's, as applicable) average Net Sales price during the period to which the Net Sales calculation applies for the Mono Product in such country or other jurisdiction; and "B" is LICENSEE's (or any Affiliate's or Sublicensee's, as applicable) average net sales price (determined in the same manner as "**Net Sales**"), during the period to which the Net Sales calculation applies in such country or other jurisdiction, for products that contain as their sole active ingredients the other active ingredients in such Combination Product.

(x) If LICENSEE or any Affiliate or Sublicensee separately sells in such country or other jurisdiction the Mono Product but does not separately sell in such country or other jurisdiction products containing, as their sole active ingredients, the other active ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying the Net Sales of such Combination Product by the fraction  $A/C$  where: "A" is LICENSEE's (or any Affiliate's or Sublicensee's, as applicable) average Net Sales price, during the period to which the Net Sales calculation applies, for the Mono Product in such country or other jurisdiction; and "C" is LICENSEE's (or any Affiliate's or Sublicensee's, as applicable) average Net Sales price in such country or other jurisdiction, during the period to which the Net Sales calculation applies, for such Combination Product.

(y) If no LICENSEE, Affiliate or Sublicensee separately sells in such country or other jurisdiction the Mono Product but does separately sell products containing as their sole active ingredients the other active ingredients contained in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying the Net Sales of such Combination Product by the fraction (D-E)/D where: "D" is the average Net Sales price, during the period to which the Net Sales calculation applies, for such Combination Product in such country or other jurisdiction; and "E" is the average net sales price (determined in the same manner as "Net Sales"), during the period to which the Net Sales calculation applies, for products that contain as their sole active ingredients the other active ingredients in such Combination Product.

(z) If no LICENSEE, Affiliate or Sublicensee separately sells in such country or other jurisdiction both the Mono Product and the other active ingredient or ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be determined by the Parties in good faith based on the relative fair-market value of such Mono Product and such other active ingredient or ingredients.

- 1.28 "**Nonexclusive Patent Rights**" means rights that Cornell owns or controls in the patent application listed in Appendix B2, and applications which claim priority thereto, and continuing applications thereof including divisions, and substitutions but in each case only to extent the claims thereof are limited to [\*\*\*]; and any patents issuing on said applications including reissues, reexaminations and extensions.
- 1.29 "**Original Material**" means the material described in Appendix C, as provided to LICENSEE by the Inventors under this Agreement.
- 1.30 "**Orphan Drug Product**" means a Licensed Product for a specific Indication for which the FDA has granted "Orphan-drug exclusive approval" as defined in 21 CFR Part 316 or which has been granted orphan drug exclusivity under similar regulations in any Major Market or other foreign jurisdiction.
- 1.31 "**Patent Costs**" means all of Cornell's unreimbursed out-of-pocket expenses for the preparation, filing, prosecution, maintenance and defending of all patent applications and patents within the Patent Rights and the Nonexclusive Patent Rights. Patent Costs also include reasonable out-of-pocket expenses for patentability opinions, inventorship review and determination, preparation and prosecution of patent application, re-examination, re-issue, interference, opposition activities, any declaratory judgment actions and *inter partes* and post-grant reviews related to patents or applications in the Patent Rights and within the Nonexclusive Patent Rights, [\*\*\*]. Notwithstanding the foregoing, in the event that [\*\*\*].

- 1.32 “**Patent Rights**” means rights that Cornell owns or controls in: (a) the patent applications and patents filed by Inventors and assigned to Cornell listed in Appendix B1, and applications which claim priority thereto, and continuing applications thereof including divisions, substitutions, and continuations-in-part (but only to extent the claims thereof are enabled by disclosure of the parent application); (b) any patents issuing on said applications including reissues, reexaminations and extensions; and (c) any corresponding foreign applications or patents. Notwithstanding the foregoing, the Nonexclusive Patent Rights are not included in the Patent Rights.
- 1.33 “**Phase II Clinical Trial**” means a human clinical trial intended to explore a variety of doses, dose response, and duration of effect, and to generate evidence of clinical safety and effectiveness for a particular Indication or Indications in a target patient population, or a similar clinical study prescribed by any applicable regulatory authority, from time to time, pursuant to applicable law or otherwise, including for example the trials referred to in 21 C.F.R. §312.21(b), as amended (or the non-United States equivalent thereof).
- 1.34 “**Phase III Clinical Trial**” means a human clinical trial of a product in any country that would satisfy the requirements of 21 C.F.R. §312.21(c), as amended (or the non-United States equivalent thereof) and is intended to (a) establish that the product is safe and efficacious for its intended use, (b) define contraindications, warnings, precautions and adverse reactions that are associated with the product in the dosage range to be prescribed, and (c) support Regulatory Approval for such product.
- 1.35 “**Portfolio**” means each of the groupings of Inventions, Patent Rights, Nonexclusive Patent Rights, Technology and Licensed Methods identified in the Cornell docket or dockets defined in Paragraphs 3.3(a)(iii)-(v) as Portfolio APOE, Portfolio 2<sup>nd</sup> Alzheimer’s or Portfolio Anti-Tau (each as defined below).
- 1.36 “**Progeny**” shall mean an unmodified descendant from the Original Material, such as virus from virus, cell from cell, or organism from organism.
- 1.37 “**Regulatory Approval**” means all approvals of each applicable regulatory authority necessary for the commercial marketing and sale of a product for a particular Indication in a country.
- 1.38 “**Royalty Term**” means, on a country-by-country basis, the period of time beginning on the First Commercial Sale of a Licensed Product in a given country and expiring on a country-by-country basis, with respect to each Licensed Product, upon the later of:
- (a) the expiration or invalidation of the last to expire or be invalidated of the Valid Claims;
  - (b) the expiration of any granted statutory period of marketing and/or data exclusivity for the Licensed Product that confers an exclusive commercialization period during which LICENSEE or any Affiliate or Sublicensee has the exclusive right to market and sell a Licensed Product in such country through such a regulatory exclusivity right; or

- (c) the month of the First Commercial Sale of a Generic Equivalent of the Licensed Product in such country.
- 1.39 “**Special Purpose Entity**” means an entity that receives a Sublicense from LICENSEE as an Affiliate of LICENSEE. Cornell acknowledges that, in accordance with Paragraph 2.2(e), said entity is not required to remain an Affiliate after the granting of the said Sublicense. [\*\*\*] Special Purpose Entity (together with any successors or assigns by merger, consolidation or otherwise) is allowed under this Agreement at any time.
- 1.40 “**Sublicense**” means an agreement into which LICENSEE, the Special Purpose Entity or other permitted Sublicensee enters with a third-party (other than a Contractor or a Distributor) for the purpose of: (a) granting certain rights; (b) granting an option to certain rights; or (c) forbearing the exercise of any rights, granted to LICENSEE under this Agreement after Effective Date. “**Sublicensee**” means a third-party with whom LICENSEE, the Special Purpose Entity or other permitted Sublicensee enters into a Sublicense. For purposes of clarity, the Special Purpose Entity is also a Sublicensee under this Agreement. “**Contractor**” means a third-party contract research organization that is performing research on behalf of and for the sole benefit of LICENSEE or any Affiliate or Sublicensee under a contract. “**Distributor**” means any third-party appointed by LICENSEE or any Affiliate or Sublicensee to distribute, market and sell Licensed Product with or without packaging rights, in one (1) or more countries in the Territory, in circumstances where such person purchases its requirements of Licensed Product from LICENSEE or any Affiliate or Sublicensee but does not otherwise make any royalty or other comparable payment to LICENSEE or any Affiliate or Sublicensee with respect to intellectual property rights with respect to such Licensed Product.
- 1.41 “**Sublicense Fees**” means income received by LICENSEE or the Special Purpose Entity from any Sublicensee (other than the Special Purpose Entity). The following types of income received from a Sublicensee (other than the Special Purpose Entity) shall be excluded from Sublicense Fees: (a) royalties on sales of Licensed Products; (b) net proceeds [\*\*\*] to LICENSEE or the Special Purpose Entity, but only to the extent said [\*\*\*] is at [\*\*\*]; (c) [\*\*\*] reimbursement for (i) any [\*\*\*] by or on behalf of LICENSEE, the Special Purpose Entity or any Affiliate, or (ii) any [\*\*\*] for Licensed Products that LICENSEE or the Special Purpose Entity [\*\*\*] (including in the case of the [\*\*\*] reimbursements described in this clause (c), any amounts paid to LICENSEE or the Special Purpose Entity with respect to [\*\*\*] as and to the extent that LICENSEE or the Special Purpose Entity (X) [\*\*\*] and (Y) [\*\*\*]); (d) documented line-item reimbursement for amounts actually paid to Cornell by LICENSEE under this Agreement; (e) reimbursement of actual [\*\*\*]; and (f) net proceeds resulting from any sale of any [\*\*\*] LICENSEE or the Special Purpose Entity to Sublicensees [\*\*\*].
- 1.42 “**Technology**” means the Materials, IND 018406, Know-How and Data.
- 1.43 “**Term**” means, on a country-by-country basis, the period of time beginning on the Effective Date and continuing until the earliest of: (a) termination of this Agreement as set forth in [Article 7](#); and (b) the last to expire Royalty Term.

1.44 “**Territory**” means worldwide.

1.45 “**Unmodified Derivatives**” means substances generated by LICENSEE or any Affiliate, Contractor or Sublicensee that constitute an unmodified functional subunit or product expressed by the Original Material or its Progeny. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the Original Material or Progeny, proteins expressed by DNA/RNA, monoclonal antibodies secreted by a hybridoma cell line, or purified proteins expressed or secreted by a cell line, or cells or other material extracted from a model organism.

1.46 “**Valid Claim**” means: (a) with respect to a claim of any issued and unexpired patent within the Patent Rights or the Nonexclusive Patent Rights, that the validity, enforceability or patentability of such claim has not been affected by (i) irretrievable lapse, abandonment, revocation, dedication to the public or disclaimer or (ii) a holding, finding or decision of invalidity, unenforceability or non-patentability by a court, governmental agency, national or regional patent office or other appropriate body that has competent jurisdiction, such holding, finding or decision being final and unappealable or unappealed within the time allowed for appeals; or (b) a pending patent application within the Patent Rights or the Nonexclusive Patent Rights that has been filed and prosecuted in good faith and no more than [\*\*\*] have elapsed since the filing of the earliest priority application for such patent application.

## ARTICLE 2. GRANTS

2.1 **License.** Subject to Paragraph 5.1, and to the limitations set forth in this Agreement, Cornell hereby grants to LICENSEE, and LICENSEE hereby accepts, a license, with the right to grant sublicenses in accordance with Paragraph 2.2 below, under the Patent Rights and the Nonexclusive Patent Rights, to make and have made, to use and have used, to sell and have sold, to offer for sale, and to import and have imported Licensed Products and to practice Licensed Methods and to use the Technology, in each case, in the Field and in the Territory. The License is exclusive with respect to the Patent Rights and is non-exclusive with respect to the Nonexclusive Patent Rights and the Technology. The license for the Helper Plasmid included in the Technology is limited solely to manufacturing of vectors included in the Technology and Licensed Products in accordance with the license described in this Paragraph 2.1 and, accordingly, Helper Plasmids may only be sold or sublicensed for manufacturing of vectors included in the Technology and Licensed Products. The license for Know-How and Data, included in the Technology, is limited solely to the Licensed Product Activity in accordance with the license described in this Paragraph 2.1.

### 2.2 Sublicense.

(a) **Generally.** The License includes the right of LICENSEE to grant Sublicenses under Patent Rights and the Nonexclusive Patent Rights and for the Technology:

(i) to Major Biopharmaceutical Companies (but in no case any Excluded Entities) through multiple tiers;

(ii) with Cornell's prior written consent, to other third-parties (other than Affiliates or Excluded Entities) but without the right to enter into further Sublicenses; and

(iii) subject to Paragraph 2.2(e), to the Special Purpose Entity (but in no case to any Excluded Entities), which Special Purpose Entity shall have the right to grant further Sublicenses:

(A) to Major Biopharmaceutical Companies (but in no case any Excluded Entities) through multiple tiers; and

(B) with Cornell's prior written consent, to other third-parties (other than Affiliates or Excluded Entities) but without the right to enter into further Sublicenses.

Helper Plasmids may be sublicensed in accordance with this Agreement only for manufacturing of vectors that are included in the Technology and the Licensed Products in accordance with the License.

(b) **Sublicense Requirements.** With respect to any Sublicense granted pursuant to Paragraph 2.2(a), LICENSEE (and the Special Purpose Entity or other Sublicensee, to the extent permitted to act as a sublicensor pursuant to Paragraph 2.2.(a)) shall:

(i) not receive, or agree to receive, anything of value in lieu of cash as consideration from a third-party under a Sublicense granted pursuant to Paragraph 2.2(a) without the prior written consent of Cornell (other than grants of licenses and/or assignments of intellectual property and customary contractual commitments associated with sublicenses);

(ii) to the extent applicable, include all of the rights of and obligations due to Cornell contained in this Agreement in all material respects. For the avoidance of doubt, notwithstanding anything herein to the contrary, in connection with, and as a condition precedent to, LICENSEE granting the Sublicense to the Special Purpose Entity, the Special Purpose Entity shall agree, by the terms of such Sublicense, to be obligated to perform all of the obligation of LICENSEE hereunder, including, without limitation, the obligations of LICENSEE provided in Article 3, Article 4, Article 5 and Article 8;

(iii) ensure that any such Sublicense shall be consistent with the terms and conditions of this Agreement in all material respects;

(iv) promptly provide Cornell with an unredacted copy of each Sublicense issued and of any amendment made to any Sublicense; and

(v) collect and guarantee payment of all payments due, directly or indirectly, to Cornell from Sublicensees and summarize and deliver all reports due, directly or indirectly, to Cornell from Sublicensees.

(c) **Fate of Sublicenses upon Termination of this Agreement.** Notwithstanding anything to the contrary, upon termination of this Agreement for any reason, Cornell shall grant to each Sublicensee license rights under the Patent Rights, the Nonexclusive Patent Rights and the Technology with exclusivity, field, term, financial, and diligence terms equivalent to those in said Sublicense; provided, however, that in no event shall Cornell be obligated: (i) to grant rights to a Sublicensee to anything Cornell does not possess or control; (ii) to surrender rights Cornell has reserved under Paragraph 2.3 of this Agreement; or (iii) to take on any new or incremental obligation beyond Cornell's express obligations under this Agreement.

(d) **No Sublicenses to Excluded Entities.** Notwithstanding anything herein to the contrary, unless it has obtained the prior written consent of Cornell in its sole discretion, neither LICENSEE nor the Special Purpose Entity or any other permitted Sublicensee may grant a Sublicense to any Excluded Entity.

(e) **Notice of Special Purpose Entity; No Obligation to Remain an Affiliate.** LICENSEE shall give Cornell prompt written notice of the Special Purpose Entity that receives a Sublicense hereunder. Notwithstanding anything herein to the contrary, the Sublicense granted to the Special Purpose Entity [\*\*\*].

**2.3 Reservation of Rights.** Cornell reserves the right to:

(a) use the Patent Rights solely for non-commercial educational and other non-commercial research purposes;

(b) publish or otherwise disseminate any information about the Inventions and the Patent Rights at any time, including IND 018406 and the information in IND 018406, even after the applications are assigned to LICENSEE pursuant to Paragraph 2.4(c);

(c) allow other nonprofit institutions to use the Patent Rights solely for non-commercial educational and non-commercial research purposes;

(d) use IND 018406 and the information in IND 018406 for (i) other purposes consistent with Paragraphs 2.4(a) and (c) above to the extent authorized by LICENSEE, which authorization shall not be unreasonably withheld, conditioned or delayed, and (ii) purpose of reference for any future INDs filed by Cornell from Dr. Crystal's laboratory; and

(e) Subject to Paragraph 2.3(d), in its sole discretion, use, and license third-parties to use, the Technology and the Nonexclusive Patent Rights for any purpose.

**2.4 Transfer of Technology.**

(a) LICENSEE shall pay for shipping of Original Material by providing the lead Cornell Inventor with its shipping company account number.

(b) The lead Cornell Inventor will deliver or otherwise make available the Original Material and Know-How and Data included in the Technology to LICENSEE within [\*\*\*] of Cornell's receipt of the fees from LICENSEE described in Paragraph 3.1(a)(i).



(c) Subject to LICENSEE or the Special Purpose Entity raising no less than [\*\*\*] in financing, the achievement of such event LICENSEE will confirm by providing financial statements to Cornell within [\*\*\*] from the date of such event, Cornell and each Cornell Inventor each agree to assign, conditional upon the achievement of such event, all of their right, title and interest in and to IND 018406 to LICENSEE or the Special Purpose Entity as the sole owner thereof, and Cornell and each Cornell Inventor shall execute the assignment and will transfer the sponsorship of IND 018406 to LICENSEE or the Special Purpose Entity upon the achievement of such event. Cornell and each Cornell Inventor shall each cooperate with LICENSEE or the Special Purpose Entity to execute all documents and take all such actions as are reasonably necessary to perfect the assignment and transfer of ownership of IND 018406 to and in the name of LICENSEE or the Special Purpose Entity as the sole owner thereof, and to have sponsorship of IND 018406 transferred and assigned to LICENSEE or the Special Purpose Entity throughout the Territory.

**ARTICLE 3. CONSIDERATION**

3.1 **Fees and Royalties.** The Parties understand that the fees and royalties payable by LICENSEE to Cornell under this Agreement are partial consideration for the License and for the assignment and transfer of ownership and sponsorship of the IND to LICENSEE pursuant to the terms and conditions of Paragraph 2.4(c). LICENSEE shall pay Cornell:

(a) **a license issue and assignment fee**, to initiate the license and to have IND 018406 assigned and transferred, of [\*\*\*], of which (i) [\*\*\*] shall be paid [\*\*\*] within [\*\*\*] of Effective Date, (ii) [\*\*\*] of which shall be paid [\*\*\*] within [\*\*\*] of the Effective Date, and (iii) [\*\*\*] shall be paid [\*\*\*] contemporaneously with the execution of this Agreement.

(b) **license maintenance fees** payable on each anniversary of the Effective Date according to the following schedule; provided, however, that LICENSEE’s obligation to pay this fee shall end on the date when LICENSEE is commercially selling a Licensed Product and the license maintenance fee payable shall be pro-rated for the number of months remaining in that license year.

<b>FEE PAYABLE TO CORNELL</b>	<b>DATE</b>
[***]	[***] anniversaries of the Effective Date
[***]	[***] anniversary of Effective Date
[***]	[***] anniversary of Effective Date
[***]	[***] anniversary of Effective Date and each subsequent anniversary thereafter

(c) **milestone payments** in the amounts payable according to the following schedule of events, per occurrence with respect to Portfolio APOE, Portfolio 2nd Alzheimer’s and Portfolio Anti-Tau, for each Licensed Product; provided that each milestone payment identified as (A), (B), (C), and (D) in the table shown below, shall be payable only once per Portfolio:

<u>AMOUNT</u>	<u>DATE OR EVENT</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(d) during the Royalty Term, on a per-Licensed Product and country-by-country basis, an **earned royalty** of:

(i) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is an Orphan Drug Product and (B) is Covered by a Valid Claim; and

(ii) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is an Orphan Drug Product and (B) is not Covered by a Valid Claim;

and

(iii) in addition to the royalties in Paragraph 3.1(d)(i) and (ii), an additional [\*\*\*] on Net Sales where the Licensed Product is an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e); and

(iv) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is not an Orphan Drug Product and (B) is Covered by a Valid Claim;

and

(v) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is not an Orphan Drug Product and (B) is not Covered by a Valid Claim; and

(vi) in addition to the royalties in Paragraph 3.1(d)(iv) and (v), an additional [\*\*\*] on Net Sales where the Licensed Product is not an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e).

In the event LICENSEE or a Sublicensee is required to pay royalties and milestones to one or more third-parties for patent rights necessary to sell any Licensed Product, and the total royalties payable by LICENSEE exceed [\*\*\*] of Net Sales of such Licensed Product, then LICENSEE or a Sublicensee may deduct [\*\*\*] from the earned royalties payable to Cornell for every [\*\*\*] LICENSEE or Sublicensee actually pays to said third-parties of the amount LICENSEE or Sublicensee pays above [\*\*\*] of Net Sales of such Licensed Product; provided, however, that in no event shall the amount payable to Cornell with respect to such Licensed Product be less than [\*\*\*] of the amount then due under Paragraph 3.1(d) (the “**Royalty Cap Deduction**”) with respect to such Licensed Product. LICENSEE may carry over and apply any payments made by LICENSEE or a Sublicensee as described in the immediately preceding sentence that are not deducted as a result of the Royalty Cap Deduction, to any subsequent royalty payments due under Paragraph 3.1(d), and shall begin applying such reduction to such royalties as soon as practicable and continue applying such reduction as soon as permitted by this paragraph thereafter in accordance with the Royalty Cap Deduction.

(e) a percentage of all **Sublicense Fees** according to the following schedule:

(i) For Sublicenses not including any Licensed Products based on IND 018406:

<u>PERCENTAGE OF THE SUBLICENSE FEES TO BE SHARED WITH AND PAYABLE TO CORNELL</u>	<u>EVENTS ACHIEVED BY LICENSEE RELATED TO THE TIMING OF THE ISSUANCE OF EACH SUBLICENSE BY LICENSEE</u>
[***]	[***]
[***]	[***]

; and

(ii) For Sublicenses including one or more Licensed Products based on IND 018406:

<u>PERCENTAGE OF THE SUBLICENSE FEES TO BE SHARED WITH AND PAYABLE TO CORNELL</u>	<u>EVENTS ACHIEVED BY LICENSEE RELATED TO THE TIMING OF THE ISSUANCE OF EACH SUBLICENSE BY LICENSEE</u>
[***]	[***]
[***]	[***]

(f) (i) if the royalties payable by LICENSEE under Paragraphs 3.1(d)(i) and (ii), and (iii), if applicable, to Cornell in the August 31 and February 28 payments due under Paragraph 4.3(b)(ii) with respect to a single calendar year of Net Sales (“**Yearly Paid Orphan Royalties**”) are less than the amounts listed below (“**Minimum Annual Orphan Royalty**”):

<u>YEAR OF COMMERCIAL SALE</u>	<u>MINIMUM ANNUAL ROYALTY</u>
[***]	[***]
[***]	[***]
[***] and each year thereafter	[***]

; and

(i) if the royalties payable by LICENSEE under Paragraphs 3.1(d)(iv) and (v), and (vi), if applicable, to Cornell in the August 31 and February 28 payments due under Paragraph 4.3(b)(ii) with respect to a single calendar year of Net Sales (“**Yearly Paid Non-orphan Royalties**”) are less than the amounts listed below (“**Minimum Annual Non-orphan Royalty**” and together with the Minimum Annual Orphan Royalty, the “**Minimum Annual Royalty**”):

<u>YEAR OF COMMERCIAL SALE</u>	<u>MINIMUM ANNUAL ROYALTY</u>
[***]	[***]
[***]	[***]
[***] and each year thereafter	[***]

then LICENSEE shall also pay to Cornell in said February 28 royalty payment, (A) the difference between the Minimum Annual Orphan Royalty and the Yearly Paid Orphan Royalties for Orphan Drug Products, and (B) the difference between the Minimum Annual Non-orphan Royalty and the Yearly Paid Non-orphan Royalties for Licensed Products that are not Orphan Drug Products; provided, however, that for the first and last years of commercial sales of Licensed Products, the amount of Minimum Annual Royalty payable shall be pro-rated for the number of months in the calendar year during which Licensed Products were sold.

All fees and royalty payments specified in Paragraphs 3.1(a) through 3.1(f) above shall be paid by LICENSEE pursuant to Paragraph 4.3 and shall be delivered by LICENSEE to Cornell as noted in Paragraph 10.1.

3.2 **Patent Costs.** LICENSEE shall reimburse Cornell all past (prior to the Effective Date, which amount approximately equals [\*\*\*]) and future (on or after the Effective Date) Patent Costs within [\*\*\*] following the date an itemized invoice is sent from Cornell to LICENSEE.

3.3 **Due Diligence.**

(a) Subject to Paragraph 3.3(b), LICENSEE, together with its Sublicensees, shall:

(i) (A) for LICENSEE or the Special Purpose Entity or other Sublicensee that is not a Major Biopharmaceutical Company, diligently proceed with the development, manufacture and sale of Licensed Products; or (B) for any Sublicensee that is a Major Biopharmaceutical Company, use Commercially Reasonable Effort to proceed with the development, manufacture and sale of Licensed Products; and

(ii) solely in the case of LICENSEE, raise the following (either directly or in the aggregate through the Special Purpose Entity):

<u>MILESTONE OF SECURITIES OR CASH PROCEEDS (AS APPLICABLE) TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
[***]	[***]
[***]	[***]
[***]	[***]

As used in the last row of the table set forth above, [\*\*\*]; and

(iii) develop a Licensed Product based on Cornell Docket D-9134 or IND 018406 (“**Portfolio APOE**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(iii):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
[***]	[***]
[***]	[***]

; and

(iv) develop a Licensed Product for the treatment of a dementia, such as Alzheimer’s disease, based on Cornell Docket D-9187 or D-9232 (“**Portfolio 2nd Alzheimer’s**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(iv):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
[***]	[***]
[***]	[***]
[***]	[***]

; and

(v) develop a Licensed Product for a central nervous system disease based on Cornell Docket D-6083 or Docket D-9471 (“**Portfolio Anti-Tau**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(vii):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
[***]	[***]
[***]	[***]
[***]	[***]

; and

(vi) incur Research Expenditures for each of Portfolio APOE, Portfolio 2<sup>nd</sup> Alzheimer’s or Portfolio Anti-Tau as follows:

<u>PORTFOLIO DESCRIPTION</u>	<u>RESEARCH EXPENDITURE MILESTONE TO BE ACHIEVED DURING EACH CONSECUTIVE TWO CALENDAR YEAR PERIOD (COMMENCING ON JANUARY 1, 2021)</u>
[***]	[***]

; and

(vii) market Licensed Products in each country within the Territory within [\*\*\*] of receiving Regulatory Approval to market such Licensed Products, together with all applicable pricing and reimbursement approvals, in said country; and

(viii) (A) for LICENSEE or the Special Purpose Entity or other Sublicensee that is not a Major Biopharmaceutical Company, reasonably fulfill the market demand for Licensed Products following commencement of marketing at any time during the term of this Agreement or (B) for any Sublicensee that is a Major Biopharmaceutical Company, use Commercially Reasonable Efforts to fulfill the market demand for Licensed Products following commencement of marketing at any time during the term of this Agreement; and

(ix) maintain all necessary governmental approvals and permits for the manufacture, use and sale of Licensed Products in each applicable country.

(b) Subject to Paragraph 3.3(c), if LICENSEE or its applicable Sublicensee fails to perform any of its obligations specified in Paragraphs 3.3(a)(i)-(ix), then Cornell as its sole remedy shall have the right and option to terminate this Agreement as follows: (i) in the case of Paragraph 3.3(a)(ii), Cornell shall have the right to terminate this Agreement in full in accordance with the terms and conditions of this Agreement, and (ii) in the case Paragraphs 3.3(a)(i) and (iii)-(ix), solely with respect to the Licensed Product for the applicable Portfolio APOE, Portfolio 2<sup>nd</sup> Alzheimer's or Portfolio Anti-Tau, Cornell shall have the right to terminate this Agreement in part (but not as a whole) with respect to specific dockets or under the Patent Rights or under the Nonexclusive Patent Rights with respect to such applicable Portfolio APOE, Portfolio 2<sup>nd</sup> Alzheimer's or Portfolio Anti-Tau.

(c) If (i) LICENSEE fails to perform any of the obligations specified in Paragraphs 3.3(a)(iii)-(v) but (ii) LICENSEE has made Research Expenditures of at least [\*\*\*] for the applicable Portfolio on or before the later of [\*\*\*] from the Effective Date or [\*\*\*] from the filing of an IND for a Licensed Product with respect to such Portfolio, then LICENSEE shall be entitled to elect to receive a single, one-time, [\*\*\*] extension of the applicable milestone date that LICENSEE failed to meet. To make such election, LICENSEE shall provide Cornell with written notice thereof, together with reasonable documentation of such amount of Research Expenditures, within [\*\*\*] of LICENSEE's receipt of Cornell's notice of breach as provided above. If LICENSEE fails to provide written notice of such election and copies of such documentation within such [\*\*\*] period, LICENSEE shall have waived its rights to such extension.

(d) If, during the Term, Cornell receives one or more bona fide written offers from a capable third-party for a license under the Patent Rights to commercialize such Licensed Product in any Major Market ("**Third-Party Offer**"), then Cornell shall refer such offers to LICENSEE. In addition, Cornell may, having one or more Third-Party Offers, exclude said country from the Territory and license such right to one or more third-parties unless LICENSEE has, within [\*\*\*] from the date of such referral, (i) established or begun a product development program with respect to such Licensed Product, or (ii) executed an agreement with a Sublicensee that commits the Sublicensee to develop and commercialize such Licensed Product in such country. Notwithstanding the foregoing, this Paragraph 3.3(d) shall not apply to any Sublicensee that constitutes a Major Biopharmaceutical Company.

### 3.4 Research Support.

(a) Each of Cornell and LICENSEE acknowledges that successful development of the Inventions will require substantial ongoing research support from LICENSEE to the laboratory of the Cornell Inventors at Cornell. Each research project in the Inventor's laboratory (each, a "**Project**") will be pursuant to a separate research collaboration agreement (an "**RCA**") to be negotiated by LICENSEE and/or the Special Purpose Entity with Cornell's office of Biopharma Alliances and Research Collaborations. Each RCA will: have its own attached specific research plan and budget; require support for the Project from LICENSEE, the Special Purpose Entity or Affiliates of at least [\*\*\*]; and be substantially in the form to be attached as Appendix G by the Parties following signing this Agreement after the initial RCA has been negotiated by the Parties.

(b) From and after the Effective Date, LICENSEE, the Special Purpose Entity and/or Affiliates shall provide research support to Inventor's laboratory pursuant to one or more RCAs in the aggregate funding amount of at least [\*\*\*] period, provided that in no single calendar year will the aggregate funding amount under all RCAs be less than [\*\*\*] (the "**Research Commitment**").

(c) With regard to patentable inventions (or patent rights) and new know-how or materials (or results) that arise from the performance of an RCA (each, a "**Sponsored Invention**"), the RCA will provide that:

(i) for so long as LICENSEE together with the Special Entity and Affiliates is, and has been at all times from the Effective Date, in compliance with its payment obligations under the Research Commitment at the time the Sponsored Invention is disclosed to CTL:

(A) for each Sponsored Invention that is either an improvement to, or is dominated by, the Patent Rights or the Nonexclusive Patent Rights or is specifically designed to be used with a Licensed Product such as pre-clinical data or results and manufacturing know-how (each, an "**Improvement**"), this Agreement shall be amended to include license grants to all such Improvements, upon:

(1) the election of LICENSEE or the Special Purpose Entity, by written notice to CTL within [\*\*\*] of LICENSEE's receipt of the disclosure of such Improvement by CTL; and

(2) LICENSEE's or the Special Purpose Entity's payment of the relevant amendment fee of [\*\*\*] for each Improvement that is a patentable invention (or patent rights), and [\*\*\*] for each Improvement that is know-how or materials (but in no event to include pre-clinical data or results), except in the event that such know-how includes a new IND, in which case the amount of the

amendment fee shall be negotiated in good faith by the Parties in accordance with subparagraph (ii) below; provided, however, that the payments required by this Paragraph 3.4(c)(i)(A)(2) other than those with respect to any new IND shall not exceed [\*\*\*] per Portfolio and, notwithstanding anything to the contrary, no payments shall be required for any Improvement which constitutes pre-clinical data or results.

(B) for each Sponsored Invention that is not an Improvement, LICENSEE or the Special Purpose Entity will have the first exclusive option to negotiate in good faith with Cornell to license such Sponsored Invention on commercially reasonable terms for academia-to-industry licenses.

(ii) otherwise, LICENSEE or the Special Purpose Entity will have the first exclusive option to negotiate in good faith with Cornell to license such Sponsored Invention on commercially reasonable terms for academia-to-industry licenses.

(d) Notwithstanding anything herein to the contrary, the Parties acknowledge that any future clinical trial work to be performed at Cornell will be performed pursuant to, and the intellectual property and other results of which will be governed by, a separate Clinical Trial Agreement, to be negotiated by the Parties.

#### **ARTICLE 4. REPORTS, RECORDS AND PAYMENTS**

##### **4.1 Reports; Quarterly Meetings.**

(a) **Development Reports.** Beginning [\*\*\*] after the Effective Date and ending on the date of the First Commercial Sale of a Licensed Product in the United States, LICENSEE shall report to Cornell progress covering LICENSEE's (and Affiliates' and Sublicensees') activities and efforts in the development of rights granted to LICENSEE under this Agreement for the preceding [\*\*\*]. The report shall include, but not be limited to, activities and efforts to develop and test all Licensed Products, and obtain governmental approvals necessary for marketing the same, as well as business development, corporate development, and fund-raising activities (including cumulative amounts raised, and the amount of each financing round) related to development of Licensed Products. Such semi-annual reports shall be due within [\*\*\*] of the reporting period and shall use the form as provided herein as Appendix H.

(b) **Commercialization Reports.** After the First Commercial Sale of a Licensed Product anywhere in the Territory, LICENSEE shall submit to Cornell semi-annual reports on or before each February 28 and August 31 of each year. Each report shall cover LICENSEE's (and each Affiliate's and Sublicensee's) most recently completed calendar half-year and shall show:

(i) the number of each type of Licensed Product sold;

(ii) the gross sales and Net Sales during the most recently completed calendar half-year, an explanation of all deductions under Net Sales as defined in Paragraph 1.27, and the royalties, in US dollars, payable with respect thereto;



(iii) Sublicense Fees received during the most recently completed calendar half-year and all amounts deducted under the exceptions in Paragraph 1.42 and explanations therefor, all in US dollars, and the amount payable with respect thereto;

(iv) the method used to calculate the royalties and Sublicense Fee payments;

(v) the exchange rates used; and

(vi) relevant business and corporate development efforts relating to the rights granted in this Agreement and to the diligence development efforts described herein.

LICENSEE shall provide the above information using the form as shown in Appendix I and include information on the date of the First Commercial Sale of each Licensed Product in each country. If, following the First Commercial Sale of the Licensed Product, no sales of Licensed Products have been made or no Sublicense Fees has been received by LICENSEE during any reporting period, LICENSEE shall so report.

(c) **Quarterly Meetings.** From and after the Effective Date, Cornell and LICENSEE's or the Special Purpose Entity's, as applicable, management team shall meet at least once per calendar quarter to discuss the status of the Licensed Product Activity for each Licensed Product.

#### 4.2 Records & Audits.

(a) LICENSEE shall keep, and shall require Affiliates and Sublicensees to keep, accurate and correct records of all Licensed Products manufactured, used, and sold, and Sublicense Fees paid and received under this Agreement. Such records shall be retained by LICENSEE for at least [\*\*\*] following a given reporting period.

(b) Subject to entry of commercially reasonable confidentiality agreements between the Parties and any audit firm, all records shall be available during normal business hours for inspection at the expense of Cornell by Cornell's Internal Audit Department or by a Certified Public Accountant selected by Cornell and in compliance with the other terms of this Agreement for the sole purpose of verifying reports and payments or other compliance issues. Such access need not be given to any such set of records more often than once each calendar year or more than [\*\*\*] after the date of any report to be audited. Such inspector shall not disclose to Cornell any information other than information relating to the accuracy of reports and payments made under this Agreement or other compliance issues. In the event that any such inspection shows an under reporting and underpayment in excess of [\*\*\*] period, then LICENSEE shall pay the cost of the audit as well as any additional sum that would have been payable to Cornell had the LICENSEE reported correctly, plus an interest charge at a rate of [\*\*\*]. Such interest shall be calculated from the date the correct payment was due to Cornell up to the date when such payment is actually made by LICENSEE. For underpayment not in excess of [\*\*\*] period, LICENSEE shall pay the difference within [\*\*\*] without inspection cost but with interest charge per the provisions of Paragraph 4.3 (c).

