As filed with the U.S. Securities and Exchange Commission on April 28, 2023

Registration No. 333-269483

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

**Amendment No. 2 to**
**FORM S-1**
**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**60 DEGREES PHARMACEUTICALS, INC.**
(Exact name of registrant as specified in its charter)

| **Delaware** | **2834** | **45-2406880** |
|---|---|---|
| (State or Other Jurisdiction of Incorporation or Organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification No.) |

1025 Connecticut Avenue NW Suite 1000
Washington, D.C. 20036
202-327-5422

**Geoffrey S. Dow**
**President and Chief Executive Officer**
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**(202) 327-5422**
(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 the effective date of this Registration Statement.**

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

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, 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, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting 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 to Section 7(a)(2)(B) of the Securities Act. ☐

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

**EXPLANATORY NOTE**

This registration statement contains two prospectuses, as set forth below.

- *Public Offering Prospectus.* A prospectus to be used for the initial public offering (the "Public Offering Prospectus") of up to 1,415,095(1) units ("Units"), each Unit consisting of one share of common stock of 60 Degrees Pharmaceuticals, Inc. (the "Company"), one tradeable warrant to purchase one share of common stock of the Company, and one non-tradeable warrant to purchase one share of common stock of the Company, with such Units to be sold in a firm commitment underwritten offering through the underwriters named on the cover page of the Public Offering Prospectus.

- *Resale Prospectus.* A prospectus to be used for the resale by the selling stockholders (the "Selling Stockholders" set forth in the section of the resale prospectus (the "Resale Prospectus") entitled "Selling Stockholders" of an aggregate of 1,856,580 shares of common stock, consisting of (i) 10,482 shares of common stock to be issued upon conversion of a convertible note immediately prior to the consummation of the initial public offering, (ii) 237,159 shares of common stock to be issued in conjunction with the conversion or extinguishment of interim financing notes and (iii) 1,608,938 shares of common stock.

The Resale Prospectus is substantively identical to the Public Offering Prospectus, except for the following principal points:

- they contain different outside and inside front covers and back covers;

- they contain different "*Offering*" sections in the "*Prospectus Summary*" section beginning on page Alt-1;

- they contain different "*Use of Proceeds*" sections on page Alt-16;

- the "*Capitalization*" and "*Dilution*" sections from the Public Offering Prospectus are deleted from the Resale Prospectus;

- a "*Selling Stockholders*" section is included in the Resale Prospectus;

- the "*Underwriting*" section from the Public Offering Prospectus is deleted from the Resale Prospectus and a "*Selling Stockholder Plan of Distribution*" is inserted in its place in the Resale Prospectus; and

- the "*Legal Matters*" section in the Resale Prospectus on page Alt-19 deletes the reference to counsel for the underwriters.

The Company has included in this registration statement a set of alternate pages after the back cover page of the Public Offering Prospectus (the "Alternate Pages") to reflect the foregoing differences in the Resale Prospectus as compared to the Public Offering Prospectus. The Public Offering Prospectus will exclude the Alternate Pages and will be used for the initial public offering by the Company. The Resale Prospectus will be substantively identical to the Public Offering Prospectus except for the addition or substitution of the Alternate Pages, and such other changes as may be necessary to clarify references to the initial public offering or the resale offering and will be used for the resale offering by the Selling Stockholders.

(1) Assumes the underwriters' 45-day option to purchase up to 15% additional Units to cover over-allotments if any, has not been exercised.

The information in this 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 prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state or other jurisdiction where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED APRIL 28, 2023**

**PRELIMINARY PROSPECTUS**

**1,415,095 Units**
**Each Unit Consisting of**
**One Share of Common Stock,**
**One Warrant to Purchase One share of Common Stock, and**
**One Non-tradeable Warrant to Purchase One Share of Common Stock**
**and the 2,830,190 Shares of Common Stock underlying such Warrants**

# 60 Degrees Pharmaceuticals, Inc.

This is a firm commitment initial public offering of 1,415,095 units (each, a "Unit," collectively, the "Units") of 60 Degrees Pharmaceuticals, Inc. (the "Company," "we," "us" or "our"). The initial public offering price of our Units is $ per Unit. Each Unit consists of one share of our common stock, one tradeable warrant (each, a "Tradeable Warrant," collectively, the "Tradeable Warrants") to purchase one share of common stock at an exercise price of $ per share, and one non-tradeable warrant (each, a "Non-tradeable Warrant," collectively, the "Non-tradeable Warrants"; together with the Tradeable Warrants, each, a "Warrant," collectively, the "Warrants") to purchase one share of our common stock at an exercise price of $ . The Units have no stand-alone rights and will not be certificated or issued as stand-alone securities. The shares of common stock and the Warrants underlying the Units are immediately separable and will be issued separately in this offering. Each Warrant offered as part of this offering is immediately exercisable on the date of issuance and will expire five years from the date of issuance.

The Warrants will be issued in book-entry form pursuant to a warrant agent agreement (the "Warrant Agent Agreement") between us and Equity Stock Transfer, LLC, who will be acting as the warrant agent (the "Warrant Agent").

We currently estimate that the offering price will be between $4.30 and $6.30 per Unit and the exercise price per Tradeable Warrant will be between $4.945 and $7.245 (115% of the offering price per Unit) and between $5.16 and $7.56 (120% of the offering price per Unit) per Non-tradeable Warrant.

Prior to this offering, there has been no public market for our common stock or Tradeable Warrants. We have applied to have our common stock and Tradeable Warrants listed on The Nasdaq Capital Market under the symbols "SXTP" and "SXTPW," respectively. This offering is contingent upon final approval of our listing application with The Nasdaq Stock Market LLC ("Nasdaq"). There can be no assurance that we will be successful in listing our common stock and Tradeable Warrants on The Nasdaq Capital Market. We have not and do not intend to apply for listing of the Non-tradeable warrants on any exchange or market.

We intend to use the proceeds from this offering for general corporate purposes, including working capital. See "*Use of Proceeds*."

In addition, the selling stockholders (the "Selling Stockholders") are offering an aggregate of 1,856,580 shares of common stock to be sold pursuant to a separate resale prospectus (the "Resale Prospectus"), consisting of (i) 10,482 shares of common stock to be issued upon conversion of a convertible note immediately prior to the consummation of the initial public offering, (ii) 237,159 shares of common stock to be issued upon exercise of warrants after the date of this prospectus and prior to the closing of the initial public offering and (iii) 1,608,938 shares of common stock held by certain of the selling stockholders listed in the section "*Selling Stockholders*" of the Resale Prospectus. We will not receive any proceeds from the sale or other disposition of shares by the Selling Stockholders. The Selling Stockholders will bear all commissions and discounts, if any, attributable to the sale or other disposition of the shares. We will bear all costs, expenses and fees in connection with the registration of the Selling Stockholders' shares. The Selling Stockholders may not offer or sell shares prior to the closing of the initial public offering.

**Investing in our securities involves a high degree of risk. See "*Risk Factors*" beginning on page 18 of this prospectus for a discussion of information that should be considered in connection with an investment in our securities.**

**Neither the Securities and Exchange Commission ("SEC") nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

We are an "emerging growth company" and a "smaller reporting company" as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act") and have elected to comply with certain reduced public company reporting requirements. See "*Summary—Implications of Being an Emerging Growth Company and Smaller Reporting Company*."

| | Per Unit | Total |
|---|---|---|
| Initial public offering price | $ | $ |

| | | |
|---|---|---|
| Underwriting discounts and commissions[(1)(2)] | $ | $ |
| Proceeds, before expenses, to us | $ | $ |

(1) Represents underwriting discount and commissions equal to $ per Unit.

(2) Does not include a non-accountable expense allowance equal to 1.5% of the gross proceeds of this offering, payable to WallachBeth Capital LLC, as representative of the underwriters (the "Representative"), or the reimbursement of certain expenses of the underwriters. See "*Underwriting*" beginning on page 110 of this prospectus for additional information regarding underwriting compensation.

In addition to the underwriting discounts listed above and the non-accountable expense allowance described in the footnote, we have agreed to issue upon the closing of this offering to the Representative, warrants that will expire on the fifth anniversary of the effective date of the registration statement of which this prospectus is a part, entitling the Representative to purchase 6% of the number of shares of common stock sold in this offering (excluding shares of common stock sold to cover over-allotments, if any) (the "Representative Warrants"). The registration statement of which this prospectus is a part also covers the Representative Warrants and the shares of common stock issuable upon the exercise thereof. For additional information regarding our arrangement with the underwriters, please see "*Underwriting*" beginning on page 110.

We have also granted the Representative an option to purchase from us, at the public offering price, up to 212,265 additional shares of common stock and/or 212,265 Tradeable Warrants and/or 212,265 Non-tradeable Warrants, less the underwriting discounts and commissions, within 45 days from the date of this prospectus to cover over-allotments, if any. If the Representative exercises the option in full, the total underwriting discounts and commissions payable will be $ , and the total proceeds to us, before expenses, will be $ .

The underwriters expect to deliver the securities against payment on or about _____, 2023.

*Sole Book-Running Manager*

# WallachBeth Capital LLC

**Prospectus dated _____, 2023**

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**Through and including _____, 2023 (the 25th day after the date of this prospectus), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriter and with respect to their unsold allotments or subscriptions.**

You should rely only on the information contained in this prospectus or any prospectus supplement or amendment. Neither we, nor the underwriters, have authorized any other person to provide you with information that is different from, or adds to, that contained in this prospectus. If anyone provides you with different or inconsistent information, you should not rely on it. Neither we nor the underwriters take responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. You should assume that the information contained in this prospectus or any free writing 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 our securities. Our business, financial condition, results of operations and prospects may have changed since that date. We are not making an offer of any securities in any jurisdiction in which such offer is unlawful.

No action is being taken in any jurisdiction outside the United States to permit a public offering of our securities or possession or distribution of this prospectus in that jurisdiction. Persons who come into possession of this prospectus in jurisdictions outside the United States are required to inform themselves about and to observe any restrictions as to this public offering and the distribution of this prospectus applicable to that jurisdiction.

## ABOUT THIS PROSPECTUS

Throughout this prospectus, unless otherwise designated or the context suggests otherwise,

- all references to the "Company," "60P," the "registrant," "we," "our," or "us" in this prospectus mean 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, and 60P Australia Pty Ltd, an Australian proprietary company limited by shares, our subsidiary;
- assumes an initial public offering price of our Units of $5.30 per Unit, the midpoint of the estimated range of $4.30 and $6.30;
- "year" or "fiscal year" means the year ending December 31; and
- all dollar or $ references, when used in this prospectus, refer to United States dollars.

Except as otherwise indicated, all information in this prospectus assumes that:

- no shares of common stock have been issued pursuant to (i) the conversion of certain of our outstanding debt and (ii) certain consultant agreements;
- no shares of common stock have been issued pursuant to any warrants;
- no shares of common stock have been issued pursuant to the Representative's over-allotment option; and
- no shares of common stock have been issued pursuant to the Representative Warrants.

## TRADEMARKS

Solely for convenience, our trademarks and tradenames referred to in this prospectus, may appear without the ® or ™ symbols, but such references are not intended to indicate in any way that we will not assert, to the fullest extent under applicable law, our rights to these trademarks and tradenames. All other trademarks, service marks and trade names included or incorporated by reference into this prospectus or the accompanying prospectus are the property of their respective owners.

## GLOSSARY OF SELECTED TERMS

The following are definitions of certain terms that are commonly used in the medical industry and in this prospectus:

"8-aminoquinoline" refers to the structural class of antimalarials to which Tafenoquine and Primaquine belong. 8-aminoquinolines are characterized by the presence of an 8-amino substitution on their core quinoline ring, which confers their unique properties including an oxidative Mode of Action and activity against the relapsing liver forms of *Plasmodium vivax*.

"API" means active pharmaceutical ingredient, the active molecule contained in a pharmaceutical product.

"Arakoda" means ARAKODA®, the 60P-owned and FDA-approved product to prevent malaria in travelers, which contains as its active pharmaceutical ingredient, Tafenoquine succinate.

"Broad Spectrum of Activity" refers to a molecule or drug that is active against a range of different pathogens.

"CAR-T" means chimeric antigen receptor therapy.

"CLIA" means The Clinical Laboratory Improvements Amendment of 1988.

"Dengue" means a mosquito-borne viral disease occurring in tropical and subtropical areas.

"Ethics Committee" a stand-alone or institutional committee responsible for ensuring clinical trials are conducted ethically, and from whom permission is required for a clinical trial to proceed.

"EUA" means Emergency Use Authorization.

"FDA" refers to the U.S. Food and Drug Administration.

"G6PD" means glucose-6-phosphate dehydrogenase.

"GMP" means Good Manufacturing Practices.

"IND" means investigational new drug application.

"Kodatef" is the brand name of Arakoda outside the United States. Kodatef has been approved for use in Australia by the Therapeutic Goods Administration.

"Legacy Studies" is a reference to the collection of clinical and non-clinical studies involving Tafenoquine, which were conducted by the U.S. Army prior to 2014, and which were included in the new drug application submitted by 60P to the FDA in 2018. Some of those Legacy Studies are described in the account of the Army development program published by Zottig et. al.

"Mode of Action" is the process by which an anti-infective or other pharmaceutical product is known or suspected to affect a disease process. This process is different for each drug and may or may not be known at the time of FDA approval.

"Named-patient" use of a drug refers to the prescription by a physician of a drug to one of their patients in a jurisdiction in which the prescribed drug has not received marketing authorization, but is believed by said physician to be safe and medically necessary. Also, sometimes referred to as "compassionate use."

"NIH" means the National Institutes of Health.

"PDUFA" means The Prescription Drug User Fee Act.

"PMA" means Premarket Approval by the FDA.

"Primaquine" is the FDA-approved antimalarial from which Tafenoquine is chemically derived.

"*P. vivax*" is an abbreviation for Plasmodium vivax, one of the two most important malaria parasites, characterized by its ability to relapse utilizing a dormant life cycle stage that persists in the human liver following a bite from an infected mosquito.

"RSV" means respiratory syncytial virus, which is a common respiratory virus that usually causes cold-like symptoms.

"Repositioned Molecule" is one which was approved by the FDA or other regulatory authorities to treat one disease, and is being developed for a new disease.

"Tafenoquine" is the shortened name of the active ingredient of Arakoda and Kodatef, tafenoquine succinate.

"TGA" is the Therapeutic Goods Administration, the Australian equivalent of the FDA.

"TMPRSS2" means transmembrane protease, serine 2, which is an enzyme that in humans is encoded by the TMPRSS2 gene, and belongs to the TMPRSS family of proteins, whose members are transmembrane proteins which have a serine protease activity.

In connection with presentation of scientific data, this prospectus references "*P*-values" at various points. These values are provided to convey the likelihood of a particular set of data occurring by chance. For example, a *P*-value of 0.12 associated with a stand-alone, pre-conceived hypothesis is generally understood to mean that the likelihood of that particular outcome occurring purely by chance is 12%. It is scientific convention that a particular observation is "proven" if its associated *P* value is lower than 0.05 (i.e., associated with a likelihood of occurring by chance of < 5%). However, clinical observations of interest are routinely reported in the peer-reviewed scientific literature even if their associated *P*-values are > 0.05, because they may represent important therapeutic signals, and motivate additional research. With the exception of the data reported in Figure B, the efficacy data described herein related to our COVID-19 program and Arakoda have been published in a peer-reviewed scientific journal.[1] *P*-values presented herein are not corrected for multiple comparison error, and represent the outcomes of both pre-conceived, and post-hoc, analyses.

## USE OF PRODUCT VERSUS GENERIC NAMES

This prospectus makes reference to two commercial products owned/manufactured by 60P, Arakoda and Kodatef, which are approved by regulators in the United States and Australia, respectively, for the prevention of malaria. The active molecule in those products is tafenoquine succinate (Tafenoquine for short), which we are repositioning for other indications using either (i) the same dosing regimen employed in the commercial Arakoda product (in which case reference is made to the "Arakoda regimen of tafenoquine" or (ii) different dosing regimens (in which case reference is made to "Tafenoquine"). We also utilize the molecular name (Tafenoquine), where the active ingredient of Arakoda and Kodatef was tested in cell culture or animal models. These different usages have been employed both for convenience and to avoid any assertions that Arakoda or Kodatef have been granted marketing authorization by regulators for uses other than the prevention of malaria.

## MARKET DATA

Market data and certain industry data and forecasts used throughout this prospectus were obtained from internal company surveys, market research, consultant surveys, publicly available information, reports of governmental agencies and industry publications and surveys. Industry surveys, publications, consultant surveys and forecasts generally state that the information contained therein has been obtained from sources believed to be reliable, but the accuracy and completeness of such information is not guaranteed. To our knowledge, certain third-party industry data that includes projections for future periods does not take into account the effects of the worldwide coronavirus (COVID-19) pandemic. Accordingly, those third-party projections may be overstated and should not be given undue weight. Forecasts are particularly likely to be inaccurate, especially over long periods of time. In addition, we do not necessarily know what assumptions regarding general economic growth were used in preparing the forecasts we cite. Statements regarding our market position are based on the most currently available data. While we are not aware of any misstatements regarding the industry data presented in this prospectus, our estimates involve risks and uncertainties and are subject to change based on various factors, including those discussed under the heading "*Risk Factors*" in this prospectus.

[1] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

## PROSPECTUS SUMMARY

*This summary provides a brief overview of the key aspects of our business and our securities. The reader should read the entire prospectus carefully, especially the risks of investing in our securities discussed under "Risk Factors." Some of the statements contained in this prospectus, including statements under "Summary" and "Risk Factors" as well as those noted in the documents incorporated herein by reference, are forward-looking statements and may involve a number of risks and uncertainties. Our actual results and future events may differ significantly based upon a number of factors. The reader should not put undue reliance on the forward-looking statements in this document, which speak only as of the date on the cover of this prospectus.*

Unless the context otherwise requires, references in this prospectus to "60P," the "Company," "we," "us" and "our" refer to 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, and 60P Australia Pty Ltd, an Australian proprietary company limited by shares, our majority-owned subsidiary.

### Overview

We are a growth-oriented specialty pharmaceutical company with a goal of using cutting-edge biological science and applied research to further develop and commercialize new therapies for the prevention and treatment of infectious diseases. We have successfully achieved regulatory approval of Arakoda, a malaria preventative treatment that has been on the market since late 2019. Currently, 60P's pipeline under development covers development programs for COVID-19, fungal, tick-borne, and other viral diseases utilizing three of the Company's future products: (i) new products that contain the Arakoda regimen of Tafenoquine; (ii) new products that contain Tafenoquine; and (iii) Celgosivir.

### Mission

Our mission is to address the unmet medical need associated with infectious diseases, through the development and commercialization of new small molecule therapeutics, focusing on synthetic drugs (made by chemists in labs, excluding biologics) with good safety profiles based on prior clinical studies, in order to reduce cost, risk, and capitalize on existing research. We are seeking to expand Arakoda's use for malaria prevention and to demonstrate clinical benefit for other disease indications. We are further testing the viability of another product (Celgosivir) to determine whether to advance it into further clinical development, and may seek to develop and license other molecules in the future. Celgosivir is being developed for COVID-19, RSV and Dengue.

### Market Opportunity

In 2018, the FDA approved Arakoda for malaria prevention in individuals 18 years and older, an indication for which there has historically been approximately 550,000 prescriptions (one prescription per three weeks of travel) in the United States each year for the current market-leading product (atovaquone-proguanil). Arakoda entered the U.S. supply chain in the third quarter of 2019, just prior to the COVID-19 pandemic. As the approved indication is for travel medicine, and international travel was substantially impacted by the pandemic, we did not undertake any active marketing efforts for Arakoda. Targeted marketing efforts will commence in the second half of 2023 to promote the malaria indication as resources permit, although we expect our primary efforts to be developing Arakoda for other applications.

We are repositioning the Arakoda regimen of Tafenoquine for new indications to address several therapeutic indications that have substantial U.S. caseloads, as further described below:

- Treatment of COVID-19. According to *The New York Times*, the lowest daily case rate for the COVID-19 virus since March 2020 based on a seven-day average has not typically been below 11,000 cases. Assuming this trend continues, this dynamic translates into a potential market size of at least 4,000,000 cases per year in 2023 and future years. Paxlovid and molnupiravir have received emergency use authorization for the prevention of death and hospitalization in individuals with high risk of disease progression and their use for those purposes continues to be recommended by public health experts. However, to our knowledge, there is not published evidence from randomized controlled clinical trials that either drug reduces the time to sustained clinical recovery for four or more days in standard risk patients infected with contemporary viral strains, and Pfizer has formally abandoned efforts related to this endpoint for paxlovid.[2] Additionally molnupiravir and paxlovid are not approved by FDA for use in patients without risk factors for disease progression, and that excluded lower risk population comprises about 25% of the U.S. population.[3] The economic value of that unsatisfied market may be a multi-billion-dollar opportunity, given that the value of paxlovid and molnupiravir in the 75% of the population in which they can be used was ~ $12 billion in 2022.[4] If proven effective for early relief of COVID-19 symptoms in standard risk COVID-19 patients, Tafenoquine (Arakoda regimen) could fulfill a patient's need unmet by the approved antivirals.

[2] Press release: https://www.pfizer.com/news/press-release/press-release-detail/pfizer-reports-additional-data-paxlovidtm-supporting.

[3] See the Paxlovid (www.paxlovid.com) and Lagevrio (www.lagevrio.com) prescribing information and epidemiology data described by Ajufo et al Am J Preventive Cardiol 2021;6:101156.

[4] See 2022 revenue data for Paxlovid in Pfizer (https://investors.pfizer.com/Investors/Financials/SEC-Filings/SEC-Filings-Details/default.aspx?FilingId=16428097) and Lagevrio (https://d18rn0p25nwr6d.cloudfront.net/CIK-0000064978/b390be48-92bf-4595-96da-ac5cd7c3d92e.pdf) in Merck financial reports.

- Treatment and Post-Exposure Prevention of Tick-Borne Diseases. There are at least 47,000 cases of babesiosis (red blood cell infections caused by deer tick bites) in the United States each year. This estimate is based on the observations of Krugeler who reported that 476,000 cases of Lyme disease occur in U.S. states where babesiosis is endemic and Krause et. al. who reported that 10% of Lyme disease patients are co-infected with babesiosis (thus 476,000*10% = 47,600 cases of babesiosis per year).[5] Furthermore, post-exposure prophylaxis following a tick-bite is a recognized indication to prevent Lyme disease, and it is likely that a drug proven to be effective for this indication for babesiosis would also be used in conjunction with Lyme prophylaxis. There may be more than 400,000 tick bites in the United States requiring medical treatment each year. This estimate is based on the observation that approximately 50,000 tick bites are treated in U.S. hospital emergency rooms each year but this calculation represents only about 12% of actual treated tick bites based on observations from comparable ex-U.S health systems.[6] Arakoda has the potential to be added to the existing standard of care for treatment of babesiosis, and to be a market leading product for pre- and post-exposure prophylaxis of babesiosis.

- Prevention of fungal pneumonias. There are up to ~ 91-92,000 new medical conditions each year in the United States including acute lymphoblastic leukemia (up to 6.540 cases) and large B-cell lymphoma (up to 18,000 cases) patients receiving CAR-T therapy, solid organ transplant patients (up to 42,887 cases), allogeneic (~ 9,000 cases) and autologous (~ 15,000 cases) hematopoietic stem cell transplant patients for whom the use of antifungal prophylaxis is recommended.[7] Despite the availability and use of antifungal prophylaxis, the risk of some patient groups contracting fungal pneumonia exceeds the risk of contracting malaria during travel to West Africa.[6] Arakoda has the potential to be added to existing standard of care regimens for the prevention of fungal pneumonias.

- Treatment of *Candida* infections. According to the Centers for Diseases Control (CDC), there are 50,000 cases of candidiasis (a type of fungal infection) each year in the United States and up to 1,900 clinical cases of *C. auris*, for which there are few available treatments, have been reported to date[9] Arakoda has the potential to be a market leading therapy for treatment/prevention of *C. auris*, and to be added to the standard of care regimens for other *Candida* infections.

Dengue and RSV, both afflictions against which 60P's early clinical candidates (e.g., Celgosivir) show potential in non-clinical studies, are associated with at least 4.1 million cases globally according to the European CDC (Dengue) [10] and up to 240,000 hospitalizations (RSV) in children less than five years of age and adults greater than 65 years of age in the United States each year according to the CDC.[11]

More information about our products is provided in the next section, and the status of various development efforts for the above-mentioned diseases is outlined in Figure A, below.

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[5] Krause et al JAMA 1996;275:1657-16602. Krugeler et al *Emerg Infect Dis* 2021;27:616-619

[6] Marx et. al., MMWR 2021;70:612-616.

[7] See statistics for solid organ transplants at the Organ Transplant and Procurement Network at: National data - OPTN (hrsa.gov); See statistics for hematopoietic stem cell transplant in Dsouza et al Biology of Blood and Bone Marrow Transplantation 202;26: e177-e182; See statistics for acute lymphoblastic leukemia at: Key Statistics for Acute Lymphocytic Leukemia (ALL) (cancer.org); See statistics for large cell large B-cell lymphoma at; Diffuse Large B-Cell Lymphoma - Lymphoma Research Foundation; Treatment guidelines recommending antifungal prophylaxis for these diseases can be reviewed in (i) Fishman et al Clinical Transplantation. 2019;33:e13587, (ii) Hematopoietic Cell Transplantation (cancernetwork.com), (iii) Cooper et al Journal of the National Comprehensive Cancer Network 2016;14:882-913 and (iv) Los Arcos et al Infection (2021) 49:215–231.

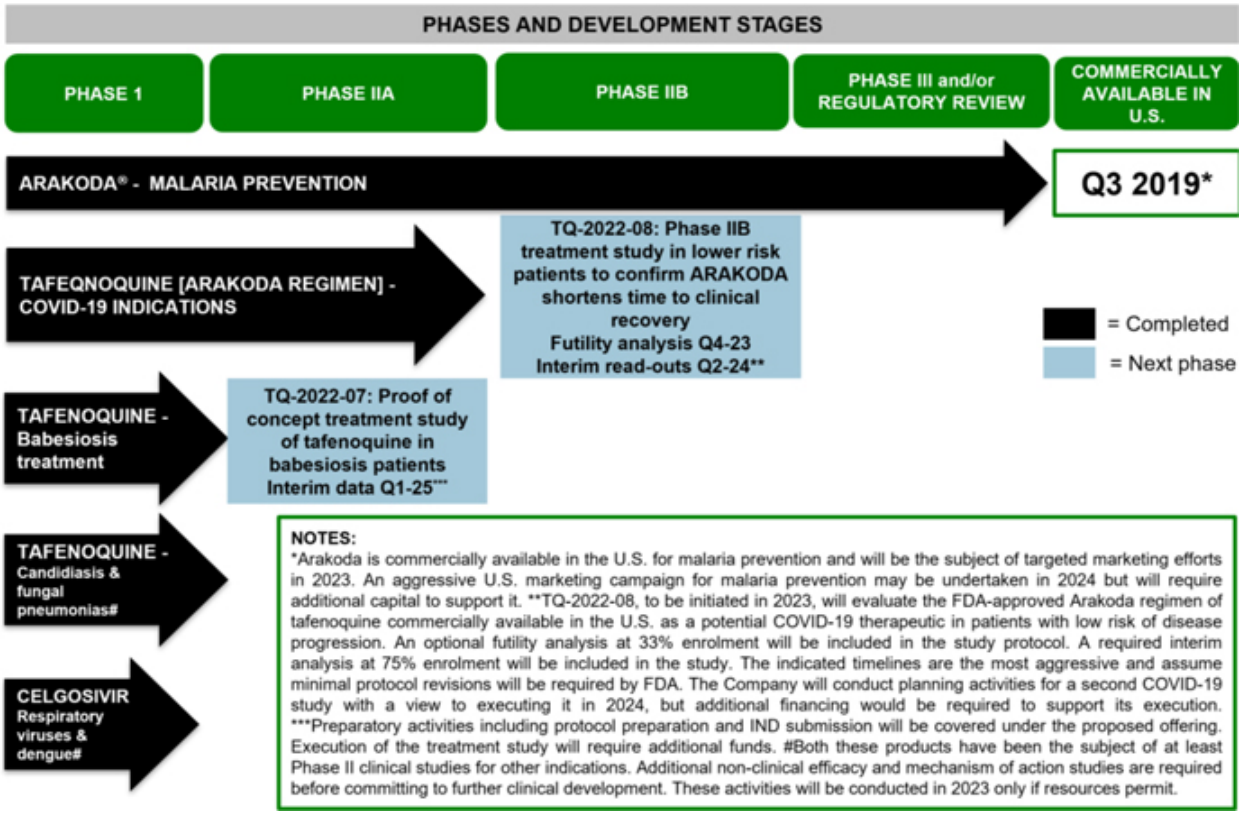
[8] Aguilar-Guisado et al Clin Transplant 2011;25:E629–38; Mace et al MMWR 202;70:1–35

[9] https://www.cdc.gov/fungal/diseases/candidiasis/invasive/statistics.html.; https://www.cdc.gov/fungal/candida-auris/tracking-c-auris.html.

[10] https://www.ecdc.europa.eu/en/dengue-monthly#:~:text=This%20is%20an%20increase%20of%2032%20653%20cases%20and%2032,853%20deaths%20have%20been%20reported.

[11] https://www.cdc.gov/rsv/research/index.html#:~:text=Each%20year%20in%20the%20United,younger%20than%205%20years%20old.&text=58%2C000-80%2C000%20hospitalizations%20among%20children%20younger%20than%205%20years%20old.&text=60%2C000-120%2C000%20hospitalizations%20among%20adults%2065%20years%20and%20older.