#### 4.3 Payments.

(a) All fees, reimbursements and royalties due to Cornell shall be paid in United States dollars and all checks shall be made payable to “**Cornell University**”, referencing Cornell’s taxpayer identification number, [\*\*\*], and sent to Cornell according to Paragraph 10.1 (Correspondence). When Licensed Products are sold in currencies other than United States dollars, LICENSEE shall first determine the earned royalty in the currency of the country in which Licensed Products were sold and then convert the amount into equivalent United States funds, using the exchange rate quoted in the Wall Street Journal on the last business day of the applicable reporting period.

##### (b) Royalty Payments.

(i) Royalties shall accrue when Licensed Products are invoiced, or if not invoiced, when delivered.

(ii) LICENSEE shall pay earned royalties [\*\*\*] on or before February 28 and August 31 of each calendar year. Each such payment shall be for earned royalties accrued within LICENSEE’s most recently completed calendar half-year.

(iii) Royalties earned on Net Sales occurring in any country outside the United States shall not be reduced by LICENSEE for any taxes, fees, or other charges imposed by the government of such country on the payment of royalty income (other than as permitted in the calculation of Net Sales), except that all payments required to be made by LICENSEE in fulfillment of Cornell’s tax liability in any particular country may be credited against earned royalties or fees due Cornell for that country and LICENSEE shall promptly provide Cornell with written documentation evidencing each such payment. LICENSEE shall pay all bank charges resulting from the transfer of such royalty payments.

(iv) In the event that either Party engages in (A) any assignment of any of its rights under this Agreement or (B) any corporate migration, redomestication, redomiciliation, reincorporation, or any other transaction or legal scheme which results in the imposition of or increase in any withholding tax on payments pursuant to this Agreement (any such Party which engages in the conduct described above in subclauses (A) or (B), the “**Engaging Party**”), the Engaging Party (or the resulting successor of any such transaction) agrees to pay additional amounts to the other Party sufficient for such other Party to be in the same net after-tax position in which the other Party would have been if the Engaging Party would not have undertaken such (X) assignment of any of its rights under this Agreement or (Y) corporate migration, redomestication, redomiciliation, reincorporation, or any other transaction or legal scheme.

(v) If at any time legal restrictions prevent the prompt remittance of part or all royalties by LICENSEE with respect to any country where a Licensed Product is sold or a Sublicense is granted pursuant to this Agreement, LICENSEE shall convert the amount owed to Cornell into US currency and shall pay Cornell directly from its US sources of fund for as long as the legal restrictions apply.

(vi) In the event that any patent or patent claim within Patent Rights or the Nonexclusive Patent Rights is held invalid in a final decision by a patent office from which no appeal or additional patent prosecution has been or can be taken, or by a court of competent jurisdiction and last resort and from which no appeal has or can be taken, all obligation to pay royalties based solely on that patent or claim or any claim patentably indistinct therefrom shall cease as of the date of such final decision. LICENSEE shall not, however, be relieved from paying any royalties that accrued before the date of such final decision, that are based on another patent or claim not involved in such final decision, or that are based on the use of the Technology.

(c) **Late Payments.** In the event royalty, reimbursement and/or fee payments are not received by Cornell when due, LICENSEE shall pay to Cornell interest charges at a rate of [\*\*\*]. Such interest shall be calculated from the date payment was due until actually received by Cornell.

## ARTICLE 5. PATENT MATTERS

### 5.1 Patent Prosecution and Maintenance.

(a) Provided that LICENSEE has reimbursed Cornell for Patent Costs pursuant to Paragraph 3.2, Cornell shall diligently prosecute and maintain the United States and, if available, foreign patents, and patent applications, in the Patent Rights and in the Nonexclusive Patent Rights using counsel of its choice. Cornell shall provide LICENSEE with copies of all related prosecution filings, and LICENSEE shall keep this documentation confidential. Cornell shall seek and reasonably consider LICENSEE's advice and input on all material patent prosecution matters. Patent counsel shall take instructions only from Cornell, and (subject to Paragraph 5.4) all patents and patent applications in the Patent Rights shall be assigned solely to Cornell.

(b) Cornell shall consider amending any patent application in the Patent Rights or in the Nonexclusive Patent Rights to include claims reasonably requested by LICENSEE to protect the products contemplated to be sold as Licensed Products by LICENSEE under this Agreement.

(c) LICENSEE may elect to terminate its reimbursement obligations with respect to any patent application or patent in the Patent Rights or in the Nonexclusive Patent Rights upon [\*\*\*] written notice to Cornell. Cornell shall use reasonable efforts to curtail further Patent Costs for such application or patent once such notice of termination has been received from LICENSEE. Cornell, in its sole discretion and at its sole expense, may continue prosecution and maintenance of such application or patent, and LICENSEE shall have no further license with respect thereto. Non-payment by LICENSEE of any portion of Patent Costs with respect to any application or patent may be deemed by Cornell [\*\*\*] after written notice to LICENSEE of non-payment as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. Cornell is not obligated to file, prosecute, or maintain any patent or patent application within the Patent Rights or the Nonexclusive Patent Rights outside of the Territory at any time or to file, prosecute, or maintain any patent or patent application within the Patent Rights or the Nonexclusive Patent Rights to which LICENSEE has terminated its License hereunder.

(d) LICENSEE shall apply for an extension of the term of any patent in the Patent Rights or in the Nonexclusive Patent Rights if appropriate under the Drug Price Competition and Patent Term Restoration Act of 1984 and/or European, Japanese and other foreign counterparts of this law, and Cornell shall reasonably cooperate at LICENSEE's expense. LICENSEE shall prepare all documents for such application, and Cornell shall execute such documents and to take any other additional action as LICENSEE reasonably requests in connection therewith.

## 5.2 Patent Infringement.

(a) In the event that Cornell (to the extent of the actual knowledge of the licensing professional at CTL responsible for the administration of this Agreement) or LICENSEE learns of infringement of potential commercial significance of any patent in the Patent Rights or in the Nonexclusive Patent Rights, the knowledgeable Party will provide the other Party with written notice of such infringement, which notice shall include any evidence of such infringement available to such Party. Within [\*\*\*] after receipt of such notice, the Parties shall meet to discuss how to proceed with respect to such infringement. Each Party shall consider in good faith the input from the other Party, including without limitation to what extent an infringement action may be detrimental to the overall patent protection for Licensed Products.

(b) During the period in which, and in the jurisdiction where, LICENSEE has exclusive rights under this Agreement, neither Cornell nor LICENSEE will notify a third-party (including the infringer) of infringement or put such third-party on notice of the existence of any Patent Rights prior to the meeting required by Paragraph 5.2(a). LICENSEE shall not notify a third-party (including the infringer) of infringement or put such third-party on notice of the existence of any Nonexclusive Patent Rights without first obtaining consent of Cornell. If LICENSEE gives notice to a third-party, then LICENSEE shall pay or reimburse Cornell for any legal costs resulting from any declaratory judgment action, inter partes or post-grant review or similar proceeding arising from such notice. Cornell shall have the right to terminate this Agreement immediately without the obligation to provide [\*\*\*] notice as set forth in Paragraph 7.1 if LICENSEE notifies a third-party of infringement or puts such third-party on notice of the existence of any patent or patent application in the Patent Rights or in the Nonexclusive Patent Rights with respect to such infringement in breach of this Paragraph 5.2(b).

(c) Following the meeting required by Paragraph 5.2(a), LICENSEE and the Sublicensees shall have the initial right to take legal action against such third-party for the infringement of any patent in the Patent Rights in the Field and within the Territory. LICENSEE shall keep Cornell promptly informed regarding the status of any such suit or action and shall provide Cornell with copies of all material documents (e.g., complaints, answers, counterclaims, material motions, orders of the court, memoranda of law and legal briefs, interrogatory responses, depositions, material pre-trial filings, expert reports, affidavits filed in court, transcripts of hearings and trial testimony, trial exhibits and notices of appeal) filed in, or otherwise relating to, such suit or action. If LICENSEE or any Sublicensee elect to bring suit, Cornell may join that suit at its own expense. If required under applicable law in order for LICENSEE or its Sublicensees to initiate or maintain such suit, Cornell shall join as a party to the suit, at LICENSEE's sole cost and expense. If, in a suit initiated by LICENSEE or its Sublicensees, Cornell is required to be or is otherwise involuntarily joined, LICENSEE will pay any costs incurred by Cornell arising out of such suit, including but not limited to, any reasonable legal fees of counsel that Cornell selects and retains to represent Cornell in the suit.

(d) If LICENSEE (and any Sublicensees involved) do not take prompt legal action following the meeting required by Paragraph 5.2(a), or give notice to Cornell that they have elected not to pursue legal action and their reasoning for that decision, then Cornell may unilaterally take such legal action as Cornell deems appropriate.

(e) LICENSEE may request Cornell to take legal action against such third-party for the infringement of any patent in the Nonexclusive Patent Rights in the Field and within the Territory. Such request shall be made in writing and shall include reasonable evidence of such infringement and damages to LICENSEE. Cornell shall elect to or not to commence suit on its own account. If Cornell elects not to commence suit with respect to the Nonexclusive Patent Rights, LICENSEE may not thereafter bring suit for patent infringement with respect to the Nonexclusive Patent Rights.

(f) Any recovery or settlement received in connection with any suit concerning a patent in the Patent Rights (i) first, will be shared by Cornell and LICENSEE equally until the actual out-of-pocket litigation costs of one of the Parties are fully recovered; (ii) next, shall be provided to the party that has not yet fully recovered its actual out-of-pocket litigation costs until all such costs are fully recovered; and (iii) finally, with respect to any remaining amount, shall then be shared between Cornell and LICENSEE [\*\*\*]. If, however, Cornell has no out of pocket costs, Cornell's share of any remaining amount shall be shared as follows: [\*\*\*]. Cornell and LICENSEE agree to be bound by all determinations of patent infringement, validity, and enforceability (but no other issue) resolved by any adjudicated judgment in a suit brought in compliance with this Paragraph 5.2.

(g) Notwithstanding Paragraph 5.2(c), any agreement made by LICENSEE for purposes of settling any litigation or other dispute shall comply with the requirements of Paragraph 2.2.

(h) Each Party will cooperate with the other Party in litigation proceedings instituted hereunder but at the expense of the Party who initiated the suit (unless such suit is being jointly prosecuted by the Parties).

(i) Any litigation proceedings will be controlled by the Party bringing the suit, except that Cornell may be represented by counsel of its choice in any suit brought by LICENSEE.

**5.3 Patent Marking.** LICENSEE shall mark all Licensed Products made, used or sold under the terms of this Agreement, or their containers, in accordance with the applicable patent marking laws.

#### **5.4 Ownership of Technology.**

(a) Cornell retains ownership of Technology, with the exception of IND 018406, which may be assigned to LICENSEE in accordance with the terms and conditions of Paragraph 2.4(b) and Paragraph 2.4(c), in which case LICENSEE shall become the sole owner thereof.

(b) The ownership of any intellectual property generated, created or otherwise made by LICENSEE and/or each Sublicensee, respectively, shall be governed by US patent law, unless there is a subsequent written agreement between LICENSEE or any Affiliate and Cornell, in which case such subsequent written agreement shall prevail.

(c) LICENSEE shall make no use of the Patent Rights, Nonexclusive Patent Rights or Technology outside the scope of this Agreement and the License.

## ARTICLE 6. GOVERNMENTAL MATTERS

6.1 **Governmental Approval or Registration.** If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, LICENSEE shall assume all legal obligations to do so. LICENSEE shall notify Cornell if it becomes aware that this Agreement is subject to a United States or foreign government reporting or approval requirement. LICENSEE shall make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

6.2 **Export Control Laws.** LICENSEE shall observe all applicable United States and foreign laws with respect to the transfer of Licensed Products and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations and the Export Administration Regulations.

## ARTICLE 7. TERMINATION AND EXPIRATION OF THE AGREEMENT

### 7.1 Termination by Cornell.

(a) If LICENSEE fails to perform or violates any term of this Agreement in any material respect, then Cornell may give written notice of default (“**Notice of Default**”) to LICENSEE. If LICENSEE fails to cure the default in all material respects within [\*\*\*] of the Notice of Default, Cornell may terminate this Agreement and the License by a second written notice (“**Notice of Termination**”) to LICENSEE. If a Notice of Termination is sent to LICENSEE, this Agreement shall automatically terminate on the effective date of that notice in accordance with the terms and conditions of this Agreement. Termination shall not relieve LICENSEE of its obligation to pay any fees owed at the time of termination and shall not impair any accrued right of Cornell. Upon termination, LICENSEE shall immediately assign IND 018406 back to Cornell.

(b) Cornell shall have the right to terminate this Agreement immediately, without the obligation to provide written notices as set forth in Paragraph 7.1(a), if LICENSEE or the Special Purpose Entity files a claim including in any way the assertion that any claim, patent, or patent application in the Patent Rights or in the Nonexclusive Patent Rights is invalid or unenforceable where the filing is by LICENSEE or the Special Purpose Entity, a third-party on behalf of LICENSEE or the Special Purpose Entity, or a third-party at the written urging of LICENSEE or the Special Purpose Entity.

(c) Cornell may terminate this Agreement pursuant to Paragraph 3.3(b).

## 7.2 Termination by LICENSEE.

(a) LICENSEE shall have the right at any time and for any reason to terminate this Agreement or any Portfolio hereunder upon a [\*\*\*] written notice to Cornell. Said notice shall state LICENSEE's reason for terminating this Agreement or any Portfolio hereunder.

(b) Any termination under Paragraph 7.2(a) shall not relieve LICENSEE of any obligation or liability accrued under this Agreement prior to termination or rescind any payment made to Cornell or action by LICENSEE prior to the time termination becomes effective. Termination shall not affect in any manner any rights of Cornell arising under this Agreement prior to termination.

**7.3 Survival on Termination.** The following Paragraphs and Articles shall survive the termination of this Agreement:

- (a) Article 4 (REPORTS, RECORDS AND PAYMENTS);
- (b) Paragraph 7.3 (Survival on Termination);
- (c) Paragraph 7.4 (Disposition of Technology and Licensed Products on Hand);
- (d) Paragraph 8.2 (Indemnification);
- (e) Article 9 (USE OF NAMES AND TRADEMARKS); and
- (f) Paragraph 10.2 (Secrecy).

## 7.4 Disposition of Technology and Licensed Products on Hand.

(a) **Expiration.** Upon the expiration of the Royalty Term for a given Licensed Product in a given country, LICENSEE will retain a non-exclusive, royalty-free license to use the Technology to continue selling said Licensed Product in said country; LICENSEE's obligations to Cornell in Paragraph 8.2 and Article 9 remain in effect for as long as LICENSEE is using the Technology and must be transferred with any transfer of the Technology to a third-party. This Paragraph 7.4(a) and the grant and obligations in this Paragraph 7.4(a) survive expiration of this Agreement. This Paragraph 7.4(a) does not apply if this Agreement is terminated under Paragraphs 7.1 or 7.2.

(b) **Termination.** Upon termination of this Agreement under Paragraphs 7.1 or 7.2, LICENSEE may dispose of all previously made or partially made Licensed Product within a period of [\*\*\*] of the effective date of such termination provided that the sale of such Licensed Product by LICENSEE, Affiliates, or Sublicensees shall be subject to the terms of this Agreement, including but not limited to the rendering of reports and the payment of royalties required under this Agreement. Upon termination of this Agreement, at Cornell's election, LICENSEE will destroy or return to Cornell all unused Technology and notify Cornell in writing that said Technology has been returned or destroyed. LICENSEE shall no longer have rights to use the Technology upon termination, and LICENSEE will promptly transfer sponsorship of IND 018406 to Cornell.

## ARTICLE 8. LIMITED WARRANTY, INDEMNIFICATION AND INSURANCE

### 8.1 Limited Warranty.

(a) Cornell warrants that, without conducting any investigation or any inquiry, it has the lawful right to grant the License, and that, as of the Effective Date, CTL has not received written notice from any third-party of any pending or threatened legal action or suit asserting that the use of the Patent Rights or the Nonexclusive Patent Rights or the Technology as contemplated hereunder for the development and commercialization of any Licensed Product would infringe or misappropriate the patent rights or intellectual property rights of any third-party. Notwithstanding the foregoing, Cornell's warranty that "it has the lawful right to grant the License" does not and shall not apply to the Original Material (as described in Appendix C).

(b) The License is provided "AS IS" and without WARRANTY OF MERCHANTABILITY or WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or any other warranty, express or implied. Neither Cornell nor Einstein make any representation or warranty that the Licensed Product, any Licensed Method or the use of the Patent Rights or the Nonexclusive Patent Rights or the Technology will not infringe any other patent or other proprietary rights.

(c) In no event shall Cornell or Einstein be liable for any incidental, special or consequential damages resulting from exercise of the License or the use of the Invention, the Patent Rights, the Nonexclusive Patent Rights, any Licensed Product, any Licensed Method or the Technology.

(d) Nothing in this Agreement shall be construed as:

(i) a warranty or representation by Cornell or Einstein as to the validity or scope of any patent or patent application in the Patent Rights or in the Nonexclusive Patent Rights;

(ii) a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or shall be free from infringement of patents of third parties;

(iii) an obligation to bring or prosecute actions or suits against third-parties for patent infringement except as provided in Paragraph 5.2 hereof;

(iv) conferring by implication, estoppel or otherwise any license or rights under any patents of Cornell or Einstein other than those in the Patent Rights and in the Nonexclusive Patent Rights as defined in this Agreement, regardless of whether those patents are dominant or subordinate to those in the Patent Rights or in the Nonexclusive Patent Rights;



(v) an obligation to furnish any know-how not provided in the Technology and in the patents and patent application in the Patent Rights and in the Nonexclusive Patent Rights; or

(vi) an obligation to update the Technology.

**8.2 Indemnification.** LICENSEE shall indemnify, hold harmless and defend: Cornell and Einstein and their respective trustees, officers, employees, and agents; the sponsors of the research that led to the Invention; and the Inventors of the patents and patent applications in Patent Rights and in the Nonexclusive Patent Rights and their employers (collectively, the “**Indemnified Parties**”) against any and all claims, suits, losses, damage, costs, fees, and expenses resulting from or arising out of this Agreement or any Sublicense. This indemnification shall include, but not be limited to, any product liability. LICENSEE shall control any litigation or potential litigation involving the defense of any Claim, including the selection of counsel, with input from Cornell. In the event that a conflict of interest arises between LICENSEE’s interest and Cornell’s or Einstein’s interest, Cornell reserves the right to protect its or Einstein’s interest in defending against any Claim by selecting its own counsel, with any attorneys’ fees and litigation expenses paid for by LICENSEE, pursuant to this Paragraph 8.2. LICENSEE will not settle or compromise any Claim giving rise to Liabilities in any manner that imposes any restrictions or obligations on Cornell or grants any rights to the Patent Rights or to the Nonexclusive Patent Rights (other than permitted Sublicenses) without Cornell’s prior written consent. If LICENSEE fails or declines to assume the defense of any Claim or fails to reimburse an Indemnified Party for any Liabilities within the thirty (30)-day notice period, then Cornell may assume the defense of such Claim for the account and at the risk of LICENSEE. The indemnification rights of the Indemnified Parties under this Paragraph 8.2 are in addition to all other rights that an Indemnified Party may have at law, in equity or otherwise.

### **8.3 Insurance.**

(a) LICENSEE, at its sole cost and expense, shall insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain insurance or an equivalent program of self-insurance as follows:

(i) Prior to the first “in human” test of a Licensed Product: comprehensive or commercial general liability insurance (contractual liability included) with limits of at least: (A) each occurrence, [\*\*\*]; (B) products/completed operations aggregate, [\*\*\*]; (C) personal and advertising injury, [\*\*\*]; (D) general aggregate (commercial form only), [\*\*\*]; and (E) professional liability, [\*\*\*] per occurrence and [\*\*\*] in the aggregate; and

(ii) Commencing upon the first “in human” test of a Licensed Product: comprehensive or commercial general liability insurance (contractual liability included) with limits of at least: (A) each occurrence, [\*\*\*]; (B) products/completed operations aggregate, [\*\*\*]; (C) personal and advertising injury, [\*\*\*]; (D) general aggregate (commercial form only), [\*\*\*]; and (E) professional liability, [\*\*\*] per occurrence and [\*\*\*] in the aggregate; and

(iii) The coverage and limits referred to above shall not in any way limit the liability of LICENSEE.

(b) LICENSEE shall, within [\*\*\*] of Effective Date and annually thereafter on anniversary of Effective Date during the Term, furnish Cornell with certificates of insurance showing compliance with all requirements. Such certificates shall: (i) provide for [\*\*\*] advance written notice to Cornell of any modification; (ii) indicate that Cornell has been endorsed as an additionally insured party under the coverage referred to above; and (iii) include a provision that the coverage shall be primary and shall not participate with nor shall be excess over any valid and collectable insurance or program of self-insurance carried or maintained by Cornell.

(c) Cornell shall notify LICENSEE in writing of any claim or suit brought against Cornell in respect of which Cornell intends to invoke the provisions of this Article 8. LICENSEE shall keep Cornell informed on a current basis of its defense of any claims under this Article 8.

#### 8.4 Representations, Warranties and Acknowledgements by LICENSEE.

(a) LICENSEE represents that, as of the Effective Date (i) it possesses no biological material generated at Cornell and (ii) the only technical information generated at Cornell that are in LICENSEE's possession are covered by the terms of the Mutual Confidential Disclosure Agreement between Cornell and LICENSEE entered into on or before the Effective Date.

(b) LICENSEE warrants that, to the extent it receives and uses any biological material or technical information generated at Cornell ("**Cornell Technology**"), it will only receive and use the Cornell Technology that is documented in this Agreement, a subsequent amendment to this Agreement, a subsequent license agreement with Cornell, or a research collaboration agreement with Cornell.

(c) LICENSEE acknowledges that Inventors do not have the authority to grant LICENSEE the right to possess or use Cornell Technology. LICENSEE acknowledges that any use or possession of Cornell Technology by LICENSEE arising from any transfers outside of those permitted and documented in a license or research collaboration agreement with Cornell would constitute misappropriation of said Cornell Technology.

(d) LICENSEE acknowledges that the lead Cornell Inventor is bound by Cornell Policy 1.4, "Conflicts of Interest and Commitment (Excluding Financial Conflict of Interest Related to Research)" and Cornell Policy 1.7 "Financial Conflict of Interest Related to Research" and agrees that it will cooperate in Cornell's efforts to manage Inventors' compliance with such policies, including providing reports and information to the bodies managing said policies upon their request.

## ARTICLE 9. USE OF NAMES AND TRADEMARKS

9.1 **Use of Names and Trademarks.** Nothing contained in this Agreement confers any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of either party hereto (including contraction, abbreviation or simulation of any of the foregoing). Unless required by law, the use by LICENSEE of the name, "Cornell University," "Weill Cornell Medicine" or "Weill Cornell Medical College", "Albert Einstein College of Medicine" or the names of any inventor, employee, student or faculty member of Cornell or Einstein is prohibited, without the express written consent of Cornell.

9.2 **Disclosure to Inventors.** Cornell may disclose to the Inventors the terms and conditions of this Agreement upon their request. If such disclosure is made, Cornell shall request the Inventors not disclose such terms and conditions to others.

9.3 **Disclosure to Third-Parties.** Cornell may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third-parties, but Cornell shall not disclose the financial terms of this Agreement to third-parties, except where Cornell is required by law or the order of a court of competent jurisdiction to do so.

9.4 **Press Releases.** LICENSEE may acknowledge or make press releases regarding the existence of this Agreement and the extent of the grant in Article 2, but LICENSEE shall not disclose the financial terms of this Agreement except where LICENSEE is required by law or by the order of a court of competent jurisdiction to do so. To the extent LICENSEE makes any forward-looking statement in its press releases mentioning Cornell, LICENSEE shall receive prior consent of Cornell, which shall not be unreasonably withheld.

## ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 **Correspondence.** Any notice, invoice or payment required to be given to either party under this Agreement shall be deemed to have been properly given and effective:

(a) on the date of delivery if delivered in person, via ACH or via Fed Wire;

(b) one (1) day after the successful transmission in pdf file format if sent by electronic mail using the Internet; or

(c) five (5) days after mailing if mailed by first-class or certified mail, postage paid, to the respective addresses given below, or to such other address as is designated by written notice given to the other party.

If sent to LICENSEE:

Reports and Notices Contact:

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

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\*\*\*

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With a copy to:

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

If sent to Cornell:

For all correspondence *except payments* -

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

*For all payments -*

If sent by mail:

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

If remitted by electronic payments via ACH or Fed Wire:

Receiving bank name:	[***]
Bank account no.:	[***]
Bank routing (ABA) no.:	[***]
SWIFT code:	[***]
Bank account name:	[***]
Bank ACH format code:	[***]
Bank address:	[***]
Additional information:	[***]

An email copy of the wire transfer transaction receipt will be sent to Director for Finance and Operations at [\*\*\*]. LICENSEE is responsible for all bank charges of wire transfer of funds for payments. The bank charges will not be deducted from total amount due to Cornell.

#### 10.2 Secrecy.

(a) For the purposes of this Paragraph 10.2, "Cornell" as the receiving Party shall be limited to CTL, Cornell's Office of University Counsel, and Cornell's Division of Financial Affairs.

(b) Each receiving Party shall:

(i) use the Confidential Information for the sole purpose of performing or verifying performance under the terms of this Agreement;

(ii) safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own data of a similar nature;

(iii) not disclose Confidential Information to others (except to its Affiliates, Contractors, Sublicensees, directors, employees, agents or consultants, as well as prospective investors, who are bound by a like obligation of confidentiality) without the express written permission of the disclosing Party, except that no Party shall be prevented from using or disclosing any of the Confidential Information that:

- (A) the receiving Party can demonstrate by written records was previously known to it;
- (B) is now, or becomes in the future, public knowledge other than through acts or omissions of the receiving Party;
- (C) is lawfully obtained by the receiving Party from sources independent of the disclosing Party; or
- (D) is required to be disclosed by law or a court of competent jurisdiction.

(c) The secrecy obligations with respect to Confidential Information shall continue for a period ending [\*\*\*] from the termination or expiration date of this Agreement.

**10.3 Assignability.** LICENSEE, including each Affiliate of LICENSEE, will not grant a security interest, in the License or this Agreement during the Term. This Agreement may be assigned by Cornell (so long as Cornell remains obligated for all obligations under this Agreement as if such assignment had not occurred), but is personal to LICENSEE and assignable by LICENSEE only with the prior written consent of Cornell, which consent shall not be unreasonably refused or delayed. Notwithstanding the foregoing, LICENSEE may, without Cornell's prior written consent, (i) assign this Agreement, in whole or in part, to any Affiliate at any time (so long as LICENSEE remains obligated for all obligations under this Agreement as if such assignment had not occurred) and (ii) during the Term to a third-party, in each case only if all the following conditions are met:

(a) if applicable, the assignment occurs in connection with a merger, acquisition, consolidation or other business combination or sale or other disposition of all or substantially all of LICENSEE's business or assets relating to the subject matter hereof; and

(b) LICENSEE is in good standing with respect to this Agreement; and

(c) if assignee is an Affiliate, every Affiliate is in good standing in all material respects with respect to every agreement that such Affiliate has with Cornell; and

(d) assignee (including each affiliate of assignee) is not an Excluded Entity; and

(e) assignee has sufficient resources to fulfill all of LICENSEE's obligations under this Agreement; and

(f) prior to the assignment, assignee provides Cornell written confirmation that assignee shall assume all of LICENSEE's interests, rights, duties, liabilities and obligations under this Agreement, and agrees to comply with all terms and conditions of this Agreement as if assignee were an original party to this Agreement.

**10.4 No Waiver.** No waiver by either Party of any breach or default of any covenant or agreement set forth in this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default.

**10.5 Governing Laws.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK without regard to any conflicts of law provision that would result in the application of the laws of any state other than the State of New York, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

## 10.6 Disputes.

(a) The Parties will use reasonable efforts to resolve amicably any disputes that may relate to or arise under this Agreement. If the Parties are unable to resolve within [\*\*\*] after one Party notifies the other Party in writing of the existence and nature of such dispute, then the Parties hereby submit to the exclusive jurisdiction of and venue in the state and federal courts located in the Southern District of New York with respect to any and all disputes concerning the subject of, or arising out of, this Agreement.

(b) Notwithstanding the foregoing, should the Parties disagree about the fair-market value of non-cash consideration used in calculating Net Sales or the value of the fraction used to calculate Net Sales for a Combination Product (Paragraph 1.27), of the fair-market value of equity in LICENSEE purchased by a Sublicensee as consideration for its Sublicense (Paragraph 1.40(vi)), or of the fair-market value of non-cash consideration received from a Sublicensee as consideration for its Sublicense (Paragraph 2.2(b)(i)), the Parties shall resolve the dispute using the baseball arbitration process defined in Appendix E.

**10.7 Joint Drafting.** The Parties have participated jointly in the negotiation and drafting of this Agreement. 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.

**10.8 Force Majeure.** A Party may be excused from any performance required herein if such performance is rendered impossible or unfeasible due to any catastrophe or other major event beyond its reasonable control, including, without limitation, war, riot, quarantines, and insurrection; laws, proclamations, edicts, ordinances, or regulations; strikes, lockouts, or other serious labor disputes; and floods, fires, epidemics, explosions, or other natural disasters. When such events have abated, the non-performing Party's obligations herein shall resume.

**10.9 Headings.** The headings of the several paragraphs are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

**10.10 Entire Agreement.** This Agreement, including the Appendices hereto, embodies the entire understanding of the Parties and supersedes all previous communications, representations or understandings, either oral or written, between the Parties relating to the subject matter hereof.

**10.11 Amendments.** No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and signed on behalf of each Party.

**10.12 Severability.** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been contained in it.



IN WITNESS WHEREOF, both Cornell and LICENSEE have executed this Agreement, in duplicate originals, by their respective and duly authorized officers on the day and year written.

**LEXEO THERAPEUTICS, LLC**

By:     /s/ R. Nolan Townsend      
**(Signature of an authorized officer)**  
Name: R. Nolan Townsend  
Title: Chief Executive Officer  
Date: May 28, 2020

**CORNELL UNIVERSITY**

By:     /s/ Alice Li      
**(Signature of an authorized officer)**  
Name: Alice Li  
Title: Executive Director  
Date: May 27, 2020

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## Appendix A: Inventions

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**Appendix B1: Patent Rights**

[\*\*\*]

**Appendix B2: Nonexclusive Patent Rights**

[\*\*\*]

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## Appendix C: Technology

[\*\*\*]

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## Appendix D: Convertible Note

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## Appendix E: Baseball Arbitration

[\*\*\*]

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## Appendix F: Business Plan

[\*\*\*]

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**Appendix G: Form of Research Collaboration Agreement**

[\*\*\*]



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## Appendix H: Development Report

[\*\*\*]

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## Appendix I: Commercialization Report

[\*\*\*]

**SECOND LICENSE AGREEMENT**

**BETWEEN**

**LEXEO THERAPEUTICS, LLC**

**AND**

**CORNELL UNIVERSITY**

**FOR**

**DOCKET NO. D-6749**

**DOCKET NO. D-7225**

**DOCKET NO. D-7605**

**DOCKET NO. D-9179**

**DOCKET NO. D-9325**

**DOCKET NO. D-9332**

**DOCKET NO. D-9472**

**CTL CONTRACT NO. [\*\*\*]**

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**LIST OF APPENDIXES:**

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**Appendix C: Technology**

**Appendix D: Convertible Note**

**Appendix E: Baseball Arbitration**

**Appendix F: Business Plan**

**Appendix G: Form of Research Collaboration Agreement**

**Appendix H: Development Report**

**Appendix I: Commercialization Report**

**SECOND LICENSE AGREEMENT**

This Second License Agreement (this “**Agreement**”) is made by and between LEXEO Therapeutics, LLC, a Delaware limited liability company, having an office at 430 East 29<sup>th</sup> Street, 14th Floor, New York, NY 10016 (“**LICENSEE**”), and Cornell University, a New York education corporation (“**Cornell**”), as represented by its Cornell Center for Technology Licensing (“**CTL**”) at 395 Pine Tree Road, Suite 310, Ithaca, NY 14850. Cornell and LICENSEE each may be referred to herein as a “**Party**” and together as the “**Parties**.”

This Agreement is effective on the date of the last signature hereto (the “**Effective Date**”).

**RECITALS**

*WHEREAS*, certain inventions were made in the course of research at Cornell by Dr. Ronald G. Crystal (“**Dr. Crystal**”) and certain of his colleagues at Cornell (collectively with Dr. Crystal, the “**Inventors**”) and are listed in Appendix A (the “**Inventions**”);

*WHEREAS*, the research leading to one of the Inventions (Cornell Docket D-6749) was sponsored in part by the Federal Government (as defined below), and as a consequence this license is subject to overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and applicable regulations;

*WHEREAS*, the Inventors are employees of Cornell, and they are obligated to assign all of their right, title and interest in the Inventions to Cornell and have done so;

*WHEREAS*, LICENSEE entered into an Option Agreement (Cornell Contract No. [\*\*\*]) with Cornell, effective [\*\*\*] (the “**Option**”) with respect to additional inventions by the Inventors;

*WHEREAS*, Cornell desires that the Inventions, the Patent Rights, the Nonexclusive Patent Rights, and the Technology (each, as hereinafter defined) be developed and utilized to the fullest possible extent so that their benefits can be enjoyed by the general public;

*WHEREAS*, LICENSEE has provided a brief business plan to Cornell, a copy of which is attached herein as Appendix F, describing its plans to commercialize the Inventions, the Patent Rights, the Nonexclusive Patent Rights, and the Technology under this Agreement;

*WHEREAS*, LICENSEE intends to form the Special Purpose Entity (as hereinafter defined) to develop the Inventions and other inventions made by the Inventors under the Option, and intends to provide central services thereto; and

*WHEREAS*, LICENSEE understands that Cornell may publish or otherwise disseminate information concerning the Inventions and the Technology at any time and that LICENSEE is paying consideration hereunder for its early access to the Inventions and the Technology, and the associated intellectual property rights, not continued secrecy therein.

## ARTICLE 1. DEFINITIONS

The terms, as defined herein, shall have the same meanings in both their singular and plural forms.

- 1.1 “**Affiliate**” means, with respect to LICENSEE or the Special Purpose Entity, any corporation or other person or business in which LICENSEE or the Special Purpose Entity owns or controls, directly or indirectly, at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers, or in which LICENSEE or the Special Purpose Entity is owned or controlled directly or indirectly by any corporation or other person or business or group of persons which owns at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers; but in any country where the local law does not permit foreign equity participation of at least fifty percent (50%), then an “Affiliate” includes any company in which LICENSEE or the Special Purpose Entity owns or controls or is owned or controlled by, directly or indirectly, the maximum percentage of outstanding stock, units of membership, or voting rights permitted by local law. Notwithstanding the foregoing, Dr. Crystal shall not be considered an Affiliate of LICENSEE or the Special Purpose Entity for purposes of this Agreement.
- 1.2 “**BLA**” means (a) in the United States, a Biologics License Application, as defined in the United States Public Health Service Act (42 U.S.C. §262), and applicable regulations promulgated thereunder by the FDA, or any equivalent application that replaces such application, (b) in the European Union, a marketing authorization, as defined in applicable regulations of the European Medicines Agency, and (c) in any other country, the relevant equivalent to the foregoing.
- 1.3 “**Commercially Reasonable Efforts**” means, with respect to any person, such efforts that are consistent with the efforts and resources used by a biopharmaceutical company of similar size and market capitalization as such person in the exercise of its commercially reasonable business practices relating to an exercise of a right or performance of an obligation under this Agreement, including the research, development, manufacture and commercialization of a pharmaceutical or biologic compound or product, as applicable, at a similar stage in its research, development or commercial life as the relevant Licensed Product, and that has commercial and market potential similar to the relevant Licensed Product, taking into account issues of intellectual property coverage, safety and efficacy, stage of development, product profile, competitiveness of the marketplace, proprietary position, regulatory exclusivity, anticipated or approved labeling, present and future market and commercial potential, the likelihood of receipt of Regulatory Approval, profitability (including pricing and reimbursement status achieved or likely to be achieved), amounts payable to licensors of patent or other intellectual property rights, alternative products and legal issues.



- 1.4 “**Completion**” means, with respect to a Phase II Clinical Trial or Phase III Clinical Trial, the earlier of (a) [\*\*\*] following the database lock for such clinical trial and (b) the completion of a final study report by LICENSEE for such clinical trial.
- 1.5 “**Confidential Information**” means: (a) information, including Technology, relating to the Inventions and disclosed by the lead Inventor under Paragraph 2.4(b) or by CTL to LICENSEE during the Term, which if disclosed in writing shall be marked “**Confidential**”, or if first disclosed otherwise by CTL, shall within [\*\*\*] of such disclosure be reduced to writing by CTL and sent to LICENSEE; and (b) reports provided by LICENSEE to CTL hereunder.
- 1.6 “**Cover**”, “**Covering**” or “**Covered**” means, with respect to a Valid Claim and a Licensed Product or Licensed Method, that the manufacture, use, offer for sale, sale or importation of the Licensed Product or the use of the Licensed Method, as applicable, would infringe, induce infringement of, or contribute to infringement of, a Valid Claim in the country in which such activity occurred, if not for the License granted hereunder. For the purposes of this definition, a Valid Claim in a pending application shall be treated as though it had issued for the period of time described in clause (b) of the definition of “**Valid Claim**” below.
- 1.7 “**Data**” means the data that: (a) is listed under technical information on Appendix C; or is otherwise generated by Dr. Crystal’s laboratory located at Cornell to the extent it: (i) exists as of the Effective Date; and (ii) supports or otherwise directly relates to the Licensed Product Activity; provided that, in each case, any Data related to any patients shall be de-identified.
- 1.8 “**Excluded Entity**” means, as of the grant of any Sublicense or assignment permitted under this Agreement, any corporation or other business entity, government or governmental entity, or individual that: (a) is in active litigation, arbitration proceedings or other contractual dispute with Cornell; (b) is engaged in “patent troll” or other similar activities; or (c) is on any list of prohibited governments, individuals or entities enacted under United States economic sanctions or anti-boycott laws.
- 1.9 “**Field**” means all human and non-human prophylactic and therapeutic uses of Licensed Products.
- 1.10 “**First Commercial Sale**” means the first commercial sale of a Licensed Product by LICENSEE or any Affiliate or Sublicensee in a country in an arms’-length transaction to a third-party following receipt of applicable Regulatory Approval of such Licensed Product in such country.
- 1.11 “**FDA**” means the United States Food and Drug Administration.
- 1.12 “**FDCA**” means the United States Federal Food, Drug, and Cosmetic Act, as set forth at 21 U.S.C. ch. 9 §301 et seq., as may be amended from time to time, together with any rules, regulations and requirements promulgated thereunder (including all additions, supplements, extensions and modifications thereto).

- 1.13 “**Generic Equivalent**” means: (a) for any small molecule, any product with the same active ingredient and route of administration as a Licensed Product (including pursuant to Section 505(b)(2) of the FDCA or any foreign equivalent with respect to such Licensed Product) that is legally marketed for the same Indication as said Licensed Product by a third-party who is not an Affiliate, Sublicensee or Distributor of LICENSEE or the Special Purpose Entity; and (b) for any biologic, any product with a “highly similar” active ingredient(s) as such Licensed Product, as the phrase “highly similar” is used in 42 U.S.C. § 262(i)(2), and subject to the factors set forth in FDA’s Guidance for Industry, “Quality Considerations in Demonstrating Biosimilarity to a Reference Protein Product,” (February 2012), at Section VI, and any successor FDA guidance thereto, or any foreign equivalent, that is legally marketed for the same Indication as said Licensed Product by a third-party who is not an Affiliate, Sublicensee or Distributor of LICENSEE or the Special Purpose Entity.
- 1.14 “**Helper Plasmid**” means the helper plasmid specified in Appendix C (i.e., [\*\*\*]), and Progeny, Unmodified Derivatives, and Modifications thereof.
- 1.15 “**IND**” means any Investigational New Drug application, filed with the FDA pursuant to Part 312 of Title 21 of the U.S. Code of Federal Regulations, including any supplements or amendments thereto. References herein to IND shall include, to the extent applicable, any comparable filing(s) outside the United States (such as a Clinical Trial Application in the countries that are officially recognized as member states of the European Union). “**IND 13951**” means IND 13951 originally sponsored by Cornell for use of the AAVrh.10cuhCLN2 to treat children with infantile neuronal ceroid lipofuscinosis, also called CLN2 disease or Batten Disease.
- 1.16 “**Indication**” means any human disease, condition or syndrome, or sign or symptom of, or associated with, a human disease, condition or syndrome in a particular target patient population; it being understood that: (a) different line therapies for the same disease or condition, such as (for example) first-line treatment for a disease or condition as compared to second-line treatment for such same disease or condition, shall not be deemed to be a different Indication; and (b) all variants of a single disease or condition (e.g., variants of colon cancer or variants of prostate cancer), whether classified by severity or otherwise, shall be treated as the same Indication.
- 1.17 “**Know-How**” means the know-how that is: (a) listed under technical information on Appendix C; or (b) is otherwise generated by Dr. Crystal’s laboratory located at Cornell to the extent it: (i) exists as of the Effective Date; and (ii) supports, is necessary or useful for, or otherwise directly relates to the Licensed Product Activity.
- 1.18 “**License**” means the license granted by Cornell to LICENSEE pursuant to Paragraph 2.1.
- 1.19 “**Licensed Method**” means any method that uses any Materials, or any IND included in any Portfolio, or the use, practice and performance of which is Covered by a Valid Claim1.20 . For the purpose of this Agreement, LICENSEE agrees that the above definition shall be interpreted as [\*\*\*].

- 1.21 **“Licensed Product”** means any service, composition or product that: (a) is Covered by a Valid Claim; (b) is based on any IND included in any Portfolio; (c) uses any Materials; or (d) is produced by or enabled by a Licensed Method. For the purpose of this Agreement, LICENSEE agrees that the above definition shall be interpreted as [\*\*\*]. Notwithstanding anything to the contrary, the Parties acknowledge that to the extent any service, composition or product (x) uses, incorporates or is based on only the Know-How and/or Data licensed hereunder, (y) does not use any Materials or IND included in any Portfolio, and (z) does not infringe, on a country-by-country basis, the Valid Claim of any Patent Rights or Nonexclusive Patent Rights, then such service, composition or product shall not constitute a **“Licensed Product”** for purposes of this Agreement.
- 1.22 **“Licensed Product Activity”** means the research, commercialization, development or manufacturing of any Licensed Product in the Field.
- 1.23 **“LICENSEE Research Expenditure”** means all expenditures incurred by or on behalf of LICENSEE or any Affiliate or Sublicensee in connection with preclinical and/or clinical drug development activities with respect to Licensed Products, including: test method development and stability testing, toxicology, formulation, process development, qualification and validation, manufacture scale-up, development-stage manufacturing, quality assurance/quality control, clinical trials, statistical analysis and report writing, regulatory affairs with respect to the foregoing and all other activities necessary or useful or otherwise requested or required by a Regulatory Authority or as a condition or in support of obtaining or maintaining a Regulatory Approval.
- 1.24 **“Major Market”** means any of the following countries or jurisdictions: [\*\*\*].
- 1.25 **“Major Biopharmaceutical Company”** means: (a) a publicly traded pharmaceutical company whose market capitalization exceeds [\*\*\*] at the end of the company’s most recent fiscal year preceding the effective date of the proposed Sublicense to such company by LICENSEE or by the Special Purpose Entity; or (b) a company whose products or services primarily use biotechnology methods for their production, design or delivery and whose annual sales exceed [\*\*\*] for the company’s most recent fiscal year preceding the effective date of the proposed Sublicense to such company by LICENSEE or by the Special Purpose Entity as shown on the company’s financial statements that are audited by a nationally recognized accounting firm.
- 1.26 **“Materials”** means Original Material, Progeny, Unmodified Derivatives, and Modifications. Materials shall not include other substances created or synthesized by the LICENSEE or any Affiliate, Contractor, or Sublicensee if such other substances are independent of any Original Materials, Modifications, Progeny, or Unmodified Derivatives.
- 1.27 **“Modifications”** shall mean substances generated by LICENSEE, Affiliates, Contractors, or Sublicensees, that contain or incorporate, in whole or in part, the Original Material, Progeny, and/or Unmodified Derivatives.

- 1.28 “**Net Sales**” means, with respect to a Licensed Product (other than a Licensed Product developed using the Technology included in Portfolio FA Supp and no other Patent Rights, Nonexclusive Patent Rights or other Technology included herein) for any period, the total amount billed or invoiced on sales of such Licensed Product during such period by LICENSEE or any Affiliate or Sublicensee to third-parties (including wholesalers or Distributors), in bona fide arm’s-length transactions, less the following deductions, in each case related specifically to such Licensed Product and actually allowed and taken by such third-parties and not otherwise recovered by or reimbursed to LICENSEE or any Affiliate or Sublicensee:
- (a) trade, cash and quantity discounts;
  - (b) price reductions or rebates, retroactive or otherwise, imposed by, negotiated with or otherwise paid to governmental authorities or other payees;
  - (c) taxes on sales (such as sales, value added, or use taxes) to the extent added to the sale price and set forth separately as such in the total amount invoiced; provided, however, with respect to value-added taxes (“**VAT**”), only the first VAT LICENSEE or any Affiliate or Sublicensee withholds and pays to the government on behalf of a foreign customer for the sale of the Licensed Product may be deducted, provided that any VAT refund received by LICENSEE or any Affiliate or Sublicensee for which a deduction was previously made during the Term shall be added to the Net Sales of the period during which such VAT refund is received;
  - (d) amounts repaid or credited by reason of rejections, defects, return goods allowance, recalls or returns, or because of retroactive price reductions, including rebates or wholesaler charge backs;
  - (e) the portion of administrative fees paid during the relevant time period to group purchasing organizations, pharmaceutical benefit managers or Medicare Prescription Drug Plans relating to such Licensed Product;
  - (f) any invoiced amounts that are not collected and are written off by LICENSEE or any Affiliate or Sublicensee, including bad debts, provided that (i) such amount shall not exceed, for a given reporting period under Paragraph 4.1, [\*\*\*], and (ii) if the debt is thereafter paid, the corresponding credit amount shall be added to the Net Sales of the period during which it is paid;
  - (g) that portion of the annual fee on prescription drug manufacturers imposed by the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (as amended) and reasonably allocable to sales of such Licensed Product; and
  - (h) freight, insurance, import/export, and other transportation charges to the extent added to the sale price and set forth separately as such in the total amount invoiced, as well as any fees for services provided by wholesalers and warehousing chains related to the distribution of such Licensed Product.

Net Sales shall not include transfers or dispositions for charitable, promotional, pre-clinical, clinical, regulatory, or governmental purposes for which, in each case, no consideration is received. Net Sales shall include the amount of fair-market value of all other consideration received by LICENSEE or any Affiliate or Sublicensee in respect of such Licensed Product, whether such consideration is in cash, payment in kind, exchange or other form. Net Sales shall not include sales between or among LICENSEE or any Affiliate or Sublicensee after which the purchaser resells the Licensed Product, which resale shall be included in Net Sales; sales between or among LICENSEE or any Affiliate or Sublicensee for end-use by the purchaser shall be included in Net Sales.

Net Sales shall be calculated in accordance with the standard internal policies and procedures of LICENSEE or any Affiliate or Sublicensee, which must be in accordance with the consolidated financial statements of LICENSEE prepared in accordance with US GAAP or IFRS, as applicable. There shall be no double counting in determining the foregoing deductions from gross amounts invoiced to calculate “**Net Sales**” hereunder.

The Parties agree, that for purposes of calculating royalties due hereunder, Net Sales shall not include any sales of Licensed Products that are developed based on Portfolio FA Supp and no other Patent Rights, Nonexclusive Patent Rights or other Technology.

If any Licensed Product contains two (2) or more active pharmaceutical ingredients and is sold either as a fixed dose/unit or as separate doses/units in a single package (a “**Combination Product**”), then the Net Sales for such Combination Product in each country or jurisdiction shall be calculated as follows:

(w) If LICENSEE or any Affiliate or Sublicensee separately sells in such country or other jurisdiction, (i) a product containing, as its sole active ingredient, the sole active ingredient in the Licensed Product (the “**Licensed Compound**”) that is contained in such Combination Product (the “**Mono Product**”) and (ii) products containing, as their sole active ingredients, the other active ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying actual Net Sales of such Combination Product by the fraction  $A/(A+B)$  where: “A” is LICENSEE’s (or any Affiliate’s or Sublicensee’s, as applicable) average Net Sales price during the period to which the Net Sales calculation applies for the Mono Product in such country or other jurisdiction; and “B” is LICENSEE’s (or any Affiliate’s or Sublicensee’s, as applicable) average net sales price (determined in the same manner as “Net Sales”), during the period to which the Net Sales calculation applies in such country or other jurisdiction, for products that contain as their sole active ingredients the other active ingredients in such Combination Product.

(x) If LICENSEE or any Affiliate or Sublicensee separately sells in such country or other jurisdiction the Mono Product but does not separately sell in such country or other jurisdiction products containing, as their sole active ingredients, the other active ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying the Net Sales of such Combination Product by the fraction  $A/C$  where: “A” is LICENSEE’s (or any Affiliate’s or Sublicensee’s, as applicable)

average Net Sales price, during the period to which the Net Sales calculation applies, for the Mono Product in such country or other jurisdiction; and “C” is LICENSEE’s (or any Affiliate’s or Sublicensee’s, as applicable) average Net Sales price in such country or other jurisdiction, during the period to which the Net Sales calculation applies, for such Combination Product.

(y) If no LICENSEE, Affiliate or Sublicensee separately sells in such country or other jurisdiction the Mono Product but does separately sell products containing as their sole active ingredients the other active ingredients contained in such Combination Product, the Net Sales attributable to such Combination Product shall be calculated by multiplying the Net Sales of such Combination Product by the fraction (D-E)/D where: “D” is the average Net Sales price, during the period to which the Net Sales calculation applies, for such Combination Product in such country or other jurisdiction; and “E” is the average net sales price (determined in the same manner as “Net Sales”), during the period to which the Net Sales calculation applies, for products that contain as their sole active ingredients the other active ingredients in such Combination Product.

(z) If no LICENSEE, Affiliate or Sublicensee separately sells in such country or other jurisdiction both the Mono Product and the other active ingredient or ingredients in such Combination Product, the Net Sales attributable to such Combination Product shall be determined by the Parties in good faith based on the relative fair-market value of such Mono Product and such other active ingredient or ingredients.

- 1.29 “**Nonexclusive Patent Rights**” means rights that Cornell owns or controls in the patent application listed in Appendix B2, and applications which claim priority thereto, and continuing applications thereof including divisions, and substitutions but in each case only to extent the claims thereof are limited to [\*\*\*]; and any patents issuing on said applications including reissues, reexaminations and extensions.
- 1.30 “**Original Material**” means the material described in Appendix C, as provided to LICENSEE by the Inventors under this Agreement.
- 1.31 “**Orphan Drug Product**” means a Licensed Product for a specific Indication for which the FDA has granted “**Orphan-drug exclusive approval**” as defined in 21 CFR Part 316 or which has been granted orphan drug exclusivity under similar regulations in any Major Market or other foreign jurisdiction.
- 1.32 “**Patent Costs**” means all of Cornell’s unreimbursed out-of-pocket expenses for the preparation, filing, prosecution, maintenance and defending of all patent applications and patents within the Patent Rights and the Nonexclusive Patent Rights. Patent Costs also include reasonable out-of-pocket expenses for patentability opinions, inventorship review and determination, preparation and prosecution of patent application, re-examination, re-issue, interference, opposition activities, any declaratory judgment actions and inter partes and post-grant reviews related to patents or applications in the Patent Rights and within the Nonexclusive Patent Rights, [\*\*\*]. Notwithstanding the foregoing, in the event that [\*\*\*].

- 1.33 **“Patent Rights”** means rights that Cornell owns or controls in: (a) the patent applications and patents filed by Inventors and assigned to Cornell listed in Appendix B1, and applications which claim priority thereto, and continuing applications thereof including divisions, substitutions, and continuations-in-part (but only to extent the claims thereof are enabled by disclosure of the parent application); (b) any patents issuing on said applications including reissues, reexaminations and extensions; and (c) any corresponding foreign applications or patents. Notwithstanding the foregoing, the Nonexclusive Patent Rights are not included in the Patent Rights.
- 1.34 **“Phase II Clinical Trial”** means a human clinical trial intended to explore a variety of doses, dose response, and duration of effect, and to generate evidence of clinical safety and effectiveness for a particular Indication or Indications in a target patient population, or a similar clinical study prescribed by any applicable regulatory authority, from time to time, pursuant to applicable law or otherwise, including for example the trials referred to in 21 C.F.R. §312.21(b), as amended (or the non-United States equivalent thereof).
- 1.35 **“Phase III Clinical Trial”** means a human clinical trial of a product in any country that would satisfy the requirements of 21 C.F.R. §312.21(c), as amended (or the non-United States equivalent thereof) and is intended to (a) establish that the product is safe and efficacious for its intended use, (b) define contraindications, warnings, precautions and adverse reactions that are associated with the product in the dosage range to be prescribed, and (c) support Regulatory Approval for such product.
- 1.36 **“Portfolio”** means each of the groupings of Inventions, Patent Rights, Nonexclusive Patent Rights, Technology and Licensed Methods identified in the Cornell docket or dockets defined in Paragraphs 3.3(a)(iii)-(v) as Portfolio Batten, Portfolio ARSA or Portfolio FA Supp (each as defined below).
- 1.37 **“Progeny”** shall mean an unmodified descendant from the Original Material, such as virus from virus, cell from cell, or organism from organism.
- 1.38 **“Regulatory Approval”** means all approvals of each applicable regulatory authority necessary for the commercial marketing and sale of a product for a particular Indication in a country.
- 1.39 **“Royalty Term”** means, on a country-by-country basis, the period of time beginning on the First Commercial Sale of a Licensed Product in a given country and expiring on a country-by-country basis, with respect to each Licensed Product, upon the later of:
- (a) the expiration or invalidation of the last to expire or be invalidated of the Valid Claims;
  - (b) the expiration of any granted statutory period of marketing and/or data exclusivity for the Licensed Product that confers an exclusive commercialization period during which LICENSEE or any Affiliate or Sublicensee has the exclusive right to market and sell a Licensed Product in such country through such a regulatory exclusivity right; or

(c) the month of the First Commercial Sale of a Generic Equivalent of the Licensed Product in such country.

- 1.40 “**Special Purpose Entity**” means an entity that receives a Sublicense from LICENSEE as an Affiliate of LICENSEE. Cornell acknowledges that, in accordance with Paragraph 2.2(e), said entity is not required to remain an Affiliate after the granting of the said Sublicense. [\*\*\*] Special Purpose Entity (together with any successors or assigns by merger, consolidation or otherwise) is allowed under this Agreement at any time.
- 1.41 “**Sponsor Rights**” means with respect only to Cornell Docket D-6749, (a) all of the applicable provisions of any license to, or grant from, the Federal Government executed by Cornell, and (b) the overriding obligations to the Federal Government under 35 U.S.C. §§ 200-212 and all applicable governmental implementing regulations.
- 1.42 “**Sublicense**” means an agreement into which LICENSEE, the Special Purpose Entity or other permitted Sublicensee enters with a third-party (other than a Contractor or a Distributor) for the purpose of (a) granting certain rights; (b) granting an option to certain rights; or (c) forbearing the exercise of any rights, granted to LICENSEE under this Agreement after Effective Date. “**Sublicensee**” means a third-party with whom LICENSEE, the Special Purpose Entity or other permitted Sublicensee enters into a Sublicense. For purposes of clarity, the Special Purpose Entity is also a Sublicensee under this Agreement. “**Contractor**” means a third-party contract research organization that is performing research on behalf of and for the sole benefit of LICENSEE or any Affiliate or Sublicensee under a contract. “**Distributor**” means any third-party appointed by LICENSEE or any Affiliate or Sublicensee to distribute, market and sell Licensed Product with or without packaging rights, in one (1) or more countries in the Territory, in circumstances where such person purchases its requirements of Licensed Product from LICENSEE or any Affiliate or Sublicensee but does not otherwise make any royalty or other comparable payment to LICENSEE or any Affiliate or Sublicensee with respect to intellectual property rights with respect to such Licensed Product.
- 1.43 “**Sublicense Fees**” means income received by LICENSEE or the Special Purpose Entity from any Sublicensee (other than the Special Purpose Entity). The following types of income received from a Sublicensee (other than the Special Purpose Entity) shall be excluded from Sublicense Fees: (a) royalties on sales of Licensed Products; (b) net proceeds [\*\*\*] to LICENSEE or the Special Purpose Entity, but only to the extent said [\*\*\*] is at [\*\*\*]; (c) [\*\*\*] reimbursement for (i) any [\*\*\*] by or on behalf of LICENSEE, the Special Purpose Entity or any Affiliate, or (ii) any [\*\*\*] for Licensed Products that LICENSEE or the Special Purpose Entity [\*\*\*] (including in the case of the [\*\*\*]reimbursements described in this clause (c), any amounts paid to LICENSEE or the Special Purpose Entity with respect to [\*\*\*] as and to the extent that LICENSEE or the Special Purpose Entity (X) [\*\*\*] and (Y) [\*\*\*]); (d) documented line-item reimbursement for amounts actually paid to Cornell by LICENSEE under this Agreement; (e) reimbursement of actual [\*\*\*]; and (f) net proceeds resulting from any sale of any [\*\*\*] LICENSEE or the Special Purpose Entity to Sublicensees [\*\*\*].



- 1.44 “**Technology**” means the Materials, IND 13951, Know-How and Data.
- 1.45 “**Term**” means, on a country-by-country basis, the period of time beginning on the Effective Date and continuing until the earliest of (a) termination of this Agreement as set forth in Article 7 and (b) the last to expire Royalty Term.
- 1.46 “**Territory**” means worldwide.
- 1.47 “**Unmodified Derivatives**” means substances generated by LICENSEE or any Affiliate, Contractor, or Sublicensee that constitute an unmodified functional subunit or product expressed by the Original Material or its Progeny. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the Original Material or Progeny, proteins expressed by DNA/RNA, monoclonal antibodies secreted by a hybridoma cell line, or purified proteins expressed or secreted by a cell line, or cells or other material extracted from a model organism.
- 1.48 “**Valid Claim**” means: (a) with respect to a claim of any issued and unexpired patent within the Patent Rights or the Nonexclusive Patent Rights, that the validity, enforceability or patentability of such claim has not been affected by (i) irretrievable lapse, abandonment, revocation, dedication to the public or disclaimer or (ii) a holding, finding or decision of invalidity, unenforceability or non-patentability by a court, governmental agency, national or regional patent office or other appropriate body that has competent jurisdiction, such holding, finding or decision being final and unappealable or unappealed within the time allowed for appeals; or (b) a pending patent application within the Patent Rights or the Nonexclusive Patent Rights that has been filed and prosecuted in good faith and no more than [\*\*\*] have elapsed since the filing of the earliest priority application for such patent application.

## ARTICLE 2. GRANTS

2.1 **License.** Subject to Sponsor Rights, Paragraph 5.1, and to the limitations set forth in this Agreement, Cornell hereby grants to LICENSEE, and LICENSEE hereby accepts, a license, with the right to grant sublicenses in accordance with Paragraph 2.2 below, under the Patent Rights and the Nonexclusive Patent Rights, to make and have made, to use and have used, to sell and have sold, to offer for sale, and to import and have imported Licensed Products and to practice Licensed Methods and to use the Technology, in each case, in the Field and in the Territory. The License is exclusive with respect to the Patent Rights and is non-exclusive with respect to the Nonexclusive Patent Rights and the Technology. The license for the Helper Plasmid included in the Technology is limited solely to manufacturing of vectors included in the Technology and Licensed Products in accordance with the license described in this Paragraph 2.1 and, accordingly, Helper Plasmids may only be sold or sublicensed for manufacturing of vectors included in the Technology and Licensed Products. The license for Know-How and Data, included in the Technology, is limited solely to the Licensed Product Activity in accordance with the license described in this Paragraph 2.1.

## 2.2 Sublicense.

(a) **Generally.** The License includes the right of LICENSEE to grant Sublicenses under Patent Rights and the Nonexclusive Patent Rights and for the Technology:

(i) to Major Biopharmaceutical Companies (but in no case any Excluded Entities) through multiple tiers;

(ii) with Cornell's prior written consent, to other third-parties (other than Affiliates or Excluded Entities) but without the right to enter into further Sublicenses; and

(iii) subject to Paragraph 2.2(e), to the Special Purpose Entity (but in no case to any Excluded Entities), which Special Purpose Entity shall have the right to grant further Sublicenses:

(A) to Major Biopharmaceutical Companies (but in no case any Excluded Entities) through multiple tiers; and

(B) with Cornell's prior written consent, to other third-parties (other than Affiliates or Excluded Entities) but without the right to enter into further Sublicenses.

Helper Plasmids may be sublicensed in accordance with this Agreement only for manufacturing of vectors that are included in the Technology and the Licensed Products in accordance with the License.

(b) **Sublicense Requirements.** With respect to any Sublicense granted pursuant to Paragraph 2.2(a), LICENSEE (and the Special Purpose Entity or other Sublicensee, to the extent permitted to act as a sublicensor pursuant to Paragraph 2.2.(a)) shall:

(i) not receive, or agree to receive, anything of value in lieu of cash as consideration from a third-party under a Sublicense granted pursuant to Paragraph 2.2(a) without the prior written consent of Cornell (other than grants of licenses and/or assignments of intellectual property and customary contractual commitments associated with sublicenses);

(ii) to the extent applicable, include all of the rights of and obligations due to Cornell contained in this Agreement in all material respects. For the avoidance of doubt, notwithstanding anything herein to the contrary, in connection with, and as a condition precedent to, LICENSEE granting the Sublicense to the Special Purpose Entity, the Special Purpose Entity shall agree, by the terms of such Sublicense, to be obligated to perform all of the obligation of LICENSEE hereunder, including, without limitation, the obligations of LICENSEE provided in Article 3, Article 4, Article 5 and Article 8;

(iii) ensure that any such Sublicense shall be consistent with the terms and conditions of this Agreement in all material respects;

(iv) promptly provide Cornell with an unredacted copy of each Sublicense issued and of any amendment made to any Sublicense; and

(v) collect and guarantee payment of all payments due, directly or indirectly, to Cornell from Sublicensees and summarize and deliver all reports due, directly or indirectly, to Cornell from Sublicensees.

(c) **Fate of Sublicenses upon Termination of this Agreement.** Notwithstanding anything to the contrary, upon termination of this Agreement for any reason, Cornell shall grant to each Sublicensee license rights under the Patent Rights, the Nonexclusive Patent Rights and the Technology with exclusivity, field, term, financial, and diligence terms equivalent to those in said Sublicense; provided, however, that in no event shall Cornell be obligated: (i) to grant rights to a Sublicensee to anything Cornell does not possess or control; (ii) to surrender rights Cornell has reserved under Paragraph 2.3 of this Agreement; or (iii) to take on any new or incremental obligation beyond Cornell's express obligations under this Agreement.

(d) **No Sublicenses to Excluded Entities.** Notwithstanding anything herein to the contrary, unless it has obtained the prior written consent of Cornell in its sole discretion, neither LICENSEE nor the Special Purpose Entity or any other permitted Sublicensee may grant a Sublicense to any Excluded Entity.

(e) **Notice of Special Purpose Entity; No Obligation to Remain an Affiliate.** LICENSEE shall give Cornell prompt written notice of the Special Purpose Entity that receives a Sublicense hereunder. Notwithstanding anything herein to the contrary, the Sublicense granted to the Special Purpose Entity [\*\*\*].

**2.3 Reservation of Rights.** Cornell reserves the right to:

(a) use the Patent Rights solely for non-commercial educational and other non-commercial research purposes;

(b) publish or otherwise disseminate any information about the Inventions and the Patent Rights at any time, including IND 13951 and the information in IND 13951, even after the applications are assigned to LICENSEE pursuant to Paragraph 2.4(c);

(c) allow other nonprofit institutions to use the Patent Rights solely for non-commercial educational and non-commercial research purposes;

(d) use IND 13951 and the information in IND 13951 for (i) other purposes consistent with Paragraphs 2.4(a) and (c) above to the extent authorized by LICENSEE, which authorization shall not be unreasonably withheld, conditioned or delayed, and (ii) purpose of reference for any future INDs filed by Cornell from Dr. Crystal's laboratory; and

(e) Subject to Paragraph 2.3(d) and Paragraph 2.5, in its sole discretion, use, and license third-parties to use, the Technology and the Nonexclusive Patent Rights for any purpose.

**2.4 Transfer of Technology.**

(a) LICENSEE shall pay for shipping of Original Material by providing the lead Inventor with its shipping company account number.

(b) The lead Inventor will deliver or otherwise make available the Original Material and Know-How and Data included in the Technology to LICENSEE within [\*\*\*] of Cornell's receipt of the fees from LICENSEE described in Paragraph 3.1(a)(i).

(c) Subject to LICENSEE or the Special Purpose Entity raising no less than [\*\*\*] in financing, the achievement of such event LICENSEE will confirm by providing financial statements to Cornell within [\*\*\*] from the date of such event, Cornell and each Inventor each agree to assign, conditional upon the achievement of such event, all of their right, title and interest in and to IND 13951 to LICENSEE or the Special Purpose Entity as the sole owner thereof, and Cornell and each Inventor shall execute the assignment and will transfer the sponsorship of IND 13951 to LICENSEE or the Special Purpose Entity upon the achievement of such event. Cornell and each Inventor shall each cooperate with LICENSEE or the Special Purpose Entity to execute all documents and take all such actions as are reasonably necessary to perfect the assignment and transfer of ownership of IND 13951 to and in the name of LICENSEE or the Special Purpose Entity as the sole owner thereof, and to have sponsorship of IND 13951 transferred and assigned to LICENSEE or the Special Purpose Entity throughout the Territory.

2.5 **Limited Covenant Not to License Original Material in Portfolio ARSA.** With respect to the Original Material identified in items 9 and 10 set forth on Appendix C (i.e., the Original Material included in Portfolio ARSA), Cornell agrees not to license such Original Material to any third party for commercial purposes during the Royalty Term.

### ARTICLE 3. CONSIDERATION

3.1 **Fees and Royalties.** The Parties understand that the fees and royalties payable by LICENSEE to Cornell under this Agreement are partial consideration for the License and for the assignment and transfer of ownership and sponsorship of the IND to LICENSEE pursuant to the terms and conditions of Paragraph 2.4(c). LICENSEE shall pay Cornell:

(a) **a license issue and assignment fee**, to initiate the license and to have IND 13951 assigned and transferred, of [\*\*\*], of which (i) [\*\*\*] shall be paid [\*\*\*] within [\*\*\*] of Effective Date, (ii) [\*\*\*]) of which shall be paid [\*\*\*] within [\*\*\*] of the Effective Date, and (iii) [\*\*\*]) shall be paid [\*\*\*] contemporaneously with the execution of this Agreement.

(b) **license maintenance fees** payable on each anniversary of the Effective Date according to the following schedule; provided, however, that LICENSEE's obligation to pay this fee shall end on the date when LICENSEE is commercially selling a Licensed Product and the license maintenance fee payable shall be pro-rated for the number of months remaining in that license year.

<b>FEE PAYABLE TO CORNELL</b>	<b>DATE</b>
[***]	[***] anniversaries of the Effective Date
[***]	[***] anniversary of Effective Date
[***]	[***] anniversary of Effective Date
[***]	[***] anniversary of Effective Date and each subsequent anniversary thereafter

(c) **milestone payments** in the amounts payable according to the following schedule of events, per occurrence:

(i) with respect to each of Portfolio Batten and Portfolio ARSA, for each Licensed Product, provided that each milestone payment identified as (A), (B), (C), and (D) in the table shown in subparagraph 3.1(c)(i) below shall be payable only once per Portfolio:

<u>AMOUNT</u>	<u>DATE OR EVENT</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(ii) With respect to Portfolio FA Supp, for each service, composition or product supported by Portfolio FA Supp:

<u>AMOUNT</u>	<u>DATE OR EVENT</u>
[***]	[***]
[***]	[***]

(d) during the Royalty Term, on a per-Licensed Product and country-by-country basis, an earned royalty of:

(i) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is an Orphan Drug Product and (B) is Covered by a Valid Claim; and

(ii) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is an Orphan Drug Product and (B) is not Covered by a Valid Claim;

and

(iii) in addition to the royalties in Paragraph 3.1(d)(i) and (ii), an additional [\*\*\*] on Net Sales where the Licensed Product is an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e); and

(iv) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is not an Orphan Drug Product and (B) is Covered by a Valid Claim;

and

(v) [\*\*\*] on Net Sales in countries where the Licensed Product (A) is not an Orphan Drug Product and (B) is not Covered by a Valid Claim; and

(vi) in addition to the royalties in Paragraph 3.1(d)(iv) and (v), an additional [\*\*\*] on Net Sales where the Licensed Product is not an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e).

In the event LICENSEE or a Sublicensee is required to pay royalties and milestones to one or more third-parties for patent rights necessary to sell any Licensed Product, and the total royalties payable by LICENSEE exceed [\*\*\*] of Net Sales of such Licensed Product, then LICENSEE or a Sublicensee may deduct [\*\*\*] from the earned royalties payable to Cornell for every [\*\*\*] LICENSEE or Sublicensee actually pays to said third-parties of the amount LICENSEE or Sublicensee pays above [\*\*\*] of Net Sales of such Licensed Product; provided, however, that in no event shall the amount payable to Cornell with respect to such Licensed Product be less than [\*\*\*] of the amount then due under Paragraph 3.1(d) (the “**Royalty Cap Deduction**”) with respect to such Licensed Product. LICENSEE may carry over and apply any payments made by LICENSEE or a Sublicensee as described in the immediately preceding sentence that are not deducted as a result of the Royalty Cap Deduction, to any subsequent royalty payments due under Paragraph 3.1(d), and shall begin applying such reduction to such royalties as soon as practicable and continue applying such reduction as soon as permitted by this paragraph thereafter in accordance with the Royalty Cap Deduction.

(e) a percentage of all **Sublicense Fees** according to the following schedule:

(i) For Sublicenses not including any Licensed Products based on IND 13951:

<u>PERCENTAGE OF THE SUBLICENSE FEES TO BE SHARED WITH AND PAYABLE TO CORNELL</u>	<u>EVENTS ACHIEVED BY LICENSEE RELATED TO THE TIMING OF THE ISSUANCE OF EACH SUBLICENSE BY LICENSEE</u>
[***]	[***]
[***]	[***]

; and

(ii) For Sublicenses including one or more Licensed Products based on IND 13951:

<u>PERCENTAGE OF THE SUBLICENSE FEES TO BE SHARED WITH AND PAYABLE TO CORNELL</u>	<u>EVENTS ACHIEVED BY LICENSEE RELATED TO THE TIMING OF THE ISSUANCE OF EACH SUBLICENSE BY LICENSEE</u>
[***]	[***]
[***]	[***]

(f) (i) if the royalties payable by LICENSEE under Paragraphs 3.1(d)(i) and (ii), and if applicable, to Cornell in the August 31 and February 28 payments due under Paragraph 4.3(b)(ii) with respect to a single calendar year of Net Sales (“**Yearly Paid Orphan Royalties**”) are less than the amounts listed below (“**Minimum Annual Orphan Royalty**”):

<u>YEAR OF COMMERCIAL SALE</u>	<u>MINIMUM ANNUAL ROYALTY</u>
[***]	[***]
[***]	[***]
[***] and each year thereafter	[***]

; and

(ii) if the royalties payable by LICENSEE under Paragraphs 3.1(d)(iv) and (v), and (vi) if applicable, to Cornell in the August 31 and February 28 payments due under Paragraph 4.3(b)(ii) with respect to a single calendar year of Net Sales (“**Yearly Paid Non-orphan Royalties**”) are less than the amounts listed below (“**Minimum Annual Non-orphan Royalty**” and together with the Minimum Annual Orphan Royalty, the “**Minimum Annual Royalty**”):

<u>YEAR OF COMMERCIAL SALE</u>	<u>MINIMUM ANNUAL ROYALTY</u>
[***]	[***]
[***]	[***]
[***] and each year thereafter	[***]

then LICENSEE shall also pay to Cornell in said February 28 royalty payment, (A) the difference between the Minimum Annual Orphan Royalty and the Yearly Paid Orphan Royalties for Orphan Drug Products, and (B) the difference between the Minimum Annual Non-orphan Royalty and the Yearly Paid Non-orphan Royalties for Licensed Products that are not Orphan Drug Products; provided, however, that for the first and last years of commercial sales of Licensed Products, the amount of Minimum Annual Royalty payable shall be pro-rated for the number of months in the calendar year during which Licensed Products were sold.