Figure A


PHASES AND DEVELOPMENT STAGES
PHASE 1
PHASE IIA
PHASE IIB
PHASE III and/or REGULATORY REVIEW
COMMERCIALLY AVAILABLE IN U.S.
ARAKODA® - MALARIA PREVENTION
Q3 2019*
TAFEQNOQUINE [ARAKODA REGIMEN] - COVID-19 INDICATIONS
TQ-2022-08: Phase IIB treatment study in lower risk patients to confirm ARAKODA shortens time to clinical recovery
Futility analysis Q4-23
Interim read-outs Q2-24**
= Completed
= Next phase
TAFENOQUINE - Babesiosis treatment
TQ-2022-07: Proof of concept treatment study of tafenoquine in babesiosis patients
Interim data Q1-25***
TAFENOQUINE - Candidiasis & fungal pneumonias#
CELGOSIVIR Respiratory viruses & dengue#
NOTES:
*Arakoda is commercially available in the U.S. for malaria prevention and will be the subject of targeted marketing efforts in 2023. An aggressive U.S. marketing campaign for malaria prevention may be undertaken in 2024 but will require additional capital to support it. **TQ-2022-08, to be initiated in 2023, will evaluate the FDA-approved Arakoda regimen of tafenoquine commercially available in the U.S. as a potential COVID-19 therapeutic in patients with low risk of disease progression. An optional futility analysis at 33% enrolment will be included in the study protocol. A required interim analysis at 75% enrolment will be included in the study. The indicated timelines are the most aggressive and assume minimal protocol revisions will be required by FDA. The Company will conduct planning activities for a second COVID-19 study with a view to executing it in 2024, but additional financing would be required to support its execution. ***Preparatory activities including protocol preparation and IND submission will be covered under the proposed offering. Execution of the treatment study will require additional funds. #Both these products have been the subject of at least Phase II clinical studies for other indications. Additional non-clinical efficacy and mechanism of action studies are required before committing to further clinical development. These activities will be conducted in 2023 only if resources permit.

**Products**

***Arakoda (Tafenoquine) for malaria prevention***

We entered into a cooperative research and development agreement with the United States Army in 2014 to complete development of Arakoda for prevention of malaria.[12] With the U.S. Army, and other private sector entities as partners, we coordinated the execution of two clinical trials, development of a full manufacturing package, gap-filling non-clinical studies, compilation of a full regulatory dossier, successful defense of our program at an FDA advisory committee meeting, and submitted a new drug application ("NDA") to the FDA in 2018. The history of that collaboration has been publicly communicated by the U.S. Army.[13]

The FDA and Australia's medicinal regulatory agency, Therapeutic Goods Administration, subsequently approved Arakoda and Kodatef (brand name in Australia), respectively, for prevention of malaria in travelers in 2018. Prescribing information and guidance for patients can be found at *www.arakoda.com*. The features and benefits of Tafenoquine for malaria prophylaxis (marketed as Arakoda in the United States), some of which have been noted by third-party experts, include: convenient once weekly dosing following a three day load; the absence of reports of drug resistance during malaria prophylaxis; activity against liver and blood stages of malaria as well as both the major malaria species (*Plasmodium vivax* and *Plasmodium falciparum);* absence of any black-box safety warnings; good tolerability including in women and individuals with prior psychiatric medical history, and a comparable adverse event rate to placebo with up to 12 months continuous dosing.[14] Tafenoquine entered the commercial supply chains in the U.S. (as Arakoda) and Australia (as Kodatef) in the third quarter of 2019.

The only limitation of Arakoda is the requirement for a G6PD test prior to administration.[15] The G6PD test must be administered to a prospective patient prior to administration of Arakoda in order to prevent the potential occurrence of hemolytic anemia in individuals with G6PD deficiency.[16] G6PD is one of the most common enzyme deficiencies and is implicated in hemolysis following administration/ingestion of a variety of oxidant drugs/food. G6PD must also be ruled out as a possible cause when diagnosing neonatal jaundice. As a consequence, G6PD testing is widely available in the United States through commercial pathology service providers (e.g., Labcorp, Quest Diagnostics, etc.). Although these tests have a turn-around time of up to 72 hours, the test needs only to be administered once. Thus, existing U.S. testing infrastructure is sufficient to support the FDA-approved use of the product (malaria prevention) by members of the armed forces (who automatically have a G6PD test when they enlist), civilian travelers with a long planning horizon or repeat travelers.

*Tafenoquine (Arakoda regimen) for COVID-19*

During the COVID-19 pandemic, since our commercial opportunities were limited, we embarked upon an exploratory research and development campaign to identify new indications for the Arakoda dosing regimen of Tafenoquine. In the second quarter and third quarter of 2020, we commissioned cell culture studies that showed that Tafenoquine, the active ingredient in Arakoda, inhibited replication of SARS-CoV-2 (the virus that causes COVID-19).[17] Then, we commissioned computer simulations, which showed that the predicted concentration of Tafenoquine in the lungs of COVID-19 patients following administration of the first four doses of the approved antimalarial prophylactic regimen of Arakoda exceeded those inhibiting the virus in cell culture. The foregoing provided the rationale for seeking approval from the FDA to conduct a Phase II clinical trial in patients with the COVID-19 disease, for which the FDA granted clearance to proceed in October 2020.

In 2021, with financial support from the U.S. Army[16], we conducted a Phase II clinical investigation of the safety and efficacy of Tafenoquine using the Arakoda regimen in outpatients with mild-moderate COVID-19 disease (assumed to be mostly caused by the delta variant of SARS-COV-2). In summary, safety and efficacy of Tafenoquine administered at the approved dose for malaria prevention (200 mg dose once per day on days 1, 2, 3, and 10) was evaluated over a 28-day period in mild-moderate COVID-19 patients. The primary endpoint was day 14 clinical recovery from COVID-19 symptoms, defined as cough mild or absent, respiratory rate < 24 bpm, and no shortness of breath or fever. From March 2021 through September 2021, this study enrolled 87 of the originally planned 275 patients. In October 2021, a data safety monitoring board, after conducting a futility analysis for the primary endpoint and reviewing adverse event data, recommended that the study be continued as planned. However, at the time of the unblinding of this study, topline results from Phase III studies for three oral COVID-19 therapeutics in at risk patients with mild-moderate COVID-19 disease had been announced: Fluvoxamine, molnupiravir, and paxlovid reduced the risk of hospitalization by approximately 30%, 50% (in the first public announcement) and 90%, respectively.[19] As reported in our publication[18], an informal survey of potential funding/commercialization partners for a follow-on program suggested it would be important to know the magnitude of possible benefit prior to initiating such an effort. Primarily for the above reasons, the study was terminated and unblinded early.

The results of the study were accepted for peer-reviewed publication in May 2022.[21] For the primary endpoint, the proportion of patients not recovered on Day 14 was numerically decreased by 27% in the intent to treat population (8/45 v 10/42 not recovered in the Tafenoquine and placebo arms, $P = 0.60$) and 47% in the per protocol population (5/42 v 9/41, $P = 0.25$). Amongst individuals who recorded responses in an electronic diary on day 28, all Tafenoquine patients were recovered, whereas up to 12% of placebo patients exhibited lingering shortness of breath. Analysis of secondary/exploratory endpoints suggested Arakoda reduced time to clinical recovery from shortness of breath, cough and fever ($P < 0.02$) and numerically improved aggregate symptom scores five days after treatment ($P < 0.1$).[22] The risk of COVID-19-related hospitalization was numerically reduced in the Arakoda arm (by approximately 50%; two instances for placebo versus one for Arakoda). Mild, drug related adverse events occurred in 8.4% of individuals in the Tafenoquine arm (v 2.4% in the placebo). We plan to confirm that Arakoda accelerates sustained recovery from COVID-19 symptoms in our next study (described in "*Prospectus Summary—Strategy*" beginning on page 4).

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[12] In 2014, we signed a cooperative research and development agreement with the United States Army Medical and Materiel Development Activity (Agreement W81XWH-14-0313). Under this agreement, we agreed to submit an NDA for Tafenoquine to the FDA (as Arakoda), while the US Army agreed to finance the bulk of the necessary development activities in support of that goal.

[13] Zottig et al Military Medicine 2020; 185 (S1): 687.

[14] Tan and Hwang Journal of Travel Medicine, 2018, 1–2; Baird Journal of Travel Medicine 2018:, 1–13; Schlagenhauf et al Travel Medicine and Infectious Disease 2022; 46:102268; See Arakoda prescribing information at www.arakoda.com; McCarthy et al CID 2019:69:480-486; Dow et al. Malar J (2015) 14:473; Dow et al. Malaria Journal 2014, 13:49; Novitt-Moreno et al Travel Med Infect Dis 2022 Jan-Feb;45:102211.

[15] See prescribing information at www.arakoda.com.

[16] See prescribing information at www.arakoda.com.

[17] U.S. Patent application # 17/189,544, Dow et. al. bioRxiv 2020.07.12.199059; doi: https://doi.org/10.1101/2020.07.12.199059.

[18] Financial support was obtained from Joint Program Executive Office for Chemical, Biological, Radiological and Nuclear Defense (which may be referred to as "JPEO") or JPEO via other transactional authority agreement #W911QY-21-9-0011.

[19] Reis et al Lancet Global Health 2022;10:e42-51, Bernal et al New Eng J Med 2021; https://doi.org/10.1056/NEJMoa2116044; Pfizer Inc. Press release (November 5, 2021) – Pfizer's novel COVID 19 oral antiviral treatment candidate reduced risk of hospitalization or death by 89% in interim analysis of Phase 2/3 EPIC-HR study. Accessible at: Pfizer's Novel COVID-19 Oral Antiviral Treatment Candidate Reduced Risk of Hospitalization or Death by 89% in Interim Analysis of Phase 2/3 EPIC-HR Study | Pfizer.

[20] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[21] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[22] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

In 2022, we conducted additional analyses of laboratory endpoint data from the clinical study described above and are preparing a manuscript for publication. That analysis and the scientific literature suggest two possible modes of action for Arakoda: (i) down-regulation of cytokines (immune system inflammatory proteins) associated with severe COVID-19 and a greater risk of hospitalization or death and/or (ii) inhibition of viral entry in the lung or elsewhere in the body, perhaps through inhibition of a host enzyme called TMPRSS2 (which facilitates entry of the virus that causes COVID-19, SARS-CoV-2, into human cells).

Assuming the efficacy of Tafenoquine in COVID-19 disease is proven in our next study, some of the features of the Arakoda regimen that make it ideal for malaria prophylaxis might also make it very useful for COVID-19 related indications. Tafenoquine is slowly metabolized and has few important drug-drug interactions, so it might be an ideal partner for standard of care oral COVID-19 therapeutics that reduce hospitalization but have no demonstrated effect on the time to clinical recovery in non-hospitalized patients. The Arakoda regimen requires fewer tablets (8 in the first ten days versus 30 or 40 for paxlovid and molnupiravir) which should make compliance with medication easier for patients. This is an important consideration in the attractiveness of a regimen in standard risk patients at lower risk of hospitalization, and who may be interested in taking a COVID-19 therapeutic primarily to treat early symptoms and accelerate recovery. The potential for better compliance may also suggest suitability for outbreak control in some settings (including, for example, nursing homes).

*Tafenoquine for other infectious diseases*

During the pandemic, we also worked with NIH to evaluate the utility of Tafenoquine as an antifungal. We, and the NIH, found that Tafenoquine exhibits a Broad Spectrum of Activity in cell culture against *Candida* and other yeast strains via a different Mode of Action than traditional antifungals and also exhibits antifungal activity against some fungal strains at clinically relevant doses in animal models.[23] Our work followed Legacy Studies that show Tafenoquine is effective for treatment and prevention of *Pneumocystis* pneumonia in animal models.[24] We believe that if added to the standard of care for anti-fungal and yeast infection treatments for general use, Tafenoquine has the potential to improve patient outcomes in terms of recovery from yeast infections, and prevention of fungal pneumonias in immunosuppressed patients. There are limited treatment options available for these indications, and Tafenoquine's novel mechanism of action might also mitigate problems of resistance. Clinical trial(s) to prove safety and efficacy, and approval by the FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

Tafenoquine is effective in animal models of babesiosis (tick borne red blood cell infections). In two of three recent clinical case studies, Tafenoquine administered after failure of conventional antibiotics in immunosuppressed babesiosis patients resulted in cures.[25] Consequently, we believe that (i) if combined with standard of care products, Tafenoquine has the potential to reduce the duration of treatment with antibiotic therapy in immunosuppressed patients and the time to parasite clearance in non-immunosuppressed patients and (ii) that once appropriate clinical studies have been conducted, it is likely that Tafenoquine would be quickly embraced for post-exposure prophylaxis of babesiosis in patients with tick bites and suspected of being co-infected with Lyme disease. Clinical trial(s) to prove safety and efficacy, and approval by FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

*Celgosivir*

Celgosivir is a host targeted glucosidase inhibitor that was developed separately by other sponsors for HIV then for hepatitis C.[26] The sponsors abandoned Celgosivir after completion of Phase II clinical trials involving 700+ patients, because other antivirals in development at the time had superior activity. The National University of Singapore initiated development of Celgosivir independently for Dengue fever. A clinical study, conducted in Singapore, and the results of which were accepted for publication in the peer-reviewed journal Lancet Infectious Diseases, confirmed its safety but the observed reduction in viral load was lower than what the study was powered to detect.[27] Celgosivir (as with other Dengue antivirals) exhibits greater capacity to cure Dengue infections in animal models when administered prior to symptom onset compared to post-symptom onset. In animal models, this problem can be addressed for Celgosivir, by administering the same dose of drug split into four doses per day rather than two doses per day (as was the case in the Singaporean clinical trial).[28] This observation led to the filing and approval of a patent related to Dengue, which we licensed from the National University of Singapore.

[23] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[24] Queener et al Journal of Infectious Diseases 1992;165:764-8).

[25] Liu et al. Antimicrobial Agents Chemo 2021;65:e00204-21, Marcos et al. IDCases 2022;27:e01460; Rogers et al. Clin Infect Dis. 2022 Jun 10:ciac473, Prasad and Wormsner. Pathogens 2022;11:1015.

[26] Sorbera et al, Drugs of the Future 2005; 30:545-552.

[27] Low et. al., Lancet ID 2014; 14:706-715.

[28] Watanabe et al, Antiviral Research 2016; 10:e19.

Additional clinical studies would be required to prove that such a 4x daily dosing regimen would be safe and effective in Dengue patients to regulators' satisfaction. To that end, earlier in our history, we, in partnership with the National University of Singapore, and Singapore General Hospital, successfully secured a grant from the government of Singapore for a follow-on clinical trial, but were unable at that time to raise matching private sector funding. We concluded as a result that development of Repositioned Molecules for Dengue, solely and without simultaneous development for other therapeutic use, despite substantial morbidity and mortality in tropical countries, was an effort best suited for philanthropic entities. Accordingly, during the pandemic, we undertook an effort (in partnership with NIH's Division of Microbiology and Infectious Diseases program and Florida State University) to determine whether Celgosivir might be more broadly useful for respiratory diseases that have impact in both tropical and temperate countries. Preliminary data suggest Celgosivir inhibits the replication of the virus that causes COVID-19 (SARS-CoV-2) in cell culture, and the RSV virus in cell culture and provides benefits in animals. We have filed and/or licensed patents in relation to Celgosivir for these other viruses as we believe there is potential applications to fight respiratory diseases that might have more commercial viability than historical development of Celgosivir to combat Dengue fever.

**Competitive Strengths**

Our main competitive strength has been our ability to achieve important clinical milestones inexpensively in therapeutic areas that other entities have found extremely challenging. With a small virtual management team, we have successfully built productive research partnerships with public and academic entities, and licensed products with well characterized safety profiles in prior clinical studies, thereby reducing the cost and risk of clinical development. This business and product model enabled Arakoda to be approved in 2018, with a total operating expense of < $10 million. We plan to focus in the future on generating proof of concept clinical data sets for the approved Arakoda regimen of Tafenoquine in other therapeutic areas, all of which is expected to foster and continue our existing tradition of inexpensive product development.

**Strategy**

Our general strategy is to demonstrate clinical proof of concept that the FDA-approved Arakoda regimen of Tafenoquine provides clinical benefits in non-malaria therapeutic areas. Our initial focus is on COVID-19, but additional indications have been identified for development, namely babesiosis and fungal infections, pending further data generation. Upon demonstration of clinical proof of concept, we plan to enter into a strategic partnership with a larger entity with commercialization capacity, or raise additional capital to facilitate commercialization of Arakoda, and any additional clinical studies that may be required by regulators, for both travel medicine and broad infectious disease indications. We will continue to develop our portfolio products as resources permit.

Beginning in the second half of 2023, we plan to execute a Phase IIB, randomized, placebo-controlled double blind clinical study powered (at 80%) to prove that the Arakoda regimen of Tafenoquine accelerates time to sustained clinical recovery in patients with mild-moderate disease with low risk for disease progression. This trial will utilize the bulk of proceeds raised in this offering. Based on an analysis of unpublished data from our earlier COVID-19 clinical trial,[29] we believe that the Arakoda regimen of Tafenoquine has the potential to reduce the time to sustained clinical recovery by about three days (see Figure B, below). The study will be conducted in out-patient clinics in the United States. The study will utilize the majority of the proceeds of the offering reserved for research and development activities for this purpose. As of the date of this prospectus, we have completed a clinical study synopsis. Submission of the full protocol to the Ethics Committees and to U.S. regulators, and a subsequent posting at *clinicaltrials.gov* will follow this initial public offering.

Figure B

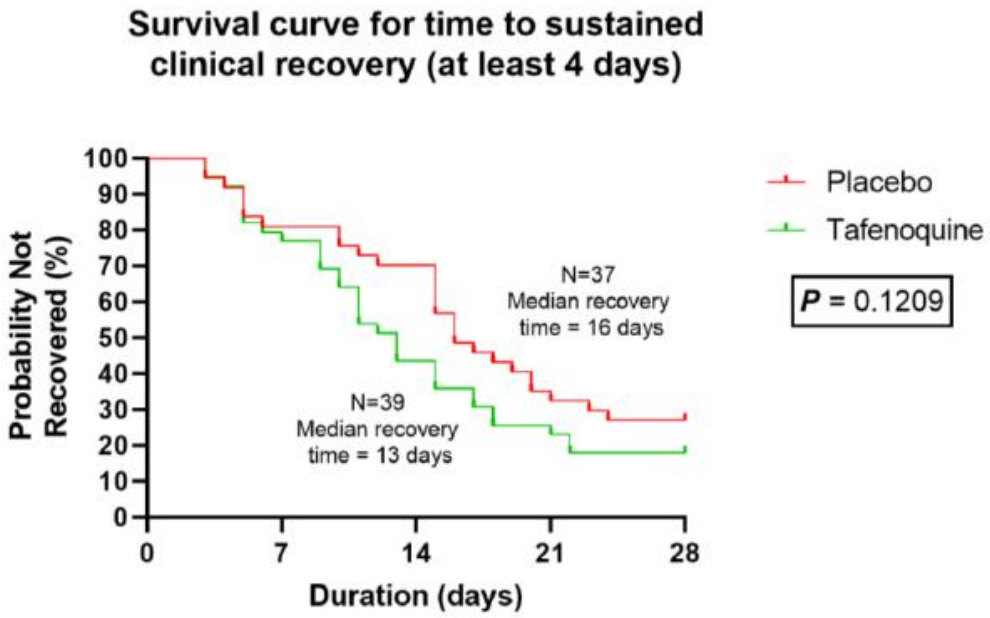


Figure B: Survival curve for sustained clinical recovery in outpatients with mild-moderate COVID-19 disease randomized to receive Tafenoquine (Arakoda regimen) or placebo. Sustained clinical recovery was defined as the first instance of patient reported symptoms scores being < 3 for four or more days, with symptoms scores assessed according to FDA guidance.[30] This analysis utilized unpublished data from our earlier Phase II clinical trial.[31] The analysis excludes individuals hospitalized or loss to follow-up and with a symptom score on the days of dosing < 3. This analysis represents a post-hoc analysis of our Phase II clinical trial data. If this were a formal, pre-conceived primary study endpoint, the *P* value of 0.1209 would imply the associated difference between Tafenoquine (Arakoda regimen) and placebo has a 12.09% chance of occurring by chance.

We intend to design the study, subject to approval by the FDA and Ethics Committee(s) as appropriate, to include two interim endpoints to manage risk. The first will be an optional futility analysis at the earlier of 33% enrollment or six months following the first patient enrolled, which would allow early termination of the study if the conditional power of proving the intended hypothesis is < 20%. The second, mandatory interim analysis will occur at 75%

enrollment and follow a step-wise (sponsor-blinded) process involving testing for futility, statistical significance, and sample-size reassessment if required. The test for statistical significance would allow early termination of the study if results are unexpectedly positive and the sample size reassessment would allow the study to enroll more patients within pre-specified limits if variability is more, and/or the magnitude of the expected treatment effect is less, than expected.

We plan to conduct additional non-clinical studies to clarify the process by which Tafenoquine alters the course of COVID-19 illness. Specifically, such studies will attempt to determine whether Tafenoquine acts as an immunomodulator (by decreasing the production of immune system molecules that cause inflammation) and/or exhibits an antiviral effect via inhibition of the host protease TMPRSS2. Antivirals are generally utilized earlier, and immunomodulators later, in treating patients with COVID-19 disease. However, the clinical hypothesis of our planned study will be that Arakoda accelerates clinical recovery by three days in individuals who have experienced symptoms for fewer than seven days, thereby confirming observations from our earlier clinical study (see Figure B). Since the potential clinical benefit is already known, the primary purpose of clarifying the manner in which Arakoda works is to (i) address anticipated regulatory questions and (ii) ascertain whether other indications, such as relief of COVID-19 symptoms during vaccination, treatment of long COVID-19 patients, or use during hospitalization, might be plausible.

Following completion of our planned COVID-19 clinical study, if warranted based on the data generated, we intend to request a change in prescribing information to facilitate an expansion of use of Arakoda for malaria prevention from six to twelve months (mirroring our recently published post-marketing safety study) and to include reference to the recently generated COVID-19 treatment data. Prior to doing so, we plan to discuss with the FDA additional labeling related to COVID-19 which might be acceptable.

We intend to design and conduct feasibility assessments for one or more additional studies in the same type of patients as the planned study and/or for a COVID 19-related indication different from that targeted by our clinical study in 2023. One of these additional studies would be conducted in Australia, and would be a requirement to secure tax rebates for the overall COVID-19 program (see next paragraph). A second study is likely to be required by regulators which may or may not be the same as the study conducted in Australia. The value of conducting additional studies, in addition to securing tax credits or for regulatory approvals, would be (i) independently confirming the therapeutic modality/clinical mode of action of Arakoda (i.e. that it accelerates clinical recovery from COVID-19 symptoms and/or acts as an antiviral or disease modulator) and (ii) broadening the COVID-19 indication beyond treatment of lower risk patients (i.e. potentially increasing the volume of annual prescriptions). Thus, possible study designs could be (i) a simple repetition of the planned study with a larger sample size, (ii) a treatment study in higher risk patients or (iii) a pre-treatment loading study in individuals known to be exposed to the virus that causes COVID-19, and/or (iv) amelioration of COVID-19 disease-like symptoms in individuals receiving mRNA COVID-19 vaccines (if it turns out Arakoda is an immunomodulator).

We plan to license ex-U.S. rights to COVID-19 indications to our Australian subsidiary, 60P Australia Pty Ltd. This will facilitate claiming the Australian government's research tax credit for any of our COVID-19-related research activities conducted in Australia. 60P Australia has been successful in securing research tax credits for malaria and Dengue-related research since 2013. Since conducting our planned COVID-19 study in Australia is likely to be unfeasible and must be conducted in the U.S., we plan to apply for an overseas finding to the Australian Tax Office in the second quarter of 2023 to request an overseas finding for the U.S. study. Should such a finding be awarded, it would allow a tax rebate of 43.5% on research and development costs associated with the planned U.S. COVID-19 study to be claimed, but commit the Company to conduct COVID-19 research activities in Australia of a value at least as much as the cost of the planned U.S. clinical study.

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[29] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[30] *FDA 2020 Guidance on Assessing COVID-19 Symptoms*-14 Common COVID-19 Symptoms Severity Scale.

[31] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

We are planning several commercial initiatives for the malaria market in parallel with further clinical development activities. Three routes exist for commercialization of Arakoda for the malaria prevention market are: (i) U.S. civilian travel clinics, travel prescribing centers, and large private sector entities with employees deployed overseas (e.g., mining companies), (ii) the prospect of additional U.S. Department of Defense ("DoD") and government agency procurement in the future (noting that as described on page 60 our existing contract with DoD has been fulfilled and has not been extended or modified) and (iii) ex U.S. sales strategy where we currently (or in the future) have exclusive distribution arrangements in overseas markets.

As of the date of this prospectus, we did not have plans to hire a U.S. field sales force, but are exploring possible commercial arrangements with contract sales organizations to target U.S. travel clinics for malaria prophylaxis. We may consummate a contract with a lobbying firm/contract sales organization to attempt to improve the position of Arakoda in the DoD formulary and to raise awareness of Arakoda amongst other U.S. government agencies. For such agencies, the product is expected to meet many of the requirements for occupational malaria prevention identified by the independent parties that have endorsed the product. We have been successful in securing procurement contracts with U.S. government agencies for Arakoda, and anticipate continued success in the future. In the third quarter of 2022, we made our first sale to our European distributor, and made additional sales to our Australian distributor in the second quarter of 2022. We are actively exploring the possibility of named-patient sales in jurisdictions outside Australia, Europe, and the United States. We plan to undertake a focused marketing campaign for Arakoda for malaria prevention in the second half of 2023. This will consist of promotion at relevant conferences, email promotion to prescribers, and target print and electronic advertisements.

It is expected that a point of care G6PD test might be required to maximize the economic potential of a COVID-19 indication for Tafenoquine (regardless of regimen). We do not intend to pursue independent development of such a test as there are well resourced development efforts already underway (see "*Risk Factors—Any future clinical trial for Arakoda will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we may not directly control the timing, conduct and expense of such testing*" beginning on page 18). However, we will continue to monitor the progress of development and U.S. commercialization of G6PD tests. We will seek to pursue collaborative commercial partnerships with the companies involved in commercialization efforts, if such activities can be conducted through resource sharing efforts.

We plan to generate additional validation data for our portfolio products if resources permit. Specifically, we will evaluate whether Celgosivir provides therapeutic benefit in a COVID-19 animal model, and complete critical activities related to confirming GMP process feasibility.

We may elect, as resources permit, to undertake a clinical study of Tafenoquine in combination with standard of care for hospitalized patients with babesiosis. We have developed such a protocol concept in partnership with academic collaborators and are planning to submit an investigational new drug application ("IND") to the FDA and pursue public and philanthropic funding to support our execution. We plan to seek public funding to support additional non-clinical studies to validate the mechanism of action of Tafenoquine against *Candida spp*. and further assess our utility in combination with standard of care agents in cell culture and animal studies.

Most new antimalarial treatment products are developed as drug combinations to proactively combat drug resistance. Tafenoquine, due to its long half-life and activity against all parasite species and strains, would be ideal partner in a drug combination. In the second half of 2023, we will actively seek out a potential partner antimalarial drug for Arakoda, with the goal of pursuing licensure of a new drug combination. We will only enter into a partnership to develop such a drug combination, if clear legal guidance can be obtained that such a combination if developed would have a high probability of securing a priority review voucher upon FDA approval.

There are currently efforts underway, in malaria-endemic countries outside the U.S., to generate datasets supporting the use of Tafenoquine for mass drug administration in asymptomatic individuals to prevent malaria transmission. We believe that such efforts are important to promote community acceptance of Tafenoquine and may eventually support World Health Organization pre-qualification of Tafenoquine for malaria eradication efforts. To that end, we intend to support, on a case-by-case basis, clinical studies sponsored by others, by providing commercial Arakoda and/or Kodatef for research use (provided such product would not otherwise have been commercially salable, and the study sponsor covers shipping costs). We have previously provided Tafenoquine for such efforts on a limited basis.

We have a post-marketing requirement to conduct a malaria prophylaxis study of Arakoda in pediatric and adolescent subjects. We proposed to the FDA, in late 2021, that this might not be safe to execute given that malaria prevention is administered to asymptomatic individuals and that methemoglobinemia (damage to the hemoglobin in blood that carries oxygen) occurred in 5% of patients, and exceeded a level of 10% in 3% of individuals in a study conducted by another sponsor in pediatric subjects with symptomatic vivax malaria.[32] The FDA has asked us to propose an alternate design, for which we submitted a concept protocol in the fourth quarter of 2022, and plan to submit a full protocol by the end of the second quarter of 2023. We estimate the cost of conducting the study proposed by the FDA, if conducted in the manner suggested by the FDA, would be $2 million, and, due to the time periods required to secure protocol approvals from the FDA and Ethics Committees, could not be initiated any earlier than the third quarter of 2024. The funds from this offering to be expended on such a pediatric study will be limited to the minimum required to support protocol preparation and regulatory interactions with the FDA.

[32] Velez et al 2021 - Lancet Child Adolesc Health 2022; 6: 86–95.