All fees and royalty payments specified in Paragraphs 3.1(a) through 3.1(f) above shall be paid by LICENSEE pursuant to Paragraph 4.3 and shall be delivered by LICENSEE to Cornell as noted in Paragraph 10.1.

3.2 **Patent Costs.** LICENSEE shall reimburse Cornell all past (prior to the Effective Date, which amount approximately equals [\*\*\*]) and future (on or after the Effective Date) Patent Costs within [\*\*\*] following the date an itemized invoice is sent from Cornell to LICENSEE.

3.3 **Due Diligence.**

(a) Subject to Paragraph 3.3(b), LICENSEE, together with its Sublicensees, shall:

(i) (A) for LICENSEE or the Special Purpose Entity or other Sublicensee that is not a Major Biopharmaceutical Company, diligently proceed with the development, manufacture and sale of Licensed Products; or (B) for any Sublicensee that is a Major Biopharmaceutical Company, use Commercially Reasonable Effort to proceed with the development, manufacture and sale of Licensed Products; and

(ii) solely in the case of LICENSEE, raise the following (either directly or in the aggregate through the Special Purpose Entity):

<u>MILESTONE OF SECURITIES OR CASH PROCEEDS (AS APPLICABLE) TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
***	***
***	***
***	***

As used in the last row of the table set forth above, [\*\*\*]; and

(iii) develop a Licensed Product based on Cornell Docket D-7225, Cornell Docket D-7605 or IND 13951 (“**Portfolio Batten**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(iii):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
***	***
***	***

; and

(iv) develop a Licensed Product for the treatment of a dementia, such as Alzheimer’s disease, based on Cornell Docket D-6749 (“**Portfolio ARSA**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(iv):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
***	***
***	***
***	***

; and

(v) develop a Licensed Product for a central nervous system disease based on Cornell Docket D-9332 (“**Portfolio FA Supp**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(vii):

<u>MILESTONE TO BE ACHIEVED</u>	<u>TIME FROM EFFECTIVE DATE BY WHICH MILESTONE MUST BE ACHIEVED</u>
***	***
***	***
***	***



; and

(vi) incur Research Expenditures for each of Portfolio Batten, Portfolio ARSA or Portfolio FA Supp as follows:

<u>PORTFOLIO DESCRIPTION</u>	<u>RESEARCH EXPENDITURE MILESTONE TO BE ACHIEVED DURING EACH CONSECUTIVE TWO CALENDAR YEAR PERIOD (COMMENCING ON JANUARY 1, 2021)</u>
[***]	[***]

; and

(vii) market Licensed Products in each country within the Territory within [\*\*\*] of receiving Regulatory Approval to market such Licensed Products, together with all applicable pricing and reimbursement approvals, in said country; and

(viii) (A) for LICENSEE or the Special Purpose Entity or other Sublicensee that is not a Major Biopharmaceutical Company, reasonably fulfill the market demand for Licensed Products following commencement of marketing at any time during the term of this Agreement or (B) for any Sublicensee that is a Major Biopharmaceutical Company, use Commercially Reasonable Efforts to fulfill the market demand for Licensed Products following commencement of marketing at any time during the term of this Agreement; and

(ix) maintain all necessary governmental approvals and permits for the manufacture, use and sale of Licensed Products in each applicable country.

(b) Subject to Paragraph 3.3(c), if LICENSEE or its applicable Sublicensee fails to perform any of its obligations specified in Paragraphs 3.3(a)(i)-(ix), then Cornell as its sole remedy shall have the right and option to terminate this Agreement as follows: (i) in the case of Paragraph 3.3(a)(ii), Cornell shall have the right to terminate this Agreement in full in accordance with the terms and conditions of this Agreement, and (ii) in the case Paragraphs 3.3(a)(i) and (iii)-(ix), solely with respect to the Licensed Product for the applicable Portfolio Batten, Portfolio ARSA or Portfolio FA Supp, Cornell shall have the right to terminate this Agreement in part (but not as a whole) with respect to specific dockets or under the Patent Rights or under the Nonexclusive Patent Rights with respect to such applicable Portfolio Batten, Portfolio ARSA or Portfolio FA Supp.

(c) If (i) LICENSEE fails to perform any of the obligations specified in Paragraphs 3.3(a)(iii)-(v) but (ii) LICENSEE has made Research Expenditures of at least [\*\*\*] for the applicable Portfolio on or before the later of [\*\*\*] from the Effective Date or [\*\*\*] from the filing of an IND for a Licensed Product with respect to such Portfolio, then LICENSEE shall be entitled to elect to receive a single, one-time, [\*\*\*] extension of the applicable milestone date that LICENSEE failed to meet. To make such election, LICENSEE shall provide Cornell with written notice thereof, together with reasonable documentation of such amount of Research Expenditures, within [\*\*\*] of LICENSEE's receipt of Cornell's notice of breach as provided above. If LICENSEE fails to provide written notice of such election and copies of such documentation within such [\*\*\*] period, LICENSEE shall have waived its rights to such extension.

(d) If, during the Term, Cornell receives one or more bona fide written offers from a capable third-party for a license under the Patent Rights to commercialize such Licensed Product in any Major Market ("**Third Party Offer**"), then Cornell shall refer such offers to LICENSEE. In addition, Cornell may, having one or more Third Party Offers, exclude said country from the Territory and license such right to one or more third-parties unless LICENSEE has, within [\*\*\*] from the date of such referral, (i) established or begun a product development program with respect to such Licensed Product, or (ii) executed an agreement with a Sublicensee that commits the Sublicensee to develop and commercialize such Licensed Product in such country. Notwithstanding the foregoing, this Paragraph 3.3(d) shall not apply to any Sublicensee that constitutes a Major Biopharmaceutical Company.

### 3.4 Research Support.

(a) Each of Cornell and LICENSEE acknowledges that successful development of the Inventions will require substantial ongoing research support from LICENSEE to the laboratory of the Inventors at Cornell. Each research project in the Inventor's laboratory (each, a "**Project**") will be pursuant to a separate research collaboration agreement (an "**RCA**") to be negotiated by LICENSEE and/or the Special Purpose Entity with Cornell's office of Biopharma Alliances and Research Collaborations. Each RCA will: have its own attached specific research plan and budget; require support for the Project from LICENSEE, the Special Purpose Entity or Affiliates of at least [\*\*\*]; and be substantially in the form to be attached as Appendix G by the Parties following signing this Agreement after the initial RCA has been negotiated by the Parties.

(b) From and after the Effective Date, LICENSEE, the Special Purpose Entity and/or Affiliates shall provide research support to Inventor's laboratory pursuant to one or more RCAs in the aggregate funding amount of at least [\*\*\*] period, provided that in no single calendar year will the aggregate funding amount under all RCAs be less than [\*\*\*] (the "**Research Commitment**").

(c) With regard to patentable inventions (or patent rights) and new know-how or materials (or results) that arise from the performance of an RCA (each, a "**Sponsored Invention**"), the RCA will provide that:

(i) for so long as LICENSEE together with the Special Entity and Affiliates is, and has been at all times from the Effective Date, in compliance with its payment obligations under the Research Commitment at the time the Sponsored Invention is disclosed to CTL:

(A) for each Sponsored Invention that is either an improvement to, or is dominated by, the Patent Rights or the Nonexclusive Patent Rights or is specifically designed to be used with a Licensed Product such as pre-clinical data or results and manufacturing know-how (each, an “**Improvement**”), this Agreement shall be amended to include license grants to all such Improvements, upon:

(1) the election of LICENSEE or the Special Purpose Entity, by written notice to CTL within [\*\*\*] of LICENSEE’s receipt of the disclosure of such Improvement by CTL; and

(2) LICENSEE’s or the Special Purpose Entity’s payment of the relevant amendment fee of [\*\*\*] for each Improvement that is a patentable invention (or patent rights), and [\*\*\*] for each Improvement that is know-how or materials (but in no event to include pre-clinical data or results), except in the event that such know-how includes a new IND, in which case the amount of the amendment fee shall be negotiated in good faith by the Parties in accordance with subparagraph (ii) below; provided, however, that the payments required by this Paragraph 3.4(c)(i)(A)(2) other than those with respect to any new IND shall not exceed [\*\*\*] per Portfolio and, notwithstanding anything to the contrary, no payments shall be required for any Improvement which constitutes pre-clinical data or results.

(B) for each Sponsored Invention that is not an Improvement, LICENSEE or the Special Purpose Entity will have the first exclusive option to negotiate in good faith with Cornell to license such Sponsored Invention on commercially reasonable terms for academia-to-industry licenses.

(ii) otherwise, LICENSEE or the Special Purpose Entity will have the first exclusive option to negotiate in good faith with Cornell to license such Sponsored Invention on commercially reasonable terms for academia-to-industry licenses.

(d) Notwithstanding anything herein to the contrary, the Parties acknowledge that any future clinical trial work to be performed at Cornell will be performed pursuant to, and the intellectual property and other results of which will be governed by, a separate Clinical Trial Agreement, to be negotiated by the Parties.

## **ARTICLE 4. REPORTS, RECORDS AND PAYMENTS**

### **4.1 Reports; Quarterly Meetings.**

(a) **Development Reports.** Beginning [\*\*\*] after the Effective Date and ending on the date of the First Commercial Sale of a Licensed Product in the United States, LICENSEE shall report to Cornell progress covering LICENSEE’s (and Affiliates’ and Sublicensees’) activities and efforts in the development of rights granted to LICENSEE under this Agreement for the preceding [\*\*\*]. The report shall include, but not be limited to, activities and efforts to develop and test all Licensed Products, and obtain governmental approvals necessary for marketing the same, as well as business development, corporate development, and fund-raising activities (including cumulative amounts raised, and the amount of each financing round) related to development of Licensed Products. Such semi-annual reports shall be due within sixty (60) days of the reporting period and shall use the form as provided herein as Appendix H.

(b) **Commercialization Reports.** After the First Commercial Sale of a Licensed Product anywhere in the Territory, LICENSEE shall submit to Cornell semi-annual reports on or before each February 28 and August 31 of each year. Each report shall cover LICENSEE's (and each Affiliate's and Sublicensee's) most recently completed calendar half-year and shall show:

(i) the number of each type of Licensed Product sold;

(ii) the gross sales and Net Sales during the most recently completed calendar half-year, an explanation of all deductions under Net Sales as defined in Paragraph 1.27, and the royalties, in US dollars, payable with respect thereto;

(iii) Sublicense Fees received during the most recently completed calendar half-year and all amounts deducted under the exceptions in Paragraph 1.42 and explanations therefor, all in US dollars, and the amount payable with respect thereto;

(iv) the method used to calculate the royalties and Sublicense Fee payments;

(v) the exchange rates used; and

(vi) relevant business and corporate development efforts relating to the rights granted in this Agreement and to the diligence development efforts described herein.

LICENSEE shall provide the above information using the form as shown in Appendix I and include information on the date of the First Commercial Sale of each Licensed Product in each country. If, following the First Commercial Sale of the Licensed Product, no sales of Licensed Products have been made or no Sublicense Fees has been received by LICENSEE during any reporting period, LICENSEE shall so report.

(c) **Quarterly Meetings.** From and after the Effective Date, Cornell and LICENSEE's or the Special Purpose Entity's, as applicable, management team shall meet at least once per calendar quarter to discuss the status of the Licensed Product Activity for each Licensed Product.

#### 4.2 Records & Audits.

(a) LICENSEE shall keep, and shall require Affiliates and Sublicensees to keep, accurate and correct records of all Licensed Products manufactured, used, and sold, and Sublicense Fees paid and received under this Agreement. Such records shall be retained by LICENSEE for at least [\*\*\*] following a given reporting period.

(b) Subject to entry of commercially reasonable confidentiality agreements between the Parties and any audit firm, all records shall be available during normal business hours for inspection at the expense of Cornell by Cornell's Internal Audit Department or by a Certified Public Accountant selected by Cornell and in compliance with the other terms of this Agreement

for the sole purpose of verifying reports and payments or other compliance issues. Such access need not be given to any such set of records more often than once each calendar year or more than [\*\*\*] after the date of any report to be audited. Such inspector shall not disclose to Cornell any information other than information relating to the accuracy of reports and payments made under this Agreement or other compliance issues. In the event that any such inspection shows an under reporting and underpayment in excess of [\*\*\*], then LICENSEE shall pay the cost of the audit as well as any additional sum that would have been payable to Cornell had the LICENSEE reported correctly, plus an interest charge at a rate of [\*\*\*]. Such interest shall be calculated from the date the correct payment was due to Cornell up to the date when such payment is actually made by LICENSEE. For underpayment not in excess of [\*\*\*] period, LICENSEE shall pay the difference within [\*\*\*] without inspection cost but with interest charge per the provisions of Paragraph 4.3(c).

#### **4.3 Payments.**

(a) All fees, reimbursements and royalties due to Cornell shall be paid in United States dollars and all checks shall be made payable to “Cornell University”, referencing Cornell’s taxpayer identification number, [\*\*\*], and sent to Cornell according to Paragraph 10.1 (Correspondence). When Licensed Products are sold in currencies other than United States dollars, LICENSEE shall first determine the earned royalty in the currency of the country in which Licensed Products were sold and then convert the amount into equivalent United States funds, using the exchange rate quoted in the Wall Street Journal on the last business day of the applicable reporting period.

##### **(b) Royalty Payments.**

(i) Royalties shall accrue when Licensed Products are invoiced, or if not invoiced, when delivered.

(ii) LICENSEE shall pay earned royalties [\*\*\*] on or before February 28 and August 31 of each calendar year. Each such payment shall be for earned royalties accrued within LICENSEE’s most recently completed calendar half-year.

(iii) Royalties earned on Net Sales occurring in any country outside the United States shall not be reduced by LICENSEE for any taxes, fees, or other charges imposed by the government of such country on the payment of royalty income (other than as permitted in the calculation of Net Sales), except that all payments required to be made by LICENSEE in fulfillment of Cornell’s tax liability in any particular country may be credited against earned royalties or fees due Cornell for that country and LICENSEE shall promptly provide Cornell with written documentation evidencing each such payment. LICENSEE shall pay all bank charges resulting from the transfer of such royalty payments.

(iv) In the event that either Party engages in (A) any assignment of any of its rights under this Agreement or (B) any corporate migration, redomestication, redomiciliation, reincorporation, or any other transaction or legal scheme which results in the imposition of or increase in any withholding tax on payments pursuant to this Agreement (any such Party which engages in the conduct described above in subclauses (A) or (B), the “**Engaging Party**”), the Engaging Party (or the resulting successor of any such transaction) agrees to pay additional

amounts to the other Party sufficient for such other Party to be in the same net after-tax position in which the other Party would have been if the Engaging Party would not have undertaken such (X) assignment of any of its rights under this Agreement or (Y) corporate migration, redomestication, redomiciliation, reincorporation, or any other transaction or legal scheme.

(v) If at any time legal restrictions prevent the prompt remittance of part or all royalties by LICENSEE with respect to any country where a Licensed Product is sold or a Sublicense is granted pursuant to this Agreement, LICENSEE shall convert the amount owed to Cornell into US currency and shall pay Cornell directly from its US sources of fund for as long as the legal restrictions apply.

(vi) In the event that any patent or patent claim within Patent Rights or the Nonexclusive Patent Rights is held invalid in a final decision by a patent office from which no appeal or additional patent prosecution has been or can be taken, or by a court of competent jurisdiction and last resort and from which no appeal has or can be taken, all obligation to pay royalties based solely on that patent or claim or any claim patentably indistinct therefrom shall cease as of the date of such final decision. LICENSEE shall not, however, be relieved from paying any royalties that accrued before the date of such final decision, that are based on another patent or claim not involved in such final decision, or that are based on the use of the Technology.

(c) Late Payments. In the event royalty, reimbursement and/or fee payments are not received by Cornell when due, LICENSEE shall pay to Cornell interest charges at a rate of [\*\*\*]. Such interest shall be calculated from the date payment was due until actually received by Cornell.

## **ARTICLE 5. PATENT MATTERS**

### **5.1 Patent Prosecution and Maintenance.**

(a) Provided that LICENSEE has reimbursed Cornell for Patent Costs pursuant to Paragraph 3.2, Cornell shall diligently prosecute and maintain the United States and, if available, foreign patents, and patent applications, in the Patent Rights and in the Nonexclusive Patent Rights using counsel of its choice. Cornell shall provide LICENSEE with copies of all related prosecution filings, and LICENSEE shall keep this documentation confidential. Cornell shall seek and reasonably consider LICENSEE's advice and input on all material patent prosecution matters. Patent counsel shall take instructions only from Cornell, and (subject to Paragraph 5.4) all patents and patent applications in the Patent Rights shall be assigned solely to Cornell.

(b) Cornell shall consider amending any patent application in the Patent Rights or in the Nonexclusive Patent Rights to include claims reasonably requested by LICENSEE to protect the products contemplated to be sold as Licensed Products by LICENSEE under this Agreement.

(c) LICENSEE may elect to terminate its reimbursement obligations with respect to any patent application or patent in the Patent Rights or in the Nonexclusive Patent Rights upon [\*\*\*\*] written notice to Cornell. Cornell shall use reasonable efforts to curtail further Patent Costs for such application or patent once such notice of termination has been received from LICENSEE. Cornell, in its sole discretion and at its sole expense, may continue prosecution and maintenance of such application or patent, and LICENSEE shall have no further license with respect thereto.

Non-payment by LICENSEE of any portion of Patent Costs with respect to any application or patent may be deemed by Cornell [\*\*\*] after written notice to LICENSEE of non-payment as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. Cornell is not obligated to file, prosecute, or maintain any patent or patent application within the Patent Rights or the Nonexclusive Patent Rights outside of the Territory at any time or to file, prosecute, or maintain any patent or patent application within the Patent Rights or the Nonexclusive Patent Rights to which LICENSEE has terminated its License hereunder.

(d) LICENSEE shall apply for an extension of the term of any patent in the Patent Rights or in the Nonexclusive Patent Rights if appropriate under the Drug Price Competition and Patent Term Restoration Act of 1984 and/or European, Japanese and other foreign counterparts of this law, and Cornell shall reasonably cooperate at LICENSEE's expense. LICENSEE shall prepare all documents for such application, and Cornell shall execute such documents and to take any other additional action as LICENSEE reasonably requests in connection therewith.

## 5.2 Patent Infringement.

(a) In the event that Cornell (to the extent of the actual knowledge of the licensing professional at CTL responsible for the administration of this Agreement) or LICENSEE learns of infringement of potential commercial significance of any patent in the Patent Rights or in the Nonexclusive Patent Rights, the knowledgeable Party will provide the other Party with written notice of such infringement, which notice shall include any evidence of such infringement available to such Party. Within [\*\*\*] after receipt of such notice, the Parties shall meet to discuss how to proceed with respect to such infringement. Each Party shall consider in good faith the input from the other Party, including without limitation to what extent an infringement action may be detrimental to the overall patent protection for Licensed Products.

(b) During the period in which, and in the jurisdiction where, LICENSEE has exclusive rights under this Agreement, neither Cornell nor LICENSEE will notify a third-party (including the infringer) of infringement or put such third-party on notice of the existence of any Patent Rights prior to the meeting required by Paragraph 5.2(a). LICENSEE shall not notify a third-party (including the infringer) of infringement or put such third-party on notice of the existence of any Nonexclusive Patent Rights without first obtaining consent of Cornell. If LICENSEE gives notice to a third-party, then LICENSEE shall pay or reimburse Cornell for any legal costs resulting from any declaratory judgment action, inter partes or post-grant review or similar proceeding arising from such notice. Cornell shall have the right to terminate this Agreement immediately without the obligation to provide [\*\*\*] notice as set forth in Paragraph 7.1 if LICENSEE notifies a third-party of infringement or puts such third-party on notice of the existence of any patent or patent application in the Patent Rights or in the Nonexclusive Patent Rights with respect to such infringement in breach of this Paragraph 5.2(b).

(c) Following the meeting required by Paragraph 5.2(a), LICENSEE and the Sublicensees shall have the initial right to take legal action against such third-party for the infringement of any patent in the Patent Rights in the Field and within the Territory. LICENSEE shall keep Cornell promptly informed regarding the status of any such suit or action and shall provide Cornell with copies of all material documents (e.g., complaints, answers, counterclaims,

material motions, orders of the court, memoranda of law and legal briefs, interrogatory responses, depositions, material pre-trial filings, expert reports, affidavits filed in court, transcripts of hearings and trial testimony, trial exhibits and notices of appeal) filed in, or otherwise relating to, such suit or action. If LICENSEE or any Sublicensee elect to bring suit, Cornell may join that suit at its own expense. If required under applicable law in order for LICENSEE or its Sublicensees to initiate or maintain such suit, Cornell shall join as a party to the suit, at LICENSEE's sole cost and expense. If, in a suit initiated by LICENSEE or its Sublicensees, Cornell is required to be or is otherwise involuntarily joined, LICENSEE will pay any costs incurred by Cornell arising out of such suit, including but not limited to, any reasonable legal fees of counsel that Cornell selects and retains to represent Cornell in the suit.

(d) If LICENSEE (and any Sublicensees involved) do not take prompt legal action following the meeting required by Paragraph 5.2(a), or give notice to Cornell that they have elected not to pursue legal action and their reasoning for that decision, then Cornell may unilaterally take such legal action as Cornell deems appropriate.

(e) LICENSEE may request Cornell to take legal action against such third-party for the infringement of any patent in the Nonexclusive Patent Rights in the Field and within the Territory. Such request shall be made in writing and shall include reasonable evidence of such infringement and damages to LICENSEE. Cornell shall elect to or not to commence suit on its own account. If Cornell elects not to commence suit with respect to the Nonexclusive Patent Rights, LICENSEE may not thereafter bring suit for patent infringement with respect to the Nonexclusive Patent Rights.

(f) Any recovery or settlement received in connection with any suit concerning a patent in the Patent Rights (i) first, will be shared by Cornell and LICENSEE equally until the actual out-of-pocket litigation costs of one of the Parties are fully recovered; (ii) next, shall be provided to the party that has not yet fully recovered its actual out-of-pocket litigation costs until all such costs are fully recovered; and (iii) finally, with respect to any remaining amount, shall then be shared between Cornell and LICENSEE [\*\*\*]. If, however, Cornell has no out of pocket costs, Cornell's share of any remaining amount shall be shared as follows: [\*\*\*]. Cornell and LICENSEE agree to be bound by all determinations of patent infringement, validity, and enforceability (but no other issue) resolved by any adjudicated judgment in a suit brought in compliance with this Paragraph 5.2.

(g) Notwithstanding Paragraph 5.2(c), any agreement made by LICENSEE for purposes of settling any litigation or other dispute shall comply with the requirements of Paragraph 2.2.

(h) Each Party will cooperate with the other Party in litigation proceedings instituted hereunder but at the expense of the Party who initiated the suit (unless such suit is being jointly prosecuted by the Parties).

(i) Any litigation proceedings will be controlled by the Party bringing the suit, except that Cornell may be represented by counsel of its choice in any suit brought by LICENSEE.



5.3 **Patent Marking.** LICENSEE shall mark all Licensed Products made, used or sold under the terms of this Agreement, or their containers, in accordance with the applicable patent marking laws.

#### 5.4 **Ownership of Technology.**

(a) Cornell retains ownership of Technology, with the exception of IND 13951, which may be assigned to LICENSEE in accordance with the terms and conditions of Paragraph 2.4(b) and Paragraph 2.4(c), in which case LICENSEE shall become the sole owner thereof.

(b) The ownership of any intellectual property generated, created or otherwise made by LICENSEE and/or each Sublicensee, respectively, shall be governed by US patent law, unless there is a subsequent written agreement between LICENSEE or any Affiliate and Cornell, in which case such subsequent written agreement shall prevail.

(c) LICENSEE shall make no use of the Patent Rights, Nonexclusive Patent Rights or Technology outside the scope of this Agreement and the License.

### **ARTICLE 6. GOVERNMENTAL MATTERS**

6.1 **Governmental Approval or Registration.** If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, LICENSEE shall assume all legal obligations to do so. LICENSEE shall notify Cornell if it becomes aware that this Agreement is subject to a United States or foreign government reporting or approval requirement. LICENSEE shall make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

6.2 **Export Control Laws.** LICENSEE shall observe all applicable United States and foreign laws with respect to the transfer of Licensed Products and related technical data to foreign countries, including, without limitation, the International Traffic in Arms Regulations and the Export Administration Regulations.

6.3 **U.S. Government Rights.** The parties acknowledge that the Federal Government retains rights in Cornell docket D-6749. The License for Cornell Docket D-6749 is expressly subject to all applicable Federal Government rights, including, but not limited to, any applicable requirement that products that are based on Cornell docket D-6749 and are sold in the United States, must be substantially manufactured in the United States (unless a valid waiver is obtained from the United States National Institutes of Health or other applicable authority).

## ARTICLE 7. TERMINATION AND EXPIRATION OF THE AGREEMENT

### 7.1 Termination by Cornell.

(a) If LICENSEE fails to perform or violates any term of this Agreement in any material respect, then Cornell may give written notice of default (“**Notice of Default**”) to LICENSEE. If LICENSEE fails to cure the default in all material respects within [\*\*\*] of the Notice of Default, Cornell may terminate this Agreement and the License by a second written notice (“**Notice of Termination**”) to LICENSEE. If a Notice of Termination is sent to LICENSEE, this Agreement shall automatically terminate on the effective date of that notice in accordance with the terms and conditions of this Agreement. Termination shall not relieve LICENSEE of its obligation to pay any fees owed at the time of termination and shall not impair any accrued right of Cornell. Upon termination, LICENSEE shall immediately assign IND 13951 back to Cornell.

(b) Cornell shall have the right to terminate this Agreement immediately, without the obligation to provide written notices as set forth in Paragraph 7.1(a), if LICENSEE or the Special Purpose Entity files a claim including in any way the assertion that any claim, patent, or patent application in the Patent Rights or in the Nonexclusive Patent Rights is invalid or unenforceable where the filing is by LICENSEE or the Special Purpose Entity, a third-party on behalf of LICENSEE or the Special Purpose Entity, or a third-party at the written urging of LICENSEE or the Special Purpose Entity.

(c) Cornell may terminate this Agreement pursuant to Paragraph 3.3(b).

### 7.2 Termination by LICENSEE.

(a) LICENSEE shall have the right at any time and for any reason to terminate this Agreement or any Portfolio hereunder upon a [\*\*\*] written notice to Cornell. Said notice shall state LICENSEE’s reason for terminating this Agreement or any Portfolio hereunder.

(b) Any termination under Paragraph 7.2(a) shall not relieve LICENSEE of any obligation or liability accrued under this Agreement prior to termination or rescind any payment made to Cornell or action by LICENSEE prior to the time termination becomes effective. Termination shall not affect in any manner any rights of Cornell arising under this Agreement prior to termination.

7.3 **Survival on Termination.** The following Paragraphs and Articles shall survive the termination of this Agreement:

- (a) Article 4 (REPORTS, RECORDS AND PAYMENTS);
- (b) Paragraph 7.3 (Survival on Termination);
- (c) Paragraph 7.4 (Disposition of Technology and Licensed Products on Hand);
- (d) Paragraph 8.2 (Indemnification);
- (e) Article 9 (USE OF NAMES AND TRADEMARKS); and
- (f) Paragraph 10.2 (Secrecy).

#### 7.4 Disposition of Technology and Licensed Products on Hand.

(a) Expiration. Upon the expiration of the Royalty Term for a given Licensed Product in a given country, LICENSEE will retain a non-exclusive, royalty-free license to use the Technology to continue selling said Licensed Product in said country; LICENSEE's obligations to Cornell in Paragraph 8.2 and Article 9 remain in effect for as long as LICENSEE is using the Technology and must be transferred with any transfer of the Technology to a third-party. This Paragraph 7.4(a) and the grant and obligations in this Paragraph 7.4(a) survive expiration of this Agreement. This Paragraph 7.4(a) does not apply if this Agreement is terminated under Paragraphs 7.1 or 7.2.

(b) Termination. Upon termination of this Agreement under Paragraphs 7.1 or 7.2, LICENSEE may dispose of all previously made or partially made Licensed Product within a period of [\*\*\*] of the effective date of such termination provided that the sale of such Licensed Product by LICENSEE, Affiliates, or Sublicensees shall be subject to the terms of this Agreement, including but not limited to the rendering of reports and the payment of royalties required under this Agreement. Upon termination of this Agreement, at Cornell's election, LICENSEE will destroy or return to Cornell all unused Technology and notify Cornell in writing that said Technology has been returned or destroyed. LICENSEE shall no longer have rights to use the Technology upon termination, and LICENSEE will promptly transfer sponsorship of IND 13951 to Cornell.

### ARTICLE 8. LIMITED WARRANTY, INDEMNIFICATION AND INSURANCE

#### 8.1 Limited Warranty.

(a) Cornell warrants that, without conducting any investigation or any inquiry, it has the lawful right to grant the License, and that, as of the Effective Date, CTL has not received written notice from any third-party of any pending or threatened legal action or suit asserting that the use of the Patent Rights or the Nonexclusive Patent Rights or the Technology as contemplated hereunder for the development and commercialization of any Licensed Product would infringe or misappropriate the patent rights or intellectual property rights of any third-party. Notwithstanding the foregoing, Cornell's warranty that "it has the lawful right to grant the License" does not and shall not apply to the Original Material (as described in Appendix C).

(b) The License is provided "AS IS" and without WARRANTY OF MERCHANTABILITY or WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or any other warranty, express or implied. Neither Cornell nor Einstein make any representation or warranty that the Licensed Product, any Licensed Method or the use of the Patent Rights or the Nonexclusive Patent Rights or the Technology will not infringe any other patent or other proprietary rights.

(c) In no event shall Cornell or Einstein be liable for any incidental, special or consequential damages resulting from exercise of the License or the use of the Invention, the Patent Rights, the Nonexclusive Patent Rights, any Licensed Product, any Licensed Method or the Technology.

(d) Nothing in this Agreement shall be construed as:

(i) a warranty or representation by Cornell or Einstein as to the validity or scope of any patent or patent application in the Patent Rights or in the Nonexclusive Patent Rights;

(ii) a warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or shall be free from infringement of patents of third parties;

(iii) an obligation to bring or prosecute actions or suits against third-parties for patent infringement except as provided in Paragraph 5.2 hereof;

(iv) conferring by implication, estoppel or otherwise any license or rights under any patents of Cornell or Einstein other than those in the Patent Rights and in the Nonexclusive Patent Rights as defined in this Agreement, regardless of whether those patents are dominant or subordinate to those in the Patent Rights or in the Nonexclusive Patent Rights;

(v) an obligation to furnish any know-how not provided in the Technology and in the patents and patent application in the Patent Rights and in the Nonexclusive Patent Rights; or

(vi) an obligation to update the Technology.

**8.2 Indemnification.** LICENSEE shall indemnify, hold harmless and defend: Cornell and Einstein and their respective trustees, officers, employees, and agents; the sponsors of the research that led to the Invention; and the Inventors of the patents and patent applications in Patent Rights and in the Nonexclusive Patent Rights and their employers (collectively, the “**Indemnified Parties**”) against any and all claims, suits, losses, damage, costs, fees, and expenses resulting from or arising out of this Agreement or any Sublicense. This indemnification shall include, but not be limited to, any product liability. LICENSEE shall control any litigation or potential litigation involving the defense of any Claim, including the selection of counsel, with input from Cornell. In the event that a conflict of interest arises between LICENSEE’s interest and Cornell’s or Einstein’s interest, Cornell reserves the right to protect its or Einstein’s interest in defending against any Claim by selecting its own counsel, with any attorneys’ fees and litigation expenses paid for by LICENSEE, pursuant to this Paragraph 8.2. LICENSEE will not settle or compromise any Claim giving rise to Liabilities in any manner that imposes any restrictions or obligations on Cornell or grants any rights to the Patent Rights or to the Nonexclusive Patent Rights (other than permitted Sublicenses) without Cornell’s prior written consent. If LICENSEE fails or declines to assume the defense of any Claim or fails to reimburse an Indemnified Party for any Liabilities within the thirty (30)-day notice period, then Cornell may assume the defense of such Claim for the account and at the risk of LICENSEE. The indemnification rights of the Indemnified Parties under this Paragraph 8.2 are in addition to all other rights that an Indemnified Party may have at law, in equity or otherwise.

### 8.3 Insurance.

(a) LICENSEE, at its sole cost and expense, shall insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain insurance or an equivalent program of self-insurance as follows:

(i) Prior to the first “in human” test of a Licensed Product: comprehensive or commercial general liability insurance (contractual liability included) with limits of at least: (A) each occurrence, [\*\*\*]; (B) products/completed operations aggregate, [\*\*\*]; (C) personal and advertising injury, [\*\*\*]; (D) general aggregate (commercial form only), [\*\*\*]; and (E) professional liability, [\*\*\*] per occurrence and [\*\*\*] in the aggregate; and

(ii) Commencing upon the first “in human” test of a Licensed Product: comprehensive or commercial general liability insurance (contractual liability included) with limits of at least: (A) each occurrence, [\*\*\*]; (B) products/completed operations aggregate, [\*\*\*]; (C) personal and advertising injury, [\*\*\*]; (D) general aggregate (commercial form only), [\*\*\*]; and (E) professional liability, [\*\*\*] per occurrence and [\*\*\*] in the aggregate; and

(iii) The coverage and limits referred to above shall not in any way limit the liability of LICENSEE.

(b) LICENSEE shall, within [\*\*\*] of Effective Date and annually thereafter on anniversary of Effective Date during the Term, furnish Cornell with certificates of insurance showing compliance with all requirements. Such certificates shall: (i) provide for [\*\*\*] advance written notice to Cornell of any modification; (ii) indicate that Cornell has been endorsed as an additionally insured party under the coverage referred to above; and (iii) include a provision that the coverage shall be primary and shall not participate with nor shall be excess over any valid and collectable insurance or program of self-insurance carried or maintained by Cornell.

(c) Cornell shall notify LICENSEE in writing of any claim or suit brought against Cornell in respect of which Cornell intends to invoke the provisions of this Article 8. LICENSEE shall keep Cornell informed on a current basis of its defense of any claims under this Article 8.

### 8.4 Representations, Warranties and Acknowledgements by LICENSEE.

(a) LICENSEE represents that, as of the Effective Date (i) it possesses no biological material generated at Cornell and (ii) the only technical information generated at Cornell that are in LICENSEE’s possession are covered by the terms of the Mutual Confidential Disclosure Agreement between Cornell and LICENSEE entered into on or before the Effective Date.

(b) LICENSEE warrants that, to the extent it receives and uses any biological material or technical information generated at Cornell (“**Cornell Technology**”), it will only receive and use the Cornell Technology that is documented in this Agreement, a subsequent amendment to this Agreement, a subsequent license agreement with Cornell, or a research collaboration agreement with Cornell.

(c) LICENSEE acknowledges that Inventors do not have the authority to grant LICENSEE the right to possess or use Cornell Technology. LICENSEE acknowledges that any use or possession of Cornell Technology by LICENSEE arising from any transfers outside of those permitted and documented in a license or research collaboration agreement with Cornell would constitute misappropriation of said Cornell Technology.