**Intellectual Property**

We are co-owners, with the U.S. Army, of patents in the United States and certain foreign jurisdictions directed toward use of Tafenoquine for malaria and have obtained an exclusive worldwide license from the U.S. Army to practice these inventions. We also have an exclusive worldwide license to use manufacturing information and non-clinical and clinical data that the U.S. Army possesses relating to use of Tafenoquine for all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. We have submitted patent applications in the United States and certain foreign jurisdictions for use of Tafenoquine for COVID-19, fungal lung infections, tick-borne diseases, and other infectious and non-infectious diseases in which induction of host cytokines/inflammation is a component of the disease process. The United States Patent and Trademark Office ("USPTO") recently allowed our first COVID-19 patent for Tafenoquine. We have optioned or licensed patents involving Celgosivir for the treatment and prevention of Dengue (from the National University of Singapore), COVID-19 & Zika (Florida State University), and have submitted provisional patent applications related to Celgosivir for RSV. We have optioned or own manufacturing methods related to Celgosivir. A detailed list of our intellectual property is as follows:

*Patents*

| Title | Patent No. | Country | Status | US Patent Date | Application No. | Estimated/ Anticipated Expiration Date |
|---|---|---|---|---|---|---|
| Dosing Regimen For Use Of Celgosivir As An Antiviral Therapeutic For Dengue Virus Infections | 2013203400 | Australia | | | 2013203400+ | 10-April-2033* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 2014228035 | Australia | | | 2014228035 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | MY-170991-A | Malaysia | | | PI2015002372 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 378015 | Mexico | | | MX/a/2015/013115 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11201507254V | Singapore | | | 11201507254V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | Pending | Singapore | Pending | | 10201908089V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 9763921 | US | | 9/19/2017 | 14/772,873 | 14-Mar-2034^ |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 10517854 | US | | 12/31/2019 | 15/706,845 | 14-Mar-2034^ |
| Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11219616 | US | | 1/11/2022 | 16/725,387 | 14-Mar-2034^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 2015358566 | Australia | | | 2015358566 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Canada | Pending | | 2968694 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 10342791 | US | | 7/9/2019 | 15/532,280 | 02-Dec-2035^ |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | 10888558 | US | | 1/12/2021 | 16/504,533 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Singapore | Pending | | 10201904908Q | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | EP | Pending | | 15865264.4 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Hong Kong | Pending | | 18103081.4 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | Pending | US | Pending | | 17/145,530 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | New Zealand | Pending | | 731813 | 02-Dec-2035* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 2016368580 | Australia | | | 2016368580 | 09-Dec-2036* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | Pending | Singapore | Pending | | 10201912141Y | 09-Dec-2036* |
| Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 11000516 | US | | 5/11/2011 | 16/060,945 | 09-Dec-2036^ |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | EP | Pending | | 21764438.4 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | China | Pending | | 202180029643.7 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | Australia | Pending | | 2021231743 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Gram-Positive Bacteria, Fungus, Or Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/189,544 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Fungus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,679 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Sars-Cov-2 Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,718 | 02-Mar-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | 11369592 | US | | 6/28/2022 | 17/180,140# | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | Pending | US | Pending | | 17/664,693# | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | Pending | EP | Pending | | 2021757552# | 19-Feb-2041* |
| Methods For The Treatment And Prevention Of Non-Viral Tick-Borne Diseases And Symptoms Thereof | *Provisional* | US | *Provisional* | | 63/461,060 | ~21-Apr-2044& |
| Methods To Treat Respiratory Infection Utilizing Castanospermine Analogs | *Provisional* | US | *Provisional* | | 63/358,341 | ~05-Jul-2043& |
| Methods For The Treatment And Prevention Of Diseases Or Infections With Mcp-1 Involvement By Administration Of Tafenoquine | *Provisional* | US | *Provisional* | | 63/411,654 | ~30-Sep-2043& |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,328,061+ | US | | 6-25-2019 | 15/584,952+ | 2-May-37 |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,561,642+ | US | | 2-18-2020 | 15/856,377+ | 2-May-37 |

* = For foreign patents and applications, the estimated and/or anticipated patent expiration is the date that is twenty years from the PCT filing date. For all issued Australian patents, this estimated date was also confirmed through the Australian patent office web database.

^ = For issued U.S. patents, the estimated patent expiration was calculated using information from the front cover of the patent, *i.e.*, 20 years from the date of the nonprovisional filing plus any listed Patent Term Adjustment less any time disclaimed through a Terminal Disclaimer. For pending U.S. applications, the anticipated patent expiration is the date twenty years from the earliest nonprovisional filing date and does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

**&** = For U.S. provisional applications that are not yet the subject of a nonprovisional or PCT application, the anticipated patent expiration was determined using the assumption that a non-provisional application or PCT will be filed one year after filing the provisional application with a term lasting twenty years from the date of that nonprovisional or PCT filing. This does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

**+** = 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant and Geoffrey S. Dow, Ph.D. is not a listed inventor.

**#** = 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant, but Geoffrey S. Dow, Ph.D. is a listed inventor.

All patents not designated with a "+" list Geoffrey S. Dow, Ph.D. as an inventor.
All patents not designated with a "+" or a "#" list 60 Degrees Pharmaceuticals, Inc. as an applicant.
All estimated patent expiration dates and anticipated patent expiration assume payment of any maintenance/annuity fees during the patent term.

*Trademarks*

| Country | Mark | Status | Application Number | Date Filed | Registration Date | Registration Number | BIR Ref Number | Due Date | Due Date Description |
|---|---|---|---|---|---|---|---|---|---|
| Australia | KODATEF | Registered | 1774631 | 2-Jun-16 | 6/2/2016 | 1774631 | 0081716-000029 | 2-Jun-26 | Renewal Due |
| Canada | KODATEF | Registered | 1785098 | 1-Jun-16 | 11/26/2019 | TMA1,064,371 | 0081716-000028 | 26-Nov-29 | Renewal Due |
| Canada | ARAKODA | Registered | 1899317 | 15-May-18 | 8/20/2020 | TMA1,081,180 | 0081716-000053 | 20-Aug-30 | Renewal Due |
| China | KODATEF | Registered | 20842242 | 2-Aug-16 | 9/28/2017 | 20842242 | 0081716-000035 | 27-Sep-27 | Renewal Due |
| European Union | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | 15508872 | 0081716-000034 | 3-Jun-26 | Renewal Due |
| European Union | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | 17900852 | 0081716-000054 | 16-May-28 | Renewal Due |
| Israel | KODATEF | Registered | 285476 | 6-Jun-16 | 6/6/2016 | 285476 | 0081716-000033 | 6-Jun-26 | Renewal Due |
| New Zealand | KODATEF | Registered | 1044407 | 7-Jun-16 | 12/8/2016 | 1044407 | 0081716-000031 | 6-May-26 | Renewal Due |
| Russian Federation | KODATEF | Registered | 2016720181 | 6-Jun-16 | 7/10/2017 | 623174 | 0081716-000032 | 6-Jun-26 | Renewal Due |
| Singapore | KODATEF | Registered | 40201707950V | 2-May-17 | 11/8/2017 | 40201707950V | 0081716-000040 | 2-May-27 | Renewal Due |
| United Kingdom | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | UK00917900852 | 0081716-000054 | 16-May-28 | Renewal Due |
| United Kingdom | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | UK009015508872 | 0081716-000072 | 3-Jun-26 | Renewal Due |
| United States of America | TQ 100 & TABLET DESIGN | Registered | 87608493 | 14-Sep-17 | 9/11/2018 | 5562900 | 0081716-000037 | 11-Sep-24 | Section 8 & 15 Due |
| United States of America | ARAKODA | Registered | 87688137 | 16-Nov-17 | 12/31/2019 | 5950691 | 0081716-000050 | 31-Dec-25 | Section 8 & 15 Due |
| United States of America | KODATEF | Allowed - 02/16/2021 | 90072885 | 24-Jul-20 | | | 0081716-000069 | 16-Aug-23 | Statement of Use/3rd Extension of Time Due |

**Key Relationships & Licenses**

On May 30, 2014, we entered into the Exclusive License Agreement (the "2014 NUS-SHS Agreement") with National University of Singapore ("NUS") and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Dosing Regimen for Use of Celgosivir as an Antiviral Therapeutic for Dengue Virus Infection" to develop, market and sell licensed products. The 2014 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2014 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales.

On July 15, 2015, we entered into the Exclusive License Agreement with the U.S. Army Medical Materiel Development Activity (the "U.S. Army"), which was subsequently amended (the "U.S. Army Agreement"), in which we obtained a license to develop and commercialize the licensed technology with respect to all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. This exclusion does not impact our ability to market Arakoda for the FDA-approved use, which is the prevention of malaria utilizing the indicated dose in asymptomatic individuals traveling to high-malaria or malaria-prone regions (whereas the license exclusion relates to its use to treat symptomatic vivax malaria in a patient already presenting with that disease). The term of the U.S. Army Agreement will continue until the expiration of the last to expire of the patent application or valid claim of the licensed technology, or 20 years from the start date of the U.S. Army Agreement, unless terminated earlier by the parties. We will be required to make a minimum annual royalty payment of 3% of net sales for net sales < $35 million, and 5% of net sales greater than $35 million, with US government sales excluded from the definition of net sales. In addition, we must pay a milestone fee of $75,000 once cumulative net sales from all sources exceeds $6 million, $100,000 if we are acquired or merge, and regulatory approval milestone payments once marketing authorizations are achieved in Canada ($5,000) and Europe ($5,000). Also, we will be required to obtain the U.S. Army Medical Materiel Development Activity's consent prior to a change of control of the Company, which consent was obtained on September 2, 2022.

On September 15, 2016, we entered into the Exclusive License Agreement (the "2016 NUS-SHS Agreement") with National University of Singapore and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Novel Dosing Regimens of Celgosivir for The Prevention of Dengue" to develop, market and sell licensed products. The 2016 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2016 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales or minimum annual royalty ($5,000 in 2022 and $15,000 in 2023). In July 2022, we renegotiated the timing of a license fee of $85,000 Singapore Dollars, payable to NUS, such that payment would be due at the earlier of (i) enrollment of a patient in a Phase II clinical trial involving Celgosivir, (ii) two years from the agreement date and (iii) an initial public offering.

On December 4, 2020, we entered into the Other Transaction Authority for Prototype Agreement ("OTAP Agreement") with the Natick Contracting Division of the U.S. government in which we will, among other things, conduct activities for a Phase II clinical trial to assess the safety and efficacy of Tafenoquine for the treatment of mild to moderate COVID-19 disease, with the goal of delivering Tafenoquine with an FDA Emergency Use Authorization ("EUA") approved as a countermeasure against COVID-19. The total amount of the OTAP Agreement is $4,999,814. The term of the OTAP Agreement commences on December 4, 2020 and was completed in the third quarter of 2022. Pursuant to the OTAP Agreement, we will not offer, sell or otherwise

provide the EUA or licensed version of the prototype (Tafenoquine) that is FDA approved for COVID-19 or any like product to any entity at a price lower than that offered to the DoD, which applies only to products sold in the U.S., European Union and Canada related to COVID-19.

On February 15, 2021, we entered into the Inter-Institutional Agreement (the "FSURF Agreement") with the Florida State University Research Foundation ("FSURF") in which FUSRF granted us the right to manage the licensing of intellectual property created at FSURF. The term of the FSURF Agreement expires five years from February 15, 2021. After deduction of a 5% administrative fee by FSURF, capped at $15,000 annually, and reimbursement of patent prosecution expenses, we will receive 20% of license income and FSURF will receive 80% of license income. Payments of license income shall be paid in U.S. dollars quarterly each year. On February 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that collectively granted an option, effective through August 19, 2023, to us to license methods for purifying castanospermine and its use for the treatment of COVID-19. On August 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that collectively granted an option, effective through August 19, 2023, to us to license a patent relating to the use of alpha glucosidase inhibitors (including castanospermine and Celgosivir) for treatment of Zika infections.

Pursuant to the Knight Debt Conversion Agreement, for a period commencing on January 1, 2022 and ending upon the earlier of ten years after the closing date of this offering or the conversion or redemption in full of all of the shares of Series A Preferred Stock owned by Knight, we will pay Knight a royalty equal to 3.5% of our net sales, where "net sales" has the same meaning as in our license agreement with the U.S. Army for Tafenoquine. Upon succeeding with the qualified IPO, at the end of the quarter and each thereafter the royalty will be calculated, and payment will be made within fifteen days.

**Corporate Structure**

60 Degrees Pharmaceuticals, Inc. is a Delaware corporation that was incorporated on June 1, 2022.

On June 1, 2022, 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company ("60P LLC"), entered into the Agreement and Plan of Merger with 60 Degrees Pharmaceuticals, Inc., pursuant to which 60P LLC merged into 60 Degrees Pharmaceuticals, Inc. The value of each outstanding member's membership interest in 60P LLC was correspondingly converted into common stock of 60 Degrees Pharmaceuticals, Inc., par value $0.0001 per share, with a cost-basis equal to $5.00 per share.

Our majority-owned subsidiary, 60P Australia Pty Ltd, an Australian proprietary company limited by shares ("60P Australia"), was formed and registered in Queensland on December 3, 2013, and conducts operations in Australia.

60P Australia previously solely owned a Singaporean subsidiary company, 60P Singapore Pte. Ltd., which dissolved at our election in the second quarter of 2022.

**Going Concern**

Our independent auditors have issued a report raising substantial doubt of our ability to continue as a going concern. We anticipate that we will require additional capital to continue as a going concern and expand our operations in accordance with our current business plan.

**Suppliers**

We have quality and contract manufacturing agreements relating to Arakoda in place with Piramal Enterprises Limited (API, tablets) and PCI Pharma Services (secondary packaging) ("PCI") and supply/quality/pharmacovigilance agreements in place with Biocelect Pty Ltd, Scandinavian Biopharma, and Knight Therapeutics Inc. (to allow supply of Arakoda/Kodatef to Australia, Europe and Canada/Israel/Latin America and Russia, respectively). As of the date of this prospectus, we have not supplied any of our products to Russia nor do we anticipate supplying any of our products to Russia in the near future.

**Recent Developments**

***Effects of COVID-19 Outbreak***. In December 2019, a novel strain of coronavirus was reported to have surfaced in Wuhan, China, which has and is continuing to spread throughout China and other parts of the world, including the United States. On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a "Public Health Emergency of International Concern." On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the U.S. healthcare community in responding to COVID-19, and on March 11, 2020, the World Health Organization characterized the outbreak as a "pandemic." A significant outbreak of COVID-19 and other infectious diseases could result in a widespread health crisis that could adversely affect the economies and financial markets worldwide.

We are monitoring the global outbreak and spread of COVID-19 and taking steps in an effort to identify and mitigate the adverse impacts on, and risks to, our business posed by its spread and the governmental and community reactions thereto. The current outbreak of COVID-19 has globally resulted in loss of life, business closures, restrictions on travel, and widespread cancellation of social gatherings. The extent to which the COVID-19 pandemic impacts our business will depend on future developments, which are highly uncertain and cannot be predicted at this time, including:

- new information which may emerge concerning the severity of the disease;
- the duration and spread of the outbreak;
- the severity of travel restrictions imposed by geographic areas in which we operate, mandatory or voluntary business closures;
- regulatory actions taken in response to the pandemic, which may impact our product offerings;
- other business disruptions that affect our workforce and supply chain;
- the impact on capital and financial markets; and
- actions taken throughout the world, including in markets in which we operate, to contain the COVID-19 outbreak or treat its impact.

In addition, the current outbreak of COVID-19 has resulted in a widespread global health crisis and adversely affected global economies and financial markets, and similar public health threats could do so in the future. Such events have impacted, and could in the future impact, demand for our products, which in turn could adversely affect our revenue and results of operations.

The spread of COVID-19 has caused us to modify our business practices, including employee travel, employee work locations in certain cases, and cancellation of physical participation in certain meetings, events and conferences and further actions may be taken as required or recommended by government authorities or as we determine are in the best interests of our employees, customers and other business partners. We are monitoring the global outbreak of the pandemic and are taking steps in an effort to identify and mitigate the adverse impacts on, and risks to, our business posed by its spread and the governmental and community reactions thereto. See "*Risk Factors—Our financial condition and results of operations may be adversely affected by the COVID-19 pandemic*."

**Our Resale Offering**

Certain of our stockholders will be selling through the Resale Prospectus a total of 1,856,580 shares of common stock, consisting of (i) 10,482 shares of common stock to be issued upon conversion of a convertible note immediately prior to the consummation of the initial public offering, (ii) 237,159 shares of common stock to be issued upon exercise of warrants after the date of this prospectus and prior to the closing of the initial public offering and (iii) 1,608,938 shares of common stock held by certain of the Selling Stockholders. We will not receive any proceeds from the sales by the Selling Stockholders of the securities set forth in the Resale Prospectus.

The Resale Prospectus is substantively identical to the Public Offering Prospectus, except for the following principal points:

- they contain different outside and inside front covers and back covers;
- they contain different "*Offering*" sections in the "*Prospectus Summary*" section beginning on page Alt-1;
- they contain different "*Use of Proceeds*" sections on page Alt-16;
- the "*Capitalization*" and "*Dilution*" sections from the Public Offering Prospectus are deleted from the Resale Prospectus;
- a "*Selling Stockholders*" section is included in the Resale Prospectus;
- the "*Underwriting*" section from the Public Offering Prospectus is deleted from the Resale Prospectus and a "*Selling Stockholder Plan of Distribution*" is inserted in its place in the Resale Prospectus; and
- the "*Legal Matters*" section in the Resale Prospectus on page Alt-19 deletes the reference to counsel for the underwriters.

**Summary Risk Factors**

Our business is subject to a number of risks. You should be aware of these risks before making an investment decision. These risks are discussed more fully in the section of this prospectus titled "*Risk Factors*," which begins on page 18 of this prospectus. These risks include, among others, that:

- Our financial statements have been prepared on a going-concern basis and our continued operations are in doubt;
- We have incurred net losses since our inception and if we continue to incur net losses in the foreseeable future, the market price of our common stock may decline;
- There is no assurance that we will be profitable;
- There is no assurance that we will be eligible for Australian government research and development tax rebates;
- Our financial condition and results of operations may be adversely affected by the COVID-19 pandemic;
- If we are not able to successfully develop, obtain FDA approval for, and provide for the commercialization of non-malaria prevention indications for Tafenoquine (Arakoda or other regimen) or Celgosivir in a timely manner, we may not be able to expand our business operations;
- Our clinical trials for our product candidates may not yield results that will enable us to further develop our products and obtain regulatory approvals necessary to sell them;

- The mechanisms of actions of some of our products, and interactions with other antiviral products are not known, which may restrict regulatory label claims;

- We expect to depend on existing and future collaborations with third parties for the development of some of our product candidates. If those collaborations are not successful, we may not be able to complete the development of these product candidates;

- Even if one of our product candidates receives marketing approval, it may fail to achieve the degree of market acceptance by physicians, patients, third-party payors and others in the medical community necessary for commercial success, in which case we may not generate significant revenues or become profitable;

- Any future clinical trial for Arakoda will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we do not directly control the timing, conduct, expense of such testing or the timing of market entry into the US;

- Our product candidates are subject to extensive regulation, which can be costly and time-consuming, and unsuccessful or delayed regulatory approvals could increase our future development costs or impair our future revenue;

- If our product candidates receive regulatory approval, we would be subject to ongoing regulatory obligations and restrictions, which will continue to change, and which may result in significant expenses and limit our ability to develop and commercialize other potential products;

- We have no manufacturing capacity which puts us at risk of lengthy and costly delays of bringing our products to market;

- We rely on relationships with third-party contract manufacturers and raw material suppliers, which limits our ability to control the availability of, and manufacturing costs for, our product candidates;

- Our future growth depends on our ability to successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and our other product candidates, and we can provide no assurance that we will successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and other product candidates;

- Health care reform measures could materially and adversely affect our business;

- Our competitors may be better positioned in the marketplace and thereby may be more successful than us at developing, manufacturing and marketing approved products;

- We compete in an industry characterized by extensive research and development efforts and rapid technological progress. New discoveries or commercial developments by our competitors could render our potential products obsolete or non-competitive;

- We would be subject to applicable regulatory approval requirements of the foreign countries in which we market our products, which are costly and may prevent or delay us from marketing our products in those countries;

- Defending against claims relating to improper handling, storage or disposal of hazardous chemicals, radioactive or biological materials could be time consuming and expensive;

- Geopolitical conditions, including direct or indirect acts of war or terrorism could have an adverse effect on our operations and financial results;

- If product liability lawsuits are successfully brought against us, then we will incur substantial liabilities and may be required to limit commercialization of Arakoda, Celgosivir or other product candidates;

- Our intellectual property rights may not preclude competitors from developing competing products and our business may suffer;
- If the manufacture, use or sale of our products infringe on the intellectual property rights of others, we could face costly litigation, which could cause us to pay substantial damages or licensing fees and limit our ability to sell some or all of our products;
- We may not be able to protect our intellectual property rights throughout the world;
- Patent terms may be inadequate to protect our competitive position on our product candidates for an adequate amount of time;
- The earliest Paragraph IV certification date for Arakoda has passed. Generic companies may file an ANDA at any time, and successful challenge of our malaria use patents would negatively impact our business;
- There has been no public market for our common stock prior to this offering, and we cannot assure you that an active trading market will develop in the near future. An active market in which investors can resell their shares may not develop. If there is no viable public market for our common stock, you may be unable to sell your shares at or above the initial public offering price;
- We may not be able to satisfy listing requirements of Nasdaq to maintain a listing of our common stock or Tradeable Warrants;
- There is no public market for the Non-tradeable Warrants being offered in this offering;
- The warrants may have an adverse effect on the market price of our common stock and make it more difficult to effect a business combination;
- Any failure to maintain effective internal controls over financial reporting could have an adverse impact on us; and
- We are an "emerging growth company" and a "smaller reporting company" under the JOBS Act, and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies will make our common stock less attractive to investors.

**Information Regarding our Capitalization**

As of April 27, 2023, we had 2,378,009 shares of common stock issued and outstanding. Additional information regarding our issued and outstanding securities may be found under "*Market for Common Equity and Related Stockholder Matters*" and "*Description of Securities*."

Unless otherwise specifically stated, information throughout this prospectus does not assume the exercise of outstanding options or warrants to purchase shares of our common stock.

**Corporate Information**

Our principal executive offices are located at 1025 Connecticut Avenue NW Suite 1000, Washington, D.C. 20036. Our corporate website address is *60degreespharma.com*. Our telephone number is (202) 327-5422. The information included on our website is not part of this prospectus.

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

We are an "emerging growth company," as defined in the JOBS Act. We will remain an emerging growth company until the earlier of (i) the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common stock pursuant to an effective registration statement under the Securities Act; (ii) the last day of the fiscal year in which we have total annual gross revenues of $1.235 billion or more; (iii) the date on which we have issued more than $1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under applicable SEC rules. We expect that we will remain an emerging growth company for the foreseeable future, but cannot retain our emerging growth company status indefinitely and will no longer qualify as an emerging growth company on or before the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common stock pursuant to an effective registration statement under the Securities Act. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from specified disclosure requirements that are applicable to other public companies that are not emerging growth companies.

These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" disclosure;
- not being required to comply with the requirement of auditor attestation of our internal controls 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; and
- not being required to hold a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

An emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act to comply with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this extended transition period and, as a result, we will not be required to adopt new or revised accounting standards on the dates on which adoption of such standards is required for other public reporting companies.

We are also a "smaller reporting company" as defined in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and have elected to take advantage of certain of the scaled disclosure available for smaller reporting companies. We will remain a smaller reporting company until the end of the fiscal year in which (1) we have a public common equity float of more than $250 million, or (2) we have annual revenues for the most recently completed fiscal year of more than $100 million and a public common equity float or public float of more than $700 million. We also would not be eligible for status as a smaller reporting company if we become an investment company, an asset-backed issuer or a majority-owned subsidiary of a parent company that is not a smaller reporting company.

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

**SUMMARY OF THE OFFERING**

| | |
|---|---|
| Issuer | 60 Degrees Pharmaceuticals, Inc. |
| Units offered by us | 1,415,095 Units, each Unit consisting of one share of common stock, one Tradeable Warrant to purchase one share of common stock and one Non-tradeable Warrant to purchase one share of common stock.<br><br>The Units will not be certificated or issued in stand-alone form. The shares of our common stock and the warrants comprising the Units are immediately separable upon issuance and will be issued separately in this offering. |
| Common stock outstanding prior to the offering[(1)] | 2,378,009 shares |
| Common stock to be outstanding after the offering[(2)(3)] | 5,399,408 shares (5,611,762 shares if the underwriters exercise their option to purchase additional shares in full). |
| Over-allotment option | We have granted the underwriters a 45-day option to purchase up to an aggregate of 212,265 additional shares of common stock and/or 212,265 Tradeable Warrants and/or 212,265 Non-tradeable Warrants at the public offering price per share of common stock and per warrant, respectively, less, in each case, underwriting discounts and commissions, on the same terms as set forth in this prospectus, solely to cover over-allotments, if any. |
| Description of the Warrants | The Tradeable Warrants will be exercisable from the date of issuance until the fifth anniversary date of issuance date for $4.945 and $7.245 per share (115% of the public offering price of one Unit), subject to adjustment in the event of stock dividends, stock splits, stock combinations, reclassifications, reorganizations or similar events affecting our common stock as described herein.<br><br>The Non-tradeable Warrants will be exercisable from the date of issuance until the fifth anniversary date of issuance date for $5.16 and $7.56 per share (120% of the public offering price of one Unit), subject to adjustment in the event of stock dividends, stock splits, stock combinations, reclassifications, reorganizations or similar events affecting our common stock as described herein.<br><br>A holder may not exercise any portion of a warrant to the extent that the holder, together with its affiliates and any other person or entity acting as a group, would own more than 4.99% of the outstanding common stock after exercise, as such percentage ownership is determined in accordance with the terms of the warrants, except that upon notice from the holder to us, the holder may waive such limitation up to a percentage, not in excess of 9.99%.<br><br>The terms of the warrants will be governed by the Warrant Agent Agreement. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the warrants. See "*Description of Securities–Warrants*." |
| Use of Proceeds | The principal purposes of this offering are to fund the development of new indications for our products with a focus on executing a COVID-19 clinical trial involving Arakoda, to repay debt associated with prior financing, increase our capitalization and financial flexibility, increase our visibility in the marketplace and create a public market for our common stock. As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds to us from this offering. However, we currently intend to use the net proceeds to us from this offering for debt repayment and research and general corporate purposes, including working capital. See "*Use of Proceeds*" beginning on page 54. |
| Proposed Listing | We have applied to have our common stock and Tradeable Warrants listed on The Nasdaq Capital Market under the symbols "SXTP" and "SXTPW," respectively, which listing is a condition to this offering. We do not intend to apply for listing of the Non-tradeable Warrants on any exchange or market. |
| Representative Warrants | Upon the closing of this offering, we have agreed to issue to the Representative, warrants that will expire on the fifth anniversary of the commencement date of sales in this offering, entitling the Representative to purchase 6% of the number of shares of common stock sold in this offering. |

| | |
|---|---|
| | The registration statement of which this prospectus is a part also covers the Representative Warrants and the shares of common stock issuable upon the exercise thereof. For additional information regarding our arrangement with the underwriters, please see "*Underwriting*." |
| Lock-up agreements | Our executive officers and directors have agreed with the underwriters not to sell, transfer or dispose of any shares or similar securities for six months following the effective date of the registration statement for this offering without the prior written consent of WallachBeth Capital LLC. Any other holders of more than 5% of the outstanding shares of our common stock have also agreed with the underwriters not to sell, transfer or dispose of any shares or similar securities for six months following the effective date of the registration statement for this offering without the prior written consent of the underwriters. For additional information regarding our arrangement with the underwriters, please see "*Underwriting*." |
| Knight Therapeutics Preferred Stock | Knight will be granted 80,965 preferred shares (share price of $100, total value $8,096,500) in consideration for extinguishment of accumulated interest associated with their loans. The preferred shares are nonvoting, have a 6% cumulative dividend accumulating annually on March 31st, are not redeemable and are convertible into shares of common stock solely at the discretion of the Company, determined by (A) multiplying the number of shares of Series A Preferred Stock to be converted by $100, (B) adding to the result all accrued and accumulated and unpaid dividends on such shares to be converted, if any, and then (C) dividing the result by a price equal to the lower of (1) $100, (2) the price paid for the shares of common stock in this offering and (3) the 10-day volume weighted average share price immediately preceding our election to convert the shares of Series A Preferred Stock; provided that the conversion of the shares of Series A Preferred Stock does not result in the holder's ownership of common stock exceeding 19.9%. |
| Transfer Agent | Equity Stock Transfer, LLC. |
| Risk Factors | You should carefully consider the information set forth in this prospectus and, in particular, the specific factors set forth in the "*Risk Factors*" section beginning on page 18 of this prospectus before deciding whether or not to invest in shares of our common stock. |

(1) As of April 27, 2023 and excludes 238,601 shares of common stock reserved for issuance under our 2022 Equity Incentive Plan.

(2) Includes (i) 29,245 shares of our common stock issued to BioIntelect Pty Ltd ("BioIntelect") pursuant to the Master Consultancy Agreement dated as of May 29, 2013 (the "BioIntelect Agreement"), which provides that in connection with our initial public offering, BioIntelect will be entitled to receive deferred equity compensation in the amount equal to $155,000 (or $245,000 if Australian VC Horizon Biotech participates in the offering), (ii) 1,074,483 shares of our common stock issued to Knight Therapeutics International S.A. (formerly known as Knight Therapeutics (Barbados) Inc.) ("Knight") as a result of the conversion of certain of our outstanding debt owed to Knight pursuant to the Debt Conversion Agreement dated as of January 9, 2023, as amended on January 19, 2023 and January 27, 2023 (the "Knight Debt Conversion Agreement"), (iii) 247,642 shares of our common stock that are to be issued prior to the closing of this offering as a result of the conversion of our convertible promissory notes excluding the Xu Yu Equity Conversion Note, (iv) 214,934 shares of our common stock that are to be issued prior to the closing of this offering pursuant to the Equity Conversion Note dated as of October 11, 2017, as amended on December 23, 2017 and December 11, 2022 (the "Xu Yu Equity Conversion Note") entered into with Xu Yu and (v) 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part.

(3) Does not include (i) 31,447 shares of our common stock underlying a warrant issued to Bigger Capital Fund, LP (the "Bigger Capital Fund Warrants"), (ii) 26,206 shares of our common stock underlying a warrant issued to Cavalry Investment Fund, LP (the "Cavalry Warrants"), (iii) 26,206 shares of our common stock underlying a warrant issued to Walleye Opportunities Master Fund Ltd (the "Walleye Warrants"), (iv) 10,482 shares of our common stock underlying a warrant issued to Geoffrey Dow (in the form of his revocable grantor trust, the Geoffrey S. Dow Revocable Trust for which Mr. Dow is the sole trustee) (the "Dow Trust Warrants"), (v) 69,444 shares of our common stock underlying a warrant issued to Mountjoy Trust (together with the Bigger Capital Fund Warrants, the Cavalry Warrants, the Walleye Warrants and the Dow Trust Warrants, the "Warrants"), (vi) 84,906 shares of our common stock issuable upon the exercise of the Representative Warrants, (vii) 238,601 shares of common stock reserved for issuance under our 2022 Equity Incentive Plan and (viii) $40,000 in value of shares of our common stock, based on the 30 day average after the IPO, to be issued pursuant to the Red Chip services agreement.

Except as otherwise indicated, all information in this prospectus assumes that:

- a public offering price of $5.30 per Unit, which is the midpoint of the range of the offering price per Unit;
- no shares of common stock have been issued pursuant to the (i) conversion of certain of our outstanding debt owed to Knight, (ii) BioIntelect Agreement, (iii) conversion of our convertible promissory notes and (iv) Xu Yu Equity Conversion Note;
- no shares of common stock have been issued pursuant to any warrants or options; and
- no shares of common stock have been issued pursuant to the Representative's over-allotment option;
- no shares of common stock have been issued pursuant to the Representative Warrants.