(d) LICENSEE acknowledges that the lead Inventor is bound by Cornell Policy 1.4, “Conflicts of Interest and Commitment (Excluding Financial Conflict of Interest Related to Research)” and Cornell Policy 1.7 “Financial Conflict of Interest Related to Research” and agrees that it will cooperate in Cornell’s efforts to manage Inventors’ compliance with such policies, including providing reports and information to the bodies managing said policies upon their request.

#### ARTICLE 9. USE OF NAMES AND TRADEMARKS

9.1 **Use of Names and Trademarks.** Nothing contained in this Agreement confers any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of either party hereto (including contraction, abbreviation or simulation of any of the foregoing). Unless required by law, the use by LICENSEE of the name, “Cornell University,” “Weill Cornell Medicine” or “Weill Cornell Medical College”, “Albert Einstein College of Medicine” or the names of any inventor, employee, student or faculty member of Cornell or Einstein is prohibited, without the express written consent of Cornell.

9.2 **Disclosure to Inventors.** Cornell may disclose to the Inventors the terms and conditions of this Agreement upon their request. If such disclosure is made, Cornell shall request the Inventors not disclose such terms and conditions to others.

9.3 **Disclosure to Third-Parties.** Cornell may acknowledge the existence of this Agreement and the extent of the grant in Article 2 to third-parties, but Cornell shall not disclose the financial terms of this Agreement to third-parties, except where Cornell is required by law or the order of a court of competent jurisdiction to do so.

9.4 **Press Releases.** LICENSEE may acknowledge or make press releases regarding the existence of this Agreement and the extent of the grant in Article 2, but LICENSEE shall not disclose the financial terms of this Agreement except where LICENSEE is required by law or by the order of a court of competent jurisdiction to do so. To the extent LICENSEE makes any forward-looking statement in its press releases mentioning Cornell, LICENSEE shall receive prior consent of Cornell, which shall not be unreasonably withheld.

#### ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 **Correspondence.** Any notice, invoice or payment required to be given to either party under this Agreement shall be deemed to have been properly given and effective:

(a) on the date of delivery if delivered in person, via ACH or via Fed Wire;

(b) one (1) day after the successful transmission in pdf file format if sent by electronic mail using the Internet; or

(c) five (5) days after mailing if mailed by first-class or certified mail, postage paid, to the respective addresses given below, or to such other address as is designated by written notice given to the other party.

If sent to LICENSEE:

Reports and Notices Contact:

[\*\*\*]

With a copy to:

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

If sent to Cornell:

For all correspondence except payments -

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

[\*\*\*]

*For all payments -*

If sent by mail:

[\*\*\*]

If remitted by electronic payments via ACH or Fed Wire:

Receiving bank name:	[***]
Bank account no.:	[***]
Bank routing (ABA) no.:	[***]
SWIFT code:	[***]
Bank account name:	[***]
Bank address:	[***]
Additional information:	[***]

An email copy of the wire transfer transaction receipt will be sent to Director for Finance and Operations at [\*\*\*]. LICENSEE is responsible for all bank charges of wire transfer of funds for payments. The bank charges will not be deducted from total amount due to Cornell.

## 10.2 **Secrecy.**

(a) For the purposes of this Paragraph 10.2, "Cornell" as the receiving Party shall be limited to CTL, Cornell's Office of University Counsel, and Cornell's Division of Financial Affairs.

(b) Each receiving Party shall:

(i) use the Confidential Information for the sole purpose of performing or verifying performance under the terms of this Agreement;

(ii) safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own data of a similar nature;

(iii) not disclose Confidential Information to others (except to its Affiliates, Contractors, Sublicensees, directors, employees, agents or consultants, as well as prospective investors, who are bound by a like obligation of confidentiality) without the express written permission of the disclosing Party, except that no Party shall be prevented from using or disclosing any of the Confidential Information that:

- (A) the receiving Party can demonstrate by written records was previously known to it;
- (B) is now, or becomes in the future, public knowledge other than through acts or omissions of the receiving Party;
- (C) is lawfully obtained by the receiving Party from sources independent of the disclosing Party; or
- (D) is required to be disclosed by law or a court of competent jurisdiction.

(c) The secrecy obligations with respect to Confidential Information shall continue for a period ending [\*\*\*] from the termination or expiration date of this Agreement.

**10.3 Assignability.** LICENSEE, including each Affiliate of LICENSEE, will not grant a security interest, in the License or this Agreement during the Term. This Agreement may be assigned by Cornell (so long as Cornell remains obligated for all obligations under this Agreement as if such assignment had not occurred), but is personal to LICENSEE and assignable by LICENSEE only with the prior written consent of Cornell, which consent shall not be unreasonably refused or delayed. Notwithstanding the foregoing, LICENSEE may, without Cornell's prior written consent, (i) assign this Agreement, in whole or in part, to any Affiliate at any time (so long as LICENSEE remains obligated for all obligations under this Agreement as if such assignment had not occurred) and (ii) during the Term to a third-party, in each case only if all the following conditions are met:

(a) if applicable, the assignment occurs in connection with a merger, acquisition, consolidation or other business combination or sale or other disposition of all or substantially all of LICENSEE's business or assets relating to the subject matter hereof; and



(b) LICENSEE is in good standing with respect to this Agreement; and

(c) if assignee is an Affiliate, every Affiliate is in good standing in all material respects with respect to every agreement that such Affiliate has with Cornell; and

(d) assignee (including each affiliate of assignee) is not an Excluded Entity; and

(e) assignee has sufficient resources to fulfill all of LICENSEE's obligations under this Agreement; and

(f) prior to the assignment, assignee provides Cornell written confirmation that assignee shall assume all of LICENSEE's interests, rights, duties, liabilities and obligations under this Agreement, and agrees to comply with all terms and conditions of this Agreement as if assignee were an original party to this Agreement.

**10.4 No Waiver.** No waiver by either Party of any breach or default of any covenant or agreement set forth in this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default.

**10.5 Governing Laws.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK without regard to any conflicts of law provision that would result in the application of the laws of any state other than the State of New York, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

#### **10.6 Disputes.**

(a) The Parties will use reasonable efforts to resolve amicably any disputes that may relate to or arise under this Agreement. If the Parties are unable to resolve within [\*\*\*] after one Party notifies the other Party in writing of the existence and nature of such dispute, then the Parties hereby submit to the exclusive jurisdiction of and venue in the state and federal courts located in the Southern District of New York with respect to any and all disputes concerning the subject of, or arising out of, this Agreement.

(b) Notwithstanding the foregoing, should the Parties disagree about the fair-market value of non-cash consideration used in calculating Net Sales or the value of the fraction used to calculate Net Sales for a Combination Product (Paragraph 1.27), of the fair-market value of equity in LICENSEE purchased by a Sublicensee as consideration for its Sublicense (Paragraph 1.41(vi)), or of the fair-market value of non-cash consideration received from a Sublicensee as consideration for its Sublicense (Paragraph 2.2(b)(i)), the Parties shall resolve the dispute using the baseball arbitration process defined in Appendix E.

**10.7 Joint Drafting.** The Parties have participated jointly in the negotiation and drafting of this Agreement. 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.

10.8 **Force Majeure.** A Party may be excused from any performance required herein if such performance is rendered impossible or unfeasible due to any catastrophe or other major event beyond its reasonable control, including, without limitation, war, riot, quarantines, and insurrection; laws, proclamations, edicts, ordinances, or regulations; strikes, lockouts, or other serious labor disputes; and floods, fires, epidemics, explosions, or other natural disasters. When such events have abated, the non-performing Party's obligations herein shall resume.

10.9 **Headings.** The headings of the several paragraphs are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

10.10 **Entire Agreement.** This Agreement, including the Appendices hereto, embodies the entire understanding of the Parties and supersedes all previous communications, representations or understandings, either oral or written, between the Parties relating to the subject matter hereof.

10.11 **Amendments.** No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and signed on behalf of each Party.

10.12 **Severability.** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been contained in it.

*IN WITNESS WHEREOF*, both Cornell and LICENSEE have executed this Agreement, in duplicate originals, by their respective and duly authorized officers on the date and year written.

**LEXEO THERAPEUTICS, LLC**

By: /s/ R. Nolan Townsend  
(Signature of an authorized officer)  
Name: R. Nolan Townsend  
Title: Chief Executive Officer  
Date: May 28, 2020

**CORNELL UNIVERSITY**

By: /s/ Alice Li  
(Signature of an authorized officer)  
Name: Alice Li  
Title: Executive Director  
Date: May 27, 2020

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## Appendix A: Inventions

[\*\*\*]

Appendix A

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**Appendix B1: Patent Rights**

[\*\*\*]

**Appendix B2: Nonexclusive Patent Rights**

[\*\*\*]

Appendix B

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## Appendix C: Technology

[\*\*\*]

Appendix C

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**Appendix D: Convertible Note**

**[\*\*\*]**

Appendix D-1

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**Appendix E: Baseball Arbitration**

[\*\*\*]

Appendix E

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## Appendix F: Business Plan

[\*\*\*]

Appendix F



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**Appendix G: Form of Research Collaboration Agreement**

[\*\*\*]

Appendix G

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## Appendix H: Development Report

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Appendix H-1

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## Appendix I: Commercialization Report

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Appendix I-1

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.



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 f. 607-254-5454  
 www.ctl.cornell.edu

January 13, 2022

[\*\*\*]

**RE: AMENDMENT #1**

to the SECOND LICENSE AGREEMENT by and between LEXEO Therapeutics, Inc. (hereinafter "LICENSEE") and Cornell University ("Cornell"), as represented by its Center for Technology Licensing at Cornell University (hereinafter "CTL") effective May 28, 2020 (CTL Contract [\*\*\*]) (the "Agreement")

Effective as of the date of last signature below ("Amendment Date"), the parties hereby agree as follows:

- 1) The Parties acknowledge that, after execution of the Agreement, the form of LICENSEE has changed from an LLC to a Delaware C corporation.
- 2) The Parties hereby agree to add the following to the list of Original Material in Appendix C:

**Additional Original Material**

15. [\*\*\*] from Cornell's clinical lot inventory, docketed at Cornell as [\*\*\*]. The Original Material described in this line 15 will be used to [\*\*\*]. For clarity, no activities for the Original Material described in this line 15 will involve human/clinical use.

- 3) In consideration for this Amendment, LICENSEE shall pay Cornell [\*\*\*] as a material transfer fee and [\*\*\*] as a license fee, each within [\*\*\*] of the Amendment Date.
- 4) Except as expressly set forth herein, nothing in this Amendment changes the terms and conditions of the Agreement.
- 5) This Amendment may be executed by electronic signatures or by facsimile and in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.
- 6) THIS AMENDMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK without regard to any conflicts of law provision that would result in the application of the laws of any state other than the State of New York, but the scope and validity of any patent or patent application shall be governed by the applicable laws of the country of the patent or patent application.

IN WITNESS WHEREOF, both Cornell and LICENSEE have executed this Amendment by their respective and duly authorized officers on the day and year last written below.

**Cornell University**

By: /s/ Brian J. Kelly, PhD

Name: Brian J. Kelly, PhD  
Title: Director, Technology Licensing

Date: January 13, 2022

**LEXEO Therapeutics, Inc.**

By: /s/ Christopher Holterhoff

[Signature of Authorized Officer]  
Name: Christopher Holterhoff  
Title: VP, Corp. & Business Development

Date: January 13, 2022

[ \*\*\* ] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.



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July 1, 2022

[\*\*\*]

**RE: 1<sup>st</sup> AMENDMENT**

to the FIRST LICENSE AGREEMENT by and between Lexeo Therapeutics, Inc. (hereinafter "Licensee") and Cornell University ("Cornell") (each a "Party") effective May 28, 2020 (Cornell Contract [\*\*\*]) (the "First License Agreement")

and

**2<sup>nd</sup> AMENDMENT**

to the SECOND LICENSE AGREEMENT by and between the Parties effective May 28, 2020, amended a first-time effective January 13, 2022 (Cornell Contract [\*\*\*]) (the "Second License Agreement")

Effective the date of the last signature hereto ("Amendment Date"), the Parties agree to hereby modify the First License Agreement and the Second License Agreement as follows:

- 1) The Parties acknowledge that Licensee changed its name and form from LEXEO Therapeutics, LLC, a Delaware limited liability company, to Lexeo Therapeutics, Inc., a corporation under the laws of Delaware, on November 20, 2020.
- 2) Paragraph 3.1(d)(iii) of the First License Agreement and of the Second License Agreement is hereby changed from:
  - (iii) in addition to the royalties in Paragraph 3.1(d)(i) and (ii), an additional [\*\*\*] on Net Sales where the Licensed Product is an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e); and

to

- (iii) in addition to the royalties in Paragraph 3.1(d)(i) and (ii), an additional [\*\*\*] on Net Sales where the Licensed Product is an Orphan Drug Product if, and only if the Net Sales are by a Sublicensee.

- 3) Paragraph 3.1(d)(vi) of the First License Agreement and of the Second License Agreement is hereby changed from:

(vi) in addition to the royalties in Paragraph 3.1(d)(iv) and (v), an additional [\*\*\*] on Net Sales where the Licensed Product is not an Orphan Drug Product if, and only if, (A) the Net Sales are by a Sublicensee and (B) Sublicense Fees for the relevant Sublicense are subject to the [\*\*\*] sharing rate in Paragraph 3.1(e).

to

(vi) in addition to the royalties in Paragraph 3.1(d)(iv) and (v), an additional [\*\*\*] on Net Sales where the Licensed Product is not an Orphan Drug Product if, and only if the Net Sales are by a Sublicensee.

4) The last un-numbered paragraph in Paragraph 3.1(d) of the First License Agreement and of the Second License Agreement is hereby changed from:

In the event LICENSEE or a Sublicensee is required to pay royalties and milestones to one or more third-parties for patent rights necessary to sell any Licensed Product, and the total royalties payable by LICENSEE exceed [\*\*\*] of Net Sales of such Licensed Product, then LICENSEE or a Sublicensee may deduct [\*\*\*] from the earned royalties payable to Cornell [\*\*\*] LICENSEE or Sublicensee actually pays to said third-parties of the amount LICENSEE or Sublicensee pays above [\*\*\*] of Net Sales of such Licensed Product; provided, however, that in no event shall the amount payable to Cornell with respect to such Licensed Product be less than [\*\*\*] of the amount then due under Paragraph 3.1(d) (the “**Royalty Cap Deduction**”) with respect to such Licensed Product. LICENSEE may carry over and apply any payments made by LICENSEE or a Sublicensee as described in the immediately preceding sentence that are not deducted as a result of the Royalty Cap Deduction, to any subsequent royalty payments due under Paragraph 3.1(d), and shall begin applying such reduction to such royalties as soon as practicable and continue applying such reduction as soon as permitted by this paragraph thereafter in accordance with the Royalty Cap Deduction.

to:

(vii) In the event LICENSEE or a Sublicensee is required to pay royalties and milestones to one or more third-parties for patent rights necessary to sell any Licensed Product, and the total royalties payable by LICENSEE exceed [\*\*\*] of Net Sales of such Licensed Product, then LICENSEE or a Sublicensee may deduct [\*\*\*] from the earned royalties payable to Cornell [\*\*\*] LICENSEE or Sublicensee actually pays to said third-parties of the amount LICENSEE or Sublicensee pays above [\*\*\*] of Net Sales of such Licensed Product; provided, however, that in no event shall the amount payable to Cornell with respect to such Licensed Product be less than [\*\*\*] of the amount then due under Paragraph 3.1(d) (the “**Royalty Cap Deduction**”) with respect to such Licensed Product. LICENSEE may carry over and apply any payments made by LICENSEE or a Sublicensee as described in the immediately preceding sentence that are not deducted as a result of the Royalty Cap Deduction, to any subsequent royalty payments due under Paragraph 3.1(d), and shall begin applying such reduction to such royalties as soon as practicable and continue applying such reduction as soon as permitted by this paragraph thereafter in accordance with the Royalty Cap Deduction.

5) Paragraph 3.1(e) of the First License Agreement and of the Second License Agreement is each hereby deleted in its entirety, and in each agreement is replaced with the following:

(e) [\*\*\*] of all **Sublicense Fees**.

6) These changes do not otherwise change the terms and conditions of the First License Agreement or of the Second License Agreement.

7) This Amendment may be executed by electronic signatures or by facsimile and in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

*IN WITNESS WHEREOF*, both Cornell and Licensee have executed this Amendment by their respective and duly authorized officers on the day and year written.

**CORNELL UNIVERSITY**

By: /s/ Lisa Placanica

Name: Lisa Placanica  
Title: Senior Managing Director

Date: Jul 4, 2022

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend  
[Signature of Authorized Officer]

Name: R. Nolan Townsend  
Title: Chief Executive Officer

Date: Jul 4, 2022



[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.



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September 28, 2022

[\*\*\*]

**RE: 2nd AMENDMENT**

to the FIRST LICENSE AGREEMENT by and between Lexeo Therapeutics, Inc. (hereinafter “Licensee”) and Cornell University (“Cornell”) (each a “Party”) effective May 28, 2020 and amended a first time effective July 4, 2022 (Cornell Contract [\*\*\*]) (the “First License Agreement”)

Effective the date of the last signature hereto (“Amendment Date”), the Parties agree to hereby modify the First Licensed Agreement as follows:

I) The Parties agree to amend the First License Agreement as follows:

1) **Appendix A: Inventions** is hereby amended to include:

[\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*]  
[\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*]

2) **Appendix B1: Patent Rights** is hereby amended to include:

[\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*]  
[\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*]

3) The lists of docket numbers on the cover page and in the Notices section of the First License Agreement shall include [\*\*\*].

4) The lead paragraph in Paragraph 3.3(a)(iii) is hereby amended to read:

(iii) develop a Licensed Product based on Cornell Docket numbers [\*\*\*] (“**Portfolio APOE**”) as follows, wherein each row in the following table is an obligation under this Paragraph 3.3(a)(iii):

MILESTONE TO BE ACHIEVED

[\*\*\*]

[\*\*\*]

TIME FROM EFFECTIVE DATE  
BY WHICH MILESTONE MUST  
BE ACHIEVED

[\*\*\*]

[\*\*\*]

; and

5) Paragraph 5.1 is hereby amended to read as follows:

**5.1 Patent Prosecution and Maintenance.**

(a) Provided that LICENSEE has reimbursed Cornell for Patent Costs pursuant to Paragraph 3.2, Cornell shall diligently prosecute and maintain the United States and, if available, foreign patents, and patent applications, in Patent Rights that are not jointly-owned with LICENSEE (“Cornell Patent Rights”) and in the Nonexclusive Patent Rights using counsel of its choice. Cornell shall provide LICENSEE with copies of all related prosecution filings, and LICENSEE shall keep this documentation confidential. Cornell shall seek and reasonably consider LICENSEE’s advice and input on all material patent prosecution matters. Patent counsel prosecuting and maintaining patent applications and patents within Cornell Patent Rights shall take instructions only from Cornell, and (subject to Paragraph 5.4) all patents and patent applications in the Cornell Patent Rights shall be assigned solely to Cornell.

(b) Cornell shall consider amending any patent application in the Cornell Patent Rights or in the Nonexclusive Patent Rights to include claims reasonably requested by LICENSEE to protect the products contemplated to be sold as Licensed Products by LICENSEE under this Agreement.

(c) LICENSEE may elect to terminate its reimbursement obligations with respect to any patent application or patent in the Cornell Patent Rights or in the Nonexclusive Patent Rights upon [\*\*\*] written notice to Cornell. Cornell shall use reasonable efforts to curtail further Patent Costs for such application or patent once such notice of termination has been received from LICENSEE. Cornell, in its sole discretion and at its sole expense, may continue prosecution and maintenance of such application or patent, and LICENSEE shall have no further license with respect thereto. Non-payment by LICENSEE of any portion of Patent Costs with respect to any application or patent may be deemed by Cornell [\*\*\*] after written notice to LICENSEE of non-payment as an election by LICENSEE to terminate its reimbursement obligations with respect to such application or patent. Cornell is not obligated to file, prosecute, or maintain any patent or patent application within the Cornell Patent Rights or the Nonexclusive Patent Rights outside of the Territory at any time or to file, prosecute, or maintain any patent or patent application within the Cornell Patent Rights or the Nonexclusive Patent Rights to which LICENSEE has terminated its License hereunder.

(d) If LICENSEE becomes aware of an invention that may be jointly-owned by LICENSEE and Cornell, LICENSEE shall promptly provide written notice of such invention to Cornell.

(e) LICENSEE may file and lead prosecution of United States and, if available, foreign patents, and patent applications within Patent Rights that are jointly-owned by LICENSEE and Cornell ("Joint Patent Rights") using counsel of its choice. LICENSEE shall provide written notice to Cornell when LICENSEE initiates drafting of any new patent applications listing Cornell employees as inventors, so that Cornell can determine to whom its employees should assign. LICENSEE shall provide Cornell with copies of all prosecution filings and patent office correspondence within Joint Patent Rights, and Cornell shall keep this documentation confidential. LICENSEE shall seek and reasonably consider Cornell's advice and input, via CTL, on all material patent prosecution matters. Patent counsel prosecuting and maintaining patent applications and patents within Joint Patent Rights shall take instructions only from LICENSEE and (subject to Paragraph 5.4) all patents and patent applications in the Joint Patent Rights shall be assigned to LICENSEE and to Cornell.

(f) Should LICENSEE decide to finally terminate, abandon, or allow any patent or patent application within Joint Patent Rights in any jurisdiction to lapse, such that prosecution or maintenance of said application or patent within Joint Patent Rights would be closed or lost in said jurisdiction then, at least [\*\*\*] prior to any such termination, abandonment, or lapse, LICENSEE shall offer to Cornell the right to continue prosecution or maintenance at Cornell's sole expense, and should Cornell elect to do so, LICENSEE shall timely cooperate with Cornell's counsel to provide Cornell with control of said application or patent and LICENSEE shall assign its rights in any such application or patent to Cornell and LICENSEE shall have no further rights therein.

(g) LICENSEE shall apply for an extension of the term of any patent in the Patent Rights or in the Nonexclusive Patent Rights if appropriate under the Drug Price Competition and Patent Term Restoration Act of 1984 and/or European, Japanese and other foreign counterparts of this law, and Cornell shall reasonably cooperate at LICENSEE's expense. LICENSEE shall prepare all documents for such application, and Cornell shall execute such documents and to take any other additional action as LICENSEE reasonably requests in connection therewith.

II) The Parties agree on the following general terms of this Amendment:

1) These changes do not otherwise change the terms and conditions of the First License Agreement.

2) This Amendment may be executed by electronic signatures or by facsimile and in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

*IN WITNESS WHEREOF*, both Cornell and Licensee have executed this Amendment by their respective and duly authorized officers on the day and year written.

**CORNELL UNIVERSITY**

By: /s/ Lisa Placanica

Name: Lisa Placanica  
Title: Senior Managing Director

Date: Sep 28, 2022

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend  
Signature of Authorized Officer

Name: R. Nolan Townsend  
Title: Chief Executive Officer

Date: Sep 28, 2022

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

EXECUTION VERSION

## **RESEARCH COLLABORATION AGREEMENT**

This Research Collaboration Agreement (this “*Agreement*”), effective as of February 3, 2021 (the “*Effective Date*”), is entered into by and between Cornell University, for and on behalf of its Joan & Sanford I. Weill Medical College, a New York education corporation with offices at 1300 York Avenue, New York, NY 10065 (“*WCM*”), and LEXEO Therapeutics, Inc., a Delaware corporation, having an office at 430 East 29<sup>th</sup> Street, 14<sup>th</sup> Floor, New York, NY 10016 (“*Company*”). WCM and Company each may be referred to herein as a “*Party*” and together as the “*Parties*.”

WHEREAS, WCM and Company entered into a First License Agreement and a Second License Agreement, each effective as of May 27, 2020 (the “*License Agreements*”);

WHEREAS, Company committed to fund scientific research at WCM to investigate further and potentially enhance the intellectual property licensed to Company pursuant to the License Agreements;

WHEREAS, WCM and Company each now desires to conduct the scientific research described in Exhibit A hereto; and

WHEREAS, WCM and Company believe that collaborating with each other to conduct such research will be of mutual benefit, will further the instructional and research objectives of WCM, and will foster the development of scientific knowledge;

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein and intending to be legally bound hereby, WCM and Company agree as follows:

### **1. Definitions.**

In addition to the terms defined elsewhere in this Agreement, whenever used in this Agreement with an initial capital letter, the terms defined in this Article 1, whether used in the singular or the plural, shall have the meanings specified below.

1.1. “*Affiliate*” shall mean with respect to Company or the Special Purpose Entity, any corporation or other person or business in which Company or the Special Purpose Entity owns or controls, directly or indirectly, at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers, or in which Company or the Special Purpose Entity is owned or controlled directly or indirectly by any corporation or other person or business or group of persons which owns at least fifty percent (50%) of the outstanding stock, units of membership, or other voting rights entitled to elect directors or officers; but in any

country where the local law does not permit foreign equity participation of at least fifty percent (50%), then an "Affiliate" includes any company in which Company or the Special Purpose Entity owns or controls or is owned or controlled by, directly or indirectly, the maximum percentage of outstanding stock, units of membership, or voting rights permitted by local law. Notwithstanding the foregoing, [\*\*\*].

1.2. "*Budget*" means the budget for the Research Plan, the initial version of which is attached hereto as Exhibit B, as amended in writing from time to time by the Parties.

1.3. "*Company Invention*" shall mean any Invention for which each inventor is a member of the Company Team.

1.4. "*Company Patent Rights*" shall mean Patent Rights that Cover any Company Invention.

1.5. "*Company Principal Investigator*" shall mean [\*\*\*], or such other principal investigator who may replace such individual pursuant to Section 2.2.

1.6. "*Company Results*" shall mean all Results generated solely by the Company Team.

1.7. "*Company Team*" shall mean the Company Principal Investigator and those employees, technicians, scientists, contractors, agents, representatives and/or other individuals working on behalf of Company under his or her direction on the Research.

1.8. "*Confidential Information*" shall mean all confidential or proprietary information that is marked as confidential (or, if disclosed orally or in intangible form, that is summarized in a writing that is marked as confidential and delivered to the recipient within [\*\*\*] after disclosure) and that is disclosed for the purpose of this Agreement (a) by or on behalf of WCM (including by any member of the WCM Team) to Company hereunder or (b) by or on behalf of Company (including by any member of the Company Team) to the WCM Principal Investigator hereunder or, in the case of reports delivered pursuant to Sections 4.2, 5.3 and 7.3, to WCM's BioPharma Alliances and Research Collaborations office or the Cornell Center for Technology Licensing ("*CTL*"). However, the failure of the discloser to identify information that should reasonably be expected to be considered confidential as confidential or proprietary or to provide a written summary does not relieve the recipient of its obligations of confidentiality under this Agreement. Notwithstanding the above, Confidential Information shall not include information to the extent that it: (i) was known to the recipient at the time it was disclosed, other than by previous disclosure by or on behalf of the discloser, as evidenced by written records at the time of disclosure; (ii) is at the time of disclosure or later becomes publicly known under circumstances involving no breach of this Agreement; (iii) is lawfully and in good faith made available to the recipient by a third party who is not subject to obligations of confidentiality to the discloser with respect to such information; or (iv) is independently developed by the recipient without the use of or reference to Confidential Information, as demonstrated by documentary evidence.

1.9. “*Covered*”, with reference to any WCM Patent Rights or Joint Patent Rights, shall mean that the making, using, selling, offering for sale or importing of a composition of matter or other material or the practicing of a claimed method would infringe a Valid Claim (or, if such Valid Claim has not issued, if such Valid Claim were to issue), within such patent right in the country in which such activity occurs.

1.10. “*Derived IP*” shall mean any data, information, inventions, or Materials generated, conceived and/or reduced to practice by Company (alone or together with others, including members of the WCM Team) through or as a result of the practice or use of any Confidential Information of WCM, WCM Patent Rights, WCM Results, or Materials provided by WCM.

1.11. “*Derived Product*” shall mean any pharmaceutical or biologic product for the diagnosis, treatment or prevention of disease or other condition in humans or animals that (a) is Covered by any WCM Patent Rights and/or Joint Patent Rights and/or (b) was discovered, characterized, optimized or developed, in whole or in part at any stage of development, through the use of Derived IP.

1.12. “*Field*” shall mean all human and non-human diagnostic, prophylactic and therapeutic uses of Derived Products.

1.13. “*Improvement*” shall mean any WCM Invention, Joint Invention, WCM Results or Joint Results that is either an improvement to, or is dominated by, the Patent Rights (as such term is defined in Section 1.32 of the License Agreements) or the Nonexclusive Patent Rights (as such term is defined in Section 1.28 of the License Agreements) or is specifically designed to be used with a Licensed Product (as such term is defined in Section 1.20 of the License Agreements) such as pre-clinical data or results and manufacturing know-how.

1.14. “*IND*” shall mean any Investigational New Drug application, filed with the United States Food and Drug Administration pursuant to Part 312 of Title 21 of the U.S. Code of Federal Regulations, including any supplements or amendments thereto. References herein to IND shall include, to the extent applicable, any comparable filing(s) outside the United States (such as a Clinical Trial Application in the countries that are officially recognized as member states of the European Union).

1.15. “*Invention*” shall mean any patentable invention that is conceived or, to the extent that any applicable intellectual property rights have not been committed to third parties, reduced to practice by the WCM Team and/or the Company Team resulting from the performance of the Research during the Term.

1.16. “*Joint Invention*” shall mean any Invention for which one or more inventors are members of the Company Team and one or more inventors are members of the WCM Team.

1.17. “*Joint Patent Rights*” shall mean any Patent Rights that Cover any Joint Invention.

1.18. “*Joint Results*” shall mean all Results generated by one or more members of the Company Team and one or more members of the WCM Team.

1.19. “*Materials*” shall mean any biological, chemical or other tangible materials, including transgenic animals, cell lines, plasmids, vectors, DNA, RNA, proteins, including antibodies, peptides, and biological and chemical reagents.

1.20. “*Patent Rights*” shall mean all rights in, to and under any issued patent or patent application, whether domestic or foreign, or any equivalent thereof, including direct and indirect divisions, substitutions, continuations, continuations-in-part (but only to extent the claims thereof are enabled by disclosure of the parent application) and continued prosecution applications (and their relevant international equivalents).

1.21. “*Principal Investigators*” shall mean the Company Principal Investigator and the WCM Principal Investigator.

1.22. “*Research*” shall mean the research actually conducted during the Term by the Company Team and/or the WCM Team under the terms of this Agreement in accordance with the Research Plan.

1.23. “*Research Commitment*” shall mean Company’s obligations under Section 3.4 of each of the License Agreements to fund scientific research in the laboratory of the Cornell Inventors (as defined in the License Agreement) at WCM to investigate further and potentially enhance the intellectual property licensed to Company pursuant to the License Agreements, all pursuant to this Agreement and one or more other RCAs (as defined in the License Agreements), for an aggregate funding amount of at least Three Million Dollars (\$3,000,000) for each rolling three (3) calendar year period [\*\*\*], provided that in no single calendar year of such rolling three (3) calendar year period will the aggregate funding amount [\*\*\*] be less than One Million Dollars (\$1,000,000).

1.24. “*Research Plan*” shall mean the research plan, the initial version of which is attached hereto as Exhibit A, which sets forth the research to be performed by the Company Team and the WCM Team under the direction of their respective Principal Investigators during the Term. The Research Plan may be supplemented and/or amended from time to time upon the execution of a revised Exhibit A, signed by both Parties. Such revised Exhibit shall be subject to all the terms and conditions of this Agreement, and the Term shall be extended accordingly.

1.25. “*Results*” shall mean all data, materials, compositions, methods, processes, analyses, formulae, results, reports and information generated from the conduct of the Research, including Materials but excluding Inventions.

1.26. “*Special Purpose Entity*” shall have the meaning ascribed to such term in Section 1.39 of the License Agreements.

1.27. “*Valid Claim*” shall mean, with respect to a particular country: (a) any claim of an issued and unexpired patent in such country that (i) 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 (ii) has not been abandoned, disclaimed, denied or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise in such country; or (b) a claim of a pending patent application where such claim has been pending for a period of up to [\*\*\*] from the first substantive office action considering the patentability of such claim by the applicable patent office in such country.



- 1.28. “WCM Invention” shall mean any Invention for which each inventor is a member of the WCM Team.
- 1.29. “WCM Patent Rights” shall mean any Patent Rights that Cover any WCM Invention.
- 1.30. “WCM Principal Investigator” shall mean [\*\*\*], or such other principal investigator who may replace such individual in accordance with Section 2.2.
- 1.31. “WCM Results” shall mean Results generated solely by the WCM Team.
- 1.32. “WCM Team” shall mean the WCM Principal Investigator and those faculty members, research fellows, students, technicians, scientists and/or other individuals working on behalf of WCM under his or her direction on the Research.

## 2. Research.

2.1. Conduct of Research. The Parties shall use good faith efforts to conduct the Research in accordance with the Research Plan, the Budget and this Agreement; provided, however, that neither Party makes any warranties or representations regarding completion of the Research or the achievement of any particular results.

2.2. Principal Investigators. The Research to be conducted by WCM will be directed and supervised by the WCM Principal Investigator, who shall have primary responsibility for the performance of such Research. The Research to be conducted by Company will be directed and supervised by the Company Principal Investigator, who shall have primary responsibility for the conduct of such Research. The Principal Investigators shall maintain regular contact with each other, at least quarterly, and shall facilitate the coordination of the Parties’ activities under the Research Plan. Company may replace the named Company Principal Investigator upon prior written notice to WCM. If the WCM Principal Investigator ceases to supervise the part of the Research to be conducted by WCM for any reason, WCM will notify Company promptly and may endeavor to find a substitute scientist at WCM acceptable to Company. If WCM declines or is unable to find a substitute acceptable to Company within [\*\*\*] after the WCM Principal Investigator ceases to supervise the Research to be conducted by WCM, Company may terminate this Agreement immediately upon written notice to WCM.

2.3. Transfers of Materials. Either Party may elect to deliver any Material to the other Party solely for the purpose of use in the performance of the Research or testing the Materials to confirm the Results, or for any other purpose that is agreed upon by both Parties.

(a) Disclosure. Company will promptly disclose to the WCM Investigators any Results arising from the Research using any Materials supplied by WCM. The WCM Team has the right to use such Results solely for the purpose of the Research and to publish such Results, subject to the terms and conditions of Article 9.

(b) Compliance. Each Party shall use, and shall cause any members of WCM Team or Company Team, as the case may be, to use the other Party's Materials in compliance with all applicable legal requirements, and in no event shall either Party or any members of WCM Team or Company Team, as the case may be: (i) use such Materials for any other purposes; (ii) sell, transfer, disclose, or otherwise provide such Materials to a third party, without the prior express written consent of such other Party; (iii) produce, or not attempt to produce, any modification or derivatives, in whole or in part, of such Materials for the purpose outside of the scope of the Research; (iv) analyze or reverse engineer such Materials for the purpose outside of the scope of the Research; or (v) use such Materials for testing in or treatment of humans or administer to human subjects. Either Party shall store, control and manage the Materials delivered by the other Party in a safe and appropriate place complying with a duty of good care.

(c) Disposal. Upon expiration or early termination of the Research, each Party shall (i) return any remaining quantities of the other Party's Materials to such other Party or (ii) otherwise dispose of such Materials as directed by such other Party in writing and in such case provide the other Party with a certificate of destruction duly signed by such Party.

(d) Risk. Each Party acknowledges that the Materials of the other Party may have biological and/or chemical properties which are unpredictable and unknown at the time of transfer and that such Materials are to be used with caution and prudence.

### 3. **Costs and Expenses.**

3.1. Payments. With respect to the Research, Company shall pay WCM in accordance with the Budget. Payments will be made in [\*\*\*], with the first payment due within [\*\*\*] following the Effective Date. All payments due under this Agreement will be paid in United States dollars and will be without deduction or withholding of any kind. WCM shall use the amounts paid by Company under this Agreement only for the Research. WCM acknowledges that Company's payments to WCM pursuant to this Section 3.1 will be credited against Company's payment obligations to WCM under the Research Commitment.

3.2. Budget. WCM shall not be obligated to incur costs or expend funds to conduct the Research in excess of the total amount paid by Company under this Agreement.

3.3. Invoices. WCM will provide Company with a fixed-price invoice prior to each scheduled payment; provided, however, that WCM's failure to do so will not relieve Company from its obligation to make the corresponding payment, but instead will entitle Company to delay the due date of such payment until the date that is [\*\*\*] after the date of WCM's invoice.

3.4. Method of Payment. All payments to be made by Company to WCM hereunder shall be by wire transfer to the relevant bank account detailed below or such other bank account as WCM may designate in writing from time to time during the Term:

Account Name: [\*\*\*]  
Bank: [\*\*\*]: [\*\*\*]  
Bank Address: [\*\*\*]  
Account #: [\*\*\*]  
ABA Routing #: [\*\*\*]  
Swift Code: [\*\*\*]

#### **4. Records and Reports.**

4.1. Records. Each Party shall maintain, or cause to be maintained by its personnel, records of activities under the Research Plan in sufficient detail and in good scientific manner appropriate for scientific, patent and regulatory purposes, which shall properly reflect all Research conducted in accordance with the Research Plan consistent with its internal procedures and policies.

4.2. Reports and Use. In addition to any Invention notices required by Section 5.3, each Party shall provide the other with a written report summarizing its Results, no less frequently than [\*\*\*]. After each such exchange of reports, the Parties shall meet either in person or by teleconference to review the Results. Within [\*\*\*] after the earlier of the completion of the Research or the termination of this Agreement, each Party will provide the other Party with a final, comprehensive written report summarizing its Results. Subject to Articles 8 and 9 of this Agreement, each Party shall have the right to use the other Party's Results for purposes of conducting the Research only during the Term.

4.3. Confidentiality. Subject to the exceptions set forth in Section 1.8 (i) – (iv), and in accordance with Article 8: (a) each Party shall treat as Confidential Information of the other Party the contents of any report provided to it under Section 4.2 that discloses Results generated solely by the other Party; and (b) each Party shall treat as Confidential Information of the Parties jointly the contents of any report provided to it under Section 4.2 that discloses Results generated jointly by the Parties until publication of such Joint Results in accordance with Article 9 (except that patent filings in accordance with Article 7 shall be permitted).

#### **5. Inventions.**

5.1. Inventorship. Inventorship of each Invention shall be determined in accordance with United States patent law.

5.2. Ownership. The entire right, title and interest in and to all Company Results, Company Inventions and Company Patent Rights shall be owned solely by Company. The entire right, title and interest in and to all WCM Results, WCM Inventions and WCM Patent Rights shall be owned solely by WCM. The entire right, title and interest in and to all Joint Results, Joint Inventions and Joint Patent Rights shall be owned jointly by Company and WCM. Subject to Section 6.1, Company and WCM, each shall have the full right to grant licenses under its interest in Joint Patent Rights without any obligation to seek the consent of the other or to account for any profits made as a result of any such license.

5.3. **Notification.** WCM shall notify Company, promptly and in writing, of any Invention with respect to which WCM's BioPharma Alliances and Research Collaborations office and/or CTL has received a written invention disclosure form and (in the case of WCM Inventions and Joint Inventions) filed a patent application; provided, however, that WCM may elect to notify Company prior to filing. Company shall notify WCM, promptly and in writing, of any Invention of which Company becomes aware and (in the case of Company Inventions) for which Company has filed a patent application; provided, however, that Company may elect to notify WCM prior to filing. Subject to the exceptions set forth in Section 1.8 (i) – (iv) and in accordance with Article 8: (a) each Party shall treat as Confidential Information of the other Party the contents of any notice provided to it under this Section 5.3 that discloses an Invention owned solely by the other Party; and (b) each Party shall treat as Confidential Information of the Parties jointly the contents of any notice provided to it under this Section 5.3 that discloses a Joint Invention until publication of such Joint Invention in accordance with Article 9 (except that patent filings in accordance with Article 7 shall be permitted).

5.4. **Research Licenses.** Subject to Company's obligations under Articles 8 and 9, WCM hereby grants Company a royalty-free, fully-paid up, non-exclusive, non-sublicensable license, under any WCM Inventions, WCM Patent Rights and WCM Results, to make and use any Derived Products, during the Term and for purposes of conducting the Research only. Company hereby grants WCM a royalty-free, fully-paid up, non-exclusive, non-sublicensable license, under any Company Inventions, Company Patent Rights and Company Results, to make and use any Derived Products, during the Term and for purposes of conducting the Research only.

5.5. **No License or Grant of Rights.** Except as expressly provided in Section 5.4 and Article 6, nothing in this Agreement shall be construed to confer any ownership interest, license, option or other rights upon a Party by implication, estoppel or otherwise as to any technology, intellectual property rights, products or biological materials of the other Party or any other entity.

5.6. **Joint Inventions.** Subject to and without limiting the other terms and conditions of this Agreement (including Article 6 and the Company's options to license exclusively Joint Inventions under Sections 6.1 and 6.2), each co-owner of a particular Joint Invention shall have the right to use and practice under such Joint Invention in any country (including the right to grant licenses to third parties), without requiring the consent of the other co-owner of such Joint Invention, and without compensation, liability or other obligation (including without limitation, any consent or accounting obligations otherwise applicable) to the other co-owner of such Joint Invention.

## **6. Options.**

6.1. **Improvements Grant.** For so long as Company, together with the Special Entity and Affiliates, is, and has been at all times from the effective date of the License Agreements, in compliance (other than with respect to any good faith disputes by the Parties) with Company's payment obligations to WCM under the Research Commitment until the time an Improvement is disclosed to CTL, then with respect to each such Improvement:

(a) One or both of the License Agreements shall be amended, as appropriate, to include license grants to such Improvement pursuant to Section 2.1 of the License Agreements, upon: (i) the election of Company or the Special Purpose Entity, by written notice to CTL within [\*\*\*] of Company's receipt of the disclosure of such Improvement by CTL under Section 5.3; and (ii) Company's or the Special Purpose Entity's payment, during such [\*\*\*] period, of the relevant amendment fee of [\*\*\*] for each Improvement that is a patentable invention (or patent rights), and [\*\*\*] for each Improvement that is know-how or materials (but in no event [\*\*\*]; provided, however, that the payments required by this Section 6.1, other than those with respect to any new IND, shall not exceed [\*\*\*] per Portfolio (as such term is defined in Section 1.35 of the License Agreements); and provided further that, notwithstanding anything to the contrary, no payments shall be required for any Improvement that constitutes [\*\*\*] and the licenses granted to Company under Section 2.1 of the License Agreements hereby are and shall be deemed to be amended to include all such Improvements that constitute [\*\*\*] that shall arise from time to time (such amendments, the "[\*\*\*] Amendments"). With respect to each such amendment of the License Agreements, Company shall reimburse Cornell for all past and future Patent Costs (as such term is defined in Section 1.31 of the License Agreements) with respect to the Improvement in accordance with Section 3.2 of the License Agreements. The Parties understand and agree to negotiate in good faith and promptly enter into any written amendments to the License Agreements (other than the [\*\*\*] Amendments) as contemplated by this Section 6.1(a).

6.2. Additional Grant. With respect to each WCM Invention and Joint Invention and related Joint Results for which either Section 6.1 does not apply or Company or the Special Purpose Entity has not made an election to amend the License Agreements pursuant to Section 6.1, WCM hereby grants to Company the first option (each, an "*Option*") to negotiate in good faith with WCM for a royalty-bearing, worldwide license, under WCM Patent Rights, WCM Results and WCM's interest in Joint Patent Rights, to develop, make, have made, use, offer for sale, sell, have sold, and import Derived Products in the Field on terms that are commercially reasonable for academia to industry licenses; provided, however, that the license will be exclusive (or non-exclusive at Company's discretion) with respect to WCM Patent Rights and Joint Patent Rights and will be non-exclusive with respect to WCM Results; and provided, further, that no such license will include any grant of exclusive rights that would be inconsistent with the National Institutes of Health's Principles and Guidelines for Recipients of NIH Research Grants and Contracts on Obtaining and Disseminating Biomedical Research Resources, as published at 64 Fed. Reg. 72090 and as may be amended from time to time.

6.3. Activation and Patent Costs. If Company would like to activate an Option for an Invention, Company must provide WCM with written notice of such decision within [\*\*\*] after disclosure of the relevant Invention under Section 5.3 or the relevant WCM Results, as applicable (the "*Option Activation Period*"). If Company activates an Option during the relevant Option Activation Period, Company shall reimburse WCM for all documented, out-of-pocket costs relating to the preparation, filing, prosecution and maintenance of the relevant WCM Patent Rights and Joint Patent Rights incurred by WCM prior to activation of the Option, as well as those incurred during the Option Exercise Period and Negotiation Period (each as defined below). WCM shall submit periodic invoices for such patent expenses, and Company shall make payment within [\*\*\*] after the date of each such invoice.

6.4. Exercise. If Company elects to exercise an Option for an Invention that Company has activated under Section 6.3, Company must provide WCM with written notice of such decision within [\*\*\*] after expiration or termination of the Option Activation Period (the “*Option Exercise Period*”). If Company exercises an Option within the Option Exercise Period, Company and WCM, for a period of [\*\*\*] after such exercise, shall negotiate in good faith to execute a license agreement (the “*Negotiation Period*”); provided, however, that the Negotiation Period may be extended by mutual written agreement of the Parties.

6.5. General License Terms. Each license agreement resulting from the exercise of an Option pursuant to Section 6.4 shall include, among other things: (a) in the case of an exclusive license, terms consistent with the provisions of 35 USC §§ 200-212 and 37 CFR § 401 et seq., and a reservation of the rights of WCM and other not-for-profit research organizations to practice the subject matter of the licensed WCM Patent Rights, Joint Patent Rights, WCM Results and Joint Results for research, teaching and other educational purposes only; (b) indemnity, insurance, limitations on liability, patent cost reimbursement and other provisions customary to patent and technology licenses normally granted by WCM; (c) commercially reasonable due diligence obligations for the development and commercialization of products or processes covered by the relevant WCM Patent Rights and/or Joint Patent Rights; (d) [\*\*\*] that are commercially reasonable for licenses from an academic institution to a biotechnology or drug discovery company at a similar stage of development as Company; and (e) the obligation of Company to [\*\*\*].

6.6. Expiration of Improvements Option. With respect to each Improvement, if Company: (a) does not make its election under Section 6.1(a)(i) during such [\*\*\*] period to amend the License Agreements; or (b) fails to pay WCM any applicable amendment fee during such [\*\*\*], then Company’s rights under this Article 6 with respect to such Improvement shall expire.

6.7 Expiration of Additional Option. With respect to each WCM Invention, Joint Invention or WCM Results, as applicable, that is subject to Section 6.2, if Company: (a) does not activate its Option during the relevant Option Activation Period; (b) provides written notice to WCM, no less than [\*\*\*] prior to the date on which any pending action needs to be taken to preserve the relevant WCM Patent Rights and/or Joint Patent Rights, that Company waives its Option in whole or in part; (c) activates its Option during the relevant Option Activation Period but does not exercise the Option during the Option Exercise Period; or (d) exercises its Option during the Option Exercise Period but the Parties fail to reach agreement on terms and conditions of a license agreement within the Negotiation Period, then Company’s rights under this Article 6 with respect to such WCM Invention, Joint Invention or WCM Results, as applicable, shall expire.

## **7. Patent Filing, Prosecution and Expenses.**

7.1. Sole Inventions. Company shall be responsible, at its sole expense and discretion, for the preparation, filing, prosecution and maintenance of Company Patent Rights. Except to the extent provided in Sections 6.1 and 6.2, WCM shall be responsible, at its sole expense and discretion, for the preparation, filing, prosecution and maintenance of WCM Patent Rights.

7.2. Initial Reporting of Inventions. WC shall require that any WCM Team member who conceives or reduces to practice an Invention, solely or jointly with one or more WCM Team members and/or Company Team members, shall promptly report such Invention to WCM, and shall assign all of his or her right, title and interest therein to WCM. Additionally, Company shall require that any Company Team member who conceives or reduces to practice an Invention, solely or jointly with one or more Company Team members and/or WCM Team members, shall promptly report such Invention to Company, and shall assign all of his or her right, title and interest therein to Company.

7.3. Joint Inventions. Except to the extent provided in Sections 6.1 and 6.2, WCM shall be responsible, [\*\*\*], for the preparation, filing, prosecution and maintenance of Joint Patent Rights; provided, however, that WCM may elect to waive such right on a case-by-case basis, in which case WCM shall notify Company promptly in writing and Company shall have the right, but not the obligation, to take responsibility for such Joint Patent Rights [\*\*\*]. The responsible Party shall: (a) use independent patent counsel reasonably acceptable to the other Party and instruct such patent counsel to furnish the other Party with copies of all correspondence relating to Joint Patent Rights from all patent offices, as well as copies of all proposed responses to such correspondence in time for the other Party to review and comment on such responses; (b) give the other Party an opportunity to review the text of each patent application before filing; (c) consult with the other Party with respect to any material decisions regarding the Joint Patent Rights; (d) supply the other Party with a copy of the application as filed, together with notice of its filing date and serial number; and (e) keep the other Party advised of the status of actual and prospective patent filings. The responsible Party shall (i) give the other Party the opportunity to provide comments on and make requests of the responsible Party concerning the preparation, filing, prosecution and maintenance of Joint Patent Rights, and (ii) consider such comments and requests in good faith.

7.4. Patent Expenses for Joint Patent Rights. Company shall either pay directly or reimburse WCM for all documented, out-of-pocket expenses incurred by WCM pursuant to Section 7.3 within [\*\*\*] after the date of each invoice from WCM therefor. If Company decides that Company does not wish to pay for the preparation, filing, prosecution or maintenance of Joint Patent Rights in a particular country (collectively, “*Abandoned Joint Patent Rights*”), then Company shall provide WCM with prompt written notice of such election. Upon WCM’s receipt of such notice, Company shall be released from its obligation to reimburse WCM for the expenses incurred thereafter as to such Abandoned Joint Patent Rights; provided, however, that expenses authorized prior to the receipt by WCM of such notice shall be deemed incurred prior to the notice. Company thereafter shall have the right to practice the subject matter of such Abandoned Joint Patent Rights for internal research purposes only, but Company’s rights under Sections 6.1, 6.2 and 7.3 with respect to such Abandoned Joint Patent Rights shall expire.

## **8. Confidential Information.**

8.1. Disclosure Limitation. Pursuant to WCM policy, the WCM Principal Investigator is not supposed to receive information that is subject to confidentiality obligations if doing so would affect his or her ability to publish research results or the ability of other scholars to replicate the published results. Accordingly, Company agrees to disclose information Company deems confidential to the WCM Principal Investigator only if (a) Company first notifies the WCM Principal Investigator of the general nature of such information and (b) the WCM Principal Investigator, in his or her sole discretion, notifies Company that he or she wishes to accept the specified information, or a portion thereof. For clarity, the obligations set forth in Sections 8.2 and 9.2 shall only apply to Confidential Information of Company that have been accepted by the WCM Principal Investigator in accordance with this Section 8.1.

8.2. Mutual Obligations. Company and the WCM Principal Investigator each agree that, without the prior written consent of WCM (in the case of Company being the recipient) or Company (in the case of the WCM Principal Investigator being the recipient), in each case during the Term and for [\*\*\*] thereafter, the recipient: (a) will not disclose Confidential Information that the recipient has received hereunder to any third party; (b) will not use Confidential Information that the recipient has received hereunder except for the purposes of conducting the Research and, in the case of Company, evaluating whether to exercise any Options under Article 6; and (c) will comply with Sections 4.3 and 5.3. Company and the WCM Principal Investigator each shall treat Confidential Information that the recipient has received hereunder with the same degree of confidentiality as the recipient treats the recipient's own confidential and proprietary information, but in all events no less than a reasonable degree of confidentiality. Company and the WCM Principal Investigator each may disclose Confidential Information that the recipient has received hereunder only to members of the Company Team or WCM Team, respectively, who have a need to know such information for the purposes specified above and who agree to protect such Confidential Information in accordance with the terms set forth in this Agreement. Furthermore, Company may disclose Confidential Information of WCM to Company's investors, sublicensees and acquirors under prior written non-disclosure agreements no less stringent than the terms of this Agreement.

## 9. Publications.

9.1. Prior Review. The Parties anticipate that WCM and Company may publish the Results jointly. Nonetheless, each Party reserves the right to publish its Results independently. WCM shall provide Company with a copy of any manuscript disclosing Results at least [\*\*\*] prior to submission for publication for the purpose of enabling Company to review the manuscript for potentially patentable Inventions with respect to which Company wishes to exercise its Option rights under Article 6 and/or for Confidential Information of Company disclosed to the WCM Principal Investigator in accordance with Article 8. Company shall provide WCM with a copy of any manuscript disclosing Results at least [\*\*\*] prior to submission for publication for the purpose of enabling WCM to review the manuscript for potentially patentable Joint Inventions with respect to which WCM would like to file a patent application and/or for Confidential Information of WCM.

9.2. Modifications. The Party wishing to publish shall delete from its manuscript, prior to submission thereof, all Confidential Information of the other Party that the other Party identifies and requests the Party wishing to publish to delete within the [\*\*\*] period specified in Section 9.1. In addition, each Party shall make samples of its Materials (including any jointly developed Materials) disclosed in the publication available upon request (supplies permitting) to scientists at non-profit institutions, provided, however, that the recipient scientist agrees in writing that such Materials (a) will be used for research in the recipient scientist's laboratory only, (b) will not be used for any commercial purpose, (c) will not be used for work on human subjects and (d) will not be distributed to other laboratories. The Parties shall abide by the policies of journals in which publications will appear as to such matters as the public release or availability of data or Materials relating to the publication. Proper acknowledgment will be made for the contributions of each Party to the Results being published.



9.3. Delay. If, during the [\*\*\*] period specified in Section 9.1, Company notifies WCM that a manuscript reveals a potentially patentable Invention for which Company wishes to exercise an Option pursuant to Article 6, or WCM notifies Company that a manuscript reveals a potentially patentable Joint Invention with respect to which WCM would like to file a patent application, then the Party wishing to publish shall delay publication for the purpose of enabling a patent application to be filed in accordance with Article 7 until the earliest to occur of: (a) a patent application has been filed with respect to such Invention; (b) WCM's BioPharma Alliances and Research Collaborations office, CTL and/or Company have determined that the relevant Invention is not patentable; or (c) [\*\*\*] have elapsed from the date of notification under this Section 9.3.

#### 10. **Term and Termination.**

10.1. Term. This Agreement shall commence on the Effective Date and shall remain in effect for a period of three (3) years (the "Term"), unless earlier terminated in accordance with the provisions of this Article 10.

10.2. Loss of WCM Principal Investigator. In the event that the WCM Principal Investigator ceases to supervise the Research and WCM declines or is unable to find a substitute acceptable to Company as provided in Section 2.2, Company may terminate this Agreement in accordance with Section 2.2.

10.3. Termination for Default. In the event that either Party commits a material breach of its obligations under this Agreement and fails to cure that breach within [\*\*\*] after receiving a written demand to cure from the non-breaching Party, the non-breaching Party may terminate this Agreement immediately upon written notice of termination to the breaching Party.

10.4. Force Majeure. Except with respect to the financial payment obligations of a Party set forth herein, neither Party will be responsible for delays resulting from causes beyond its reasonable control, including, without limitation, fire, explosion, flood, war, strike or riot; provided, however, that the non-performing Party uses commercially reasonable efforts to avoid or remove such causes of non-performance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

10.5. Survival. The following provisions, as well as any rights, obligations and duties which by their nature extend beyond the expiration or termination of this Agreement, shall survive the expiration or termination of this Agreement: Articles 8, 10, 11, 13 and 14 and Sections 4.1, 4.2, 4.3, 5.2, 5.3, 7.3, 7.4 and 12.2, all in accordance with their respective terms. In addition, the provisions of Article 6 shall survive termination of this Agreement as necessary to effectuate the rights of Company, unless WCM has terminated this Agreement because of a material breach by Company.

10.6. Effect of Termination. Upon termination of this Agreement other than by WCM due to Company's breach, Company shall pay WCM the entire amount of any financial commitments incurred or committed to by WCM prior to termination in connection with the Research that cannot be canceled. In the event of termination by WCM due to Company's breach, Company's obligation to fund the Research under Article 3 shall survive termination. Upon termination or expiration of this Agreement, WCM shall retain title to all equipment or material purchased or fabricated by the WCM Team with funds provided by Company.

10.7. Return of Confidential Information. Within [\*\*\*] of the expiration or termination of this Agreement for any reason, each receiving Party shall and shall cause its employees and agents (including the WCM Principal Investigator or the Company Team, as the case may be) to return to the disclosing Party or destroy (and certify destruction of) any and all Confidential Information of the disclosing Party to which the receiving Party does not have a continuing license or right of use hereunder (except that one copy of such information may be retained by the receiving Party in its confidential files for purposes of monitoring and establishing compliance with its obligations hereunder).

11. **Warranty Disclaimer**. NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION: RESULTS; INVENTIONS; ANY GUARANTEE OF SUCCESS IN ACHIEVING ANY DESIRED RESULT FROM THE RESEARCH; THE PERFORMANCE, CONDITION, ORIGINALITY OR ACCURACY OF THE RESEARCH; THE AVAILABILITY OF LEGAL PROTECTION FOR RESULTS OR INVENTIONS; OR THE VALIDITY OR ENFORCEABILITY OF ANY PATENT RIGHTS OR MATERIALS. NEITHER PARTY MAKES ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY RESULTS OR INVENTIONS, OR THAT THE USE OF THE RESULTS OR INVENTIONS WILL NOT INFRINGE ANY PATENT RIGHTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.

12. **Indemnification and Insurance**.

12.1. Responsibilities. Each Party shall be responsible for its own acts to conduct the Research, its use of Results and Inventions, and its use, storage and disposal of any Materials.

12.2 Indemnification. Company shall indemnify, defend and hold harmless WCM and its current and former directors, governing board members, trustees, officers, faculty, medical and professional staff, employees, students, and agents and their respective successors, heirs and assigns from and against any claim, liability, cost, expense, damage, deficiency, loss or obligation of any kind or nature (including, without limitation, reasonable attorneys' fees and other costs and expenses of litigation) based upon, arising out of, or otherwise relating to Company's use of Results, Inventions or Materials, including, without limitation, any cause of action relating to product liability, except to the extent caused by the gross negligence or willful misconduct of WCM.

12.3 **Insurance.** Company shall maintain, throughout the Term, sufficient commercial general liability insurance (including coverage for products liability) to fully perform its responsibilities hereunder, and such coverage shall be in an amount not less than [\*\*\*] per occurrence, and not less than [\*\*\*] in annual aggregate. The policies of insurance will be issued by an insurance carrier with [\*\*\*] and will name Cornell University as an additional insured with respect to Company's performance under this Agreement. Company will provide WCM with insurance certificates evidencing the required coverage within [\*\*\*] after the Effective Date and the commencement of each policy period and any renewal periods. Each certificate will provide that the insurance carrier will notify WCM in writing at least [\*\*\*] prior to the cancellation or material change in coverage.

13. **Limitation of Liability.** EXCEPT WITH RESPECT TO COMPANY'S INDEMNIFICATION OBLIGATION UNDER SECTION 12.2, NEITHER PARTY WILL BE LIABLE TO THE OTHER WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR: (A) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS; OR (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. WCM'S AGGREGATE LIABILITY FOR ALL DAMAGES OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER SHALL NOT EXCEED THE AMOUNTS PAID BY COMPANY TO WCM UNDER THIS AGREEMENT.

#### 14. **Miscellaneous.**

14.1. **Use of Names.** Except as provided below, Company shall not, and shall ensure that its affiliates shall not, use or register the name "WCM " or "Weill Cornell" (alone or as part of another name) or any logos, seals, insignia or other words, names, symbols or devices that identify Cornell University, Weill Cornell Medical College, or any other Cornell University school, unit, division or affiliate (collectively, "*Cornell University Names*") for any purpose except with the prior written approval of, and in accordance with restrictions required by, WCM. Without limiting the foregoing, Company shall, and shall ensure that its affiliates shall, cease all use of Cornell University Names on the termination or expiration of this Agreement except as otherwise approved by WCM in writing. This restriction shall not apply to any information required by law to be disclosed to any governmental entity. In addition, the Parties may acknowledge Company's support for the investigations being pursued under this Agreement. In any such statement, the relationship of the Parties shall be accurately and appropriately described. If, notwithstanding this prohibition, Company or any of its affiliates registers any Cornell University Name as a trademark, service mark, domain name, trade name, business or company name or otherwise anywhere in the world, then, in addition to any other remedies WCM may have, WCM shall have the right to compel Company or such affiliate to assign its rights in such registration to WCM and Company shall take such steps as may be necessary to transfer record ownership of such registration to WCM, at Company's cost.

14.2. Research Partially Funded by Grants. To the extent that any Invention has been partially funded by the federal government (including any of its agencies), this Agreement and the grant of any rights in such Invention is subject to and governed by federal law, such as the provisions of 35 USC §§ 200-212 and all associated implementing regulations, as well as the terms and conditions of any federal grant. To the extent that any Invention has been partially funded by a non-profit organization or state or local agency, this Agreement and the grant of any rights in such Invention is subject to and governed by the terms and conditions of the applicable research grant.

14.3 Independent Contractors. Company will not have the right to direct or control the activities of WCM or the WCM Principal Investigator in conducting the Research. WCM and Company shall act hereunder only as independent contractors, and nothing herein contained shall be construed to be inconsistent with that relationship or status. Both Parties agree that neither shall have power or right to bind or obligate the other, nor shall either hold itself out as having such authority.

14.4 Notices. Any notices to be given hereunder shall be sufficient if signed by the Party giving same and delivered in one of the following manners: (a) hand delivery; (b) certified mail, return receipt requested; or (c) overnight delivery via a nationally recognized courier service, in any event to the following addresses:

If to Company (invoices only):  
[\*\*\*]

If to Company (other notices):

If to WCM:  
[\*\*\*]

By such notice, either Party may change its address for future notices. Notices mailed shall be deemed given on the date postmarked on the envelope. Notices sent by overnight delivery shall be deemed given on the date received by the courier, as indicated on the shipping manifest or waybill.

14.5. Modifications and Waivers. No modification or waiver of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and executed by duly authorized representatives of both Parties. A failure by a Party to assert its rights under, including upon any breach or default of, this Agreement shall not be deemed a waiver of such rights. No such failure or waiver in writing by either Party with respect to any rights shall extend to or affect any subsequent breach or impair any right consequent thereon.

14.6. Governing Law and Venue. This Agreement will be governed by, and construed in accordance with, the substantive laws of the State of New York, without giving effect to any choice or conflict of law provision, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. Any action, suit or other proceeding arising under or relating to this Agreement (each, a "Suit") shall be brought in a court of competent jurisdiction in the State of New York, and the Parties

hereby consent to the sole jurisdiction of the state and federal courts sitting in New York County of the State of New York. Each Party agrees not to raise any objection at any time to the laying or maintaining of the venue of any Suit in any of the specified courts, irrevocably waives any claim that Suit has been brought in any inconvenient forum and further irrevocably waives the right to object, with respect to any Suit, that such court does not have any jurisdiction over such Party.

14.7. Disputes. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising under this Agreement in an expedient manner by mutual cooperation. To accomplish this objective, the Parties agree to follow the procedures set forth in this Section 14.7 if and when a dispute arises under this Agreement. The establishment of these procedures shall not be used to override any right specifically given to a Party to take action or have final decision-making authority on any issue. If the Parties are unable to resolve such dispute within [\*\*\*] after one Party notifies the other Party in writing of the existence and nature of such dispute, either Party may, by written notice to the other, request that such dispute be referred to their respective offices/management for attempted resolution by good faith negotiations within [\*\*\*] after such notice is received. If the Parties are unable to resolve such dispute within [\*\*\*] after the dispute has been referred to such officers/management for attempted resolution, either Party may, by written notice to the other, request that such dispute be referred to their respective senior executive/dean for attempted resolution by good faith negotiations within [\*\*\*] after such notice is received. If such senior executive/dean is not able to resolve the dispute as specified above, at any time after such second [\*\*\*] period, either Party may pursue relief in accordance with Section 14.6.

14.8. Severability. If any provision of this Agreement is or becomes invalid or is ruled invalid by any court of competent jurisdiction or is deemed unenforceable, it is the intention of the Parties that the remainder of this Agreement shall not be affected.

14.9. No Assignment. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto; provided, however, that neither Party may assign any of its rights or obligations under this Agreement to any other person or entity without the prior written consent of the other Party.

14.10. Entire Agreement. This Agreement is the sole agreement between the Parties with respect to the subject matter hereof and supersedes all other agreements and understandings between the Parties with respect to the same including, in particular, the Mutual Confidential Disclosure Agreement between WCM and Company entered into on or before the Effective Date Date. The Parties acknowledge, however, that the License Agreements will survive the execution of this Agreement.

14.11. 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.

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by its duly authorized representative as of the Effective Date.

**Cornell University**, for and on behalf of  
its **Joan and Sanford I. Weill Medical College**

**LEXEO Therapeutics, Inc.**

By: /s/ Larry Schlossman  
Name: Larry Schlossman  
Title: Managing Director, BioPharma Alliances and Research Collaborations

By: /s/ R. Nolan Townsend  
Name: R. Nolan Townsend  
Title: Chief Executive Officer

Date: 02/02/2021

Date: 02/02/2021

I, the undersigned, hereby confirm that I have read the Agreement, that its contents are acceptable to me and that I will act in accordance with its terms, including the provisions of Articles 8 and 9.

/s/ Ronald G. Crystal  
**Dr. Ronald G. Crystal**

02/02/2021  
**Date**

**List of Exhibits**

Exhibit A –Research Plan  
Exhibit B – Budget for the Research Plan

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Exhibit A

[\*\*\*]

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Exhibit B

[\*\*\*]



**AMENDMENT NO. 1 TO  
RESEARCH COLLABORATION AGREEMENT**

**THIS AMENDMENT NO. 1 TO RESEARCH COLLABORATION AGREEMENT (“Amendment 1”)** is made as of February 1, 2022 (“**Amendment 1 Effective Date**”) by and between Cornell University, for and on behalf of its Joan & Sanford I. Weill Medical College, a New York education corporation with offices at 1300 York Avenue, New York, NY 10065 (“**Cornell**”), and LEXEO Therapeutics, Inc., a Delaware corporation, having an office at 430 East 29th Street, 14th Floor, New York, NY 10016 (“**LEXEO**”). Undefined capitalized terms used in this Amendment 1 will have the same meaning set forth in the Collaborative Research Agreement (defined below).

**WHEREAS**, LEXEO and Cornell entered into a Research Collaboration Agreement made effective as of February 2, 2021 (the “**Collaborative Research Agreement**”) pursuant to which Cornell will conduct the Research; and

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings set forth in this Amendment 1, the parties agree to amend the Collaborative Research Agreement as follows:

1. The Research Plan attached as Exhibit A to the Collaborative Research Agreement (“**Exhibit A**”) is deleted in its entirety and replaced with the new Exhibit A attached as Attachment 1 to this Amendment 1. For avoidance of doubt, the parties are not moving forward with the research projects under the previous Exhibit A entitled [\*\*\*]
2. The Budget attached as Exhibit B to the Collaborative Research Agreement (“**Exhibit B**”) is updated to include the increased budget to cover Research to be performed the calendar year 2022 as set out in Attachment 2 attached to this Amendment 1, a summary of such increase is as follows: [

[***]	[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]	[***]

By mutual agreement, to get in sync with the calendar year budgeting, year 02 of the Collaborative Research Agreement will start 02-02-2022 and end 02-1-2023 so yr02Q1 will be 02-02-2022 to 04-30-2022.

3. Except as specifically set forth in this Amendment 1, the Collaborative Research Agreement remains unchanged and in full force and effect. In the event of any conflict between the Collaborative Research Agreement and this Amendment 1, the terms of this Amendment 1 shall govern and control.
4. This Amendment 1 may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A facsimile or portable document format (“.pdf”) copy of this Amendment 1 will be deemed an original and will be valid and binding, and, upon delivery, shall constitute due execution of this Amendment 1.

[Signature page follows]



**Exhibit A – Research Plan**

[\*\*\*]

**Budget for 2022**

**[\*\*\*]**

[\*\*\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

*Execution Copy*

## LICENSE AGREEMENT

This **LICENSE AGREEMENT** (the “**Agreement**”) is entered into on the Closing Date (as defined below) (the “**Effective Date**”) between **ADVERUM BIOTECHNOLOGIES, INC.**, a Delaware corporation with a place of business at 800 Saginaw Dr., Redwood City CA 94063 (“**Licensor**”), and **LEXEO THERAPEUTICS LLC**, a Delaware limited liability company with a place of business at 430 East 29<sup>th</sup> St, 14<sup>th</sup> Floor New York, NY 10016 (“**Licensee**”). Licensor and Licensee are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

### Recitals

**WHEREAS**, Licensor owns or controls certain patent, know-how, and other intellectual property rights relating to viral vector technology for gene therapy applications, and has developed a gene therapy product based on such technology that is potentially useful to treat symptoms of Friedreich’s ataxia, including cardiomyopathy due to Friedreich’s ataxia;

**WHEREAS**, Licensor is a party to a License Agreement with Inserm Transfert (“**Inserm Transfert**”) acting in the name and on behalf of CNRS, Université de Strasbourg, Université Paris-Saclay and Cornell, and Hôpital Marie Lannelongue (collectively the “**Co-Ownning Institutions**”), dated [\*\*\*], as amended (the “**Inserm License Agreement**”), pursuant to which Licensor received an exclusive, worldwide license under certain intellectual property rights to develop, manufacture and commercialize products to treat rare diseases, including Friedreich’s ataxia;

**WHEREAS**, the Parties have entered into a call option agreement dated as of [\*\*\*] (“**Call Option Agreement**”), pursuant to which the Parties have agreed to [\*\*\*] (such date of entry into and execution of this Agreement, the “**Closing Date**”); and

**WHEREAS**, Licensee wishes to obtain from Licensor, and Licensor is willing to grant to Licensee, an exclusive and worldwide license to develop, manufacture, and commercialize a gene therapy product to treat cardiomyopathy due to Friedreich’s ataxia, for the benefit worldwide, all on the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the foregoing premises and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Licensee and Licensor hereby agree as follows:

### ARTICLE 1 DEFINITIONS

Unless the context otherwise requires, the terms in this Agreement with initial letters capitalized, have the meanings set forth below, or the meaning as designated in the indicated places throughout this Agreement.

**1.1 “Affiliate”** means, with respect to a Party, any Person that controls, is controlled by, or is under common control with that Party. For the purpose of this definition, “control” (including, with correlative meaning, the terms “controlled by” and “under the common control”) means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such Person, whether by the ownership of fifty percent (50%) or more of the voting stock of such Person, by contract or otherwise.

**1.2 “Biologics License Application”** means (a) a biologic license application filed with the FDA for authorization for marketing a product, and (b) any of its foreign equivalents as filed with the applicable Regulatory Authorities in the Territory.

**1.3 “Biosimilar Product”** means, with respect to the Product, a biological medicinal product or biological product for human use which is approved for use (a) in the U.S., under 42 U.S.C § 262(k) as a biosimilar biological product (as defined in 42 U.S.C. § 262(i)(1), (2)) and for which the Product is the reference product (as defined in 42 U.S.C. § 262(i)(4)), (b) in the EU, as a similar biological medicinal product pursuant to Directive 2001/83/EC or Regulation (EC) No 726/2004 (as applicable), and for which such Product is the reference medicinal product, or (c) in any other country or jurisdiction, pursuant to an equivalent regime in such country or jurisdiction, and for which such Product is the reference product for the benefit and use in patients in the above jurisdictions. A product marketed by Licensee, its Affiliates or its or their Sublicensees will not constitute a Biosimilar Product.