## SUMMARY FINANCIAL DATA

The following tables summarize our financial data. We derived the summary financial statement data for the years ended December 31, 2022 and 2021 set forth below from our audited financial statements and related notes contained in this prospectus. Our historical results are not necessarily indicative of the results that may be expected in the future. You should read the information presented below together with "*Management's Discussion and Analysis of Financial Condition and Results of Operations*," our financial statements, the notes to those statements and the other financial information contained in this prospectus.

**Summary of Operations in U.S. Dollars**

| | Year Ended December 31, 2022 | Year Ended December 31, 2021 |
|---|---|---|
| Product revenues – net of discounts and rebates | $ 192,913 | $ 1,078,440 |
| Service revenues | 30,295 | 81,900 |
| Product and service revenues | 223,208 | 1,160,340 |
| Cost of revenues | 432,370 | 850,742 |
| Gross (loss) profit | (209,162) | 309,598 |
| Research revenues | 288,002 | 5,192,516 |
| Net revenue | 78,840 | 5,502,114 |
| Operating expenses: | | |
| Research & development | 525,563 | 5,510,866 |
| General and administrative expenses | 1,303,722 | 1,115,350 |
| Total operating expenses | 1,829,285 | 6,626,216 |
| Loss from operations | (1,750,445) | (1,124,102) |
| Interest and other income (expense), net: | | |
| Interest expense | (3,989,359) | (3,172,712) |
| Derivative expense | (504,613) | - |
| Change in fair value of derivative liabilities | (10,312) | - |
| Gain on debt extinguishment | 120,683 | - |
| Other (expense) income | (43,238) | 37,515 |
| Total interest and other income (expense), net | (4,426,839) | (3,135,197) |
| Loss from operations before provision for income taxes | (6,177,284) | (4,259,299) |
| Provision for income taxes | 500 | 1,000 |
| Net loss including noncontrolling interest | $ (6,177,784) | $ (4,260,299) |

| | As of December 31, 2022 | As of December 31, 2021 |
|---|---|---|
| **Consolidated Balance Sheet Data:** | | |
| Total assets | $ 1,297,206 | $ 1,393,527 |
| Total liabilities | 25,446,266 | 19,548,011 |
| Total liabilities and members' equity (deficit) | - | 1,393,527 |
| Total liabilities and stockholders' equity (deficit) | $ 1,297,206 | $ - |

## RISK FACTORS

*Our business is subject to many risks and uncertainties, which may affect our future financial performance. If any of the events or circumstances described below occur, our business and financial performance could be adversely affected, our actual results could differ materially from our expectations, and the price of our stock could decline. The risks and uncertainties discussed below are not the only ones we face. There may be additional risks and uncertainties not currently known to us or that we currently do not believe are material that may adversely affect our business and financial performance. You should carefully consider the risks described below, together with all other information included in this prospectus, including our financial statements and related notes, before making an investment decision. The statements contained in this prospectus that are not historic facts are forward-looking statements that are subject to risks and uncertainties that could cause actual results to differ materially from those set forth in or implied by forward-looking statements. If any of the following risks actually occurs, our business, financial condition or results of operations could be harmed. In that case, the trading price of our common stock could decline, and investors in our securities may lose all or part of their investment.*

### Risks Related to Our Business

***Our financial statements have been prepared on a going-concern basis and our continued operations are in doubt.***

The financial statements have been prepared on a going concern basis under which an entity is considered to be able to realize its assets and satisfy its liabilities in the ordinary course of business. Our future operations are dependent upon the identification and successful completion of equity or debt financing and the achievement of profitable operations at an indeterminate time in the future. There can be no assurances that we will be successful in completing an equity or debt financing or in achieving profitability.

***We have incurred net losses since our inception and if we continue to incur net losses in the foreseeable future, the market price of our common stock may decline.***

To date, we have financed our operations primarily through the issuance of equity, promissory notes and convertible notes. We incurred annual net losses of $6,177,784 in 2022 and $4,260,299 in 2021, respectively and operating losses were $1,750,445 in 2022 and $1,124,102 in 2021. We had an accumulated deficit of $28,815,148 as of December 31, 2022.

We may not achieve or maintain profitability in the future. In particular, we expect that our expenses relating to sales and marketing and product development and support, as well as our general and administrative costs, will increase, requiring us to increase sales in order to achieve and maintain profitability. If we do not achieve and maintain profitability, our financial condition will be materially and adversely affected. We would eventually be unable to continue our operations unless we were able to raise additional capital. We may not be able to raise any necessary capital on commercially reasonable terms or at all. If we fail to achieve or maintain profitability on a quarterly or annual basis within the timeframe expected by investors, the market price of our common stock may decline.

***There is no assurance that we will be profitable.***

There is no assurance that we will earn profits in the future, or that profitability will be sustained. There is no assurance that future revenues will be sufficient to generate the funds required to continue our business and product development and marketing activities. If we do not have sufficient capital to fund our operations, we may be required to reduce our sales and marketing efforts or forego certain business opportunities.

***There is no assurance we will be eligible for Australian Government research and development tax credits and eligibility rules might change in a manner that jeopardizes our business.***

There is no assurance that the Australian government will pay research and development rebates on our research activities conducted by our subsidiary, 60P Australia Pty Ltd, in Australia. There is no assurance that we will be able to demonstrate that our subsidiary will have < $20 million AUD in aggregate turnover amongst beneficial owners with > 40% beneficial interest. If any of these risks materialize, we might not be able to complete our planned COVID-19 clinical study, which would negatively impair our business.

Even if Australian government grants an overseas finding, if we could not raise additional financing to fund the linked Australian research and development activities. Also, it is possible depending on evolving interpretations by the Australian Tax Office of the legislation, that matching Australian core research might not be eligible for consideration when a determination of an overseas finding is made. Either of these scenarios if realized might require us to refund any rebates on the COVID-19 clinical study to the Australian government or result in us not being to obtain rebates, thereby negatively impairing our business.

***We have limited revenues to date, and any potential revenues from commercial use may not materialize in the future.***

We have earned limited revenues to date from Arakoda. Any potential revenues from the sale of current approved commercial use may not materialize in the future. There is no guarantee that we will be able to generate revenue in the future. No assurance can be given that our efforts from sale of current approved products for commercial use will be successful in the future.

***Our financial condition and results of operations may be adversely affected by the COVID-19 pandemic.***

A significant outbreak, epidemic or pandemic of contagious diseases in any geographic area in which we operate or plan to operate could result in a health crisis adversely affecting the economies, financial markets and overall demand for our services in such areas. In addition, any preventative or protective actions that governments implement or that we take in response to a health crisis, such as travel restrictions, quarantines, or site closures, may interfere with the ability of our employees, suppliers and customers to perform their responsibilities. Such results could have a material adverse effect on our business.

The continued global COVID-19 pandemic has created significant volatility, uncertainty and economic disruption. To date, this pandemic has affected nearly all regions around the world. In the United States, businesses as well as federal, state and local governments implemented significant actions to mitigate this public health crisis. While we cannot predict the duration or scope of the COVID-19 pandemic, it may negatively impact our business and such impact could be material to our financial results, condition and outlook related to:

- disruption to our operations or the operations of our suppliers, through the effects of business and facilities closures, worker sickness and COVID-19 related inability to work, social, economic, political or labor instability in affected areas, transportation delays, difficulty in enrolling patients, travel restrictions and changes in operating procedures, including for additional cleaning and safety protocols;

- increased volatility or significant disruption of global financial markets due in part to the COVID-19 pandemic, which could have a negative impact on our ability to access capital markets and other funding sources, on acceptable terms or at all and impede our ability to comply with debt covenants; and

- the further spread of COVID-19, and the requirements to take action to mitigate the spread of the pandemic (e.g., vaccination requirements that have been and continue to be taken in response to the pandemic and enhanced health and hygiene requirements or social distancing or other measures), will impact our ability to carry out our business as usual and may materially adversely impact global economic conditions, our business, results of operations, cash flows and financial condition.

To the extent the COVID-19 pandemic or a similar public health threat has an impact on our business, it is likely to also have the effect of heightening many of the other risks described in this "*Risk Factors*" section.

***If COVID-19 cases decline, it could jeopardize our business and make us less profitable.***

Although the number of U.S. cases of COVID-19 remains high, it is possible that this may not be the case in the future. Since our major business objective is to conduct clinical trials to evaluate the use of the Arakoda regimen of Tafenoquine for treatment of COVID-19, a future decline in U.S cases would reduce our sales and profitability, and therefore harm our business.

***U.S. public sector procurement of Arakoda might not materialize in the future, which could jeopardize our business.***

Sales to the U.S. DoD were important to our revenue stream in the recent past. Although, as of the date of this prospectus, we were not in discussions with the DoD about additional/future procurement, we anticipate that this will be feasible in the future if one or more of the conditions/events described in this paragraph occur. First, the position of Arakoda in the DoD formulary (Tricare, deployed personnel) needs to be improved from second/third tier to at least equivalency with competing products (as is the case for civilian use as recommended by the CDC). Second, the shelf-life of the existing product requires extension, which is known to be technically possible as the shelf-life of Kodatef in Australia is 48 months, but appropriate data must be generated to meet FDA requirements. Finally, a change in the operational footprint of DoD deployments to areas with higher malaria attack rates (e.g., the Liberia deployment to manage the Ebola outbreak in 2014) may lead to a rapid reassessment by DoD of the position of Arakoda in the formulary (advancement of the last approved prophylactic antimalarial to co-equal standard of care took thirteen years). It is possible that none of these events would transpire, which would reduce our revenues and jeopardize our business.

***Supply chain disruptions across the globe, including in the U.S., could jeopardize our business and harm our operations.***

Global business interruptions may adversely impact our third-party relationships whom we rely upon in our business as well as manufacturers, suppliers, and makers of raw materials. If any such parties are adversely impacted by supply chain restrictions, or if they cannot obtain the necessary supplies, or if such third parties need to prioritize other products or customers over us, we may experience delays or disruptions in our supply chain, which could have a material and adverse impact on our business. Third-party manufacturers may also need to implement measures and changes, or deviate from typical requirements because of the COVID-19 pandemic that may otherwise adversely impact our supply chain or the quality of the resulting products or supplies. Depending on the change, we may need to obtain FDA approval or otherwise provide the FDA with a notification of the change. As a result, we may not be able to obtain sufficient quantities of certain items, which could impair our ability to commercialize our products and conduct the post-marketing studies requested by the FDA, in connection with the approval of our goods. In addition, if there are continued or future disruptions, our third-party manufacturers may not be able to supply our other potential product candidates, which would adversely affect our research and development activities.

***We may lose the services of key management personnel and may not be able to attract and retain other necessary personnel.***

Changes in our management could have an adverse effect on our business. This is especially an issue while our staff is small. We are dependent upon the active participation of several key management personnel, including Geoffrey Dow, our President and Chief Executive Officer. We also do not carry key person life insurance on any of our senior management or other key personnel. Hence, we may suffer if the services of our management were to become unavailable to us in the future.

We must hire highly skilled technical personnel as employees and as independent contractors in order to develop our products. As of the date of this prospectus, we have two full-time employees, and we rely on two independent contractors to provide us with skilled technical support. The competition for highly skilled technical, managerial and other personnel is intense and we may not be able to retain or recruit such personnel. Our recruiting and retention success is substantially dependent on our ability to offer competitive salaries and benefits to our employees and competitive compensation to contractors. We must compete with companies that possess greater financial and other resources than we do and that may be more attractive to potential employees and contractors. To be competitive, we may have to increase the compensation, bonuses, stock options and other fringe benefits offered to employees in order to attract and retain such personnel. The costs of retaining or attracting new personnel may have a material adverse effect on our business and operating results. If we fail to attract and retain the technical and managerial personnel needed to be successful, our business, operating results and financial condition could be materially adversely affected.

***Cybersecurity risks could adversely affect our business and disrupt our operations.***

The threats to network and data security are increasingly diverse and sophisticated. Despite our efforts and processes to prevent breaches, our devices, as well as our servers, computer systems, and those of third parties that we use in our operations are vulnerable to cybersecurity risks, including cyber-attacks such as viruses and worms, phishing attacks, denial-of-service attacks, physical or electronic break-ins, employee theft or misuse, and similar disruptions from unauthorized tampering with our servers and computer systems or those of third parties that we use in our operations, which could lead to interruptions, delays, loss of critical data, and unauthorized access to user data. In addition, we may be the target of email scams that attempt to acquire personal information or our assets. Despite our efforts to create security barriers to such threats, we may not be able to entirely mitigate these risks. Any cyber-attack that attempts to obtain our or our users' data and assets, disrupt our service, or otherwise access our systems, or those of third parties we use, if successful, could adversely affect our business, operating results, and financial condition, be expensive to remedy, and damage our reputation. In addition, any such breaches may result in negative publicity, adversely affect our brand, decrease demand for our products and services, and adversely affect our operating results and financial condition.

***The illegal sale or distribution by third parties of counterfeit versions of our products could have a negative impact on our business.***

Pharmaceutical products are vulnerable to counterfeiting. Third parties may illegally produce and distribute counterfeit versions of our products that are below the various manufacturing and testing standards that our products undergo. Counterfeit products are often unsafe, ineffective and potentially life-threatening. As many counterfeit products may be visually indistinguishable from their authentic versions, the presence of counterfeit products could affect overall consumer confidence in the authentic product. A public loss of confidence in the integrity of pharmaceutical products in general or in any of our products in particular due to counterfeiting could have a material adverse effect on our business, prospects, financial condition and results of operations.

***If we encounter difficulties enrolling patients in any future clinical trials, our future trials could be delayed or otherwise adversely affected. Furthermore, our current COVID-19 trials may not necessarily yield sufficient results or patient participants.***

If we have difficulty enrolling a sufficient number of patients in any future clinical trial, including for COVID-19 studies for which the number of cases is unpredictable, we may need to delay or terminate our trial, which would impair our ability to develop marketable products, and have a negative impact on our business. Delays in enrolling patients in any future clinical trials would also adversely affect our ability to generate any product, milestone and royalty revenues under collaboration agreements, if any, and could impose significant additional costs on us or on any future collaborators.

***Our clinical trials for our product candidates may not yield results that will enable us to further develop our products and obtain regulatory approvals necessary to sell them.***

We will receive regulatory approval for our product candidates only if we can demonstrate in carefully designed and conducted clinical trials that the product candidate is safe and effective. We do not know whether any current or future clinical trials for Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir or any other product candidate will demonstrate sufficient safety and efficacy to obtain the requisite regulatory approvals or will result in marketable products.

Clinical trials are lengthy, complex and expensive processes with uncertain results. We have spent, and expect to continue to spend, significant amounts of time and money on the clinical development of our product candidates. The three clinical trials we conducted in the past were managed directly by us, but executed contract research organizations ("CROs"). While certain of our employees have experience in designing and administering clinical trials, our experience is limited to three clinical trials conducted by the management team.

The results we obtain in preclinical testing and early clinical trials may not be predictive of results that are obtained in later studies. We may suffer significant setbacks in advanced clinical trials, even after seeing promising results in earlier studies. Based on results at any stage of clinical trials, we may decide to repeat or redesign a trial or discontinue development of one or more of our product candidates. If we fail to adequately demonstrate the safety and efficacy of our products under development, we will not be able to obtain the required regulatory approvals to commercialize our product candidates, and our business, results of operations and financial condition would be materially adversely affected.

Administering our product candidates to humans may produce undesirable side effects. These side effects could interrupt, delay or halt clinical trials of our product candidates and could result in the FDA or other regulatory authorities denying approval of our product candidates for any or all targeted indications.

If clinical trials for a product candidate are unsuccessful, we will be unable to commercialize the product candidate. If one or more of our clinical trials are delayed, we will be unable to meet our anticipated development timelines. Either circumstance could cause the market price of our common stock to decline.

In planning for, and executing, clinical trials, the targeted standard of care in the United States or other jurisdictions for the therapeutic indication may change, necessitating changes to the design of such trials. Changes to such design trials will cause delays, and increase costs, thereby rendering us unable to meet development timelines or complete development programs. The clinical data generated from clinical trials may not be acceptable to regulatory agencies if changes to the standard of care occurred during trial execution, which may prevent regulatory approval, thereby damaging our business prospects.

Because patients with COVID-19 disease enrolled in our Phase II clinical study of Tafenoquine (Arakoda regimen) were presumed to be mostly infected with the SARS-CoV-2 delta variant, it is possible that the results of the study might not be representative of those of future studies of Tafenoquine (Arakoda regimen) that utilize patients infected with newer viral strains. If this risk materialized, our planned clinical trial might fail, thereby damaging our business prospects. It should be stated that, due to the changing nature of the pandemic, this risk is common to all COVID-19 therapeutics. It is possible this risk may be less likely to occur if the mechanism of Tafenoquine turns out not to be mediated via a direct antiviral effect.

Because our 2021 Phase II clinical study of Tafenoquine (Arakoda regimen) in COVID-19 patients was small, it is possible that the magnitude of clinical benefit implied in Figure B listed in "*Prospectus Summary—Strategy*" (a three-day acceleration of recovery in the Tafenoquine arm) may be an overestimate of the true therapeutic effect of Tafenoquine (Arakoda regimen). We have attempted to mitigate this risk in our planned Phase IIB clinical trial design by providing for an interim analysis at 75% patient enrollment which will include a sample size reanalysis, which would allow additional enrollment of patients if required without study termination. If additional patients did need to be enrolled, it would increase the overall cost of the study. This risk mitigation strategy would not work if the true therapeutic benefit of Tafenoquine (Arakoda regimen) is minimal or non-existent, or actual patient to patient variability is larger than assumed. Any of those outcomes might result in failure of the study.

We believe that the inclusion of a placebo arm in our planned Phase IIB study is ethical because there are not any FDA-approved orally administered medications available for patients with low risk of disease progression. However, because the standard of care for COVID-19 is evolving, it is possible that FDA or an Ethics Committee may not agree with our assessment that inclusion of a placebo arm in our Phase IIB study is ethical. If this risk was realized, it might result in (i) wasted expenditure on development of clinical sites if this was done aggressively in parallel with seeking FDA feedback (a typical approach in the industry), and/or (ii) necessitate conducting our trial outside the United States in jurisdictions without approved oral antivirals and accepting a greater risk of failing an FDA audit of the study in the future and/or (iii) replacement of the placebo control with an active control arm and accepting the greater cost associated with such a study design (because they require a higher number of patients). To mitigate against the first risk, we are planning to initiate preparations for the clinical trial at only a small number of sites in parallel with seeking FDA and Ethics Committee feedback. If either of the second or third risks materialized, our business might be irreparably harmed.

Because the number of COVID-19 cases is episodic, and the severity of the COVID-19 disease is generally perceived as being milder than it was earlier in the pandemic meaning patients seek out medical treatment less often, it is possible that that there may be fewer COVID-19 patients available to be enrolled than expected in our study. If this risk materialized, it would result in slower recruitment in our study than planned, forcing either a delay in the timeline for data being available, or increasing the overall cost in order to increase the number of study sites, or both. Either eventuality would harm our business.

***The mechanisms of actions of some of our products, and interactions with other antiviral products are not known, which may restrict regulatory label claims.***

The FDA has granted full or limited marketing authority for COVID-19 products based on the clinical benefit demonstrated in clinical trials, for products that have both antiviral and non-antiviral modes of action. However, the FDA may require specific additional evidence to grant a labeling claim of antiviral activity. We are planning to further develop Tafenoquine (Arakoda regimen) for treatment of COVID-19 based on the observation of trends towards accelerated recovery observed in the exploratory endpoints of a Phase II clinical trial we recently completed. We plan to undertake limited research activities to confirm whether Tafenoquine provides clinical benefit via an antiviral or other mechanism. However, we cannot guarantee such efforts will confirm a direct antiviral mechanism to the satisfaction of the FDA, or that any data generated will support regulatory claims of antiviral activity in additional to whatever claims related to clinical benefit in COVID-19 treatment that the FDA may allow. Relatedly, the FDA required warning language to be placed on the remdesivir label related to a theoretical drug-drug interaction with other antimalarials based on in vitro (not clinical) data. Although we have conducted in vitro drug interactions studies of Tafenoquine versus molnupiravir, remdesivir, and paxlovid, which do not suggest the possibility of

clinically meaningful antagonism, we cannot guarantee these studies will discharge any theoretical risks or concerns regulators may have (including the need for disclaimers or warning labels).

***We will rely on contract research organizations to conduct substantial portions of our clinical trials, including any future clinical trial of Arakoda Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir, and as a result, we will be unable to directly control the timing, conduct and expense of all aspects of our clinical trials.***

We do not currently have sufficient staff to conduct our clinical trials ourselves, and therefore, we will rely on third parties to conduct certain aspects of any future clinical trials. We previously contracted with a CRO to conduct components of our clinical trials and anticipate contracting with a CRO to conduct components of any future clinical trial for Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir or any future clinical trials for our other product candidates. As a result, we will have less control over many details and steps of any clinical trial, the timing and completion of any clinical trial, the required reporting of adverse events and the management of data developed through any clinical trial than would be the case if we were relying entirely upon our own staff. Communicating with outside parties can also be challenging, potentially leading to mistakes as well as difficulties in coordinating activities. Outside parties, such as CROs, may have staffing difficulties, may undergo changes in priorities or may become financially distressed, adversely affecting their willingness or ability to conduct our clinical trial. We may experience unexpected cost increases that are beyond our control. Problems with the timeliness or quality of the work of a CRO may lead us to seek to terminate the relationship and use an alternative service provider. However, making any change may be costly and may delay ongoing trials, if any, and contractual restrictions may make such a change difficult or impossible. Additionally, it may be impossible to find a replacement organization that can conduct clinical trials in an acceptable manner and at an acceptable cost.

Even though we anticipate relying on CROs in the future, we will likely have to devote substantial resources and rely on the expertise of our employees to manage the work being done by the CROs. We and our management team have experience in managing clinical trials being executed on our behalf by CROs based on three clinical studies. Therefore, we cannot guarantee that our employees will manage such studies effectively in the future.

***We expect to depend on existing and future collaborations with third parties for the development of some of our product candidates. If those collaborations are not successful, we may not be able to complete the development of these product candidates.***

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 pursue development and commercialization of our product candidates or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborator’s strategic focus or available funding, or external factors such as an acquisition that diverts resources or creates competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial 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;
- collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation;

- collaborators may not comply with regulatory requirements and as a result their operations may be disrupted or ended until they resolve their regulatory issues with government officials;

- disputes may arise between the collaborators and us that result in the delay or termination of the research, development or commercialization of our product candidates or that result in costly litigation or arbitration that diverts management attention and resources;

- collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable product candidates;

- collaborators may elect to take over manufacturing rather than retain us as manufacturers and may encounter problems in starting up or gaining approval for their manufacturing facility and so be unable to continue development of product candidates;

- we may be required to undertake the expenditure of substantial operational, financial and management resources in connection with any collaboration;

- we may be required to issue equity securities to collaborators that would dilute our existing stockholders' percentage ownership;

- we may be required to assume substantial actual or contingent liabilities;

- collaborators may not commit adequate resources to the marketing and distribution of our product candidates, limiting our potential revenues from these products; and

- collaborators may experience financial difficulties.

We face a number of challenges in seeking additional collaborations. Collaborations are complex and any potential discussions may not result in a definitive agreement for many reasons. For example, whether we reach a definitive agreement for a 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, such as the design or results of our clinical trials, the potential market for our product candidates, the costs and complexities of manufacturing and delivering our product candidates to patients, the potential of competing products, the existence of uncertainty with respect to ownership or the coverage of our intellectual property, and industry and market conditions generally. If we were to determine that additional collaborations for our Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir development program are necessary and were unable to enter into such collaborations on acceptable terms, we might elect to delay or scale back the development or commercialization of Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir in order to preserve our financial resources or to allow us adequate time to develop the required physical resources and systems and expertise ourselves.

Collaboration agreements may not lead to development or commercialization of our product candidates in the most efficient manner, or at all. 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. If a present or 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.

***Any future clinical trial for Tafenoquine (all regimens) will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we do not directly control the timing, conduct and expense of such testing.***

According to prescribing information for Arakoda, administration of a test for G6PD deficiency is required before administration in order prevent the occurrence of hemolytic anemia that has been observed in some patients who have G6PD deficiency and were inadvertently administered Arakoda in clinical trials. Therefore, G6PD deficiency is an exclusion criteria in clinical trials involving Tafenoquine (all regimens).

For clinical trials administered in the United States, G6PD testing is provided through commercial pathology companies including Labcorp and Quest Diagnostics. Such testing, while usually available with 72-hour turnaround time, may sometimes take much longer. There is a single FDA-approved point of care test (Abbott's Binax Now) but this requires administration in a CLIA-certified laboratory, which not all clinical trial sites have access to.

For many clinical trials, and in particular those involving viral diseases, rapid administration of the investigational agent is required to maximize efficacy. Therefore, we will attempt to import and utilize hand-held point of care tests approved elsewhere in the world in our clinical trials involving Tafenoquine (any regimen). We may not be successful in this process, which would compromise our ability to recruit patients or result in a lower-than-expected effect of Tafenoquine (any regimen) in such a trial.

***Tafenoquine (all regimens) requires administration of a G6PD test. The lack of point of care tests may negatively impair sales of Arakoda or other drug regimens containing Tafenoquine.***

A G6PD test need only be administered once and can be recorded in electronic health records for future reference. The commercial providers of G6PD testing in the United States will usually only commit to at best a 72-hour turn-around time for G6PD testing. Thus, while this does not present a problem in principle for the existing malaria indication for individuals who travel frequently, or for organizations with organized occupational health and safety programs where G6PD testing results are held on file, it may be a barrier to use of Arakoda by first time travelers or those planning to travel and hence be a barrier to use of Arakoda if prospective patients are unwilling or unable to take the G6PD test.

If it is confirmed that the Mode of Action of Tafenoquine in COVID-19 is via a direct antiviral mechanism, it is likely that, as with other antivirals, rapid administration of the product is important to maximize efficacy. Therefore, it is possible that the current lack of an FDA-approved, widely available point of care G6PD test will negatively impact sales of Tafenoquine (any regimen) for COVID-19, under the assumption that the FDA eventually approves Arakoda (or other) regimen of Tafenoquine for this indication and appropriate G6PD tests are never approved by FDA.

Several third-party diagnostic test companies are developing point of care G6PD tests (or platforms that would accommodate them) that utilize finger stick blood samples and which may be appropriate for use in the United States. One of these tests is approved in Brazil and Australia.[33] Another is available for use in Europe and was recently approved by the FDA in the United States.[34] A third test is being developed with the NIH grant support for the U.S. and ex U.S. markets and is in clinical development.[35] There is no guarantee that tests will succeed in clinical development or ever become commercially available to the public. Having to take a test at all, or to go to a third-party lab in order to take the test, may be a hindrance to the use of Arakoda, which would negatively impact our sales.

***Our product candidates are subject to extensive regulation, which can be costly and time-consuming, and unsuccessful or delayed regulatory approvals could increase our future development costs or impair our future revenue.***

The preclinical and clinical development, testing, manufacture, safety, efficacy, labeling, storage, recordkeeping, and subsequent advertising, promotion, sale, marketing, and distribution, if approved, of our product candidates are subject to extensive regulation by the FDA and other regulatory authorities in the United States and elsewhere. These regulations also vary in important, meaningful ways from country to country. We are not permitted to market a potential new drug in the United States until we receive approval of an NDA from the FDA for such drug. We have received an NDA approval for Arakoda for malaria prevention, but have not received approval from the FDA for any non-malaria prevention indications for Tafenoquine (Arakoda regimen), Tafenoquine or any NDA approval from the FDA for Celgosivir or any of our other product candidates. There can be no guarantees with respect to our product candidates that clinical studies will adequately support an NDA, that the products will receive necessary regulatory approvals, or that they will prove to be commercially successful.

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[33] https://www.sdbiosensor.com/product/product_view?product_no=183.

[34] Baebies Receives FDA 510(k) Clearance for G6PD Test on FINDER Platform | Baebies.

[35] https://ivd.solutions/grant/.

To receive regulatory approval for the commercial sale of any product candidates, we must demonstrate safety and efficacy in humans to the satisfaction of regulatory authorities through preclinical studies and adequate and well-controlled clinical trials of the product candidates. This process is expensive and can take many years, and failure can occur at any stage of the testing. Our failure to adequately demonstrate the safety and efficacy of our product candidates will prevent regulatory approval and commercialization of such products.

In the event that we or our collaborators conduct preclinical studies that do not comply with Good Laboratory Practices ("GLP"), or incorrectly design or carry out human clinical trials in accordance with Good Clinical Practices ("GCP"), or those clinical trials fail to demonstrate clinical significance, it is unlikely that we will be able to obtain FDA approval for product development candidates. Our inability to successfully initiate and effectively complete clinical trials for any product candidate on schedule, or at all, will severely harm our business. Significant delays in clinical development could materially increase product development costs or allow our competitors to bring products to market before we do, impairing our ability to effectively commercialize any future product candidate. We do not know whether planned clinical trials will begin on time, will need to be redesigned or will be completed on schedule, if at all. Clinical trials can be delayed for a variety of reasons, including:

- delays or failures in obtaining regulatory authorization to commence a trial because of safety concerns of regulators relating to our product candidates or similar product candidates of our competitors or failure to follow regulatory guidelines;
- delays or failures in obtaining clinical materials and manufacturing sufficient quantities of the product candidates for use in trials;
- delays or failures in reaching agreement on acceptable terms with prospective study sites;
- delays or failures in obtaining approval of our clinical trial protocol from an Institutional Review Board ("IRB") to conduct a clinical trial at a prospective study site;
- delays in recruiting patients to participate in a clinical trial, which may be due to the size of the patient population, eligibility criteria, protocol design, perceived risks and benefits of the drug, availability of other approved and standard of care therapies or, availability of clinical trial sites;
- other clinical trials seeking to enroll subjects with similar profile;
- failure of our clinical trials and clinical investigators to be in compliance with GCP;
- unforeseen safety issues, including negative results from ongoing preclinical studies;
- inability to monitor patients adequately during or after treatment;
- difficulty recruiting and monitoring multiple study sites; and
- failure of our third-party contract research organizations, clinical site organizations and other clinical trial managers, to satisfy their contractual duties, comply with regulations or meet expected deadlines; and

- an insufficient number of patients who have, or are willing to have, a device implanted for monitoring and recording data.

In addition, any approvals we may obtain may not cover all of the clinical indications for which we seek approval or permit us to make claims of superiority over currently marketed competitive products. Also, an approval might contain significant limitations in the form of narrow indications, warnings, precautions or contraindications with respect to conditions of use. If the FDA determines that a risk evaluation and mitigation strategy ("REMS") is necessary to ensure that the benefits of the drug outweigh the risks, we may be required to include as part of the NDA a proposed REMS that may include a package insert directed to patients, a plan for communication with healthcare providers, restrictions on a drug's distribution, or a medication guide to provide better information to consumers about the drug's risks and benefits. Finally, approval could be conditioned on our commitment to conduct further clinical trials, which we may not have the resources to conduct or which may negatively impact our financial situation.

The manufacture and tableting of Arakoda, Tafenoquine (all regimens) or Celgosivir is, or will be done, by third-party suppliers, who must also meet current Good Manufacturing Practices ("cGMP") requirements and pass a pre-approval inspection of their facilities before we obtain marketing approval (now or in the future). All of our product candidates are prone to the risks of failure inherent in drug development. The results from preclinical animal testing and early human clinical trials may not be predictive of results obtained in later human clinical trials. Further, although a new product may show promising results in preclinical or early human clinical trials, it may subsequently prove unfeasible or impossible to generate sufficient safety and efficacy data to obtain necessary regulatory approvals. The data obtained from preclinical and clinical studies are susceptible to varying interpretations that may delay, limit or prevent regulatory approval, and the FDA and other regulatory authorities in the United States and elsewhere exercise substantial discretion in the drug approval process. The numbers, size and design of preclinical studies and clinical trials that will be required for FDA or other regulatory approval will vary depending on the product candidate, the disease or condition for which the product candidate is intended to be used and the regulations and guidance documents applicable to any particular product candidate. The FDA or other regulators can delay, limit or deny approval of any product candidate for many reasons, including, but not limited to:

- side effects;
- safety and efficacy;
- defects in the design of clinical trials;
- new understanding related to the pharmacology of other related drug products and their side effects;
- the fact that the FDA or other regulatory officials may not approve our or our third-party manufacturer's processes or facilities; or
- the fact that new regulations may be enacted by the FDA or other regulators may change their approval policies or adopt new regulations requiring new or different evidence of safety and efficacy for the intended use of a product candidate.

In light of widely publicized events concerning the safety of certain drug products, regulatory authorities, members of Congress, the Government Accountability Office, medical professionals and the general public have raised concerns about potential drug safety issues. These events have resulted in the withdrawal of certain drug products, revisions to certain drug labeling that further limit use of the drug products and establishment of risk management programs that may, for instance, restrict distribution of drug products. The increased attention to drug safety issues may result in a more cautious approach by the FDA to clinical trials and approval. Data from clinical trials may receive greater scrutiny with respect to safety and the product's risk/benefit profile, which may make the FDA or other regulatory authorities more likely to terminate clinical trials before completion, or require longer or additional clinical trials that may result in substantial additional expense, and a delay or failure in obtaining approval or approval for a more limited indication than originally sought. Aside from issues concerning the quality and sufficiency of submitted preclinical and clinical data, the FDA may be constrained by limited resources from reviewing and determining the approvability of an NDA or regulatory supplement for Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications or of a Celgosivir NDA in a timely manner.

In pursuing clinical development of Tafenoquine (Arakoda or other regimen) for a non-malaria prevention indication or Celgosivir for other indications, we will be required to amend existing prescribing information, or prepare a new NDA as appropriate. The FDA could approve Tafenoquine (Arakoda or other regimen) or Celgosivir, but without including some or all of the prescribing information that we have requested. For instance, the FDA could approve Tafenoquine (Arakoda or other regimen) or Celgosivir in a more limited patient population or include additional warnings in the drug's label. This, in turn, could substantially and detrimentally impact our ability to successfully commercialize Tafenoquine (Arakoda or other regimen) or Celgosivir and effectively protect our intellectual property rights in Tafenoquine (Arakoda or other regimen) or Celgosivir.

***If we are not able to successfully develop, obtain FDA approval for, and provide for the commercialization of non-malaria prevention indications for Tafenoquine (Arakoda or other regimen) or Celgosivir in a timely manner, we may not be able to expand our business operations.***

We currently have only a single product (Arakoda for malaria prevention) that has received regulatory approval for commercial sale. The process to develop, obtain regulatory approval for and commercialize potential product candidates is long, complex and costly. Any future development of Tafenoquine (Arakoda or other regimen for a non-malaria prevention indication) or Celgosivir, including initiating clinical trials, is dependent on obtaining additional financing, even if we enter into a strategic collaboration.

Failure to demonstrate that a product candidate, including Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or, in the future, Celgosivir, is safe and effective, or significant delays in demonstrating such safety and efficacy, would adversely affect our business. Failure to obtain marketing approval of Tafenoquine (Arakoda or other regimen for non-malaria prevention indications) or Celgosivir from appropriate regulatory authorities, or significant delays in obtaining such approval, would also adversely affect our business and could, among other things, preclude us from completing a strategic transaction or obtaining additional financing necessary to continue as a going concern.

Even if approved for sale, a product candidate must be successfully commercialized to generate value. Although we plan to undertake limited efforts through a contracts sales organization to begin commercialization activities for Arakoda for malaria prevention, we do not currently have the capital resources or management expertise to commercialize Tafenoquine (Arakoda other regimen for non-malaria prevention indications), or Celgosivir or any of our other product candidates and, as a result, will need to complete a strategic transaction, or, alternatively, raise substantial additional funds to enable commercialization of Arakoda, Tafenoquine (Arakoda or other regimen for non-malaria prevention indications) or Celgosivir or any of our other product candidates, if approved. Failure to successfully provide for the commercialization of Arakoda for its current malaria prevention application, or Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications or Celgosivir or any other product candidate, would damage our business.

***If our product candidates receive regulatory approval, we would be subject to ongoing regulatory obligations and restrictions, and possible litigation exposure, which may result in significant expenses and limit our ability to develop and commercialize other potential products.***

If a product candidate of ours is approved by the FDA or by another regulatory authority, we would be held to extensive regulatory requirements over product manufacturing, testing, distribution, labeling, packaging, adverse event reporting and other reporting to regulatory authorities, storage, advertising, marketing, promotion, distribution, and record keeping. Regulatory approvals may also be subject to significant limitations on the indicated uses or marketing of the product candidates. Potentially costly follow-up or post-marketing clinical studies may be required as a condition of approval to further substantiate safety or efficacy, or to investigate specific issues of interest to the regulatory authority. Previously unknown problems with the product candidate, including adverse events of unanticipated severity or frequency, may result in additional regulatory controls or restrictions on the marketing or use of the product or the need for post marketing studies, and could include suspension or withdrawal of the products from the market.

Furthermore, our third-party manufacturers and the manufacturing facilities that they use to make our product candidates are regulated by the FDA. Quality control and manufacturing procedures must continue to conform to cGMP after approval. Drug manufacturers and their subcontractors are required to register their facilities and products manufactured annually with the FDA and certain state agencies and are subject to periodic unannounced inspections by the FDA, state and/or other foreign authorities. Any subsequent discovery of problems with a product, or a manufacturing or laboratory facility used by us or our collaborators, may result in restrictions on the product, or on the manufacturing or laboratory facility, including a withdrawal of the drug from the market or suspension of manufacturing. Any changes to an approved product, including the way it is manufactured or promoted, often require FDA approval before the product, as modified, can be marketed. We and our third-party manufacturers will also be subject to ongoing FDA requirements for submission of safety and other post-market information.

The marketing and advertising of our drug products by our collaborators or us will be regulated by the FDA, certain state agencies or foreign regulatory authorities including the Federal Trade Commission ("FTC"). Violations of these laws and regulations, including promotion of our products for unapproved "off-label" uses or failing to disclose risk information, are punishable by criminal and civil sanctions and may result in the issuance of enforcement letters or other enforcement action by the FDA, U.S. Department of Justice, state agencies, or foreign regulatory authorities that could jeopardize our ability to market the product.

In addition to the FDA, state or foreign regulations, the marketing of our drug products by us or our collaborators will be regulated by federal, state or foreign laws pertaining to health care "fraud and abuse," such as the federal anti-kickback law prohibiting bribes, kickbacks or other remuneration for the order or recommendation of items or services reimbursed by federal health care programs. Many states have similar laws applicable to items or services reimbursed by commercial insurers. Violations of these laws are punishable by criminal and civil sanctions, including, in some instances, imprisonment and exclusion from participation in federal and state health care programs, including the Medicare, Medicaid and Veterans Affairs healthcare programs. Because of the far-reaching nature of these laws, we may be required to discontinue one or more of our practices to be in compliance with these laws. Healthcare fraud and abuse regulations are complex, and even minor irregularities can potentially give rise to claims that a statute or prohibition has been violated. Any violations of these laws, or any action against us for violations of these laws, even if we successfully defend against it, could have a material adverse effect on our business, financial condition and results of operations.

If we, our collaborators or our third-party manufacturers fail to comply with applicable continuing regulatory requirements, our business could be seriously harmed because a regulatory agency may:

- issue untitled or warning letters;
- suspend or withdraw our regulatory approval for approved products;
- seize or detain products or recommend a product recall of a drug or medical device, or issue a mandatory recall of a medical device;
- refuse import or export of any of our drug products;
- refuse to approve pending applications or supplements to approved applications filed by us;
- suspend our ongoing clinical trials;
- restrict our operations, including costly new manufacturing requirements, or restrict the sale, marketing and/or distribution of our products;
- seek an injunction;
- pursue criminal prosecutions;
- close the facilities of our contract manufacturers; or
- impose civil or criminal penalties.

***We could become subject to false claims litigation under federal statutes, which can lead to civil money penalties, restitution, criminal fines and imprisonment, and exclusion from participation in Medicare, Medicaid and other federal and state health care programs.***

False claims statutes include the False Claims Act, which allows any person to bring a suit on behalf of the federal government alleging submission of false or fraudulent claims, or causing to present such false or fraudulent claims, under federal programs or contracts claims or other violations of the statute and to share in any amounts paid by the entity to the government in fines or settlement. These suits against pharmaceutical companies have increased significantly in volume and breadth in recent years. Some of these suits have been brought on the basis of certain sales practices promoting drug products for unapproved uses. This new growth in litigation has increased the risk that a pharmaceutical company will have to defend a false claim action, pay fines or restitution, or be excluded from the Medicare, Medicaid, Veterans Affairs and other federal and state healthcare programs as a result of an investigation arising out of such action. We may become subject to such litigation and, if we are not successful in defending against such actions, those actions may have a material adverse effect on our business, financial condition and results of operations.

We could also become subject to false claims litigation and consumer protection claims under state statutes, which also could lead to civil monetary penalties, restitution, criminal fines and imprisonment, and exclusion from participation in state health care programs. Of note, over the past few years there has been an increased focus on the sales and marketing practices of the pharmaceutical industry at both the federal and state level. Additionally, the law or regulatory policies governing pharmaceuticals may change. New statutory requirements may be enacted or additional regulations may be adopted that could prevent or delay regulatory approval of our product candidates or limit our ability to commercialize our products. We cannot predict the likelihood, nature or extent of adverse government regulation that may arise from future legislation or administrative action, either in the United States or elsewhere.

***Failure to be included in formularies developed by MCOs and other organizations may impact the use of our products.***

Managed Care Organizations (“MCOs”) and other third-party payers try to negotiate the pricing of medical services and products to control their costs. MCOs and pharmacy benefit managers typically develop formularies to reduce their cost for medications. These formularies can be based on the prices and therapeutic benefits of the available products. The breadth of the products covered by formularies varies considerably from one MCO to another, and many formularies include alternative and competitive products for treatment of particular medical conditions. Failure to be included in such formularies or to achieve favorable formulary status may negatively impact the use of our products. If our products are not included within an adequate number of formularies, additional coverage criteria are required or if the patient’s cost-sharing obligations are high, our market share and gross margins could be adversely impacted, which could have a material adverse effect on our business.

***Even if we obtain regulatory approvals and market our products as planned, there is no guarantee of widespread market acceptance and the results of our efforts to commercialize our products are uncertain.***

Even if we are able to obtain and maintain regulatory approvals for our products, the success of our products depends upon achieving and maintaining market acceptance. Commercializing products is time-consuming, expensive and unpredictable. Furthermore, the market for products that address unmet medical needs is highly speculative. If we overestimate the market opportunity for any of our products or candidates, or if we are unsuccessful in gaining market share, these factors could have a material adverse effect on our business. There can be no assurance that we will be able to successfully commercialize our products or gain market acceptance for such products, including in new markets. New product candidates that appear promising in development may fail to reach the market or may have only limited or no commercial success. If any of our products fail to gain, or lose, market acceptance, our revenues could be adversely impacted, which in turn could have a material adverse effect on our business.

Levels of market acceptance for our products could be impacted by several factors, some of which are not within our control, including, among others:

- safety, efficacy, convenience and cost-effectiveness of our products as compared to products of our competitors;
- scope of approved uses and marketing approval;
- availability of patent or regulatory exclusivity;
- timing of market approvals and market entry;
- availability of alternative products from our competitors;
- acceptance of the price of our products;
- the shelf life of our products;
- effectiveness of our sales forces and promotional efforts;
- the level of reimbursement of our products;
- acceptance of our products on government and private formularies;
- ability to market our products effectively at the retail level or in the appropriate setting of care; and
- reputation of our products.

***Unexpected safety, efficacy or other concerns, whether actual or perceived, about our products may arise which could have a material adverse effect on our business and operations.***

Unexpected safety or efficacy concerns can arise with respect to our products, whether or not scientifically justified. These concerns are especially more likely to arise as our products are used or studied over longer periods of time or used by a wider group of patients, some of whom may be taking other medicines or have additional underlying health problems. Such developments can potentially result in product recalls, withdrawals and/or declining sales, as well as product liability, consumer fraud and/or other claims, any of which could have a material adverse effect on our business.

Any negative publicity about any of our products, such as the discovery of safety or efficacy issues, adverse events involving our products or even public rumors about such events, could have a material adverse effect on our business. In addition, the discovery of one or more significant problems with a product similar to one of our products that implicates (or are perceived to implicate) an entire class of products, or the withdrawal or recall of such similar products, could have an adverse effect on the sales of our products. New data about our products, or products similar to our products, could also cause us reputational harm and could negatively impact demand for our products (or result in product withdrawal), due to real or perceived side effects or uncertainty regarding safety or efficacy.

***Reliance on third parties to commercialize Arakoda, Tafenoquine (Arakoda or other regimen) Celgosivir or our other product candidates could negatively impact our business. If we are required to establish a direct sales force in the United States and are unable to do so, our business may be harmed.***

We have received FDA approval of Arakoda for malaria prevention. Arakoda entered the U.S. commercial supply chain in the third quarter of 2019. Sales have been limited due to the impact of the COVID-19 pandemic, and we accordingly suspended our efforts to build internal sales and marketing capability. Re-establishing such sales and marketing capability for the malaria indication would require substantial additional resources.

Future commercialization of Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir or any other product candidate, if approved, particularly the establishment of a sales organization, will require substantial additional capital resources. We currently intend to pursue a strategic partnership alternative for the commercialization of Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir, if it is approved, and we have suspended our efforts to build internal sales, marketing and distribution capabilities. If we elect to rely on third parties to sell Arakoda, Tafenoquine (Arakoda or other regimen), or Celgosivir and any other products, then we may receive less revenue than if we sold such products directly. In addition, we may have little or no control over the sales efforts of those third parties. If we are unable to complete a strategic transaction, we would be unable to commercialize Arakoda, Tafenoquine (Arakoda or other regimen) or Celgosivir or any other product candidate without substantial additional capital. Even if such capital were secured, we would be required to rely on our existing distribution network in place through prime vendors for sales and marketing and capabilities, since we lack our own internal resources to directly sell and market Arakoda, Tafenoquine (Arakoda or other regimen) or Celgosivir in the United States. None of our current employees have experience in establishing and managing a sales force.

In the event we are unable to establish an effective sales channel for Arakoda, Tafenoquine (Arakoda or other regimen) or Celgosivir and other selected product candidates, either directly or through third parties via a strategic transaction, the commercialization of Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, or Celgosivir, if approved, may be delayed indefinitely and our revenues will be impaired.

***We may explore new strategic collaborations that may never materialize or may fail.***

We may, in the future, periodically explore a variety of new strategic collaborations in an effort to gain access to additional product candidates or resources. At the current time, we cannot predict what form such a strategic collaboration might take. We are likely to face significant competition in seeking appropriate strategic collaborators, and these strategic collaborations can be complicated and time-consuming to negotiate and document. We may not be able to negotiate strategic collaborations on acceptable terms, or at all. We are unable to predict when, if ever, we will enter into any additional strategic collaborations because of the numerous risks and uncertainties associated with establishing strategic collaborations.

***We have no manufacturing capacity, which puts us at risk of lengthy and costly delays of bringing our products to market.***

We do not currently operate manufacturing facilities for clinical or commercial production of our product candidates, including their API. We have no experience in drug formulation or manufacturing, and we lack the resources and the capabilities to manufacture any of our product candidates on a clinical or commercial scale. We do not intend to develop Company-owned facilities for the manufacture of product candidates for clinical trials or commercial purposes in the foreseeable future. We have contracted with Piramal to manufacture the API for Arakoda. For drug product, we previously contracted with Piramal to manufacture the Arakoda tablets (and placebos) for commercial and clinical use and with PCI in the United States for secondary packaging. In addition, we contracted with a separate service provider for packaging and distribution of our clinical trial materials. We may also need to contract with similar manufacturers for similar services in connection with any planned or future clinical trials of Arakoda and Celgosivir.

Our contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business for the time required to successfully produce, store and distribute our products. In addition, these manufacturers may have staffing difficulties, may not be able to manufacture our products on a timely basis or may become financially distressed. In the event of errors in forecasting production quantities required to meet demand, natural disaster, equipment malfunctions or failures, technology malfunctions, strikes, lock-outs or work stoppages, regional power outages, product tampering, war or terrorist activities, actions of regulatory authorities, business failure, strike or other difficulty, we may be unable to find an alternative third-party manufacturer in a timely manner and the production of our product candidates would be interrupted, resulting in delays and additional costs, which could impact our ability to commercialize and sell our product candidates. We or our contract manufacturers may also fail to achieve and maintain required manufacturing standards, which could result in patient injury or death, product recalls or withdrawals, an order by governmental authorities to halt production, delays or failures in product testing or delivery, stability testing failures, cost overruns or other problems that could seriously hurt our business.

Contract manufacturers also often encounter difficulties involving production yields, quality control and quality assurance, as well as shortages of qualified personnel. In addition, our contract manufacturers are subject to ongoing inspections and regulation by the FDA, the U.S. Drug Enforcement Agency and corresponding foreign and state agencies and they may fail to meet these agencies' acceptable standards of compliance. If our contract manufacturers fail to comply with applicable governmental regulations, such as quality control, quality assurance and the maintenance of records and documentation, we may not be able to continue production of the API or finished product. If the safety of any API or product supplied is compromised due to failure to adhere to applicable laws or for other reasons, this may jeopardize our regulatory approval for Arakoda, or Celgosivir and other product candidates, and we may be held liable for any injuries sustained as a result. Upon the occurrence of one of the aforementioned events, the ability to switch manufacturers may be difficult for a number of reasons, including:

- the number of potential manufacturers is limited and we may not be able to negotiate agreements with alternative manufacturers on commercially reasonable terms, if at all;
- long lead times are often needed to manufacture drugs;
- the manufacturing process is complex and may require a significant learning curve; and
- the FDA must approve any replacement prior to manufacturing, which requires new testing and compliance inspections.

***Our contract manufacturers are subject to significant regulation with respect to the manufacturing of our products.***

All entities involved in the preparation of a product candidate for clinical trials or commercial sale, including our contract manufacturing organizations used for bulk product manufacturing and filling and finishing of our bulk product, are subject to extensive regulation. Components of a finished product approved for commercial sale or used in late-stage clinical trials must be manufactured in accordance with cGMP. These regulations govern manufacturing processes and procedures, including record keeping, and the implementation and operation of quality systems to control and assure the quality of investigational products and products approved for sale. 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 any regulatory approval of our product candidates. In addition, the regulatory authorities may, at any time, audit or inspect a manufacturing facility involved with the preparation of our product candidates or the associated quality systems for compliance with the regulations applicable to the activities being conducted.

The regulatory authorities also may, at any time following approval of a product for sale, audit the manufacturing facilities of our third-party contractors or raw material suppliers. 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, the relevant regulatory authority may require remedial measures that may be costly and time-consuming 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. Our third-party contractors or raw material suppliers may refuse to implement remedial measures required by regulatory authorities. Any failure to comply with applicable manufacturing regulations or failure to implement required remedial measures imposed upon third parties with whom we contract could materially harm our business.

***We rely on relationships with third-party contract manufacturers and raw material suppliers, which limits our ability to control the availability of, and manufacturing costs for, our product candidates.***

Problems with any of our contract manufacturers' or raw material suppliers' facilities or processes, could prevent or delay the production of adequate supplies of finished products. This could delay clinical trials or delay and reduce commercial sales and materially harm our business. Any prolonged delay or interruption in the operations of our collaborators' facilities or contract manufacturers' facilities could result in cancellation of shipments, loss of components in the process of being manufactured or a shortfall in availability of a product candidate or products. A number of factors could cause interruptions, including, but not limited to:

- the inability of a supplier to provide raw materials;
- equipment malfunctions or failures at the facilities of our collaborators or suppliers;
- high process failure rates;
- damage to facilities due to natural or man-made disasters;
- changes in regulatory requirements or standards that require modifications to our or our collaborators' and suppliers' manufacturing processes;
- action by regulatory authorities or by us that results in the halting or slowdown of production of components or finished product at our facilities or the facilities of our collaborators or suppliers;
- problems that delay or prevent manufacturing technology transfer to another facility, contract manufacturer or collaborator with subsequent delay or inability to start up a commercial facility;
- a contract manufacturer or supplier going out of business, undergoing a capacity shortfall or otherwise failing to produce product as contractually required;
- employee or contractor misconduct or negligence; and
- shipping delays, losses or interruptions; and other similar factors.

Because manufacturing processes are complex and are subject to a lengthy regulatory approval process, alternative qualified production capacity and sufficiently trained or qualified personnel may not be available on a timely or cost-effective basis or at all. Difficulties or delays in our contract manufacturers' production of drug substances could delay our clinical trials, increase our costs, damage our reputation and cause us to lose revenue and market share if we are unable to timely meet market demand for any products that are approved for sale.

The manufacturing process for our product candidates has several components that are sourced from a single manufacturer. If we utilize an alternative manufacturer or alternative component, we may be required to demonstrate comparability of the drug product before releasing the product for clinical use and we may not be to find an alternative supplier.

Further, if our contract manufacturers are not in compliance with regulatory requirements at any stage, including post-marketing approval, we may be fined, forced to remove a product from the market and/or experience other adverse consequences, including delays, which could materially harm our business.

***Even if one of our product candidates receives marketing approval, it may fail to achieve the degree of market acceptance by physicians, patients, third-party payors and others in the medical community necessary for commercial success, in which case we may not generate significant revenues or become profitable.***

Physicians are often reluctant to switch their patients from existing therapies even when new and potentially more effective or convenient treatments enter the market. Further, patients often acclimate to the therapy that they are currently taking and do not want to switch unless their physicians recommend switching products or they are required to switch therapies due to lack of reimbursement for existing therapies.

Efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may not be successful. If any of our product candidates is approved but does not achieve an adequate level of market acceptance, we may not generate significant revenues 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:

- the efficacy and safety of the product;
- the potential advantages of the product compared to competitive therapies;
- the prevalence and severity of any side effects;
- the clinical indications for which the product is approved;
- whether the product is designated under physician treatment guidelines as a first-, second- or third-line therapy;
- the product's convenience and ease of administration compared to alternative treatments;
- the willingness of the target patient population to try, and of physicians to prescribe, the product;
- limitations or warnings, including distribution or use restrictions contained in the product's approved labeling;
- the approval of other new products for the same indications;
- changes in the standard of care for the targeted indications for the product; and
- availability and amount of coverage and reimbursement from government payors, managed care plans and other third-party payors.

***Our future growth depends on our ability to successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and our other product candidates, and we can provide no assurance that we will successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and other product candidates.***

Our future growth depends on our ability to successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and our other product candidates, including our ability to:

- conduct additional clinical trials and develop and obtain regulatory approval for Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir or other product candidates;
- successfully partner a companion genetic test (if required by the FDA) with the commercialization of Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications and Celgosivir;
- pursue additional indications for Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications and Celgosivir and develop other product candidates, including other therapies; and
- obtain commercial quantities of Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications and Celgosivir or other product candidates at acceptable cost levels.

Any one of these or other factors could affect our ability to successfully commercialize products.

***If approved by the FDA, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, and Celgosivir, will be entering a competitive marketplace and may not succeed.***

Our commercial opportunity may be reduced or eliminated if competitors develop and commercialize products that are safer, more effective, have fewer side effects, are more convenient or are less expensive than Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications and Celgosivir. If products with any of these properties are developed, or any of the existing products are better marketed, then Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications and Celgosivir could be rendered obsolete and noncompetitive. Further, public announcements regarding the development of any such competing drugs could adversely affect the market price of our common stock and the value of our assets.

***State-specific regulatory activities may negatively affect our business.***

In the United States, individual state governments regulate certain aspects of the pharmaceutical industry including price transparency, requirements in some cases to obtain state licenses, compliance with cGMPs, and for environmental stewardship/take-back programs. For distribution of Arakoda, we have employed a "title model" approach to distribution which limits the extent of state licenses required, and we have contracted with third-party organizations to ensure we are participating in appropriate stewardship/take programs, and have complied (or have a process in place to comply) with state licensing/price transparency requirements that we are aware of. However, we cannot guarantee that we will be compliant with all state regulations, or that we will become aware of and act on any new requirements (which are constantly changing) in time to ensure 100% compliance at all times. State compliance is expensive and new requirements may impose new costs we were not previously aware of.

***Health care reform measures could materially and adversely affect our business.***

The business and financial condition of pharmaceutical and biotechnology companies are affected by the efforts of governmental and third-party payors to contain or reduce the costs of health care. The U.S. Congress has enacted legislation to reform the health care system. While we anticipate that this legislation may, over time, increase the number of patients who have insurance coverage for pharmaceutical products, it also imposes cost containment measures that may adversely affect the amount of reimbursement for pharmaceutical products. These measures include increasing the minimum rebates for products covered by Medicaid programs and extending such rebates to drugs dispensed to Medicaid beneficiaries enrolled in Medicaid managed care organizations as well as expansion of the 340(B) Public Health Services drug discount program. In addition, such legislation contains a number of provisions designed to generate the revenues necessary to fund the coverage expansion, including new fees or taxes on certain health-related industries, including medical device manufacturers. Each medical device manufacturer has to pay an excise tax (or sales tax) in an amount equal to 2.3% of the price for which such manufacturer sells its medical devices. Such excise taxes may impact any potential sales of the genetic test if it is approved for marketing. On January 22, 2018, legislation was enacted suspending the medical device tax in 2018 and 2019. In December 2019, a permanent repeal of the medical device tax was enacted. The Celgosivir test is likely to be subject to this tax if this tax is reinstated in the future. In foreign jurisdictions there have been, and we expect that there will continue to be, a number of legislative and regulatory proposals aimed at changing the health care system. For example, in some countries other than the United States, pricing of prescription drugs is subject to government control and we expect to see continued efforts to reduce healthcare costs in international markets.

In August 2022, the Inflation Reduction Act of 2022 was signed into law. This law requires the federal government to negotiate prices for a small number of high-cost drugs covered under Medicare, requires drug manufacturers to pay rebates to Medicare if they increase prices faster than inflation for drugs used by Medicare beneficiaries, and caps Medicare beneficiaries' out-of-pocket spending under the Medicare Part D benefit. This legislation could create more demand for negotiated drug prices and further government control of prescription drug pricing. Future legal restrictions regarding our ability to price our drugs could affect our revenues and our business going forward.

Additionally, federal, state and local governments continue to consider legislation to limit the growth of healthcare costs, including the cost of prescription drugs and combination products. Since 2017, several states and local governments have either implemented or are considering implementation of price transparency legislation that may prevent or limit our ability to take price increases at certain rates or frequencies. If adequate reimbursement levels are not maintained by government and other third-party payers for our products, our ability to sell our products may be limited and our ability to establish acceptable pricing levels may be impaired, thereby reducing anticipated revenues and profitability. Further, the pace of change and varying demands of state requirements may render it very difficult to comply with these various laws, and failure to comply with these regulations could expose us to substantial financial penalties and the potential for adverse publicity.

Some states are also considering legislation that would control the prices of drugs, and state Medicaid programs are increasingly requesting manufacturers to pay supplemental rebates and requiring prior authorization by the state program for use of any drug for which supplemental rebates are not being paid. Managed care organizations continue to seek price discounts and, in some cases, to impose restrictions on the coverage of particular drugs. Government efforts to reduce Medicaid expenses may lead to increased use of managed care organizations by Medicaid programs. This may result in managed care organizations influencing prescription decisions for a larger segment of the population and a corresponding constraint on prices and reimbursement for drugs. It is likely that federal and state legislatures and health agencies will continue to focus on additional health care reform in the future although we are unable to predict what additional legislation or regulation, if any, relating to the health care industry or third-party coverage and reimbursement may be enacted in the future or what effect such legislation or regulation would have on our business. We or any strategic partner's ability to commercialize Celgosivir, or any other product candidates that we may seek to commercialize, is highly dependent on the extent to which coverage and reimbursement for these product candidates will be available from government payors, such as Medicare and Medicaid, private health insurers, including managed care organizations, and other third-party payors, and any change in reimbursement levels could materially and adversely affect our business. Further, the pendency or approval of future proposals or reforms could result in a decrease in our stock price or limit our ability to raise capital or to obtain strategic partnerships or licenses.

***Our employees may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have a material adverse effect on our business.***

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees could include intentional failures to comply with FDA regulations, provide accurate information to the FDA, comply with manufacturing standards we have established, comply with federal and state health-care fraud and abuse laws and regulations, report financial information or data accurately or disclose unauthorized activities to us. 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.

Employee misconduct could also involve the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. It is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent misconduct 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 and results of operations, including the imposition of significant civil, criminal, and administrative penalties, damages, fines, disgorgement, individual imprisonment, exclusion from governmental funded healthcare programs, such as Medicare and Medicaid, contractual damages, reputational harm, diminished profits and future earnings, additional reporting obligations and oversight if subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with these laws.