**1.4 “Business Day”** means a day other than a Saturday, Sunday, or bank or other public holiday in California, U.S or New York City, New York.

**1.5 “Calendar Quarter”** means each three (3) month period commencing January 1, April 1, July 1 or October 1 of any year; provided, however, that (a) the first Calendar Quarter of the Term shall extend from the Effective Date to the end of the Calendar Quarter in which the Effective Date occurs, and (b) the last Calendar Quarter of the Term shall end upon the expiration or termination of this Agreement.

**1.6 “Calendar Year”** means the period beginning on the 1st of January and ending on the 31st of December of the same year; provided, however, that (a) the first Calendar Year of the Term shall commence on the Effective Date and end on December 31 of the same year and (b) the last Calendar Year of the Term shall commence on January 1 of the Calendar Year in which this Agreement terminates or expires and end on the date of termination or expiration of this Agreement.

**1.7 “Claims”** means all Third Party demands, claims, actions, or other proceedings (whether criminal or civil, in contract, tort or otherwise) for losses, damages, liabilities, reasonable legal costs, and other reasonable expenses.

**1.8 “Combination Product”** means any pharmaceutical product that contains (a) the Product and (b) at least one other active ingredient, [\*\*\*].

**1.9 “Commercialize” or “Commercialization”** means the conduct of all activities undertaken before and after Regulatory Approval relating to the promotion, sales, marketing, and distribution for sale of the Product in the Field in the Territory (including importing, exporting, transporting, customs clearance, warehousing, invoicing, handling, and delivering the Product to customers). Commercialize includes sales force efforts, detailing, advertising, market research, market access activities (including price and reimbursement activities), medical education and information services, publication, scientific and medical affairs, medical support, advisory and collaborative activities with opinion leaders and professional societies including symposia, marketing, sales force training, and sales (including receiving, accepting, and filling the Product orders) and distribution for sale, and all activities directed to obtaining pricing and reimbursement approvals for the Product.

**1.10 “Commercially Reasonable Efforts”** means the level of effort and resources applied to the Development and Commercialization of the Product hereunder consistent with the exercise of prudent scientific and business judgment as applied by a [\*\*\*] to the development and commercialization of other products and product candidates [\*\*\*] taking into account efficacy, safety, patent and regulatory exclusivity, anticipated or approved labeling, present and future market potential, competitive market conditions, pricing and reimbursement issues, and other relevant factors.

**1.11 “Confidential Information”** of a Party means all Know-How, unpublished patent applications, and other information and data of a financial, commercial, business, operational, or technical nature of such Party that is: (i) disclosed by or on behalf of such Party or any of its Affiliates or otherwise made available to the other Party or any of its Affiliates, whether made available orally, in writing, or in electronic form, or (ii) learned by the other Party pursuant to this Agreement. The terms and conditions of this Agreement are the Confidential Information of both Parties.

**1.12 “Control” or “Controlled”** means, with respect to any Know-How, Patent Rights, or other intellectual property rights, that a Party has the legal authority or right (whether by ownership, license, or otherwise) to grant a license, sublicense, access, or other right (as applicable) under such Know-How, Patent Rights, or other intellectual property rights to the other Party on the terms and conditions set forth herein, in each case without breaching the terms of any agreement with a Third Party; provided that subject to Section 2.7 and except for [\*\*\*], neither Party shall be deemed to Control any intellectual property rights that it has in-licensed following the Effective Date if [\*\*\*] and the Parties acknowledge that [\*\*\*].

**1.13 “Develop” or “Development”** means all development activities for the Product (whether alone or for use together, or in combination, with another active agent or pharmaceutical product as a combination product or combination therapy) that are directed to obtaining Regulatory Approval(s) of such Product and lifecycle management of such Product in any country in the world, including all non-clinical, preclinical, and clinical testing and studies of such Product; toxicology, pharmacokinetic, and pharmacological studies; statistical analyses; assay development; protocol design and development; the preparation, filing, and prosecution of any MAA for such Product; development activities directed to label expansion and/or obtaining Regulatory Approval for one or more additional indications following initial Regulatory Approval; development activities conducted after receipt of Regulatory Approval; and all regulatory affairs related to any of the foregoing.

**1.14 “Dollar”** means U.S. dollars, and “\$” shall be interpreted accordingly.

**1.15 “EMA”** means the European Medicines Agency, or its successor.

**1.16 “EU”** means the economic, scientific, and political organization of member states known as the European Union, as its membership may be altered from time to time, and any successor thereto. For the purposes of this Agreement, the United Kingdom shall be deemed to be a member of the EU regardless of the withdrawal of the United Kingdom from the European Union.

**1.17 “FDA”** means the U.S. Food and Drug Administration, or its successor.

**1.18 “Field”** means human diagnostic, prophylactic, and therapeutic uses of the Product, including for the prevention, treatment, diagnosis or amelioration of cardiomyopathy due to Friedreich’s ataxia.

**1.19 “First Commercial Sale”** means, on a country-by-country basis, the first sale of the Product in such country by Licensee, its Affiliates, or Sublicensees to a Third Party for end use of such Product after Regulatory Approval of such Product has been granted in such country. For clarity, [\*\*\*]

**1.20 “Gene Therapy Vehicle”** means the viral vector(s) set forth in **Exhibit B**.

**1.21 “Government Authority”** means any federal, state, national, provincial, or local government, or political subdivision thereof, or any multinational organization or any authority, agency, or commission entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power, any court, or tribunal (or any department, bureau or division thereof, or any governmental arbitrator or arbitral body), including Regulatory Authorities.

**1.22 “IND”** means any investigational new drug application, clinical trial application, clinical trial exemption, or similar or equivalent application filed with the applicable Regulatory Authority for approval to conduct clinical testing of a pharmaceutical product in humans in the applicable country.

**1.23 “Inserm Rights”** means the intellectual property rights licensed to Licensor pursuant to the Inserm License Agreement.

**1.24 “Invention”** means inventions, improvements, developments or discoveries, whether patentable or non-patentable, invented or otherwise developed or generated by or on behalf of either Party during the Term in the course of performing activities under this Agreement, whether directly or via its Affiliates, agents, contractors, or sublicensees, and any and all intellectual property rights therein.

**1.25 “Know-How”** means all technical information, know-how, and data, including inventions, discoveries, trade secrets, specifications, instructions, processes, formulae, compositions of matter, cells, cell lines, assays, animal models, and other physical, biological, or chemical materials, expertise and other technology, including all biological, chemical, pharmacological, biochemical, toxicological, pharmaceutical, physical, and analytical, safety, nonclinical, and clinical data, regulatory documents, data and filings, instructions, processes, formulae, expertise, and information relevant to the research, development, use, importation, offering for sale, or sale of, or which may be useful in studying, testing, or developing, pharmaceutical products.



**1.26 “Law”** means any federal, state, local, foreign or multinational law, statute, standard, ordinance, code, rule, regulation, resolution or promulgation, or any order by any Government Authority, or any license, franchise, permit, or similar right granted under any of the foregoing, or any similar provision having the force or effect of law.

**1.27 “Licensed Know-How”** means all Know-How that (i) is Controlled by Licensor as of the Effective Date and (ii) is necessary for the Development, manufacture or Commercialization of the Product in the Field in the Territory.

**1.28 “Licensed Patents”** means (a) all United States patents and patent applications set forth in **Exhibit A**, including patents arising from such patent applications; and (b) any re-examination certificates thereof, and (c) the foreign counterparts of the patents and patent applications in subsection (a) and (b) and extensions, continuations, divisionals, and re-issue applications.

**1.29 “Licensed Technology”** means the Licensed Patents and Licensed Know-How.

**1.30 “MAA” or “Marketing Authorization Application”** means an application to the appropriate Regulatory Authority for approval to commercially sell any pharmaceutical or biological product in a particular country or jurisdiction and all amendments and supplements thereto, including a Biologic License Application (BLA) filed with the FDA and equivalent foreign applications.

**1.31 “Net Sales”** means the gross amount invoiced for sales of a Product by Licensee, its Affiliates, or Sublicensees to Third Parties for end use during a Calendar Quarter (the “**Gross Sales**”), less the following amounts incurred, accrued or paid by the selling party with respect to the sale of the Product, determined in accordance with U.S. GAAP and not otherwise reimbursed to or recovered by the selling party:

(a) [\*\*\*];

(b) normal and customary trade and quantity discounts actually allowed and properly taken directly with respect to sales of such Product;

(c) credits or allowances given or made, trade, quantity and cash discounts and any other adjustments for rejection, recall or return of previously sold Products or for retroactive price reductions and billing errors;

(d) rebates, reimbursements, chargeback payments, or similar payments granted to wholesalers or other distributors, buying groups, health care insurance carriers, chain pharmacies, mass merchandisers, staff model HMOs, managed health care organizations, pharmacy benefit managers (or equivalents thereof), national, state/provincial, local, and other governments, their agencies and purchasers and reimbursers, or to trade customers; provided, however, that the aggregate deduction under this clause (d) shall not exceed [\*\*\*] of the total amount invoiced (excluding taxes) for all Products sold in the Territory in a Calendar Year, and if such cap is surpassed at the end of each Calendar Year, Licensee shall include in Net Sales the amount deducted over such [\*\*\*] cap. Such cap will be prorated for the first and last Calendar Year during the Term;

(e) [\*\*\*]

(f) actual costs of freight, carrier insurance, and other transportation charges directly related to the distribution of such Product; and

(g) sales, value added, consumption and similar taxes, duties, or governmental charges (for the avoidance of doubt, excluding any income or franchise taxes or other taxes based on income) directly levied on or measured by the billing amount for such Product, as adjusted for rebates and refunds.

In no event will any particular amount identified above be deducted more than once in calculating Net Sales. Sale or transfer of the Product between Licensee, its Affiliates or Sublicensees for resale shall be excluded from the computation of Net Sales, but the subsequent resale of such Product to the first independent Third Party shall be included within the computation of Net Sales.

The supply of the Product as samples for use in non-clinical or clinical trials or any tests or other studies reasonably necessary to support Regulatory Approval shall not be included in the computation of Net Sales; provided that early access and named patient sales of the Product shall be included in the computation of Net Sales.

If the Product is sold as part of a Combination Product in a country, the Net Sales with respect to such Combination Product in such country shall be determined by [\*\*\*]. If the Other Components in the Combination Product are not sold separately in such country during the applicable reporting period, Net Sales shall be calculated by [\*\*\*]. If neither the Product nor the other active ingredient(s) or product(s) were sold separately in such country during the applicable reporting period, then Net Sales for the applicable Combination Product shall be [\*\*\*].

**1.32 “Other Components”** means other clinically active (a) compounds or (b) substances, in each case (a) and (b), that are [\*\*\*] in combination, whether [\*\*\*], which compounds or substances that [\*\*\*], are not the Product.

**1.33 “Patent Rights”** means all patents and patent applications (which for the purpose of this Agreement shall be deemed to include certificates of invention and applications for certificates of invention), including all divisionals, continuations, substitutions, continuations-in-part, re-examinations, reissues, additions, renewals, revalidations, extensions, registrations, pediatric exclusivity periods, and supplemental protection certificates and the like of any such patents and patent applications, and any and all foreign equivalents of the foregoing.

**1.34 “Person”** means any individual, partnership, limited liability company, firm, corporation, association, trust, unincorporated organization or other entity.

**1.35 “Phase 1 Study”** means a study in humans which provides for the first introduction into humans of a product, conducted in normal volunteers or patients to generate information on product safety, tolerability, pharmacological activity or pharmacokinetics, as more fully defined in 21 CFR §312.21(a), or comparable regulations in any country or jurisdiction outside the U.S., and any amended or successor regulations.

**1.36 “Pivotal Study”** means a clinical study of the Product in human patients: (a) with a defined dose or a set of defined doses of such Product designed to establish statistically significant efficacy and safety of such Product for the purpose of enabling the preparation and submission of a MAA to the competent Regulatory Authorities in a country, or (b) that would otherwise satisfy requirements of 21 CFR 312.21(c), or comparable regulations in any country or jurisdiction outside the U.S., and any amended or successor regulations.

**1.37 “PMDA”** means the Pharmaceuticals and Medical Devices Agency of Japan, or its successor.

**1.38 “Product”** means the gene therapy product that consists of [\*\*\*].

**1.39 “Product Sequence”** means a nucleic acid sequence [\*\*\*], set forth in **Exhibit C**.

**1.40 “Regulatory Approval”** means all approvals that are necessary for the use, import, transport, promotion, marketing, distribution, offer for sale, or commercial sale of a pharmaceutical or biologic product in a given country or regulatory jurisdiction, including pricing and reimbursement approval if required for such purposes.

**1.41 “Regulatory Authority”** means any applicable Government Authority responsible for granting Regulatory Approvals for the Product, including FDA, EMA and PMDA.

**1.42 “Regulatory Material”** means any and all regulatory applications, submissions, notifications, communications, correspondences, registrations, and other filings made to, received from, or otherwise conducted with a Regulatory Authority in order to Develop, manufacture, market, sell, or otherwise Commercialize a pharmaceutical or biologic product in a particular country or jurisdiction, including IND, MAAs, and Regulatory Approvals.

**1.43 “Senior Officer”** means, with respect to Licensor, [\*\*\*], and with respect to Licensee, [\*\*\*].

**1.44 “Sublicensee”** means any Third Party or Affiliate of Licensee to whom Licensee grants a sublicense under Licensee’s rights to the Licensed Technology licensed from Licensor pursuant to this Agreement.

**1.45 “Term”** has the meaning set forth in Section 9.1.

**1.46 “Territory”** means worldwide.

**1.47 “Third Party”** means any Person other than a Party or an Affiliate of a Party.

**1.48 “United States”** or “U.S.” means the United States of America and its territories and possessions.

**1.49 “U.S. GAAP”** means generally accepted accounting principles in the United States, consistently applied.

**1.50 “Valid Claim”** means (i) a claim of a pending patent application that has not been abandoned, finally rejected or expired without the possibility of appeal or re-filing; and (ii) a claim of an issued and unexpired Patent Right that has not been revoked or held invalid or unenforceable by a patent office, court, or other governmental agency of competent jurisdiction in a final and non-appealable judgment (or judgment from which no appeal was taken within the allowable time period) and has not been disclaimed, denied, or admitted to be invalid or unenforceable through reissue, re-examination, or disclaimer or otherwise.

**1.51 Interpretation.** In this Agreement, unless otherwise specified:

(a) The words “include”, “includes”, and “including” shall be deemed to be followed by the phrase “without limitation”;

(b) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;

(c) the word “or” is used in the inclusive sense typically associated with the phrase “and/or” unless the subjects of the conjunction are, or are intended to be, exclusive;

(d) 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; and

(e) the Exhibits and other attachments form part of the operative provision of this Agreement and references to this Agreement shall include references to the Exhibits and attachments.

## ARTICLE 2 LICENSE

**2.1 License Grant.** Subject to the terms and conditions of this Agreement, Licensor hereby grants Licensee an exclusive (even as to Licensor but subject to Sections 2.3 and 2.6 below) and royalty-bearing license, with the right to grant sublicenses as provided in Section 2.2, under the Licensed Technology to Develop, manufacture, use, sell, offer for sale, have sold, import, and otherwise Commercialize the Product in the Field in the Territory.

**2.2 Sublicenses.** Licensee [\*\*\*] and Licensee shall remain responsible for the performance of the obligations hereunder by each of its Sublicensees and for the acts and omissions of such Sublicensees. Licensee shall notify Licensor of the grant of any sublicense (other than its contractors, such as contract research organizations and contract manufacturers) within [\*\*\*] after the execution of the applicable sublicense agreement and shall provide Licensor a copy of such executed sublicense which may be redacted to omit financial terms and other commercially sensitive information of the Sublicensee not relevant to confirming compliance of such sublicense with this Agreement. Without limiting the foregoing, the following requirements under the Inseam License Agreement shall apply: [\*\*\*].

**2.3 Retained Rights.** Notwithstanding the exclusive licenses granted to Licensee under Section 2.1, to the extent required by the Inserm License Agreement, Licensor, on behalf and solely for the benefit of the Co-Owning Institutions, retains the right to use the Licensed Technology in the Field in the Territory for educational, academic, and research purposes only, including the right to grant an academic institution the right to use the Licensed Technology for its educational, academic and research purposes. Licensor retains the right to practice the Licensed Technology in the Field in the Territory to fulfill its obligations under this Agreement.

**2.4 No Implied License.** Except as expressly set forth herein, neither Party shall acquire any license, right, or other interest, by implication or otherwise, under any intellectual property rights of the other Party.

**2.5 Technology Transfer.** Within [\*\*\*] after the Effective Date, Licensor shall provide Licensee with the Licensed Know-How that exists as of the Effective Date, and is set forth in the technology transfer plan attached hereto as **Exhibit D**.

**2.6 Adverum Equipment.** [\*\*\*].

**2.7 The Inserm License Agreement.** Licensee acknowledges that it has received a redacted version of the Inserm License Agreement, and the amendments thereto existing as of the Effective Date. The rights granted to Licensee pursuant to Section 2.1 that constitute Inserm Rights are subject to all applicable terms and conditions of the Inserm License Agreement, in addition to being subject to the terms and conditions of this Agreement. Certain Inserm Rights are granted to Licensor on a non-exclusive basis, and the sublicense thereunder granted to Licensee pursuant to Section 2.1 is exclusive only as to Licensor's rights therein. As required by the Inserm License Agreement, Licensee acknowledges that Licensor will furnish to Inserm Transfert a true and complete copy of this Agreement and any current and future amendments thereto, which Agreement may be redacted to omit any and all information not directly relevant to the performance of Licensor's obligations under the Inserm License Agreement, within [\*\*\*] after the Effective Date of this Agreement or the effective date of any amendments hereto that may be executed. For clarity, [\*\*\*]. Licensor shall not amend the Inserm License Agreement without the prior written consent of Licensee (which consent shall not be unreasonably withheld, delayed or conditioned) and if Licensor makes any such amendments to the Inserm License Agreement, Licensor and Licensee will work in good faith to update the applicable provisions of this Agreement to reflect such amendments to the Inserm License Agreement. Licensor shall promptly inform Licensee of any amendments made to the Inserm License Agreement that will affect the terms and conditions of this Agreement. To the extent requested by Licensor from time to time, Licensee will take reasonable steps (without requiring Licensee to bear additional costs) to support Licensor's compliance with the Inserm License Agreement. Licensor shall be responsible for any and all payments that become due pursuant to the Inserm License Agreement, including without limitation as a result of the sublicense granted to Licensee pursuant to Section 2.1 under the relevant Inserm Rights.

**ARTICLE 3**  
**DEVELOPMENT AND COMMERCIALIZATION**

**3.1 General.** Subject to the terms and conditions of this Agreement, Licensee shall be solely responsible for the Development, manufacture, and Commercialization of the Product in the Field in the Territory, at Licensee's own cost and expense.

**3.2 Diligence.** Licensee (either itself or through its Affiliates and Sublicensees) shall use Commercially Reasonable Efforts to Develop and seek Regulatory Approval of the Product, and after obtaining such Regulatory Approval of the Product, Commercialize the Product in the Field in the Territory as soon as practical.

**3.3 Development.**

**(a) General.** Licensee (either itself or through its Affiliates and Sublicensees) shall be responsible for the Development of the Product in the Field in the Territory, including all pre-clinical studies and all clinical trials of the Product in the Field in the Territory, at Licensee's cost and expense.

**(b) Reporting.** Without limiting the information to be exchanged between the Parties, every [\*\*\*] of each Calendar Year, Licensee shall provide Licensor with a report summarizing its Development and Commercialization activities in respect of the Product in the Field in the Territory in the previous [\*\*\*] and a summary of its plans for the Development and Commercialization of the Product in the then-current [\*\*\*] period. Such reports shall include a summary of [\*\*\*], a summary of [\*\*\*], the current [\*\*\*] efforts, [\*\*\*] efforts, and [\*\*\*]. The Parties shall review and discuss such report as necessary.

**3.4 Regulatory.**

**(a) General.** Licensee shall have the sole right to prepare, obtain, and maintain (as applicable) MAAs (including [\*\*\*]), Regulatory Approvals, and Regulatory Materials, and to conduct communications with the applicable Regulatory Authorities, for the Product (which shall include [\*\*\*]). At Licensee's reasonable request and expense, Licensor shall assist Licensee in connection with the preparation and filing of any such Regulatory Materials.

**(b) Transfer of Data.** Within [\*\*\*] after the Effective Date, Licensor shall electronically transfer to Licensee all of the data, including data from any clinical study, included in and pursuant to the technology transfer plan as provided in **Exhibit D**.

**3.5 Manufacture and Supply.**

**(a)** [\*\*\*] Licensor shall, [\*\*\*] transfer and assign to Licensee the existing inventory of the Product, or components thereof held for use with the Product, and including all existing CMC (chemistry, manufacturing, and control) materials related to the manufacture of such Product listed in **Exhibit F** (the "Existing Inventory").

**(b)** Except for the Existing Inventory provided by Licensor under Section 3.5(a) above, Licensee shall manufacture and supply the Product itself or through its contract manufacturer.

**3.6 Commercialization.** Licensee (itself or through its Affiliates and Sublicensees) shall be responsible for all aspects of the Commercialization of the Product in the Field in the Territory, at Licensee's own cost and expense, including: [\*\*\*].

**ARTICLE 4  
PAYMENTS**

**4.1 Upfront Payment.** In consideration for the license granted throughout the Territory pursuant to Section 2.1, Licensee shall pay to Licensor a one-time, non-creditable and non-refundable upfront payment of seven million five hundred thousand Dollars (\$7,500,000) upon [\*\*\*].

**4.2 Development and Commercial Milestone Payments.**

**(a) Milestone Events.** Subject to the remainder of this Section 4.2, Licensee shall pay to Licensor the following [\*\*\*] development milestone payments set forth in the table below upon [\*\*\*] of the corresponding milestone event by Licensee, its Affiliates, or its Sublicensees:

<u>Development and Commercial Milestone Events</u>	<u>Milestone Payment</u>
1) [***]	\$ 3,500,000
2) [***]	[***]
3) [***]	[***]
4) [***]	[***]
5) [***]	[***]
6) [***]	[***]
[***]	[***]

\* If [\*\*\*], then [\*\*\*].

\*\* If [\*\*\*], then [\*\*\*], whichever has not [\*\*\*], shall be [\*\*\*], as applicable.

**(b) Milestone Conditions.** Each development and commercial milestone payment set forth above shall be due and payable (i) irrespective of whether such milestone event is achieved by Licensee, its Affiliates, or Sublicensee, and (ii) [\*\*\*] The aggregate milestone payments under this Section 4.2 shall not exceed [\*\*\*].

**(c) Notice and Payment.** Licensee shall notify Licensor in writing within [\*\*\*] after the first achievement of any milestone set forth in this Section 4.2 and shall pay to Licensor the corresponding milestone payment within [\*\*\*] after the achievement of such milestone.

### 4.3 Sales Milestone Payments.

(a) **Milestone Events.** Subject to the remainder of this Section 4.3, Licensee shall pay to Licensor the following one-time, [\*\*\*] sales milestone payments set forth in the table below when the aggregated annual Net Sales of all the Product sold in the Territory in a Calendar Year by Licensee, its Affiliates, and its Sublicensees (subject to Section 4.3(b)) first reach the corresponding threshold value indicated below.

<u>Annual Net Sale of all the Product in the Territory</u>	<u>Milestone Payment</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(b) **Sales Milestone Conditions.** Each sales milestone payment set forth above shall be due and payable [\*\*\*], [\*\*\*]. The aggregate milestone payments under this Section 4.3 shall not exceed [\*\*\*].

(c) **Notice and Payment.** As part of the royalty report in Section 4.4(e), Licensee shall provide written notice to Licensor if the aggregated annual Net Sales of the Product in the Territory first reach any threshold value set forth in Section 4.3(a) above during the Calendar Year to which such report pertains. Licensee shall pay to Licensor the corresponding milestone payment together with the royalty payment due for such Calendar Year within [\*\*\*] after Licensee so notifies Licensor that such threshold value has been achieved.

### 4.4 Royalty Payments.

(a) **Royalty Rate.** Subject to the remainder of this Section 4.4, Licensee shall pay incremental royalties to Licensor on the Net Sales of the Product sold in the Territory during each Calendar Quarter during the Royalty Term, as set forth below.

<u>For that portion of Net Sales of the Product in a Calendar Year</u>	<u>Royalty Rate</u>
Less than or equal to \$500,000,000	8%
Greater than \$500,000,000	10%

(b) **Royalty Term.** Licensee's obligation to pay royalties pursuant to this Section 4.4 shall apply, on a Product-by-Product and country-by-country basis, commencing upon First Commercial Sale of such Product in such country and ending upon the latest of (i) the expiration of the last-to-expire Valid Claim in the Licensed Patents that covers the manufacture, use or sale of the Product in such country; (ii) the expiration of all regulatory and data exclusivity for such Product in such country, and (iii) the tenth (10<sup>th</sup>) anniversary of the First Commercial Sale of such Product in such country (the "**Royalty Term**").

(c) **Royalty Conditions.** The royalty payments under this Section 4.4 shall be subject to the following conditions:



(i) Only one royalty payment shall be due with respect to each unit of Product, without regard to whether there is more than one Valid Claim or Licensed Patent covering such Product.

(ii) No royalties shall be due upon the sale or other transfer of the Product between Licensee, its Affiliates or Sublicensees for resale, but in such cases the royalty shall be due and calculated upon Licensee's, its Affiliate's or Sublicensee's Net Sales of such Product to the first independent Third Party.

(iii) [\*\*\*]

**(d) Royalty Reductions.**

(i) **Patent Expiry.** If the Royalty Term for a particular Product in a country extends beyond the expiration of the last to expire Valid Claim of a [\*\*\*] then the royalties payable under this Section 4.4 shall be reduced by [\*\*\*] for such Product in such country during the remainder of such Royalty Term.

(ii) **Third Party Licensees.** If Licensee, in its reasonable judgment following consultation with Licensor, determines that Licensee is required to obtain a license from a Third Party in order to avoid infringement of any Patent Rights or misappropriation of any Know-How owned or controlled by such Third Party in connection with the Development, manufacture, or Commercialization of the Product, then Licensee may enter into a license agreement with such Third Party to obtain such rights and shall have the right to deduct from any royalty payment that would otherwise have been due pursuant to Section 4.4(a) an amount equal to [\*\*\*] of any amounts paid by Licensee to such Third Party as royalties on Net Sales of the Product pursuant to such license; provided, however, that such deduction shall not exceed [\*\*\*] of the royalty payment that would otherwise be due in any Calendar Quarter pursuant to Section 4.4(a); provided further that Licensee shall have the right to carry forward to subsequent Calendar Quarters any deductions it is not allowed to take because of the limitations set forth in the foregoing proviso.

(iii) **Royalty Floor.** Notwithstanding the foregoing Sections 4.4(d)(i) and (ii), with respect to the Product in any Calendar Quarter, the operation of subsections (i) and (ii) above, individually or in combination, shall not reduce by more than [\*\*\*] the royalties that would otherwise have been due under Section 4.4(a) with respect to Net Sales of such Product in the applicable country(ies) during such Calendar Quarter. Furthermore, in no event shall the royalties payable to Licensor under Section 4.4(a) be less than [\*\*\*].

(e) **Report and Payment.** Within [\*\*\*] after the end of each Calendar Quarter commencing with the First Commercial Sale of the Product in the Territory, Licensee shall provide Licensor with a royalty report that contains the following information for the applicable Calendar Quarter, on a Product-by-Product and country-by-country basis: (i) the amount of Gross Sales of the Product, (ii) a calculation of Net Sales of the Product, (iii) a calculation of the royalty payment due on such Net Sales, including the application of any reduction made in accordance with Section 4.4(d), (iv) the exchange rate for such country, and (v) [\*\*\*]. Concurrent with the delivery of the applicable quarterly royalty report, Licensee shall pay Licensor in Dollars the royalties owed with respect to Net Sales for such Calendar Quarter and the sales milestone payment for any sales milestone achieved during such Calendar Quarter.

**4.5 Third Party Payment Obligations.** Without limiting (and except as provided in and subject to) Section 4.4(d)(ii), each Party shall be responsible for the payment of royalty, milestone, and other payments due to Third Parties under any agreements between such Party (or its Affiliates) and Third Parties on account of Licensee's, its Affiliates', and Sublicensees' Development, manufacture, and Commercialization of the Product in the Field in the Territory.

**4.6 Currency; Exchange Rate.** All payments to be made by Licensee to Licensor under this Agreement shall be made in Dollars by bank wire transfer in immediately available funds to a bank account designated by written notice from Licensor. The rate of exchange to be used in computing the amount of currency equivalent in Dollars shall be made at the average of the closing exchange rates reported in *The Wall Street Journal* (U.S., Eastern Edition) for [\*\*\*] of the applicable reporting period for the payment due.

**4.7 Blocked Currency.** If the conversion of a local currency in the Territory into Dollars or transfer of funds out of a country in the Territory becomes materially restricted, forbidden, or substantially delayed due to applicable Laws and Licensee is unable to make the required payments hereunder as a direct result thereof, then Licensee shall promptly notify Licensor and, if Licensor so elects in its sole discretion, amounts accrued in such country shall then be paid by Licensee in local currency into an account in a local bank designated by Licensor for so long as Licensor so elects, provided, however, that, notwithstanding anything to the contrary in this Agreement, any amounts otherwise due under this Agreement shall be increased to fully compensate Licensor for any taxes or other expenses or costs that are or would be imposed upon the transfer of such amounts from such local bank to the bank account designated by Licensor pursuant to Section 4.6 and the conversion of the relevant local currency into Dollars.

**4.8 Late Payments.** If Licensor does not receive payment of any sum due to it on or before the due date therefor, simple interest shall thereafter accrue on the sum due from the due date until the date of payment at a per-annum rate equal to the prime interest rate (as reported in *The Wall Street Journal* (U.S., Eastern Edition)) plus an additional [\*\*\*] or the maximum rate allowable by applicable Law, whichever is less.

#### **4.9 Taxes.**

**(a) Taxes.** For the avoidance of doubt, Licensee shall be solely responsible for, and shall timely pay in full, all employment, payroll, withholding and other taxes imposed with respect to its employees and contractors.

**(b) Indirect Taxes.** All payments in this Article 4 are exclusive of indirect taxes (such as value added tax, sales tax, consumption tax and other similar taxes, and including for this purpose any interest, penalties, and additions to tax), which shall be paid by Licensee.

**(c) Withholding and Tax Cooperation.** All payments to Licensor under this Agreement shall be made without deduction or withholding for taxes except to the extent that such withholding is required by applicable Law. To the extent Licensee is required to deduct and withhold taxes on any payment to Licensor under applicable Law, Licensee shall deduct those taxes from the remittable payment, pay the taxes to the proper tax authority in a timely manner,

and promptly send proof of payment to Licensor. To the extent Licensor is legally entitled to do so, Licensor shall provide Licensee with a United States Internal Revenue Service Form W-9 or applicable Form W-8 (as applicable). For the avoidance of doubt, the Parties agree that the payments to be made to Licensor under Sections 4.1, 4.2, 4.3 and 4.4 constitute royalties for U.S. federal income tax purposes under applicable Law as of the date hereof and, accordingly, it is expected that, in the event Licensor is a non-U.S. person, the withholding rate (or exemption from withholding) specified for royalties under any applicable income tax treaty between such Licensor's jurisdiction and the United States shall apply (so long as an applicable W-8BEN-E is provided). Notwithstanding anything in this Agreement to the contrary, if deduction or withholding for taxes becomes required by applicable Law (or the amount of deduction or withholding for taxes required by applicable Law is increased) with respect to a payment under this Agreement as a result of an assignment by Licensee, then such payment shall be increased to the extent necessary to ensure that Licensor receives an amount equal to the sum which it would have received had such deduction or withholding for taxes not become required or increased by applicable Law, provided, however, that no such increase shall be required to the extent the relevant withholding is required by applicable U.S. Law and would not have been imposed but for the assignment by Licensor of its rights under this Agreement to a non-U.S. Affiliate of Licensor.

**4.10 Financial Records and Audit.** Licensee shall maintain, and shall require its Sublicensees to maintain, complete and accurate records in sufficient detail to permit Licensor to [\*\*\*]. Upon at least [\*\*\*] written notice, such records shall be open for examination, during regular business hours, for a period of [\*\*\*] after the creation of individual records by an independent certified public accountant selected by Licensor and reasonably acceptable to Licensee, for the sole purpose of verifying for Licensor [\*\*\*] under this Agreement. Such audits shall be limited to [\*\*\*] and [\*\*\*]. Licensor shall bear the cost of such audit unless such audit reveals an underpayment by Licensee of more than [\*\*\*] of the amount actually due for the time period being audited, in which case Licensee shall reimburse Licensor for the costs of such audit. Licensee shall pay to Licensor any underpayment discovered by such audit within [\*\*\*] after the accountant's report, plus interest (as set forth in Section 4.8) from the original due date. If the audit reveals an overpayment by Licensee, then Licensee may take a credit for such overpayment against any future payments due to Licensor (if there will be no future payment due, then Licensor shall promptly refund such amount to Licensee).

## **ARTICLE 5 INTELLECTUAL PROPERTY RIGHTS**

**5.1 Inventions.** Ownership of all Inventions shall be based on inventorship, as determined in accordance with the rules of inventorship under United States patent laws. Each Party shall solely own all Inventions invented or made solely by or on behalf of such Party, including its and its Affiliate's employees, contractors, Sublicensees and/or agents. The Parties shall jointly own all Inventions invented or developed jointly by or on behalf of both Parties, including its and its Affiliate's employees, contractors, Sublicensees and/or agents ("**Joint Inventions**"). All Patent Rights claiming patentable Joint Inventions will be referred to as "**Joint Patents**". Except to the extent restricted by the licenses and other rights granted to other Party under this Agreement, each Party, as a joint owner, shall be entitled to practice, license, assign, and otherwise exploit its interest in the Joint Inventions without the duty of accounting or seeking consent from the other Party.

## 5.2 Patent Prosecution.

(a) As between the Parties, Licensee shall have the first right to file, prosecute, and maintain the Licensed Patents (including any Joint Patents which are Licensed Patents) in the Territory at Licensee's cost and expense.

(b) Licensee shall consult with Licensor and keep Licensor reasonably informed of the status of the Licensed Patents and shall promptly provide Licensor with a copy of any correspondence received from any patent authority in the Territory in connection therewith. In addition, Licensee shall provide Licensor with drafts of proposed material filings, including all patent applications, and correspondence to any patent authority in the Territory with respect to the Licensed Patents for Licensor's review and comment at least [\*\*\*] prior to the anticipated submission date or due date (whichever is earlier), and Licensee shall take all comments provided by Licensor under good faith consideration.

(c) Licensee shall notify Licensor of any decision to cease prosecution or maintenance of any Licensed Patents in any country in the Territory. Licensee shall provide such notice at least [\*\*\*] prior to any filing or payment due date, or any other due date that requires action, in connection with such Licensed Patent. In such event, upon Licensor's request, Licensee shall transfer all files and documents in Licensee's control necessary for the prosecution and maintenance of such Licensed Patent in such country to Licensor, and thereafter Licensor shall have the right to continue prosecution or maintenance of such Licensed Patent in such country at Licensor's cost and expense. In such event, the principles in Section 5.2(b) shall continue to apply with respect to Licensor providing Licensee with drafts of proposed material filings, including all patent applications, and correspondences in the time periods specified therein.

(d) The Parties shall mutually agree on which Party will prosecute and maintain Joint Patents which are not Licensed Patents based on the contribution of each Party to such Joint Invention and each Party's potential interest in products based upon such Joint Invention. The principles in Sections 5.2(b) and 5.2(c) shall apply with respect to each Party's rights and obligations for the prosecution and maintenance of Joint Patents.

(e) Each Party shall provide the other Party all reasonable assistance and cooperation in the patent prosecution efforts under this Section 5.2, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution.

(f) **Inserm Rights.** Notwithstanding the foregoing, the prosecution and maintenance rights granted to Licensee under this Section 5.2 for those Licensed Patents that constitute Inserm Rights are first subject to all applicable terms and conditions of the Inserm License Agreement, in addition to being subject to the terms and conditions of this Agreement, including Inserm Transfert's right [\*\*\*].