***Our competitors may be better positioned in the marketplace and thereby may be more successful than us at developing, manufacturing and marketing approved products.***

Many of our competitors currently have significantly greater financial resources and expertise in conducting clinical trials, obtaining regulatory approvals, and managing manufacturing and marketing approved products than us. Other early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. In addition, these third parties compete with us in recruiting and retaining qualified scientific and management personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring therapies and therapy licenses complementary to our programs or advantageous to our business. We expect that our ability to compete effectively will depend upon our ability to:

- successfully and rapidly complete clinical trials for any product candidates and obtain all requisite regulatory approvals in a cost-effective manner;
- build an adequate sales and marketing infrastructure, raise additional funding, or enter into strategic transactions enabling the commercialization of our products;
- develop competitive formulations of our product candidates;
- attract and retain key personnel; and
- identify and obtain other product candidates on commercially reasonable terms.

***We compete in an industry characterized by extensive research and development efforts and rapid technological progress. New discoveries or commercial developments by our competitors could render our potential products obsolete or non-competitive.***

New developments occur and are expected to continue to occur at a rapid pace in our industry, and there can be no assurance that discoveries or commercial developments by our competitors will not render some or all of our potential products obsolete or non-competitive, which could have a material adverse effect on our business, financial condition and results of operations. New data from commercial and clinical-stage products continue to emerge and it is possible that these data may alter current standards of care, completely precluding us from further developing our product candidates or preventing us from getting them approved by regulatory agencies. Further, it is possible that we may initiate a clinical trial or trials for our product candidates, only to find that data from competing products make it impossible for us to complete enrollment in these trials, resulting in our inability to file for marketing approval with regulatory agencies. Even if these products are approved for marketing in a particular indication or indications, they may have limited sales due to particularly intense competition in these markets.

We expect to compete with fully integrated and well-established pharmaceutical and biotechnology companies in the near- and long-term. Most of these companies have substantially greater financial, research and development, manufacturing and marketing experience and resources than we do and represent substantial long-term competition for us. Such companies may succeed in discovering and developing pharmaceutical products more rapidly than we do or pharmaceutical products that are safer, more effective or less costly than any that we may develop. Such companies also may be more successful than we are in manufacturing, sales and marketing. Smaller companies may also prove to be significant competitors, particularly through collaborative arrangements with large pharmaceutical and established biotechnology companies. Academic institutions, governmental agencies and other public and private research organizations also conduct clinical trials, seek patent protection and establish collaborative arrangements for the development of product candidates.

We expect competition among products will be based on product efficacy and safety, the timing and scope of regulatory approvals, availability of supply, marketing and sales capabilities, reimbursement coverage, price and patent position. There can be no assurance that our competitors will not develop safer and more effective products, commercialize products earlier than we do, or obtain patent protection or intellectual property rights that limit our ability to commercialize our products.

There can be no assurance that our issued patents or pending patent applications, if issued, will not be challenged, invalidated or circumvented or that the rights granted thereunder will provide us with proprietary protection or a competitive advantage.

***We would be subject to applicable regulatory approval requirements of the foreign countries in which we market our products, which are costly and may prevent or delay us from marketing our products in those countries.***

In addition to regulatory requirements in the United States, we would be subject to the regulatory approval requirements in each foreign country where we market our products. Also, we might be required to identify one or more collaborators in these foreign countries to develop, seek approval for and manufacture our products and any companion genetic test that may be required for Arakoda or Celgosivir. If we decide to pursue regulatory approvals and commercialization of our product candidates internationally, we may not be able to obtain the required foreign regulatory approvals on a timely basis, if at all, and any failure to do so may cause us to incur additional costs or prevent us from marketing our products in foreign countries, which may have a material adverse effect on our business, financial condition and results of operations.

***Failure to comply with data protection laws and regulations could lead to government enforcement actions (which could include civil or criminal penalties), private litigation, and/or adverse publicity and could negatively affect our operating results and business.***

We and our partners may be subject to federal, state, and foreign data protection laws and regulations (i.e., laws and regulations that address privacy and data security). In the United States, numerous federal and state laws and regulations, including state data breach notification laws, state health information privacy laws, and federal and state consumer protection laws and regulations (e.g., Section 5 of the FTC Act of 1914), that govern the collection, use, disclosure, and protection of health-related and other personal information could apply to our operations or the operations of our partners. In addition, 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 the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). Depending on the facts and circumstances, we could be subject to criminal penalties if we knowingly obtain, use, or disclose individually identifiable health information maintained by a HIPAA-covered entity in a manner that is not authorized or permitted by HIPAA.

In addition, the California Consumer Privacy Act, as amended ("CCPA"), became effective on January 1, 2020. The CCPA gives California residents expanded rights to access and delete their personal information (subject to certain exceptions), opt out of certain personal information sharing, correct inaccurate personal information that a business has about them and limit the use and disclosure of sensitive personal information collected about them 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 and the right not to be discriminated against for exercising these rights. The CCPA also gives consumers the right to request disclosure of information collected about them and whether that information has been sold or shared with others.

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. Although there are limited exemptions for clinical trial data and the CCPA's implementation standards and enforcement practices are likely to remain uncertain for the foreseeable future, the CCPA may increase our compliance costs and potential liability. Many similar privacy laws have been proposed at the federal level and in other states.

Foreign data protection laws, including, without limitation, the European Union Directive 95/46/EC, or the Directive, and the European Union's General Data Protection Regulation ("GDPR"), that became effective in May 2018, and member state data protection legislation, may also apply to health-related and other personal information obtained outside of the United States. These laws impose strict obligations on the ability to process health-related and other personal information of data subjects in the European Union and the United Kingdom, including in relation to use, collection, analysis, and transfer (including cross-border transfer) of such personal information. These laws include several requirements relating to the consent of the individuals to whom the personal data relates, limitations on data processing, establishing a legal basis for processing, notification of data processing obligations or security incidents to appropriate data protection authorities or data subjects, the security and confidentiality of the personal data and various rights that data subjects may exercise.

The Directive and the GDPR prohibit, without an appropriate legal basis, the transfer of personal data to countries outside of the European Economic Area ("EEA"), such as the United States, which are not considered by the European Commission to provide an adequate level of data protection. Switzerland has adopted similar restrictions. Although there are legal mechanisms to allow for the transfer of personal data from the EEA and Switzerland to the United States, uncertainty about compliance with European Union data protection laws remains. For example, ongoing legal challenges in Europe to the mechanisms allowing companies to transfer personal data from the EEA to the United States could result in further limitations on the ability to transfer personal data across borders, particularly if governments are unable or unwilling to reach new or maintain existing agreements that support cross-border data transfers, such as the European Union-U.S. and Swiss-U.S. Privacy Shield framework. Additionally, other countries have passed or are considering passing laws requiring local data residency.

Under the GDPR, regulators may impose substantial fines and penalties for non-compliance. Companies that violate the GDPR can face fines of up to the greater of 20 million Euros or 4% of their worldwide annual turnover (revenue). The GDPR increases our responsibility and potential liability in relation to personal data that we process, and we may be required to put in place additional mechanisms to ensure compliance with the GDPR and other EU and international data protection rules.

Compliance with U.S. and foreign privacy and security laws, rules and regulations could require us to take on more onerous obligations in our contracts, require us to engage in costly compliance exercises, restrict our ability to collect, use and disclose data, or in some cases, impact our or our partners' or suppliers' ability to operate in certain jurisdictions. Each of these constantly evolving laws can be subject to varying interpretations. Failure to comply with U.S. and foreign data protection laws and regulations could result in government investigations and enforcement actions (which could include civil or criminal penalties), fines, private litigation, and/or adverse publicity and could negatively affect our operating results and business. Moreover, patients about whom we or our partners obtain information, as well as the providers who share this information with us, may contractually limit our ability to use and disclose the information. Claims that we have violated individuals' privacy rights, failed to comply with data protection laws, or breached our contractual obligations, even if we are not found liable, could be expensive and time-consuming to defend and could result in adverse publicity that could harm our business.

***Because we have multiple product candidates in our clinical pipeline and are considering a variety of target indications, we may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial and managerial resources, we must focus our research and development efforts on those product candidates and specific indications that we believe are the most promising. As a result, we may forego or delay our pursuit of opportunities with other product candidates or other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. We may in the future spend our resources on other research programs and product candidates for specific indications that ultimately do not yield any commercially viable products. Furthermore, 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.

***We must meet post-marketing requirements associated with the Arakoda NDA imposed by the FDA. Failure to complete such requirements, or delays due to lack of resources or other factors, may negatively impact our business.***

When the FDA approved the Arakoda NDA in August 2018, it imposed post-marketing requirements on us, including associated timelines. We have made substantial progress in meeting all such requirements and recently published data from a clinical trial related to one of them. However, we have experienced delays in our ability to execute our observational and pediatric study requirements and are in discussion with the FDA regarding future plans relating to our pediatric program. We may experience new or additional delays in the future on one or more of its post-marketing requirements in the future. As of the date of this prospectus, we have not received acknowledgement from the FDA that any of the post-marketing requirements are completed nor been referred for enforcement action due to delays in our post-marketing studies. If we fail to meet FDA requirements, experiences additional delays or is referred for enforcement action, we might require diversion of managerial and capital resources from planned research and development to completion of post-marketing requirements, or the FDA might revoke the NDA for Arakoda, and therefore harm the business. In the future, regulators may impose additional post-marketing requirements for Arakoda for malaria or other indications, or in relation to our products. This situation would require expensive clinical or non-clinical studies that might damage our financial position.

***We are subject to U.S. and certain foreign export and import controls, sanctions, embargoes, anti-corruption laws, and anti-money laundering laws and regulations. Compliance with these legal standards could impair our ability to compete in domestic and international markets. We can face criminal liability and other serious consequences for violations, which can harm our business.***

We are subject to export control and import laws and regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations, various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls, the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, the USA PATRIOT Act, and other state and national anti-bribery and anti-money laundering laws in the countries in which we conduct activities. Anti-corruption laws are interpreted broadly and prohibit companies and their employees, agents, contractors, and other collaborators from authorizing, promising, offering, or providing, directly or indirectly, improper payments or anything else of value to recipients in the public or private sector. We may engage third parties for clinical trials outside of the United States, to sell our products abroad once we enter a commercialization phase, and/or to obtain necessary permits, licenses, patent registrations, and other regulatory approvals. We have direct or indirect interactions with officials and employees of government agencies or government-affiliated hospitals, universities, and other organizations. We can be held liable for the corrupt or other illegal activities of our employees, agents, contractors, and other collaborators, even if we do not explicitly authorize or have actual knowledge of such activities. Any violations of the laws and regulations described above may result in substantial civil and criminal fines and penalties, imprisonment, the loss of export or import privileges, debarment, tax reassessments, breach of contract and fraud litigation, reputational harm, and other consequences.

***Continued uncertain economic conditions, including inflation and the risk of a global recession could impair our ability to forecast and may harm our business, operating results, including our revenue growth and profitability, financial condition and cash flows.***

The U.S. economy is experiencing the highest rates of inflation since the 1980s. Historically, we have not experienced significant inflation risk in our business. However, our ability to raise our product prices depends on market conditions and there may be periods during which we are unable to fully recover increases in our costs. In addition, the global economy suffers from slowing growth and rising interest rates, and many economists believe that a global recession may begin in the near future. If the global economy slows, our business would likely be adversely affected.

Also, the global credit and financial markets have recently experienced extreme volatility and disruptions, including severely diminished liquidity and credit availability, increases in unemployment rates and uncertainty about economic stability. There can be no assurance that further deterioration in credit and financial markets and confidence in economic conditions will not occur. Our general business strategy may be adversely affected by any such economic downturn, volatile business environment or continued unpredictable and unstable market conditions.

***Geopolitical conditions, including direct or indirect acts of war or terrorism, could have an adverse effect on our operations and financial results.***

Our operations could be disrupted by geopolitical conditions, political and social instability, acts of war, terrorist activity or other similar events. In February 2022, Russia initiated significant military action against Ukraine. In response, the U.S. and certain other countries imposed significant sanctions and export controls against Russia, Belarus and certain individuals and entities connected to Russian or Belarusian political, business, and financial organizations, and the U.S. and certain other countries could impose further sanctions, trade restrictions, and other retaliatory actions should the conflict continue or worsen. It is not possible to predict the broader consequences of the conflict, including related geopolitical tensions, and the measures and retaliatory actions taken by the U.S. and other countries in respect thereof as well as any counter measures or retaliatory actions by Russia or Belarus in response, including, for example, potential cyberattacks or the disruption of energy exports, is likely to cause regional instability, geopolitical shifts, and could materially adversely affect global trade, currency exchange rates, regional economies and the global economy. The situation remains uncertain, and while it is difficult to predict the impact of any of the foregoing, the conflict and actions taken in response to the conflict could increase our costs, disrupt our supply chain, reduce our sales and earnings, impair our ability to raise additional capital when needed on acceptable terms, if at all, or otherwise adversely affect our business, financial condition, and results of operations.

***We could be subject to lawsuits.***

We may be party to lawsuits, settlement discussions, mediations, arbitrations and other disputes, including patent and product liability claims, whether brought by companies, individuals or governmental authorities. These matters may result in a loss of patent protection, reduced revenue, incurrence of significant liabilities and diversion of our management’s time, attention and resources. Our insurance coverage may not provide adequate protection against actual losses. In addition, we are subject to the risk that one or more of our insurers may become insolvent and become unable to pay claims that may be made in the future. Even if we maintain adequate insurance, claims could have a material adverse effect on our financial condition, liquidity and results of operations and on our ability to obtain suitable, adequate or cost-effective insurance in the future. Litigation and other disputes, including any adverse outcomes, may have an adverse impact on our business, operations or financial condition. Even claims without merit could subject us to adverse publicity and require us to incur significant legal fees.

***We currently, and may in the future, have assets held at financial institutions that may exceed the insurance coverage offered by the Federal Deposit Insurance Corporation, the loss of such assets would have a severe negative affect on our operations and liquidity.***

We may maintain our cash assets at certain financial institutions in the U.S. in amounts that may be in excess of the Federal Deposit Insurance Corporation (“FDIC”) insurance limit of $250,000. In the event of a failure of any financial institutions where we maintain our deposits or other assets, we may incur a loss to the extent such loss exceeds the FDIC insurance limitation, which could have a material adverse effect upon our liquidity, financial condition and our results of operations.

**Risks Related to Intellectual Property and Other Legal Matters**

***If product liability lawsuits are successfully brought against us, then we will incur substantial liabilities and may be required to limit commercialization of Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir or other product candidates.***

We may face product liability exposure related to the testing of our product candidates in human clinical trials, and may face exposure to claims by an even greater number of persons once we begin marketing and distributing our products commercially. If we cannot successfully defend against product liability claims, then we will incur substantial liabilities.

Regardless of merit or eventual outcome, liability claims may result in:

- decreased demand for our products and product candidates;
- injury to our reputation;
- withdrawal of clinical trial participants;
- costs of related litigation;
- substantial monetary awards to patients and others;
- loss of revenues; and
- the inability to commercialize our products and product candidates.

We have obtained limited product liability insurance coverage. Such coverage, however, may not be adequate or may not continue to be available to us in sufficient amounts or at an acceptable cost, or at all. We may not be able to obtain commercially reasonable product liability insurance for any product candidate.

***Defending against claims relating to improper handling, storage or disposal of hazardous chemicals, radioactive or biological materials could be time consuming and expensive.***

Our research and development of product candidates may involve the controlled use of hazardous materials, including chemicals, radioactive and biological materials. We cannot eliminate the risk of accidental contamination or discharge and any resultant injury from the materials. Various laws and regulations govern the use, manufacture, storage, handling and disposal of hazardous materials. We may be sued or be required to pay fines for any injury or contamination that results from our use or the use by third parties of these materials. Compliance with environmental laws and regulations may be expensive, and current or future environmental regulations may impair our research, development and production efforts.

***Third parties may own or control patents or patent applications that we may be required to license to commercialize our product candidates or that could result in litigation that would be costly and time consuming.***

Our or any strategic partner’s ability to commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and other product candidates depends upon our ability to develop, manufacture, market and sell these drugs without infringing the proprietary rights of third parties. A number of pharmaceutical and biotechnology companies, universities and research institutions have or may be granted patents that cover technologies similar to the technologies owned by or licensed to us. We may choose to seek, or be required to seek, licenses under third-party patents, which would likely require the payment of license fees or royalties or both. We may also be unaware of existing patents that may be infringed by Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications or Celgosivir, the genetic testing we intend to use in connection with Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir or our other product candidates. Because patent applications can take many years to issue, there may be other currently pending applications that may later result in issued patents that are infringed by Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir or our other product candidates. Moreover, a license may not be available to us on commercially reasonable terms, or at all.

There is a substantial amount of litigation involving patent and other intellectual property rights in the biotechnology and biopharmaceutical industries generally. If a third-party claims that we are infringing on its technology, then our business and results of operations could be harmed by a number of factors, including:

- infringement and other intellectual property claims, even if without merit, are expensive and time-consuming to litigate and can divert management's attention from our core business;
- monetary damage awards for past infringement can be substantial;
- a court may prohibit us from selling or licensing product candidates unless the patent holder chooses to license the patent to us; and
- if a license is available from a patent holder, we may have to pay substantial royalties.

We may also be forced to bring an infringement action if we believe that a competitor is infringing our protected intellectual property. Any such litigation will be costly, time-consuming and divert management's attention, and the outcome of any such litigation may not be favorable to us.

***Our intellectual property rights may not preclude competitors from developing competing products and our business may suffer.***

Our competitive success will depend, in part, on our ability to obtain and maintain patent protection for our inventions, technologies and discoveries, including intellectual property that we license. The patent positions of biotechnology companies involve complex legal and factual questions, and we cannot be certain that our patents and licenses will successfully preclude others from using our technology. Consequently, we cannot be certain that any of our patents will provide significant market protection or will not be circumvented or challenged and found to be unenforceable or invalid. In some cases, patent applications in the United States and certain other jurisdictions are maintained in secrecy until patents issue, and since publication of discoveries in the scientific or patent literature often lags behind actual discoveries, we cannot be certain of the priority of inventions covered by pending patent applications. An adverse outcome could subject us to significant liabilities to third parties, require disputed rights to be licensed from third parties or require us to cease using such technology. Regardless of merit, the listing of patents in the FDA Orange Book for Arakoda, Celgosivir may be challenged as being improperly listed. We may have to defend against such claims and possible associated antitrust issues. We could also incur substantial costs in seeking to enforce our proprietary rights against infringement.

We may not be able to effectively protect our intellectual property rights in some foreign countries, as our patents are limited by jurisdiction and many countries do not offer the same level of legal protection for intellectual property as the United States.

We require our employees, consultants, business partners and members of our scientific advisory board to execute confidentiality agreements upon the commencement of employment, consulting or business relationships with us. These agreements provide that all confidential information developed or made known during the course of the relationship with us be kept confidential and not disclosed to third parties except in specific circumstances. In the case of employees, the agreements provide that all inventions resulting from work performed for us, utilizing the property or relating to our business and conceived or completed by the individual during employment shall be our exclusive property to the extent permitted by applicable law.

Third parties may breach these and other agreements with us regarding our intellectual property and we may not have adequate remedies for the breach. Third parties could also fail to take necessary steps to protect our licensed intellectual property, which could seriously harm our intellectual property position.

If we are not able to protect our proprietary technology, trade secrets and know-how, then our competitors may develop competing products. Any issued patent may not be sufficient to prevent others from competing with us. Further, we have trade secrets relating to Arakoda, Celgosivir, and such trade secrets may become known or independently discovered. Our issued patents and those that may issue in the future, or those licensed to us, may be challenged, opposed, invalidated or circumvented, which could allow competitors to market similar products or limit the patent protection term of our product candidates. All of these factors may affect our competitive position.

***If the manufacture, use or sale of our products infringe on the intellectual property rights of others, we could face costly litigation, which could cause us to pay substantial damages or licensing fees and limit our ability to sell some or all of our products.***

Extensive litigation regarding patents and other intellectual property rights has been common in the biopharmaceutical industry. Litigation may be necessary to assert infringement claims, enforce patent rights, protect trade secrets or know-how and determine the enforceability, scope and validity of certain proprietary rights. Litigation may even be necessary to defend disputes of inventorship or ownership of proprietary rights. The defense and prosecution of intellectual property lawsuits, U.S. Patent and Trademark Office interference proceedings, and related legal and administrative proceedings (e.g., a re-examination, *inter partes* review, or post-grant review) in the United States and internationally involve complex legal and factual questions. As a result, such proceedings are costly and time-consuming to pursue, and their outcome is uncertain.

Regardless of merit or outcome, our involvement in any litigation, interference or other administrative proceedings could cause us to incur substantial expense and could significantly divert the efforts of our technical and management personnel. Any public announcements related to litigation or interference proceedings initiated or threatened against us could cause our stock price to decline. Adverse outcomes in patent litigation may potentially subject us to antitrust litigation which, regardless of the outcome, would adversely affect our business. An adverse determination may subject us to the loss of our proprietary position or to significant liabilities, or require us to seek licenses that may include substantial cost and ongoing royalties. Licenses may not be available from third parties, or may not be obtainable on satisfactory terms. An adverse determination or a failure to obtain necessary licenses may restrict or prevent us from manufacturing and selling our products, if any. These outcomes could materially harm our business, financial condition and results of operations.

***Patent reform legislation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents.***

Changes in either the patent laws or interpretation of the patent laws in the United States and Ex-US could increase the uncertainties and costs. Recent patent reform legislation in the United States and other countries, including the Leahy-Smith America Invents Act (the “Leahy-Smith Act”), signed into law in the United States on September 16, 2011, could increase those uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. The Leahy-Smith Act includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted, redefine prior art and provide more efficient and cost-effective avenues for competitors to challenge the validity of patents. These include allowing third-party submission of prior art to the USPTO during patent prosecution and additional procedures to attack the validity of a patent by USPTO administered post-grant proceedings, including post-grant review, inter partes review, and derivation proceedings. After March 2013, under the Leahy-Smith Act, the United States transitioned to a first inventor to file system in which, assuming that the other statutory requirements are met, the first inventor to file a patent application will be entitled to the patent on an invention regardless of whether a third-party was the first to invent the claimed invention. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

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. Depending on future actions by the U.S. Congress, the U.S. courts, the USPTO and the relevant law-making bodies in other countries, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future.

***The patent protection and patent prosecution for some of our product candidates is dependent or may be dependent in the future on third parties.***

While we normally seek and gain the right to fully prosecute the patents relating to our product candidates, there may be times when platform technology patents or product-specific patents that relate to our product candidates are controlled by our licensors. In addition, our licensors and/or licensees may have back-up rights to prosecute patent applications in the event that we do not do so or choose not to do so, and our licensees may have the right to assume patent prosecution rights after certain milestones are reached. If any of our licensing collaborators fails to appropriately prosecute and maintain patent protection for patents covering any of our product candidates, our ability to develop and commercialize those product candidates may be adversely affected and we may not be able to prevent competitors from making, using and selling competing products.

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

Patents are of national or regional effect, and filing, prosecuting and defending patents on all of our product candidates throughout the world would be prohibitively expensive. As such, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Further, the legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents and other intellectual property protection, particularly those relating to pharmaceuticals or biologics, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our proprietary rights generally. In addition, certain developing countries, including China and India, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In those countries, we and our licensors may have limited remedies if patents are infringed or if we or our licensors are compelled to grant a license to a third-party, which could materially diminish the value of those patents. This could limit our potential revenue opportunities. 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.

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

Patent rights are of limited duration. 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 product candidates are commercialized. Even if patents covering our product candidates are obtained, once the patent life has expired for a product, we may be open to competition from biosimilar or generic products. A patent term extension based on regulatory delay may be available in the U.S. However, only a single patent can be extended for each marketing approval, and any patent can be extended only once, for a single product. Moreover, the scope of protection during the period of the patent term extension does not extend to the full scope of the claim, but instead only to the scope of the product as approved. Laws governing analogous patent term extensions in foreign jurisdictions vary widely, as do laws governing the ability to obtain multiple patents from a single patent family. Additionally, 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. If we are unable to obtain patent term extension or restoration, or the term of any such extension is less than we request, the period during which we will have the right to exclusively market our product will be shortened and our competitors may obtain approval of competing products following our patent expiration, and our revenue could be reduced, possibly materially.

***The earliest Paragraph IV certification date for Arakoda has passed. Generic companies may file an ANDA at any time, and successful challenge of our malaria use patents would negatively impact our business.***

The PDUFA date for Arakoda is August 8, 2018, and the beginning date for exclusivity associated with the product's API is July 20, 2018. The five-year data exclusivity ending date for Arakoda is July 20, 2023. Therefore, the earliest date a generic company could file an ANDA, claiming such an application does not infringe our Orange Book listed patents was July 20, 2022. Any generic company filing such an abbreviated new drug application ("ANDA") with FDA, must notify us within 20 calendar days of receiving acknowledgement from the FDA or receipt of such an ANDA. Thus, the earliest date we could receive such a notification was August 9, 2022.

As of the date of this prospectus, to the best of our knowledge, no such notice has been received by us. However, such a notice might be received at any time. Such a notice might require us to undertake expensive litigation to defend our patents related to Arakoda's malaria indication, thereby diverting funds away from critical research and development efforts for Tafenoquine (Arakoda or other regimen) for other indications. This potential litigation and the related expenditure may harm our business. Additionally, the approval of any ANDA would increase competition and most likely drive down prices for Arakoda.

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

Periodic maintenance fees on any issued patent are due to be paid to the USPTO and foreign patent agencies in several stages over the lifetime of the patent. The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. While an inadvertent lapse can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Non-compliance events that could result in abandonment or lapse of a patent or patent application include, but are not limited to, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we fail to maintain the patents and patent applications covering our product candidates, our competitive position would be adversely affected.

**Risks Related to this Offering**

***Our management will have broad discretion over the use of any net proceeds from this offering and you may not agree with how we use the proceeds, and the proceeds may not be invested successfully.***

Our management will have broad discretion as to the use of any net proceeds from this offering and could use them for purposes other than those contemplated at the time of this offering and in ways that do not necessarily improve our results of operations or enhance the value of our common stock. Accordingly, you will be relying on the judgment of our management with regard to the use of any proceeds from this offering and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. It is possible that the proceeds will be invested in a way that does not yield a favorable, or any, return for you.

***Investors in this offering may experience future dilution as a result of this and future equity offerings.***

In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock. Investors purchasing our shares or other securities in the future could have rights superior to existing common stockholders, and the price per share at which we sell additional shares of our common stock or other securities convertible into or exchangeable for our common stock in future transactions may be higher or lower than the price per Unit in this offering.

***If we issue shares of preferred stock your rights as a holder of our common stock or warrants may be materially adversely affected.***

As of the date of this prospectus, we are authorized to issue up to 1,000,000 shares of “blank check” preferred stock. Upon the consummation of this offering, we will have authorized shares of 80,965 Series A Preferred Stock, of which 80,965 shares of Series A Preferred Stock will be issued and outstanding. The designations, rights and preferences of our other preferred stock may be determined from time-to-time by our Board. Accordingly, our Board is empowered, without stockholder approval, to issue one or more series of preferred stock with dividend, liquidation, conversion, voting or other rights superior to those of the holders of our common stock. For example, an issuance of shares of preferred stock could:

- adversely affect the voting power of the holders of our common stock;
- make it more difficult for a third-party to gain control of us;
- discourage bids for our common stock;

- limit or eliminate any payments that the holders of our common stock could expect to receive upon our liquidation; or
- adversely affect the market price of our common stock.

***Sales of a significant number of shares of our common stock in the public markets, or the perception that such sales could occur, could depress the market price of our common stock.***

Sales of a substantial number of shares of our common stock in the public markets could depress the market price of our common stock and impair our ability to raise capital through the sale of additional equity securities. We cannot predict the effect that future sales of our common stock would have on the market price of our common stock.

***Existing stockholders may sell significant quantities of common stock.***

The existing shareholders will own 73.8% of our common stock following the successful completion of this offering. Notwithstanding that certain of our officers and directors who are shareholders will be locked up for a period of six months, and any greater than 5% holders of our common stock will also be locked up for a period of six months, following the completion of this offering, our existing stockholders may have acquired their shares at a lower price than that of this offering. Accordingly, they may be incentivized to sell all or part of their holdings as soon as any applicable transfer restrictions have ended and such sales could have a negative impact on the market price of our common stock. In addition, large number of sales of our common stock by the selling stockholders named in the Resale Prospectus could depress the market price of our common stock and make it more difficult to sell your shares of our common stock.

***If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.***

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. Several analysts may cover our stock. If one or more of those analysts downgrade our stock or publish inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts cease coverage of our Company or fail to publish reports on us regularly, demand for our stock could decrease, which might cause our stock price and trading volume to decline.

***The requirements of being a public company.***

As a public company, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), the Dodd-Frank Wall Street Reform and Consumer Protection Act, (the "Dodd-Frank Act") and other applicable securities rules and regulations. Compliance with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and increase demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could harm our business and operating results. We may need to hire more employees in the future to comply with these requirements, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. 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 our efforts to comply with new laws, regulations, and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

We also expect that being a public company and these new rules and regulations will make it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our board of directors ("Board") and qualified executive officers.

As a result of disclosure of information in this prospectus and in filings required of a public company, our business and financial condition will become more visible, which we believe may result in increased threatened or actual litigation, including by competitors and other third parties. If such claims are successful, our business and operating results could be harmed, and even if the claims do not result in litigation or are resolved in our favor, these claims, and the time and resources necessary to resolve them, could divert the resources of our management and harm our business and operating results.

**Risks Relating to Ownership of Our Securities**

***There has been no public market for our common stock or Tradeable Warrants prior to this offering, and we cannot assure you that an active trading market will develop in the near future.***

Prior to this offering, there has been no public market for our common stock or Tradable Warrants. All investments in securities involve the risk of loss of capital. No guarantee or representation is made that an investor will receive a return of its capital. The value of our common stock or Tradeable Warrants can be adversely affected by a variety of factors, including development problems, regulatory issues, technical issues, commercial challenges, competition, legislation, government intervention, industry developments and trends, and general business and economic conditions. We cannot predict the extent to which an active market for our common stock or Tradeable Warrants will develop or be sustained after this offering, or how the development of such a market might affect the market price of our common stock.

***The public price of our common stock may be volatile, and could, following a sale decline significantly and rapidly.***

The initial public offering price for the Units will be determined by negotiations between us and the underwriters and may not be indicative of prices that will prevail in the open market following this offering. The market price of our common stock may decline below the initial offering price, and you may not be able to sell your shares of our common stock at or above the price you paid in the offering, or at all. Following this offering, the public price of our common stock in the secondary market will be determined by private buy and sell transaction orders collected from broker-dealers.

In addition, the stock market in general has experienced significant price and volume fluctuations that have often been unrelated or disproportionate to operating performance of individual companies, particularly following an initial public offering of a company with a small public float. There is the potential for rapid and substantial price volatility of our common stock following this offering. These broad market factors may seriously harm the market price of our common stock, regardless of our actual or expected operating performance and financial condition or prospects, which may make it difficult for investors to assess the rapidly changing value of our common stock. In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been instituted. A class action suit against us could result in significant liabilities and, regardless of the outcome, could result in substantial costs and the diversion of our management's resources and attention.

Stock price run-ups followed by rapid price declines and stock price volatility may also be completely unrelated to company performance. Such volatility, including any stock-run up, may be unrelated to our actual or expected operating performance and financial condition or prospects, making it difficult for prospective investors to assess the rapidly changing value of our stock.

***A possible "short squeeze" due to a sudden increase in demand of our common stock that largely exceeds supply may lead to price volatility in our common stock.***

Following this offering, investors may purchase our common stock to hedge existing exposure in our common stock or to speculate on the price of our common stock. Speculation on the price of our common stock may involve long and short exposures. To the extent aggregate short exposure exceeds the number of shares of our common stock available for purchase in the open market, investors with short exposure may have to pay a premium to repurchase our common stock for delivery to lenders of our common stock. Those repurchases may in turn dramatically increase the price of our common stock until investors with short exposure are able to purchase additional shares of common stock to cover their short position. This is often referred to as a "short squeeze." A short squeeze could lead to volatile price movements in our common stock that are not directly correlated to the performance or prospects of our Company and once investors purchase the shares of common stock necessary to cover their short position, the price of our common stock may decline.

***We may not be able to satisfy listing requirements of Nasdaq to maintain a listing of our common stock or Tradeable Warrants.***

If our common stock and Tradeable Warrants are listed on Nasdaq, we must meet certain financial and liquidity criteria to maintain such listing. If we violate the maintenance requirements for continued listing of our common stock and Tradeable Warrants, our common stock and Tradeable Warrants may be delisted. In addition, our Board may determine that the cost of maintaining our listing on a national securities exchange outweighs the benefits of such listing. A delisting of our common stock or Tradeable Warrants from Nasdaq may materially impair our stockholders' ability to buy and sell our common stock or Tradeable Warrants and could have an adverse effect on the market price of, and the efficiency of the trading market for, our common stock and Tradeable Warrants. In addition, the delisting of our common stock or Tradeable Warrants could significantly impair our ability to raise capital. Although we expect our common stock and Tradeable Warrants will be approved for listing on Nasdaq, an active trading market for our shares or Tradeable Warrants may never develop or be sustained following this offering.

***There is no public market for the Non-tradeable Warrants being offered in this offering.***

There is no public trading market for the Non-tradeable Warrants offered by this prospectus, and we do not expect a market to develop. In addition, we do not intend to apply to list the Non-tradeable Warrants on any exchange or market. Without an active market, the liquidity of the Non-tradeable Warrants will be limited.

***Warrants are speculative in nature.***

The warrants offered in this offering do not confer any rights of common stock ownership on their holders, such as voting rights or the right to receive dividends, but rather merely represent the right to acquire shares of our common stock at a fixed price for a limited period of time. Specifically, commencing on the date of issuance, holders of the Tradeable Warrants may exercise their right to acquire the common stock and pay an exercise price of $6.095 per share (115% of the offering price per Unit), from time to time, until the fifth anniversary from the date of issuance, after which date any unexercised Tradeable Warrants will expire and have no further value. Also, commencing on the date of issuance, holders of the Non-tradeable Warrants may exercise their right to acquire the common stock and pay an exercise price of $6.36 per share (120% of the offering price per Unit), from time to time, until the fifth anniversary from the date of issuance, after which date any unexercised Non-tradeable Warrants will expire and have no further value. In addition, there is no established trading market for the Non-tradeable Warrants.

***Since the warrants are executory contracts, they may have no value in a bankruptcy or reorganization proceeding.***

In the event a bankruptcy or reorganization proceeding is commenced by or against us, a bankruptcy court may hold that any unexercised warrants are executory contracts that are subject to rejection by us with the approval of the bankruptcy court. As a result, holders of the warrants may, even if we have sufficient funds, not be entitled to receive any consideration for their warrants or may receive an amount less than they would be entitled to if they had exercised their warrants prior to the commencement of any such bankruptcy or reorganization proceeding.

***Holders of our warrants will have no rights as a common stockholder until they acquire our common stock.***

Until investors acquire shares of our common stock upon exercise of the warrants being offered in this offering, they will have no rights with respect to our common stock such as voting rights or the right to receive dividends. Upon exercise of such warrants, holders will be entitled to exercise the rights of a common stockholder only as to matters for which the record date occurs after the exercise date.

***Provisions of the warrants offered by this prospectus could discourage an acquisition of us by a third-party.***

Certain provisions of the warrants offered by this prospectus could make it more difficult or expensive for a third-party to acquire us. The warrants prohibit us from engaging in certain transactions constituting "fundamental transactions" unless, among other things, the surviving entity assumes our obligations under the warrants. These and other provisions of the warrants offered by this prospectus could prevent or deter a third-party from acquiring us even where the acquisition could be beneficial to you.

***If we do not file and maintain a current and effective prospectus relating to the common stock issuable upon exercise of the warrants, holders will only be able to exercise such warrants on a "cashless basis."***

If we do not file and maintain a current and effective registration statement relating to the common stock issuable upon exercise of the warrants at the time that holders wish to exercise such warrants, they will only be able to exercise them on a "cashless basis" provided that an exemption from registration is available. As a result, the number of shares of common stock that holders will receive upon exercise of the warrants will be fewer than it would have been had such holder exercised his, her or its warrants for cash. Further, if an exemption from registration is not available, holders would not be able to exercise on a cashless basis and would only be able to exercise their warrants for cash if a current and effective registration statement relating to the common stock issuable upon exercise of the warrants is available. Under the terms of the underwriting agreement, we have agreed to use our best efforts to meet these conditions and to file and maintain a current and effective registration statement relating to the common stock issuable upon exercise of the warrants until the expiration of the warrants. However, we cannot assure you that we will be able to do so. If we are unable to do so, the potential "upside" of the holder's investment in our Company may be reduced or the warrants may expire worthless.

***We may amend the terms of the warrants in a way that may be adverse to holders with the approval by the holders of a majority of the then outstanding warrants.***

The Warrant Agent Agreement provides that the terms of the warrants may be amended without the consent of any holder to cure any ambiguity or correct any defective provision. All other modifications or amendments, including any amendment to increase the exercise price of the warrants or shorten the exercise period of the warrants, shall require the written consent of the registered holders of a majority of the then outstanding warrants which may be contrary to your interests.

***The warrants may have an adverse effect on the market price of our common stock and make it more difficult to effect a business combination.***

We will be issuing warrants to purchase shares of common stock as part of this offering. To the extent we issue shares of common stock to effect a future business combination, the potential for the issuance of a substantial number of additional shares upon exercise of the warrants could make us a less attractive acquisition vehicle in the eyes of a target business. Such warrants, when exercised, will increase the number of issued and outstanding shares of common stock and reduce the value of the shares issued to complete the business combination. Accordingly, the warrants may make it more difficult to effectuate a business combination or increase the cost of acquiring a target business. Additionally, the sale, or even the possibility of a sale, of the shares of common stock underlying the warrants could have an adverse effect on the market price for our securities or on our ability to obtain future financing. If and to the extent the warrants are exercised, you may experience dilution to your holdings.

***Our Warrant Agent Agreement designate the courts of the State of New York or the United States District Court for the Southern District of New York as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by holders of our warrants, which could limit the ability of warrant holders to obtain a favorable judicial forum for disputes with our Company.***

Our Warrant Agent Agreement provides that, subject to applicable law, (i) any action, proceeding or claim against us arising out of or relating in any way to the Warrant Agent Agreement, including under the Securities Act, will be brought and enforced in the courts of the State of New York or the United States District Court for the Southern District of New York, and (ii) that we irrevocably submit to such jurisdiction, which jurisdiction shall be the exclusive forum for any such action, proceeding or claim. We will waive any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum.

Notwithstanding the foregoing, these provisions of the Warrant Agent Agreement do not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal district courts of the United States of America are the sole and exclusive forum. Any person or entity purchasing or otherwise acquiring any interest in any of our warrants shall be deemed to have notice of and to have consented to the forum provisions in our Warrant Agent Agreement.

If any action, the subject matter of which is within the scope of the forum provisions of the Warrant Agent Agreement, is filed in a court other than courts of the State of New York or the United States District Court for the Southern District of New York (a "foreign action") in the name of any holder of our warrants, such holder shall be deemed to have consented to: (x) the personal jurisdiction of the state and federal courts located in the State of New York in connection with any action brought in any such court to enforce the forum provisions (an "enforcement action"), and (y) having service of process made upon such warrant holder in any such enforcement action by service upon such warrant holder's counsel in the foreign action as an agent for such warrant holder.

This choice-of-forum provision may limit a warrant holder's ability to bring a claim in a judicial forum that it finds favorable for disputes with our Company, which may discourage such lawsuits. Alternatively, if a court were to find this provision of our Warrant Agent Agreement inapplicable or unenforceable with respect to one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could materially and adversely affect our business, financial condition and results of operations and result in a diversion of the time and resources of our management and Board.

***We may be subject to securities litigation, which is expensive and could divert our management's attention.***

The market price of our securities may be volatile, and in the past companies that have experienced volatility in the market price of their securities have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns.

***Our failure to maintain effective internal controls over financial reporting could have an adverse impact on us.***

We are required to establish and maintain appropriate internal controls over financial reporting. Failure to establish those controls, or any failure of those controls once established, could adversely impact our public disclosures regarding our business, financial condition or results of operations. In addition, management's assessment of internal controls over financial reporting may identify weaknesses and conditions that need to be addressed in our internal controls over financial reporting or other matters that may raise concerns for investors. Any actual or perceived weaknesses and conditions that need to be addressed in our internal control over financial reporting, disclosure of management's assessment of our internal controls over financial reporting or disclosure of our public accounting firm's attestation to or report on management's assessment of our internal controls over financial reporting may have an adverse impact on the price of our common stock.

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. In addition, the design of a control system must reflect the fact that there are resource constraints and the benefit of controls must be relative to their costs. Because of the inherent limitations in all control systems, no system of controls can provide absolute assurance that all control issues and instances of fraud, if any, within our Company have been detected. 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. Further, controls can be circumvented by individual acts of some persons, by collusion of two or more persons, or by management override of the controls. The design of any system of controls is also based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, a control may become inadequate because of changes in conditions or the degree of compliance with policies or procedures may deteriorate. Because of inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and may not be detected.

At present, we are executing a plan to improve existing internal controls by segregating accounting functions through outsourcing. For over 10 years, our Chief Executive Officer and Chief Financial Officer have worked together in a collaborative relationship using budgets to track finances with limited resources. Our management, including our President and Chief Executive Officer, cannot guarantee that our internal controls and disclosure controls that we have in place will prevent all possible errors, mistakes or fraud. If we fail to have effective controls and procedures for financial reporting in place, we could be unable to provide timely and accurate financial information and be subject to investigation by the SEC and civil or criminal sanctions.

***Our financial controls and procedures may not be sufficient to ensure timely and reliable reporting of financial information, which, as a public company, could materially harm our stock price.***

We require significant financial resources to maintain our public reporting status. We cannot assure you we will be able to maintain adequate resources to ensure that we will not have any future material weakness in our system of internal controls. The effectiveness of our controls and procedures may in the future be limited by a variety of factors including:

- faulty human judgment and simple errors, omissions or mistakes;
- fraudulent action of an individual or collusion of two or more people;
- inappropriate management override of procedures; and
- the possibility that any enhancements to controls and procedures may still not be adequate to assure timely and accurate financial information.

Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States of America. Our internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the financial statements.

Despite these controls, because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance of achieving their control objectives. Furthermore, smaller reporting companies like us face additional limitations. Smaller reporting companies employ fewer individuals and can find it difficult to employ resources for complicated transactions and effective risk management. Additionally, smaller reporting companies tend to utilize general accounting software packages that lack a rigorous set of software controls.

***Our status as an "emerging growth company" under the JOBS Act may make it more difficult to raise capital as and when we need it.***

Because of the exemptions from various reporting requirements provided to us as an "emerging growth company" and because we will have an extended transition period for complying with new or revised financial accounting standards, we may be less attractive to investors and it may be difficult for us to raise additional capital as and when we need it. Investors may be unable to compare our business with other companies in our industry if they believe that our financial accounting is not as transparent as other companies in our industry. If we are unable to raise additional capital as and when we need it, our financial condition and results of operations may be materially and adversely affected.

***The elimination of personal liability against our directors and officers under Delaware law and the existence of indemnification rights held by our directors, officers and employees may result in substantial expenses.***

Our certificate of incorporation, as corrected ("Certificate of Incorporation"), and our amended and restated bylaws ("Bylaws") eliminate the personal liability of our directors and officers to us and our stockholders for damages for breach of fiduciary duty as a director or officer to the extent permissible under Delaware law. Further, our Certificate of Incorporation provides that we are obligated to indemnify each of our directors or officers to the fullest extent authorized by Delaware law. Those indemnification obligations could expose us to substantial expenditures to cover the cost of settlement or damage awards against our directors or officers, which we may be unable to afford. Further, those provisions and resulting costs may discourage us or our stockholders from bringing a lawsuit against any of our current or former directors or officers for breaches of their fiduciary duties, even if such actions might otherwise benefit our stockholders. Note that for liabilities arising under the Securities Act, we have 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.

***You should consult your own independent tax advisor regarding any tax matters arising with respect to the securities offered in connection with this offering.***

Participation in this offering could result in various tax-related consequences for investors. All prospective purchasers of the resold securities are advised to consult their own independent tax advisors regarding the U.S. federal, state, local and non-U.S. tax consequences relevant to the purchase, ownership and disposition of the resold securities in their particular situations.

***We have not paid dividends in the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of our stock.***

We have never declared or paid cash dividends on our common stock since inception as this is not how an LLC returns capital to its members and do not anticipate paying any cash dividends on our common stock as a C-Corporation in the foreseeable future. Instead, we currently intend to retain any future earnings for working capital and to support the growth and development of our business. Our payment of any future dividends will be at the discretion of our Board after taking into account various factors, including, but not limited to, our earnings, capital requirements, financial condition, prospects, operating results, cash needs, growth plans, applicable Delaware law and any other factors which our Board may deem relevant. Our ability to pay dividends on our common stock may be limited by Delaware state law. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize a return on their investment. Investors seeking cash dividends should not purchase our common stock.

***We are an "emerging growth company" and a "smaller reporting company" under the JOBS Act, and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies will make our common stock less attractive to investors.***

We are an "emerging growth company" and a "smaller reporting company" as defined in the JOBS Act, and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" and "smaller reporting companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

In addition, Section 107 of the JOBS Act also provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We are choosing to take advantage of the extended transition period for complying with new or revised accounting standards.

We will remain an "emerging growth company" until the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common stock pursuant to an effective registration statement under the Securities Act, although we will lose that status sooner if our revenues exceed $1.235 billion, if we issue more than $1 billion in non-convertible debt in a three year period, or if the market value of our common stock that is held by non-affiliates exceeds $700 million as of the last day of our most recently completed second fiscal quarter.

We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as (i) the market value of our common stock held by non-affiliates is equal to or less than $250 million as of the last business day of the most recently completed second fiscal quarter, and (ii) our annual revenues is equal to or less than $100 million during the most recently completed fiscal year and the market value of our common stock held by non-affiliates is equal to or less than $700 million as of the last business day of the most recently completed second fiscal quarter.

We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. In addition, taking advantage of reduced disclosure obligations may make comparison of our financial statements with other public companies difficult or impossible. If investors are unable to compare our business with other companies in our industry, we may not be able to raise additional capital as and when we need it, which may materially and adversely affect our financial condition and results of operations.

***Our Certificate of Incorporation designates the Court of Chancery of the State of Delaware as the exclusive forum for certain litigation that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us.***

Our Certificate of Incorporation specifies that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, our Certificate of Incorporation or Bylaws, or (iv) any action asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. However, our Certificate of Incorporation states that this exclusive forum provision does not apply to claims arising under federal securities laws. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and to have consented to the provisions of our Certificate of Incorporation as described above.

This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims. As such, stockholders of the Company seeking to bring a claim regarding the internal affairs of the Company may be subject to increased costs associated with litigating in Delaware as opposed to their home state or other forum, precluded from bringing such a claim in a forum they otherwise consider to be more favorable, and discouraged from bringing such claims as a result of the foregoing or other factors related to forum selection. Alternatively, if a court were to find the choice of forum provision contained in our Certificate of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, operating results and financial condition.

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

**IN ADDITION TO THE ABOVE RISKS, BUSINESSES ARE OFTEN SUBJECT TO RISKS NOT FORESEEN OR FULLY APPRECIATED BY MANAGEMENT. IN REVIEWING THIS FILING, POTENTIAL INVESTORS SHOULD KEEP IN MIND THAT OTHER POSSIBLE RISKS MAY ADVERSELY IMPACT OUR BUSINESS OPERATIONS AND THE VALUE OF OUR SECURITIES.**

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains "forward-looking statements." Forward-looking statements reflect the current view about future events. When used in this prospectus, the words "anticipate," "believe," "estimate," "expect," "future," "intend," "plan," or the negative of these terms and similar expressions, as they relate to us or our management, identify forward-looking statements. Such statements include, but are not limited to, statements contained in this prospectus relating to our business strategy, our future operating results and liquidity and capital resources outlook. Forward-looking statements are based on our current expectations and assumptions regarding our business, the economy and other future conditions. Because forward–looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict. Our actual results may differ materially from those contemplated by the forward-looking statements. They are neither statements of historical fact nor guarantees of assurance of future performance. We caution you therefore against relying on any of these forward-looking statements. Important factors that could cause actual results to differ materially from those in the forward-looking statements include, without limitation:

- Our ability to effectively operate our business segments;
- Our ability to manage our research, development, expansion, growth and operating expenses;
- Our ability to evaluate and measure our business, prospects and performance metrics;
- Our ability to compete, directly and indirectly, and succeed in a highly competitive and evolving industry;
- Our ability to respond and adapt to changes in technology and customer behavior;
- Our ability to protect our intellectual property and to develop, maintain and enhance a strong brand; and

- other factors (including the risks contained in the section of this prospectus entitled "*Risk Factors*") relating to our industry, our operations and results of operations.

Should one or more of these risks or uncertainties materialize, or should the underlying assumptions prove incorrect, actual results may differ significantly from those anticipated, believed, estimated, expected, intended or planned.

Factors or events that could cause our actual results to differ may emerge from time to time, and it is not possible for us to predict all of them. We cannot guarantee future results, levels of activity, performance or achievements. Except as required by applicable law, including the securities laws of the United States, we do not intend to update any of the forward-looking statements to conform these statements to actual results.

## USE OF PROCEEDS

We estimate that we will receive net proceeds of approximately $7,500,000 (or approximately $8,625,000 if the underwriters' option to purchase additional shares is exercised in full) from the sale of the Units offered by us in this offering, based on an assumed public offering price of $5.30 per Unit (the midpoint of the price range set forth on the front 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 or decrease in the assumed initial public offering price of $5.30 per Unit (the midpoint of the price range set forth on the front cover page of this prospectus) would increase or decrease, as applicable, the net proceeds that we receive from this offering by approximately $1,415,095, assuming that the number of Units 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. Similarly, each increase or decrease of 500,000 Units offered by us would increase or decrease, as applicable, the net proceeds that we receive from this offering by approximately $2,650,000, assuming the assumed initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The principal purposes of this offering are to increase our capitalization and financial flexibility, increase our visibility in the marketplace and create a public market for our common stock. As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds to us from this offering. However, we currently intend to use the majority of the net proceeds to us from this offering for executing clinical studies and trials.

Our strategic priority is to further develop, through clinical studies and related activities, additional/new indications for our products. Assuming the indicated amount of funds are raised, we anticipate up to $3.6 million will be dedicated to financing such efforts. If market conditions permit, the majority of the available funds will be utilized for the execution of a clinical trial to confirm that Arakoda accelerates recovery from COVID-19 symptoms. Other research activities will include new product research, trial design and opening of an IND for the babesiosis indication, protocol preparation for the pediatric post-marketing requirement, study feasibility for a second COVID-19 trial and mechanism of action studies. If market conditions are not conducive clinical trial activities may be postponed, but the activities mentioned in the aforementioned sentence will continue.

We plan, as resources permit, to conduct additional research and development activities including execution of animal studies to further evaluate the activities of Tafenoquine against *Candida* and Celgosivir against COVID-19. We may also conduct a targeted promotional campaign for Arakoda for the malaria indication in the United States.

We may also retire the following cash commitments to other parties associated with the public offering: $85,000 Singapore Dollars to the National University of Singapore as a license agreement milestone payment and $100,000 to Biointelect. Both payments are due upon the consummation of this offering and are non-interest bearing.

The table below sets forth the manner in which we expect to use the net proceeds we receive from this offering. All amounts included in the table below are estimates.

| **Description** | **Amount** |
|---|---|
| Working Capital and General Corporate Purposes | $ 2,200,000 |
| Debt Repayment | $ 1,700,000 |
| Research and Development (clinical trials and related activities) | $ 3,600,000 |
| Total | $ 7,500,000 |

The foregoing information is an estimate based on our current business plan. We may find it necessary or advisable to re-allocate portions of the net proceeds reserved for one category to another, and we will have broad discretion in doing so. Pending these uses, we intend to invest the net proceeds of this offering in a money market or other interest-bearing account.

## DIVIDEND POLICY

We have not declared any cash dividends since inception and we do not anticipate paying any dividends in the foreseeable future. Instead, we anticipate that all of our earnings will be used to provide working capital, to support our operations, and to finance the growth and development of our business. The payment of dividends is within the discretion of the Board and will depend on our earnings, capital requirements, financial condition, prospects, operating results, cash needs, growth plans, applicable Delaware law, which provides that dividends are only payable out of surplus or current net profits, and other factors our board might deem relevant. There are no restrictions that currently limit our ability to pay dividends on our common stock other than those generally imposed by applicable state law.

## MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

Prior to this offering, our common stock and warrants have not been listed on any stock exchange or quoted on any over-the-counter market or quotation system and there has been no public market for our common stock or warrants. We have applied to have our common stock and Tradeable Warrants listed on The Nasdaq Capital Market under the symbols “SXTP” and “SXTPW,” respectively, which listing is a condition to this offering. There can be no assurance that our listing application will be approved. We do not intend to apply for listing of the Non-tradeable Warrants on any exchange or market. For more information see the section “*Risk Factors*.”

As of April 27, 2023, 2,378,009 shares of our common stock were issued and outstanding and were held by fifteen stockholders of record.

## CAPITALIZATION

The following table sets forth our consolidated cash and capitalization, as of December 31, 2022. Such information is set forth on the following basis:

- on an actual basis;
- on a pro forma basis to reflect the (i) sale of 1,443,000 shares of our common stock by us after December 31, 2022, but prior to this offering, (ii) cancellation of 1,451,000 of shares of our common stock previously owned by Geoffrey Dow and Tyrone Miller between January 2023 and March 2023, (iii) receipt of bridge funding from related parties totaling $248,000 after December 31, 2022 but prior to this offering, (iv) issuance of 29,245 shares of our common stock to BioIntelect pursuant to the BioIntelect Agreement, (v) issuance of 1,074,483 shares of our common stock and 80,965 shares of our preferred stock to Knight as a result of the conversion of our outstanding debt owed to Knight pursuant to the Knight Debt Conversion Agreement, (vi) issuance of 247,642 shares of our common stock as a result of the conversion of our convertible promissory notes excluding the Xu Yu Equity Conversion Note, (vii) issuance of 214,934 shares of our common stock pursuant to the Xu Yu Equity Conversion Note and (viii) issuance of 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part; and
- on a pro forma as adjusted basis to reflect the pro forma adjustments discussed in the prior bullet and our receipt of the net proceeds our sale and issuance of 1,415,095 Units in this offering at an assumed initial public offering price of $5.30 per Unit (the midpoint of the price range set forth on the front cover page of this prospectus), after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us and after the use of net proceeds therefrom.

You should read the following table in conjunction with “*Use of Proceeds*,” “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*” and our financial statements and related notes included in this prospectus.

The pro forma as adjusted information set forth below is illustrative only and will be adjusted based on the actual public offering price and other terms of this offering determined at pricing.

| | Actual[1] | Pro Forma[2] | Pro forma, as adjusted[3] |
|---|---|---|---|
| **Cash** | $ 264,865 | $ 412,865 | $ 7,057,869 |
| **Total Assets** | $ 1,297,096 | $ 8,088,706 | $ 14,733,710 |
| **Total Current Liabilities** | 23,921,211 | 4,815,203 | 4,815,203 |
| **Total Long-Term Liabilities** | $ 1,525,055 | $ 160,272 | $ 160,272 |
| | | | |
| **Stockholders' equity:** | | | |
| Common stock, $0.0001 par value, 150,000,000 shares authorized, 2,386,009 shares issued and outstanding, actual; 150,000,000 shares authorized, 3,934,375 shares issued and outstanding, pro forma; and 150,000,000 shares authorized, 5,349,470 shares issued and outstanding, pro forma as adjusted. | 239 | 398 | 540 |
| Preferred stock, $0.0001 par value, 1,000,000 shares authorized, 0 shares issued and outstanding, actual; 1,000,000 shares authorized, 80,965 shares issued and outstanding, pro forma; and 1,000,000 shares authorized, 80,965 shares issued and outstanding, pro forma as adjusted. | - | 8,096,486 | 8,096,486 |
| Additional paid-in capital | 5,164,461 | 20,795,987 | 27,440,849 |
| Retained earnings (deficit) | (28,815,148) | (25,281,028) | (25,281,028) |
| | | | |
| Total stockholders' equity | (24,149,060) | 3,113,231 | 9,758,235 |
| **Total capitalization** | $ 1,297,206 | $ 8,088,706 | $ 14,733,710 |

(1) As of December 31, 2022.

(2) The number of issued and outstanding shares as of December 31, 2022 on a pro forma basis includes (i) 29,245 shares of our common stock issued to BioIntelect and payment of $100,000 in cash, pursuant to the BioIntelect Agreement, which provides that in connection with our initial public offering, BioIntelect will be entitled to receive deferred equity compensation in the amount equal to $155,000 (or $245,000 if Australian VC Horizon Biotech participates in the offering), (ii) 1,074,483 shares of our common stock and 80,965 shares of our preferred stock that are to be issued to Knight as a result of the conversion of certain of our outstanding debt owed to Knight pursuant to the Knight Debt Conversion Agreement, (iii) 247,642 shares of our common stock that are to be issued of the conversion of our convertible promissory notes, excluding the Xu Yu Equity Conversion Note, (iv) 214,934 shares of our common stock that are to be issued pursuant to the Xu Yu Equity Conversion Note, (v) 405,000 shares of our common stock that were issued in January 2023 to Florida State University Research Foundation, Inc. in exchange for prepaid research and development expenses; (vi) 525,000 shares of our common stock that were issued in January 2023 to Kentucky Technology Inc. in exchange for prepaid research and development expenses, (vii) 120,000 shares of our common stock that were issued in January 2023 to Trevally, LLC in exchange for prepaid services, (viii) 278,700 shares of our common stock that were issued between January 2023 and March 2023 to various service providers in exchange for prepaid services, (ix) 114,300 shares of our common stock that were issued between January 2023 and March 2023 to various service providers in exchange for incurred services, (x) 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part, (xi) the cancellation of 1,451,000 of shares of our common stock previously owned by Geoffrey Dow and Tyrone Miller that were cancelled between January 2023 and March 2023, and (xii) receipt of bridge funding from related parties totaling $248,000 after December 31, 2022 but prior to the date of this prospectus; and excludes 31,447 shares of our common stock underlying a warrant issued to Bigger Capital Fund, LP, 26,206 shares of our common stock underlying a warrant issued to Cavalry Investment Fund, LP, 26,206 shares of our common stock underlying a warrant issued to Walleye Opportunities Master Fund Ltd., 10,482 shares of our common stock underlying a warrant issued to Geoffrey Dow, 69,444 shares of our common stock underlying a warrant issued to Mountjoy Trust, 84,906 shares of our common stock issuable upon the exercise of the Representative Warrants and 238,601 shares of common stock reserved for issuance under our 2022 Equity Incentive Plan.

(3) The number of issued and outstanding shares as of December 31, 2022 on a pro forma basis as adjusted basis reflects the pro forma adjustments discussed in footnote (2) above and our receipt of the net proceeds our sale and issuance of 1,415,095 units in this offering at an assumed initial public offering price of $5.30 per unit (the midpoint of the price range set forth on the front cover page of this prospectus), after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us and after the use of net proceeds therefrom.

(4) Each $1.00 increase or decrease in the assumed initial public offering price of $5.30 per unit (the midpoint of the price range set forth on the front cover page of this prospectus) would increase or decrease, as applicable, the amount of our cash, additional paid-in capital and total stockholders' equity by $1,287,736 and ($1,107,737), respectively, assuming that the number of units offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting estimated underwriting discounts and commissions payable by us. An increase or decrease of 1 million units of our common stock offered by us would increase or decrease, as applicable, the amount of our cash, additional paid-in capital and total stockholders' equity by $5,002,999 and ($4,643,001), respectively, assuming an initial public offering price of $5.15 per unit (the midpoint of the price range set forth on the front cover page of this prospectus) after deducting estimated underwriting discounts and commissions payable by us.

## DILUTION

Purchasers of our common stock in this offering will experience an immediate and substantial dilution in the adjusted net tangible book value of their shares of common stock. Dilution in as adjusted net tangible book value represents the difference between the public offering price per share that is part of the Unit and the as adjusted net tangible book value per share of our common stock immediately after the offering.