## 5.3 Patent Enforcement.

(a) **Notice.** Each Party shall promptly notify the other Party if it becomes aware of any infringement, alleged infringement or threatened infringement by a Third Party of any Licensed Patent (including any Joint Patents which are Licensed Patents) in the Field in the Territory through the manufacture, use or sale of products competitive with the Product ("**Competitive Product Infringement**").

**(b) Enforcement.** As between the Parties, Licensee shall have the first right to bring and control any legal action to enforce the Licensed Patent against any Competitive Product Infringement at its own expense and as it reasonably determines appropriate. Licensor shall have the right to be represented in any such action by counsel of its choice at its own expense. If Licensee does not elect to bring such legal action within [\*\*\*] after the notice provided pursuant to Section 5.3(a) (or at least [\*\*\*] prior to the expiration of any shorter time period within which an action can legally be brought), Licensor shall have the right to bring and control any legal action to enforce the Licensed Patent against such Competitive Product Infringement at its own expense.

**(c) Cooperation.** At the request and expense of the Licensee, Licensor shall provide reasonable assistance in connection therewith, including by executing appropriate documents, cooperating in discovery and joining as a party to the action if required. In connection with any such proceeding, Licensee shall keep Licensor reasonably informed on the status of such action and shall not enter into any settlement admitting the invalidity of, or otherwise impairing Licensor's rights in, the Licensed Patent without the prior written consent of Licensor (not to be unreasonably withheld).

**(d) Recovery.** Any recoveries resulting from enforcement action under Section 5.3(b) relating to a Competitive Product Infringement shall be first applied against payment of each Party's cost and expense in connection therewith. Any such recoveries in excess of such cost and expense shall be allocated such that (i) [\*\*\*].

**(e) Inerm Rights.** Notwithstanding the foregoing, the enforcement rights granted to Licensee under this Section 5.3 for those Licensed Patents that constitute Inerm Rights are first subject to all applicable terms and conditions of the Inerm License Agreement, in addition to being subject to the terms and conditions of this Agreement.

**5.4 Defense of Licensed Patents.** In the event that a Party receives notice of any claim alleging the invalidity or unenforceability of any Licensed Patent, such Party shall bring such claim to the attention of the other Party, including all relevant information related to such claim. The Parties shall discuss such claim in good faith. Where such allegation is made in an opposition, reexamination, interference, or other patent office proceeding or a declaratory judgement action, then the Party having the right to control prosecution pursuant to Section 5.2 shall have the right to proceed in such matter. Each Party shall provide to the Party defending any such rights under this Section 5.4 all reasonable assistance in such enforcement, at such defending Party's request and expense. The defending Party shall keep the other Party reasonably informed of the status and progress of such efforts, and shall reasonably consider the other Party's comments on any such efforts. Without the prior written consent of the other Party (not to be unreasonably withheld), neither Party shall enter into any settlement of any claim, suit, or action that it defended under this Section 5.4 that admits the invalidity or unenforceability of any Licensed Patent.

**5.5 Defense of Third Party Claims.** If a claim is brought by a Third Party alleging infringement of Patent Rights or misappropriation of other intellectual property rights owned or controlled by such Third Party in connection with the performance of activities contemplated by this Agreement, including, with respect to Licensee, the Development, manufacture, or Commercialization of the Product, the Party against whom such claim is brought shall promptly notify the other Party. Each Party shall be entitled to defend itself in connection with any such claim, at its own expense and sole discretion, and the other Party shall reasonably cooperate with reasonable requests for assistance from the Party defending itself against such claim.

**5.6 Bankruptcy Protection.** All licenses granted by Licensor to Licensee under this Agreement are and shall otherwise be deemed to be, for purposes of Section 365(n) of Title 11, United States Code or foreign equivalent laws (the “**Bankruptcy Code**”), licenses of rights to “intellectual property” as defined in Section 101 of the Bankruptcy Code. Licensee shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code. Upon the bankruptcy of Licensor, Licensee shall further be entitled to a complete duplicate of, or complete access to, any such intellectual property, and such, if not already in its possession, shall be promptly delivered to Licensee, unless Licensor elects to continue, and continues, to perform all of its obligations under this Agreement.

## **ARTICLE 6 CONFIDENTIALITY**

**6.1 Confidentiality Obligations.** Except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the Parties, each Party agrees that, during the Term of this Agreement and [\*\*\*] thereafter, it shall keep confidential and shall not publish or otherwise disclose and shall not use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder) any Confidential Information of the other Party.

**6.2 Exceptions.** The obligations set forth in Section 6.1 shall not apply to any information that the receiving Party can demonstrate that such information:

(a) is known by the receiving Party at the time of its receipt without an obligation of confidentiality, and not through a prior disclosure by the disclosing Party, as documented by the receiving Party’s written business records;

(b) is in the public domain before its receipt from the disclosing Party, or thereafter enters the public domain other than through the receiving Party’s breach of the confidentiality obligations set forth herein;

(c) is subsequently disclosed to the receiving Party by a Third Party who may lawfully do so and is not under an obligation of confidentiality to the disclosing Party; or

(d) is developed by the receiving Party independently and without use of, or reference to, any Confidential Information of the disclosing Party, as documented by the receiving Party’s written business records.

Any combination of features or disclosures shall not be deemed to fall within the foregoing exclusions merely because individual features are published or available to the general public or in the rightful possession of the receiving Party unless the combination itself and principle of operation are published or available to the general public or in the rightful possession of the receiving Party.

**6.3 Authorized Disclosures.** Notwithstanding the obligations set forth in Sections 6.1 and 6.5, a Party may disclose the other Party's Confidential Information to the extent:

(a) such disclosure is reasonably necessary: (i) for the filing, prosecution, and enforcement of Patent Rights as contemplated by this Agreement; (ii) in connection with regulatory filings for the Product; (iii) for prosecuting or defending litigation as contemplated by this Agreement; or (iv) disclosure to its and its Affiliates' employees, consultants, contractors, and agents, in each case on a need-to-know basis in connection with the exercise of its rights or the performance of its obligations under this Agreement, including the Development, manufacture, or Commercialization of the Product in accordance with the terms of this Agreement;

(b) such disclosure is reasonably necessary: (i) to such Party's directors, attorneys, independent accountants, or financial advisors for the purpose of enabling such directors, attorneys, independent accountants, or financial advisors to provide advice to such Party; or (ii) to actual or potential investors, acquirors, sublicensees, and other financial or business partners for the purpose of evaluating or carrying out an actual or potential investment, acquisition, collaboration, or other business relationship; provided that in each such case on the condition that such recipients are bound by confidentiality and non-use obligations substantially consistent with those contained in this Agreement prior to such disclosure;

(c) such disclosure is required by applicable Laws or judicial or administrative process (including regulations promulgated by securities exchanges), provided that in such event such Party shall promptly inform the other Party of such required disclosure and provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed pursuant to this Section 6.3(c) shall remain otherwise subject to the confidentiality and non-use provisions of this Article 6, and the Party disclosing Confidential Information pursuant to Law or court order shall take steps reasonably necessary, including seeking to obtain confidential treatment or a protective order, to ensure the continued confidential treatment of such Confidential Information.

**6.4 Technical Publication.** Licensee shall have the sole right, in its discretion, to publish or otherwise disclose the results of and other information regarding any Development activities performed under this Agreement by or on behalf of Licensee with respect to the Product. Licensor shall not publish or otherwise disclose any information regarding the Product without Licensee's prior written consent (not to be unreasonably withheld, delayed, or conditioned), to be given on a case-by-case basis.

**6.5 Publicity.**

(a) Subject to the rest of this Section 6.5, no disclosure of the terms of this Agreement may be made by either Party, and neither Party shall use the name, trademark, trade name, or logo of the other Party, its Affiliates, or their respective employee(s) in any publicity, promotion, news release, or disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party, except that is, in the opinion of the disclosing Party's counsel, required by Law or rules of a securities exchange. Following an initial press release announcing this Agreement, either Party shall be free to disclose or publicize, without the other Party's prior written consent, the existence of this Agreement, the identity of the other Party, and those terms of the Agreement which have already been publicly disclosed in accordance herewith.

(b) A Party may disclose this Agreement and its terms in securities filings with the U.S. Securities and Exchange Commission or other securities exchange or Government Authorities to the extent, in the opinion of the disclosing Party's counsel, is required by Law after complying with the procedure set forth in Section 6.3(c).

(c) Each Party acknowledges that the other Party may be legally required to make public disclosures (including in filings with the U.S. Securities and Exchange Commission) of certain material developments or material information generated under this Agreement and agrees that each Party may make such disclosures as required by Law or rules of a securities exchange.

**6.6 Prior CDA.** This Agreement supersedes the Confidentiality Agreement between Licensor and Licensee, dated [\*\*\*] (the "**Prior CDA**") with respect to information disclosed thereunder. All information exchanged between the Parties under the Prior CDA shall be deemed Confidential Information of the disclosing Party and shall be subject to the terms of this Article 6.

## **ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

**7.1 Mutual Representations, Warranties and Covenants.** Each Party hereby represents, warrants, and covenants (as applicable) to the other Party, as of the Effective Date, as follows:

(a) it is a company or corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is incorporated, and has full corporate power and authority and the legal right to own and operate its property and assets and to carry on its business as it is now being conducted and as contemplated in this Agreement, including, without limitation, the right to grant the licenses granted by it hereunder;

(b) (i) it has the corporate power and authority and the legal right to enter into this Agreement and perform its obligations hereunder; (ii) it has taken all necessary corporate action on its part required to authorize the execution and delivery of the Agreement and the performance of its obligations hereunder; and (iii) the 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;

(c) it is not a party to any agreement that would prevent it from granting the rights granted to the other Party under this Agreement or performing its obligations under the Agreement in any material respect;

(d) it shall comply in all material aspects with all applicable Laws in the course of performing its obligations and exercising its rights under this Agreement; and



(e) it has not employed or otherwise used in any capacity, and will not employ or otherwise use in any capacity, the services of any Person debarred under United States Law, including under Section 21 U.S.C. 335(a) or any foreign equivalent thereof, with respect to the Product or otherwise in performing its responsibilities under this Agreement.

**7.2 Additional Representations, Warranties and Covenants of Licensor.** Licensor hereby represents, warrants, and covenants (as applicable) to Licensee that, unless otherwise provided below, as of the Effective Date:

(a) Licensor solely owns or has a license under the Licensed Patents set forth in **Exhibit A**, free and clear of all liens, and has the right to grant to Licensee the licenses and rights as purported to be granted hereunder;

(b) Licensor has not granted, and Licensor will not grant during the Term, any license or right in the Licensed Technology that is inconsistent with the licenses and rights granted to Licensee under this Agreement;

(c) Licensor and its Affiliates will have provided the Licensee [\*\*\*] and, to the knowledge of Licensor, [\*\*\*];

(d) Licensor and its Affiliates have not received any written notice from any Third Party asserting or alleging that the Development or manufacture of the Product has infringed or misappropriated the intellectual property rights of such Third Party;

(e) there are no pending or, to the knowledge of Licensor and its Affiliates, alleged or threatened, adverse actions, suits, proceedings, or claims against Licensor or its Affiliates involving the Development, manufacture or Commercialization of the Product;

(f) Licensor and its Affiliates have no knowledge of any infringement or misappropriation of any Licensed Technology by any Third Party;

(g) to Licensor's knowledge, **Exhibit A** includes all Patent Rights owned or controlled by Licensor and its Affiliates as of the Effective Date that are necessary to Develop, manufacture, or Commercialize the Product in the Field in the Territory, as the Product exists as of the Effective Date;

(h) there is no pending or, or to the knowledge of Licensor and its Affiliates, alleged or threatened, re-examination, opposition, interference, or litigation, or any written communication alleging that any Licensed Patent is invalid or unenforceable anywhere in the world;

(i) to Licensor's knowledge, Licensor and its Affiliates (including their contractors) have complied with all applicable Laws in connection with the Development of the Product; and

(j) to Licensor's knowledge, Licensor has not committed a material breach of the Insem License Agreement, the Insem License Agreement is in full force and effect and Licensor has the full right and authority to grant to Licensee the sublicense under the rights granted to Licensor under the Insem License Agreement that Licensor purports to grant to Licensee under this Agreement.

**7.3 Disclaimer.** EXCEPT AS EXPRESSLY STATED HEREIN, NO OTHER REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, IS MADE OR GIVEN BY OR ON BEHALF OF A PARTY. ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED. Both Parties understand that the Product is the subject of ongoing research and development and neither Party can assure that the Product can be successfully developed and commercialized.

## **ARTICLE 8 INDEMNIFICATION; LIABILITY**

**8.1 Indemnification by Licensor.** Licensor shall indemnify and hold Licensee, its Affiliates, Sublicensees, and their respective officers, directors, agents and employees (“**Licensee Indemnitees**”) harmless from and against any Claims against them to the extent arising or resulting from:

- (a) the gross negligence or willful misconduct or breach of this Agreement by any of the Licensor Indemnitees (defined below); or
- (b) Licensor’s breach of this Agreement, including any representation or warranty made by Licensor hereunder;

*except* in each case to the extent such Claims result from any activities set forth in Section 8.2 for which Licensee is obligated to indemnify the Licensor Indemnitee.

**8.2 Indemnification by Licensee.** Licensee shall indemnify and hold Licensor, its Affiliates, and their respective officers, directors, agents and employees (“**Licensor Indemnitees**”) harmless from and against any Claims against them to the extent arising or resulting from:

- (a) the gross negligence or willful misconduct or breach of this Agreement by any of the Licensee Indemnitees;
- (b) Licensee’s breach of this Agreement, including any representation or warranty made by Licensee hereunder; or
- (c) the Development, manufacture, or Commercialization of the Product by or on behalf of Licensee, its Affiliates, or Sublicensees;

*except* in each case, to the extent such Claims result from any activities set forth in Section 8.1 for which Licensor is obligated to indemnify the Licensee Indemnitee.

**8.3 Indemnification Procedure.** If either Party is seeking indemnification under Sections 8.1 or 8.2 (the “**Indemnified Party**”), it shall inform the other Party (the “**Indemnifying Party**”) of the Claim giving rise to the obligation to indemnify pursuant to such Section as soon as reasonably practicable after receiving notice of the Claim. The Indemnifying Party shall have the right to assume the defense of any such Claim brought by a Third Party (the “**Third Party Claim**”) for which it is obligated to indemnify the Indemnified Party provided that (a) the Indemnifying Party has (and continues to have) sufficient financial resources, in the reasonable judgment of the Indemnified Party, to satisfy the amount of any adverse monetary judgment that is sought, (b) the Third Party Claim seeks (and continues to seek) solely monetary damages and (c) the Indemnifying Party expressly agrees in writing that as between the Indemnifying Party and the Indemnified Party, the Indemnifying Party will be solely obligated to satisfy and discharge the Third Party Claim in full. The Indemnified Party shall cooperate with the Indemnifying Party and the Indemnifying Party’s insurer as the Indemnifying Party may reasonably request, and at the Indemnifying Party’s cost and expense. The Indemnified Party shall have the right to participate, at its own expense and with counsel of its choice, in the defense of any Claim that has been assumed by the Indemnifying Party. The Indemnified Party will not agree to any settlement of such Claim without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld. The Indemnifying Party will not, without the prior written consent of the Indemnified Party, which will not be unreasonably withheld, agree to any settlement of such Claim or consent to any judgment in respect thereof that does not include a complete and unconditional release of the Indemnified Party from all liability with respect thereto or that imposes any liability or obligation on the Indemnified Party.

**8.4 Mitigation of Loss.** Each Indemnified Party shall take and shall procure that its Affiliates take all such reasonable steps and action as are reasonably necessary or as the Indemnifying Party may reasonably require in order to mitigate any Claims (or potential losses or damages) under this Article 8. Nothing in this Agreement shall or shall be deemed to relieve any Party of any common law or other duty to mitigate any losses incurred by it.

**8.5 Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 8.5 IS INTENDED TO OR SHALL LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF ANY PARTY UNDER SECTION 8.1 OR 8.2, OR DAMAGES AVAILABLE FOR A PARTY’S BREACH OF CONFIDENTIALITY OBLIGATIONS IN ARTICLE 6.

**8.6 Insurance.** Licensee shall procure and maintain insurance, including clinical trials insurance and product liability insurance, adequate to cover its obligations hereunder and which is consistent with normal business practices of prudent companies similarly situated at all times during which the Product is being clinically tested in human subjects or commercially distributed or sold by Licensee pursuant to this Agreement; provided, that any such clinical trials insurance coverage shall, prior to the First Commercial Sale of a Product, in no event be less than [\*\*\*] per loss occurrence, and product liability insurance coverage shall, after such First Commercial Sale, in no event be less than [\*\*\*] per loss occurrence. It is understood that such insurance shall not be construed to create a limit of Licensee’s liability with respect to its indemnification obligations under this Article 8. Licensee shall provide Licensor with written evidence of such insurance prior to commencement of this Agreement and upon expiration of any one coverage. Licensee shall provide Licensor with written notice at least [\*\*\*] prior to the cancellation, nonrenewal or material change in such insurance or self-insurance which materially adversely affects the rights of Licensor hereunder.

**ARTICLE 9**  
**TERM AND TERMINATION**

**9.1 Term.** The term of this Agreement (“**Term**”) shall commence upon the Effective Date and continue in full force and effect, on a Product-by-Product and country-by-country basis, until the expiration of the Royalty Term for such Product in such country, unless earlier terminated as set forth in Section 9.2 below. After the expiration (but not early termination) of the Term for a particular Product in a particular country, the licenses granted by Licensor to Licensee hereunder shall continue and shall be deemed fully-paid, royalty-free, perpetual, and irrevocable.

**9.2 Termination.**

**(a) Termination by Licensee for Convenience.** At any time during the Term, Licensee may terminate this Agreement at will in its entirety upon [\*\*\*] prior written notice to Licensor.

**(b) Termination by Licensor for Patent Challenge.** If Licensee, its Affiliates, or its Sublicensees bring, or actively support a Third Party’s efforts to bring, an action challenging the validity, scope, or enforceability of any Licensed Patents, Licensor may terminate this Agreement immediately upon written notice to Licensee.

**(c) Termination for Material Breach.** Each Party shall have the right to terminate this Agreement immediately upon written notice to the other Party if such other Party materially breaches this Agreement and has not cured such breach within [\*\*\*] after receipt from the non-breaching Party of written notice specifying the breach and requesting its cure.

**(d) Termination for Insolvency.** In the event that either Party (i) files for protection under bankruptcy or insolvency laws, (ii) makes an assignment for the benefit of creditors, (iii) appoints or suffers appointment of a receiver or trustee over substantially all of its property that is not discharged within [\*\*\*] after such filing, (iv) proposes a written agreement of composition or extension of its debts, (v) proposes or is a party to any dissolution or liquidation, (vi) files a petition under any bankruptcy or insolvency act or has any such petition filed against that is not discharged within [\*\*\*] of the filing thereof, or (vii) admits in writing its inability generally to meet its obligations as they fall due in the general course, then the other Party may terminate this Agreement in its entirety effective immediately upon written notice to such Party.

**9.3 Effect of Termination.**

**(a) License Termination.** Upon the termination of this Agreement for any reason, the licenses granted by Licensor to Licensee under this Agreement shall terminate and all sublicenses thereunder shall also terminate.

**(b) Development Wind-Down or Transition.** If any clinical trials that were initiated by or on behalf of Licensee prior to the termination of this Agreement are on-going as of the effective date of such termination, Licensee shall cooperate with Licensor to wind-down such clinical trial(s) in an orderly fashion; provided, however, that Licensee shall consider in good faith any request by Licensor to transition the sponsorship of any such ongoing clinical trial to Licensor. If the Parties agree to transition sponsorship of any clinical trial of the Product to Licensor, Licensee shall provide reasonable cooperation to Licensor and its designee(s) to facilitate, and the Parties shall use reasonable efforts to effect an orderly and prompt transition of the Development activities relating to the Products to Licensor and/or its designee(s) so that Licensor is able to assume responsibility for same as of the effective date of termination.

**(c) Reversion.** Upon termination of this Agreement for any reason (other than a termination of this Agreement by Licensee pursuant to Section 9.2(c)):

**(i)** Licensee shall transfer to Licensor all Regulatory Approvals, MAAs, and Regulatory Materials for the Products, all clinical and non-clinical data generated for the Product, and, on Licensor's request, all then-existing inventory of the Product, in each case, in Licensee's Control and possession, free of additional charge (except that inventory shall be provided at Licensee's cost of such inventories) promptly after the effective date of such termination.

**(ii)** Effective upon the effective date of termination of this Agreement in its entirety, Licensee shall grant, and hereby grants, to Licensor a non-exclusive, worldwide, royalty-free license under (a) all Know-How actually incorporated by Licensee into the Products as they exist as of the effective date of termination or otherwise necessary for the Development, manufacture and/or Commercialization of the Products as they exist as of the effective date of termination and (b) all Patent Rights necessary or reasonably useful for the Development, manufacturing, and Commercialization of the Products, in each case of (a) and (b), Controlled by Licensee or its Affiliates as of the effective date of such termination, to make, have made, use, sell, offer for sale, import, export, Develop, Commercialize, or otherwise exploit the Product in the Territory and in the Field for the benefit and use in patients in the above jurisdictions.

**(iii)** At Licensor's request, any existing agreements between Licensee or its Affiliates and any Third Party that are solely related to the exploitation of the Product, and all of Licensee's and its Affiliates' right, title and interest therein and thereto, shall at Licensor's option be terminated or assigned and transferred to Licensor or its designee, to the extent permissible pursuant to the terms thereof (and for any such agreement that by its terms cannot be so assigned, Licensee shall reasonably cooperate with Licensor to provide to Licensor the benefits of such agreement).

**(iv)** Licensee shall transfer and assign to Licensor all domain names, trademarks and trade names specific to the Product that are actually used by Licensee in connection with the Commercialization of the Product in the Territory.

(v) Upon Licensor's written request, (a) Licensee shall, where freely assignable, assign all contract manufacturing, research service, clinical trial, or other vendor agreements solely related to the Product to Licensor, or, where such agreements are not freely assignable, reasonably cooperate with Licensor to transfer such agreements to Licensor and (b) Licensee shall continue to supply the Product to Licensor for up to [\*\*\*] after the effective date of such termination of this Agreement, or, if earlier, until Licensor is able to secure its own independent supply thereof, at Licensor's cost and expense (but without any additional markup charged by Licensee), except that with respect to supply required for the continued conduct of any clinical trial for the Product ongoing as of the effective date of termination, such [\*\*\*] supply shall be at Licensee's cost for so long as Licensee has the Product available during such period, provided [\*\*\*] period.

**9.4 Return of Confidential Information.** Upon expiration or termination of this Agreement for any reason, except to the extent that a Party obtains or retains the right to use the other Party's Confidential Information, each Party shall return or cause to be returned to the other Party or destroy (and certify such destruction to such other Party) all Confidential Information and all substances or compositions of the other Party or its Affiliates delivered or provided by or on behalf of such other Party, as well as any other material provided by or on behalf of such other Party in any medium, in connection with this Agreement, except that each Party may retain one (1) copy of all Confidential Information for its legal records.

**9.5 Survival.** Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Without limiting the foregoing, the following provisions shall survive the expiration or termination of this Agreement: Article 1, Section 2.1 (solely in the event of expiration of this Agreement, and as modified by Section 9.1), Article 4 (solely with respect to amounts accruing prior to expiration or termination of this Agreement), Section 5.1, Article 6 (solely for the duration specified in Section 6.1), Article 8, Section 9.1, Section 9.3, Sections 9.5-9.6, and Article 10.

**9.6 Termination Not Sole Remedy.** Termination is not the sole remedy under this Agreement and, whether or not termination is effected and notwithstanding anything contained in this Agreement to the contrary, all other remedies shall remain available except as agreed to otherwise herein.

## **ARTICLE 10 GENERAL PROVISIONS**

**10.1 Force Majeure.** Neither Party shall be held liable to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in performing any obligation under this Agreement to the extent such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, including embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, fire, floods, pandemics, quarantines, earthquakes or other acts of God, or acts, omissions or delays in acting by any Government Authority or the other Party. The affected Party shall notify the other Party in writing of such force majeure circumstances as soon as reasonably practical, and shall promptly undertake and continue diligently all reasonable efforts necessary to cure such force majeure circumstances or to perform its obligations in spite of the ongoing circumstances; provided that if the force majeure circumstances continue despite such efforts and prevent the affected Party from performing its obligations hereunder for more than [\*\*\*], the other Party may terminate this Agreement upon written notice to the affected Party.

**10.2 Assignment.** Except as expressly provided hereunder, neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred by either Party without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned, or delayed); provided, however, that either Party may assign or otherwise transfer this Agreement and its rights and obligations hereunder without the other Party's consent:

(a) in connection with the transfer or sale of all or substantially all of the business or assets of such Party relating to this Agreement to a Third Party, whether by merger, consolidation, divestiture, restructure, sale of stock, sale of assets, or otherwise; or

(b) to an Affiliate, provided that if the entity to which this Agreement is assigned ceases to be an Affiliate of the assigning Party, the Agreement shall be automatically assigned back to the assigning Party or its successor.

Notwithstanding anything to the contrary in this Agreement, if a Party is acquired by a Third Party after the Effective Date, then with respect to any intellectual property rights controlled by the acquiring entity or its affiliates (other than one of the Parties to this Agreement or its Affiliates immediately prior to such acquisition), such intellectual property rights of the acquiring entity and its affiliates shall not be included in the technology and intellectual property rights licensed to the other Party hereunder to the extent held immediately prior to the closing of such transaction by such acquirer entity or its affiliate. The rights and obligations of the Parties under this Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties, and the name of a Party appearing herein will be deemed to include the name of such Party's successors and permitted assigns to the extent necessary to carry out the intent of this Section 10.2. Any assignment not in accordance with this Section 10.2 shall be null and void and of no legal effect.

**10.3 Severability.** If any one or more of the provisions contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. The Parties shall in such an instance negotiate in good faith to promptly replace the invalid, illegal, or unenforceable provision(s) with valid, legal, and enforceable provision(s) which, insofar as practical, implement the original intent of the Parties.

**10.4 Notices.** All notices which are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by registered or certified mail or overnight courier, sent by nationally-recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Licensor:

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

[\*\*\*]  
[\*\*\*]  
[\*\*\*]

If to Licensee:

[\*\*\*]  
[\*\*\*]  
[\*\*\*]

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

[\*\*\*]  
[\*\*\*]  
[\*\*\*]

or to such other address(es) as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice shall be deemed to have been given: (a) when delivered if personally delivered on a Business Day (or if delivered on a non-Business Day, then on the next Business Day); (b) on the Business Day after dispatch if sent by nationally-recognized overnight courier; or (c) on the fifth (5th) Business Day following the date of mailing, if sent by mail.

**10.5 Governing Law.** This Agreement will be governed by and interpreted under the laws of the State of New York, U.S., without giving effect to any choice or conflict of law provision; provided that any matters relating to the construction or effect of any Patent Rights will be governed by the patent laws of the relevant jurisdiction in which such Patent Rights are granted.

**10.6 Dispute Resolution.**

**(a) General.** Any dispute between the Parties in connection with or relating to this Agreement or any document or instrument delivered in connection herewith (a “Dispute”) shall be resolved pursuant to this Section 10.6.

**(b) Senior Officers.** Any Dispute shall first be referred to the Senior Officers of the Parties, who shall confer in good faith on the resolution of the issue. Any final decision mutually agreed to by the Senior Officers shall be conclusive and binding on the Parties. If the Senior Officers fail to resolve such matter within [\*\*\*] after the date on which the matter is referred to the Senior Officers (unless a longer period is agreed to by the Parties), then if a Party wishes to pursue further resolution of such Dispute, an action, claim or proceeding to resolve such Dispute shall be brought in any court of competent jurisdiction pursuant to 10.6(c) below.

**(c) Court Resolution.** Each Party (i) submits to the exclusive jurisdiction of any United States court in New York, for purposes of any action, suit or other proceeding arising out of this Agreement, (ii) agrees not to raise any objection at any time to the laying or maintaining of the venue of any such action, suit or proceeding in any of such court, and (iii) irrevocably waives any claim that such action, suit or other proceeding has been brought in an inconvenient forum and



further irrevocably waives the right to object, with respect to such action, suit or other proceeding, that such court does not have any jurisdiction over such Party. Notwithstanding Section 10.6(c)(i) above, in the case where a Dispute is with respect to the validity, scope, enforceability, inventorship, or ownership of any Patent Right, trademark, or other intellectual property right, such Dispute shall be brought in any court of competent jurisdiction in any country or jurisdiction in which such intellectual property rights apply. For any Disputes submitted for resolution by a court, the Parties each hereby irrevocably and unconditionally waive their right to a jury trial.

**10.7 Entire Agreement; Amendments.** This Agreement, together with the Exhibits hereto, contains the entire understanding of the Parties with respect to the subject matter hereof. Any other express or implied agreements and understandings, negotiations, writings and commitments, either oral or written, with respect to the subject matter hereof are superseded by the terms of this Agreement. The Exhibits to this Agreement are incorporated herein by reference and shall be deemed a part of this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representative(s) of both Parties.

**10.8 Headings; Language.** The captions to the several Articles, Sections, and subsections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the several Articles and Sections hereof. This Agreement was prepared in the English language, which language shall govern the interpretation of, and any dispute regarding, the terms of this Agreement.

**10.9 Independent Contractors.** It is expressly agreed that Licensor and Licensee shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither Licensor nor Licensee shall have the authority to make any statements, representations, or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior written consent of the other Party.

**10.10 Waiver.** The waiver by either Party of any right hereunder, or of any failure of the other Party to perform, or of any breach by the other Party, shall not be deemed a waiver of any other right hereunder or of any other breach by or failure of such other Party whether of a similar nature or otherwise.

**10.11 Cumulative Remedies.** No remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

**10.12 Further Assurance.** Each Party shall duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents, and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof, or to better assure and confirm unto such other Party its rights and remedies under this Agreement.

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**10.13 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 shall be construed against the drafting Party shall not apply.

**10.14 Counterparts.** This Agreement may be executed in two or more counterparts by original signature, facsimile or PDF files, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

{Signature Page Follows}

**IN WITNESS WHEREOF**, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**ADVERUM BIOTECHNOLOGIES, INC.**

**By:** /s/ Laurent Fischer  
**Name:** Laurent Fischer  
**Title:** CEO

**LEXEO THERAPEUTICS LLC**

**By:** /s/ R. Nolan Townsend  
**Name:** R. Nolan Townsend  
**Title:** Chief Executive Officer

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LIST OF EXHIBITS

- Exhibit A: Licensed Patents
- Exhibit B: Gene Therapy Vehicle
- Exhibit C: Product Sequence
- Exhibit D: Technology Transfer Plan
- Exhibit E: Equipment
- Exhibit F: Existing Inventory
- Exhibit G: Preclinical and Natural History Data

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**EXHIBIT A**

**Licensed Patents**

[\*\*\*]

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**EXHIBIT B**

**Gene Therapy Vehicle**

[\*\*\*]

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**EXHIBIT C**

**Product Sequence**

[\*\*\*]

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**EXHIBIT D**

**Technology Transfer Plan**

[\*\*\*]



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**EXHIBIT E**

**Equipment**

[\*\*\*]

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**EXHIBIT F**

**Existing Inventory**

[\*\*\*]

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**EXHIBIT G**

**Preclinical and Natural History Data**

[\*\*\*]

## FIRST AMENDMENT TO LICENSE AGREEMENT

This **FIRST AMENDMENT TO LICENSE AGREEMENT** (“**First Amendment**”), is entered into on February 28, 2022 (“**Amendment Effective Date**”), by and between **ADVERUM BIOTECHNOLOGIES, INC.**, a Delaware corporation with a place of business at 800 Saginaw Dr., Redwood City CA 94063 (“**Adverum**”), and **LEXEO THERAPEUTICS, INC.**, a Delaware corporation with a place of business at 430 East 29th St, 14th Floor New York, NY 10016 (“**Lexeo**”). Adverum and Lexeo (and their permitted successors and assigns) are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**” in this First Amendment.

### Recitals

**WHEREAS**, Adverum and Lexeo have executed that certain License Agreement (the “**License Agreement**”) dated as of January 19, 2021 (the “**Effective Date**”) and the Parties had separately agreed to the terms and conditions set forth in that certain Side Letter Agreement dated as January 19, 2021 (the “**Side Letter**”) of with respect to the License Agreement.

**WHEREAS**, the Parties agreed pursuant to the Side Letter to amend the License Agreement to [[\*\*\*]]

**WHEREAS**, the Parties desire to amend the License Agreement pursuant to Section 10.7 of the License Agreement to reflect the agreements made under the Side Letter.

### Terms

**NOW THEREFORE**, in consideration of the foregoing premises and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Adverum and Lexeo hereby agree as follows:

1. The Parties hereby agree to amend and replace Section 1.31(d) in its entirety with the following:

(d) “rebates, reimbursements, chargeback payments, or similar payments granted to wholesalers or other distributors, buying groups, health care insurance carriers, chain pharmacies, mass merchandisers, staff model HMOs, managed health care organizations, pharmacy benefit managers (or equivalents thereof), national, state/provincial, local, and other governments, their agencies and purchasers and reimbursers, or to trade customers; provided, however, that:

- the aggregate deduction under this clause (d) shall not exceed [\*\*\*] of the total amount invoiced (excluding taxes) for all Products sold in the Territory in a Calendar Year, and if such cap is surpassed at the end of each Calendar Year, Licensee shall include in Net Sales the amount deducted over such [\*\*\*] cap. Such cap will be prorated for the first and last Calendar Year during the Term;

- the deductions are [\*\*\*];
- the deductions are actually borne by Licensee or its Affiliates; and
- Licensee has [\*\*\*]

2. *Term of Amendment.* This First Amendment shall be in effect from the Effective Date and shall continue for the term of the License Agreement.

3. *Full Force and Effect.* Except as specifically modified or amended by the terms of this First Amendment, the License Agreement and all provisions contained therein are, and shall continue, in full force and effect and are hereby ratified and confirmed.

4. *Integration.* This First Amendment contains the entire agreement of the parties with regard to amending the License Agreement, and supersedes and replaces any prior agreements as to that matter. This Agreement may not be changed or modified, in whole or in part, except by an instrument in writing signed by Adverum and Lexeo.

5. *Counterparts.* This First Amendment may be executed in any number of separate counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

6. *Miscellaneous.* This First Amendment is binding upon all the parties to the License Agreement and their respective successors and assigns.

[Signature page follows]

**IN WITNESS WHEREOF**, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**ADVERUM BIOTECHNOLOGIES, INC.**

By: /s/ Peter Soparkar  
Name: Peter Soparkar  
Title: Chief Legal Officer

**LEXEO THERAPEUTICS, INC.**

By: /s/ R. Nolan Townsend  
Name: R. Nolan Townsend  
Title: Chief Executive Officer

**Reviewed by ADVM Legal:** \_\_\_\_\_

[Signature Page to Lexeo-Adverum First Amendment]

**Consent of Independent Registered Public Accounting Firm**

We consent to the use of our report dated March 31, 2023, with respect to the consolidated financial statements of Lexeo Therapeutics, Inc., included herein, and to the reference to our firm under the heading “Experts” in the prospectus.

*/s/ KPMG LLP*

New York, New York  
September 29, 2023

**Calculation of Filing Fee Tables**

**Form S-1**

**Lexeo Therapeutics, Inc.**

**Table 1: Newly Registered Securities**

	Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price(1)(2)	Fee Rate	Amount of Registration Fee(3)
Fees to Be Paid	Equity	Common Stock, par value \$0.0001 per share	457(o)	—	—	\$100,000,000	0.00011020	\$11,020.00
	Total Offering Amounts					\$100,000,000	—	\$11,020.00
	Net Fee Due					—	—	\$11,020.00

(1) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended, or the Securities Act.

(2) Includes the aggregate offering price of additional shares that the underwriters have the option to purchase, if any.

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