The historical net tangible book value of our common stock as of December 31, 2022, was ($24,313,315) or ($10.19) per share. Historical net tangible book value per share of our common stock represents our total tangible assets (total assets less intangible assets) less total liabilities divided by the number of shares of common stock outstanding as of that date. After giving effect to the (i) issuance of 29,245 shares of our common stock to BioIntelect pursuant to the BioIntelect Agreement, (ii) issuance of 1,074,483 shares of our common stock to Knight as a result of the conversion of certain of our outstanding debt owed to Knight pursuant to the Knight Debt Conversion Agreement, (iii) issuance of 247,642 shares of our common stock as a result of the conversion of our convertible promissory notes excluding the Xu Yu Equity Conversion Note, (iv) 214,934 shares of our common stock that are to be issued prior to the closing of this offering pursuant to the Xu Yu Equity Conversion Note, (v) issuance of 405,000 shares of our common stock to Florida State University Research Foundation, Inc. in exchange for prepaid research and development expenses, (vi) issuance of 525,000 shares of our common stock to Kentucky Technology Inc. in exchange for prepaid research and development expenses, (vii) issuance of 120,000 shares of our common stock to Trevally, LLC in exchange for prepaid services, (viii) issuance of 278,700 shares of our common stock to various service providers in exchange for prepaid services, (ix) issuance of 114,300 shares of our common stock to various service providers in exchange for incurred services, (x) issuance of 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part and (xi) the cancellation of 1,451,000 of shares of our common stock previously owned by Geoffrey Dow and Tyrone Miller that were cancelled between January 2023 and March 2023, our pro forma net tangible book value as of December 31, 2022 would have been $2,948,976 or approximately $0.74 per share of our common stock.

After giving effect to the pro forma adjustments set forth above and the issuance of 1,415,095 shares that are part of the Units in this offering at an assumed initial public offering price of $5.30 per Unit (the midpoint of the price range set forth on the front cover page of this prospectus) for net proceeds of approximately $7,500,000, our pro forma as adjusted net tangible book value as of December 31, 2022 would have been $9,593,980 or approximately $1.78 per share of our common stock. This represents an immediate increase in pro forma net tangible book value per share of $1.04 to the existing stockholders and an immediate dilution in pro forma net tangible book value per share of $3.52. The following table illustrates this per share dilution to new investors:

| | | |
|---|---|---|
| Public offering price per share | | $ 5.30 |
| Pro forma net tangible book value per share as of December 31, 2022 | $ 0.74 | |
| Increase in pro forma net tangible book value per share attributable to the offering | 1.04 | |
| Pro forma as adjusted net tangible book value (deficit) per share as of December 31, 2022 | | 1.78 |
| Dilution in pro forma as adjusted net tangible book value per share to new investors | | $ 3.52 |

Each $1.00 increase or decrease in the assumed initial public offering price of $5.30 per Unit (the midpoint of the price range set forth on the front cover page of this prospectus) would increase or decrease, as applicable, our pro forma as adjusted net tangible book value per share to existing investors by approximately $0.24 and ($0.21), respectively, and would increase or decrease, as applicable, dilution per share to new investors in this offering by ($0.24) and $0.21, respectively, 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 or decrease of 1,000,000 Units offered by us would increase or decrease, as applicable, our pro forma as adjusted net tangible book value per share to existing investors by approximately $0.50 and ($0.65), respectively, and increase or decrease, as applicable, the dilution to new investors by ($0.50) and $0.65 per share, respectively, assuming the assumed initial public offering price remains the same, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

After completion of this offering, our existing stockholders would own approximately 73.8% and our new investors would own approximately 26.2%% of the total number of shares of our common stock outstanding after this offering.

To the extent that outstanding options or warrants, if any, are exercised, you will experience further dilution. In addition, we may choose to raise additional capital due to market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of these securities may result in further dilution to our stockholders.

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

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the information presented in "Selected Historical Consolidated Financial Data" and our historical consolidated financial statements and the related notes included elsewhere in this prospectus. In addition to historical information, the following discussion contains forward-looking statements, such as statements regarding our expectation for future performance, liquidity and capital resources, that involve risks, uncertainties and assumptions that could cause actual results to differ materially from our expectations. Our actual results may differ materially from those contained in or implied by any forward-looking statements. Factors that could cause such differences include those identified below and those described in "Cautionary Note Regarding Forward-Looking Statements," "Risk Factors" and "Audited Consolidated Financial Information." We assume no obligation to update any of these forward-looking statements.*

### Overview

We specialize in the cost-effective development and commercialization of small molecule therapeutics for infectious diseases. We have a single FDA-approved product Arakoda, for malaria prevention in travelers. This product is revenue-generating in the United States and foreign markets, but not yet profitable, primarily due to the lack of an active marketing campaign following its introduction into the U.S. supply chain in late 2019. The COVID-19 pandemic curtailed foreign travel and therefore any ability to raise financing to support an active marketing effort.

We believe that the pathway to profitability lies through future investment in an active marketing program and recruitment of a direct sales force to support Arakoda. However, the return on investment for such an effort is likely to be much greater if it can be shown that the pool of potential prescriptions/patients is larger than that for malaria prevention alone. To that end, our primary operational goal is to demonstrate the clinical effectiveness of the already approved dosing regimen of Arakoda in other disease states. Thus, in the second half of 2023, our focus will be on executing a Phase II B clinical investigation of the efficacy of Arakoda in COVID-19 outpatients. Other supporting activities referenced below and elsewhere in this prospectus, such as improving technical specifications, limited marketing efforts, portfolio development, and observing the progress of foreign market growth, will be conducted as resources permit.

### Key Factors Affecting our Performance

As a result of a number of factors, our historical results of operations may not be comparable to our results of operations in future periods, and our results of operations may not be directly comparable from period to period. Set forth below is a brief discussion of the key factors impacting our results of operations.

#### *Known Trends and Uncertainties*

#### ***Inflation***

Inflation generally affects us by increasing our cost of labor and clinical trial costs. We do not believe that inflation has had a material effect on our results of operations during the periods presented.

***Supply Chain***

Our approved product, Arakoda, is manufactured in India. During the audited period, our contract manufacturer experienced reduced capacity due to the COVID-19 pandemic, which in theory, but not in practice, could have disrupted continuity of U.S. supply of Arakoda.

***Geopolitical Conditions***

In February 2022, Russia initiated significant military action against Ukraine. In response, the U.S. and certain other countries imposed significant sanctions and export controls against Russia, Belarus and certain individuals and entities connected to Russian or Belarusian political, business, and financial organizations, and the U.S. and certain other countries could impose further sanctions, trade restrictions, and other retaliatory actions should the conflict continue or worsen. It is not possible to predict the broader consequences of the conflict, including related geopolitical tensions, and the measures and retaliatory actions taken by the U.S. and other countries in respect thereof as well as any counter measures or retaliatory actions by Russia or Belarus in response, including, for example, potential cyberattacks or the disruption of energy exports, is likely to cause regional instability, geopolitical shifts, and could materially adversely affect global trade, currency exchange rates, regional economies and the global economy. The situation remains uncertain, and while it is difficult to predict the impact of any of the foregoing, the conflict and actions taken in response to the conflict could increase our costs, reduce our sales and earnings, impair our ability to raise additional capital when needed on acceptable terms, if at all, or otherwise adversely affect our business, financial condition, and results of operations.

***Effects of the COVID-19 Pandemic***

The current pandemic of COVID-19 has globally resulted in loss of life, business closures, restrictions on travel, and widespread cancellation of social gatherings. While the disruption is currently expected to be temporary, there is considerable uncertainty around the duration. Therefore, we expect this matter to negatively impact our operating results.

The extent to which the COVID-19 pandemic impacts our business will depend on future developments, which are highly uncertain and cannot be predicted at this time, including:

- new information which may emerge concerning the severity of the disease;
- the duration and spread of the outbreak;
- the severity of travel restrictions imposed by geographic areas in which we operate, mandatory or voluntary business closures;
- our ability to enroll patients;
- regulatory actions taken in response to the pandemic, which may impact merchant operations, consumer and merchant pricing, and our product offerings;
- other business disruptions that affect our workforce and supply chain;
- the impact on capital and financial markets; and
- actions taken throughout the world, including in markets in which we operate, to contain the COVID-19 outbreak or treat its impact.

In addition, the current pandemic of COVID-19 has resulted in a widespread global health crisis and adversely affected global economies and financial markets, and similar public health threats could do so in the future. Any potential impact to our results will depend on, to a large extent, future developments and new information that may emerge regarding the duration and severity of the COVID-19 pandemic and the actions taken by government authorities and other entities to contain the COVID-19 pandemic or treat its impact, almost all of which are beyond our control. If the disruptions posed by the COVID-19 pandemic or other matters of global concern continue for an extensive period of time, the operations of our business may be materially adversely affected.

To the extent the COVID-19 pandemic or a similar public health threat has an impact on our business, it is likely to also have the effect of heightening many of the other risks described in the "*Risk Factors*" section.

***Seasonality***

Our business could be affected by seasonal variations. For instance, we expect to experience higher sales in the second and third quarters of the fiscal year. However, taken as a whole, seasonality does not have a material impact on our financial results.

***Foreign Currency***

Our reporting currency is the U.S. dollar and our operations in Australia and Singapore use their local currency as their functional currencies. We are subject to the effects of exchange rate fluctuations with respect to any of such currency. The income statements of some of our operations are translated into U.S. dollars at the average exchange rates in each applicable period. To the extent the U.S. dollar strengthens against foreign currencies, the translation of these foreign currencies denominated transactions results in reduced revenue, operating expenses and net income for our international operations. We are also exposed to foreign exchange rate fluctuations as we convert the financial statements of our foreign subsidiaries into U.S. dollars in consolidation.

***Concentration of Revenues***

We received the majority of our revenues from sales of our Arakoda product to the DoD. The DoD has historically been our largest customer. Upon fulfilment of the final purchase of product under the contract, which expired on August 31, 2022, the DoD has not issued any further contracts nor contract modifications to allow additional procurement. Further information is provided in the "*Revenue*" section below. Revenues remain concentrated. The following tables set forth our concentrations of revenues for the twelve months ended December 31, 2022 and 2021.

***Twelve Months Ended December 31, 2022, and 2021***

| **Customers (Market)** | **12/31/2022** | **12/31/2021** | **$ Change** | **% Change** |
|---|---|---|---|---|
| Biocelect (Australia) | $ 86,763 | $ 37,046 | $ 49,717 | 134% |
| DoD (US Military) | 30,295 | 1,150,650 | (1,120,355) | (97)% |
| ICS AmerisourceBergen (US Commercial) | 88,150 | (27,356) | 115,506 | (422)% |
| Scandinavian Biopharma Distribution AB (European Union) | 18,000 | - | 18,000 | NA% |
| Net Sales Revenue | $ 223,208 | $ 1,160,340 | $ (937,132) | (81)% |

**Results of Operations**

***Twelve Months Ended December 31, 2022, and 2021***

The following table sets forth our results of operations for the period presented:

| | **Twelve Months Ended December 31,** | |
|---|---|---|
| **Consolidated Statements of Operations Data:** | **2022** | **2021** |
| Product revenues – net of discounts and rebates | $ 192,913 | $ 1,078,440 |
| Service revenues | 30,295 | 81,900 |
| Product and service revenues | 223,208 | 1,160,340 |
| Cost of revenues | 432,370 | 850,742 |
| Gross (loss) profit | (209,162) | 309,598 |
| Research revenues | 288,002 | 5,192,516 |
| Net revenue | 78,840 | 5,502,114 |
| Operating expenses: | | |
| Research and development | 525,563 | 5,510,866 |
| General and administrative expenses | 1,303,722 | 1,115,350 |
| Total operating expenses | 1,829,285 | 6,626,216 |
| Loss from operations | (1,750,445) | (1,124,102) |
| Interest and other income (expense), net: | | |
| Interest expense | (3,989,359) | (3,172,712) |
| Derivative expense | (504,613) | - |
| Change in fair value of derivative liabilities | (10,312) | - |
| Gain on Debt Extinguishment | 120,683 | - |
| Other (expense) income | (43,238) | 37,515 |
| Total interest and other income (expense), net | (4,426,839) | (3,135,197) |
| Loss from operations before provision for income taxes | (6,177,284) | (4,259,299) |
| Provision for income taxes | 500 | 1,000 |
| Net loss including noncontrolling interest | (6,177,784) | (4,260,299) |
| Net gain (loss) noncontrolling interest | 3,936 | (8,554) |
| Net loss - attributed to 60 Degrees Pharmaceuticals Inc | (6,181,720) | (4,251,745) |
| | | |
| Comprehensive loss: | | |
| Net loss | (6,177,784) | (4,260,299) |
| Unrealized foreign currency translation loss | (2,127) | (3,031) |
| Total comprehensive loss | (6,179,911) | (4,263,330) |

| | | |
|---|---|---|
| Net gain (loss) – noncontrolling interest | 3,936 | (8,554) |
| Unrealized foreign currency translation gain from noncontrolling interest | - | 1,588 |
| Comprehensive loss - attributed to 60 Degrees Pharmaceuticals, Inc. | $ (6,183,847) | $ (4,256,364) |

The following table sets forth our results of operations as a percentage of revenue:

| | Twelve Months Ended December 31, | |
|---|---|---|
| **Consolidated Statements of Operations Data:** | **2022** | **2021** |
| Product revenues – net of discounts and rebates | 86.43% | 92.94% |
| Service revenues | 13.57 | 7.06 |
| Product and service revenues | 100.00 | 100.00 |
| Cost of revenues | 193.71 | 73.32 |
| Gross (loss) profit | (93.71) | 26.68 |
| Research revenues | 129.03 | 447.50 |
| Net revenue | 35.32 | 474.18 |
| Operating expenses: | | |
| Research and development | 235.46 | 474.94 |
| General and administrative expenses | 584.08 | 96.12 |
| Total operating expenses | 819.54 | 571.06 |
| Loss from operations | (784.22) | (96.88) |
| Interest and other income (expense), net: | | |
| Interest expense | (1,787.28) | (273.43) |
| Derivative expense | (226.07) | - |
| Change in fair value of derivative liabilities | (4.62) | - |
| Gain on debt extinguishment | 54.07 | - |
| Other (expense) income | (19.37) | 3.23 |
| Total interest and other income (expense), net | (1,983.27) | (270.20) |
| Loss from operations before provision for income taxes | (2,767.49) | (367.08) |
| Provision for income taxes | 0.22 | 0.09 |
| Net loss including noncontrolling interest | (2,767.71) | (367.17) |
| Net gain (loss) - noncontrolling interest | 1.76 | (0.74) |
| Net loss – attributable to 60 Degrees Pharmaceuticals, Inc. | (2,769.47) | (366.43) |
| | | |
| Comprehensive loss: | | |
| Net loss including noncontrolling interest | (2,767.71) | (367.17) |
| Unrealized foreign currency translation loss | (0.95) | (0.26) |
| Total comprehensive loss | (2,768.66) | (367.43) |
| | | |
| Net gain (loss) – noncontrolling interest | 1.76 | (0.74) |
| Unrealized foreign currency translation gain from noncontrolling interest | - | 0.14 |
| Comprehensive loss - attributed to 60 Degrees Pharmaceuticals, Inc. | (2,770.42)% | (366.83)% |

**Comparison of the Twelve Months Ended December 31, 2022, and 2021**

***Product and Service Revenue, Discounts and Rebates, Net Sales Revenue, Cost of Goods Sold, Gross Profit, and Gross Margin***

| | Twelve Months Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | 2021 | $ Change | % Change |
| Product revenues – net of discounts and rebates | $ 192,913 | $ 1,078,440 | $ (885,527) | (82.11)% |
| Service revenues | 30,295 | 81,900 | (51,605) | (63.01) |
| Net product and service revenues | 223,208 | 1,160,340 | (937,132) | (80.76) |
| Cost of revenues | 432,370 | 850,742 | (418,372) | (49.18) |
| Gross (loss) profit | $ (209,162) | $ 309,598 | $ (518,760) | (167.56)% |
| Gross margin | (93.71)% | 26.68% | | |

*Product Revenues – Net of Discounts and Rebates, Service Revenue and Net Product and Service Revenues*

Our product revenues were $192,913 for the twelve months ended December 31, 2022, as compared to $1,078,440 for the twelve months ended December 31, 2021. As of December 31, 2022, one government customer accounted for 14% (and 95% as of December 31, 2021) of our total sales. The decrease in sales was mainly due to a 3-year Arakoda acquisition contract that involved purchasing a full lot (7,500 boxes) in 2020 and a half lot (3,750 boxes) in 2021, which was fulfilled by August 31, 2021. This contract was executed by the United States Army Medical and Materiel Development Activity (USAMMDA) to support commercialization efforts.

We offer discounts and rebates to the civilian U.S. supply chain distribution channel. We record sales when our third-party logistics (“3PL”) partner transfers boxes into their title model. Discounts and rebates are offered to our 3PL partner amounting to 2%. Then product is transferred normally to one of the three large U.S. pharmaceutical distributors where rebates range form 10-12%. Lastly, we have relationships with several large pharmacy benefit managers (“PBMs”) that allows patients to purchase Arakoda at a discount. The rebate associated with PBMs ranges from 15% to 30% depending on the amount of coverage provided. For the twelve months ending December 31, 2022, discounts and rebates were $59,552 compared to none for the twelve months ending December 31, 2021. There were neither discounts nor rebates on direct sales to USAMMDA.

Although, as of the date of this prospectus, we were not in discussions with the DoD about additional/future procurement, we anticipate that this will be feasible in the future if one or more of the conditions/events described in this paragraph occur. First, the position of Arakoda in the DoD formulary (Tricare, deployed personnel) needs to be improved from second/third tier to at least equivalency with competing products (as is the case for civilian use as recommended by the CDC). Second, the shelf-life of the existing product requires extension, which is known to be technically possible as the shelf-life of Kodatef in Australia is 48 months, but appropriate data must be generated to meet FDA requirements. Finally, a change in the operational footprint of DoD deployments to areas with higher malaria attack rates (e.g., the Liberia deployment to manage the Ebola outbreak in 2014) may lead to a rapid reassessment by DoD of the position of Arakoda in the formulary (advancement of the last approved prophylactic antimalarial to co-equal standard of care took thirteen years).

Arakoda entered the U.S. civilian supply chain in the third quarter of 2019. For the twelve months ended December 31, 2021, 389 boxes were sold to pharmacies and dispensaries. Sales increased by 47% to 570 boxes to patients for the twelve months ended December 31, 2022. Increasing commercial sales reflect organic growth, since no active marketing efforts were made during the pandemic and the wholesale acquisition cost has not changed from launch in 2019 through December 31, 2022.

Kodatef sales to our distributor Biocelect in Australia for the twelve months ended December 31, 2022 were $86,763 ($37,046 for the twelve months ended December 31, 2021). Sales to Biocelect are currently subject to a profit share distribution once the original transfer price has been recouped. As of December 31, 2022, no profit share has been due to us, though we did settle the historical profit share through September 30, 2022 for $24,486 (AUD$35,000) on January 16, 2023.

During 2022, we recorded our first sale of Arakoda/Kodatef to our European distributor Scandinavian Biopharma Distribution AB. Product will be distributed there on a named patient basis. As in Australia a profit distribution share is possible depending on the retail price established.

We also earned $30,295 from storing the Army’s ARAKODA purchases through August 31, 2022 (when the contract ended) compared to $81,900 earned through the twelve months ended December 31, 2021 of which $57,000 of revenue was related to shipping stored ARAKODA.

*Cost of Revenues, Gross (Loss) Profit, and Gross Margin*

The cost of goods sold was $432,370 for the twelve months ended December 31, 2022, as compared to $850,742 for the twelve months ended December 31, 2021. The decrease in cost of goods sold was primarily due to sale of a half lot to the government in 2021. The Gross Margin % fell to (94)% for the twelve months ended December 31, 2022 from 27% for the twelve months ended December 31, 2021. This is due to the current low sales volume and the fixed part of cost of goods. As the sales volume continues to grow the gross margin will improve as the variable cost of goods of each Unit sold is substantially less than the sales price.

*Other Operating Revenues*

| | Twelve Months Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | 2021 | $ Change | % Change |
| Research revenues | $ 288,002 | $ 5,192,516 | $ (4,904,514) | (94.45)% |

The research revenues earned by us were $288,002 for the twelve months ended December 31, 2022, as compared to $5,192,516 for the twelve months ended December 31, 2021. Our research revenues are derived mostly from a single, awarded research grant in the amount of $4,999,814 (with an additional $720,000 awarded February 26, 2021) from the Joint Program Executive Office for Chemical, Biological, Radiological and Nuclear Defense (which may be referred to as "JPEO") at the beginning of December 2020 to study Arakoda in mild-to-moderate COVID-19 patients. The trial was actively recruiting patients from February to September of 2021; hence the majority of the grant revenue was earned in the first nine months of 2021 ending on September 30 ($4,935,335). At the end of 2021, $245,552 remained on the grant. The study was largely completed with the planned lab data analysis and the submission of the final study report completed during the first nine months of 2022 ending on September 30. We also earn research revenues from the Australian Tax Authority for research expenses conducted in Australia. The revenue was $42,250 at the end of twelve months ended December 31, 2022 compared to $19,511 at the twelve months ended December 31, 2021.

*Operating Expenses*

| | Twelve Months Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | 2021 | $ Change | % Change |
| Research and development | $ 525,563 | $ 5,510,866 | $ (4,985,303) | (90.46)% |
| General and administrative | 1,303,722 | 1,115,350 | 188,372 | 16.89 |
| Total operating expenses | $ 1,829,285 | $ 6,626,216 | $ (4,796,931) | (72.39)% |

*Research and Development Expenses*

We considerably reduced research and development costs as we completed our Phase II COVID-19 trial in 2022. Direct COVID-19 related trial costs are 49% of the costs through the twelve months ended December 31, 2022 at $256,581 and 86% of the costs for the twelve months ended December 31, 2021 at $4,721,635. Research and development costs are expected to increase substantially in 2023, as the second COVID-19 clinical trial and supporting activities are initiated in the second half of the year.

*General and Administrative Expenses*

For the twelve months ended December 31, 2022, our general and administrative expenses increased by 17% or $188,372. While the net amounts did not change substantially for the twelve months ended December 31, in 2022 we spent substantially more for accounting and auditing at $173,975 (up from $15,071 for the twelve months ended December 31, 2021) and recorded $410,302 in professional services to be paid in stock (none for the 12 months ended December 31, 2021). Whereas, we spent substantially less for legal, regulatory advice and insurance, $202,974 at twelve months ended December 31, 2022 ($446,884 at twelve months ended December 31, 2021).

***Interest and Other Income (Expense), Net***

| | Twelve Months Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | 2021 | $ Change | % Change |
| Interest expense | (3,989,359) | (3,172,712) | (816,647) | 25.74% |
| Derivative expense | (504,613) | - | (504,613) | NA |
| Change in fair value of derivative liabilities | (10,312) | - | (10,312) | NA |
| Gain on debt extinguishment | 120,683 | - | 120,683 | NA |
| Other (expense) income | (43,238) | 37,515 | (80,753) | 215.26 |
| Total Interest and Other Income (Expense), Net | $ (4,426,839) | $ (3,135,197) | $ (1,291,642) | 41.20% |

*Interest Expense*

For the twelve months ended December 31, 2022, we recognized $3,989,359 of interest expense ($3,172,712 for the twelve months ended December 31, 2021). The increase is primarily related to growing principal and interest balances with the primary lender Knight. Cash paid for interest expense was $2,193 and none for the twelve months ended December 31, 2022 and December 31, 2021, respectively.

*Derivative Expense*

For the twelve months ended December 31, 2022, we recognized $504,613 of derivative expense (none for the twelve months ended December 31, 2021). The increase is related to the raising of $1,105,000 of bridge funding.

*Change in Fair Value of Derivative Liabilities*

For the twelve months ended December 31, 2022, we recognized a change in fair value of derivative liabilities of $10,312 (none for the twelve months ended December 31, 2021). The increase is related to derivatives generated from the bridge funding raise.

*Gain on debt extinguishment*

For the twelve months ended December 31, 2022, we recognized a $120,683 gain on debt extinguishment (none for the twelve months ended December 31, 2021). The increase is related to the renegotiation of the Xu Yu promissory note.

*Other Income (Expense), Net*

For the twelve months ended December 31, 2022, we recognized ($43,238) in other (expense) income compared to $37,515 for the twelve months ended December 31, 2021. In 2022, it was uncovered that federal tax form 8992 may have not been properly filed. We have elected to record a $30,000 tax liability for the audit of the twelve months ended December 31, 2022, $10,000 each for the years ended December 31, 2019, 2020 and 2021 (none for the twelve months ended December 31, 2021). For the twelve months ended December 31, 2021 we recorded $38,500 of PPA loan forgiveness income (none for the twelve months ended December 31, 2022).

**Liquidity and Capital Resources**

We had net cash used in operating activities of $1,009,980 for the twelve months ended December 31, 2022, and the cash balance was $264,865 as of December 31, 2022. Based on current internal projections, should the full amount of the proceeds from this offering be realized, and if our planned COVID-19 clinical study is eligible to receive Australian government research and development tax rebates and it is possible to borrow and receive funds from a lender ahead of issuance of those tax rebates, we estimate that we will have sufficient funds to remain viable through December 31, 2023 (sufficient to complete an optional futility analysis at 33% enrolment in the clinical study if desired). However, we may not remain viable until December 31, 2023, if we end up being ineligible for research tax credits or cannot borrow against their future issuance. We cannot give assurance that we can increase our cash balances or limit our cash consumption and thus maintain sufficient cash balances for our planned operations or future acquisitions. Future business demands may lead to cash utilization at levels greater than recently experienced. We may need to raise additional capital in the future. However, we cannot assure you that we will be able to raise additional capital on acceptable terms, or at all.

To date, we have funded our operations through debt and equity financings.

**Going Concern**

As of December 31, 2022, we had an accumulated deficit of $28,815,148. In their audit report for the fiscal year ended December 31, 2022 included in this report, our auditors have expressed their concern as to our ability to continue as a going concern. Our ability to continue as a going concern is dependent upon our ability to generate cashflows from operations and obtain financing.

The accompanying consolidated financial statements for the twelve months ended December 31, 2022, and December 31, 2021, respectively, included an explanatory note referring to our recurring operating losses and expressing substantial doubt in our ability to continue as a going concern. Our consolidated financial statements have been prepared on a going concern basis, which assumes the realization of assets and settlement of liabilities in the normal course of business. To date, we have not yet established an ongoing source of revenues and cash flows sufficient to cover our operating costs and allow us to continue as a going concern. These factors among others raise substantial doubt about our ability to continue as a going concern for at least one year from the date of issuance of the accompanying consolidated financial statements.

Our ability to continue as a going concern is dependent upon our ability to generate profitable operations in the future and/or to obtain the necessary financing to meet our obligations and repay our liabilities arising from normal business operations when they become due. The outcome of these matters cannot be predicted with any certainty at this time and raise substantial doubt that we will be able to continue as a going concern. Our consolidated financial statements do not include any adjustments to the amount and classification of assets and liabilities that may be necessary should we be unable to continue as a going concern.

**Borrowings**

On December 10, 2015, we entered into the Loan Agreement and Engagement with Knight, as amended eight times, pursuant to which, we originally borrowed $500,000 at a per annum interest rate of 15% (the "Knight Loan") and a debenture agreement of face value $3 million on April 24, 2018 (the "Knight Debenture"). As of December 31, 2022, the current outstanding balance of the Knight Loan and Knight Debenture is $20,596,595.

Pursuant to the Knight Debt Conversion Agreement, executed January 9, 2023 and modified on January 13, 2023, and again on January 27, 2023, Knight and us agreed, to formalize a previously negotiated term sheet that, in the event of a successful initial public offering, we will fix Knight's cumulative debt to the value as it stood on March 31, 2022, which consisted of $10,770,037 in principal and $8,096,486 in accumulated interest, and to convert the aforementioned amounts, should we consummate an initial public offering that results in gross proceeds of at least $7,000,000 prior to December 31, 2023 as follows:

- We agreed to convert the principal amount into (i) that number of shares of common stock equal to dividing the principal amount by an amount equal to the offering price of the common stock in the initial public offering discounted by 15% (the "Conversion Common Shares"), rounding up for fractional shares, in a number of Conversion Shares up to 19.9% of our outstanding common stock after giving effect of the initial public offering; (ii) we will make a milestone payment of $10 million to Knight if, after the date of a qualifying initial public offering, we sell ARAKODA or if a Change of Control (as per the definition included in the original loan agreement dated on December 10, 2015) occurs, provided that the purchaser of ARAKODA or individual or entity gaining control of us is not Knight or an affiliate of Knight; (iii) following the License and Supply agreement dated on December 10, 2015 and subsequently amended on January 21, 2019, an expansion of existing distribution rights to Tafenoquine/Arakoda to include COVID-19 indications as well as malaria prevention across the Territory as defined in said documents, subject to U.S. Army approval; and (iv) we will retain Knight or an affiliate of Knight to provide financial consulting services, management, strategic and/or regulatory advice of value $30,000 per month for five years (the parties will negotiate the terms of that consulting agreement separately in good faith).

- The parties agreed to convert the accrued interest into that number of shares (the "Conversion Preferred Shares" and, together with the Conversion Common Shares, the "Conversion Shares") of a new class of preferred stock (the "Preferred Stock") by dividing the Accrued Interest by $100.00, then rounding up. The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% cumulative dividend accumulated annually on March 31; (ii) shall be non-voting stock; (iii) are not redeemable, (iv) be convertible to shares of common stock at a price equal to the lower of (1) the price paid for the shares of common stock in the initial public offering and (2) the 10 day volume weighted average share price immediately prior to conversion; and (v) conversion of the preferred stock to common shares will be at our sole discretion. Notwithstanding the foregoing, we shall not convert the Preferred Stock into shares of common stock if as a result of such conversion Knight will own 19.9% or more of our outstanding common stock.

- In addition to the conversion of the debt, for a period commencing on January 1, 2022 and ending upon the earlier of 10 years after the closing of the initial public offering or the conversion or redemption in full of the Conversion Preferred Shares, we shall pay Knight a royalty equal to 3.5% of our net sales (the "Royalty"), where "Net Sales" has the same meaning as in our license agreement with the U.S. Army for Tafenoquine. Upon the qualified initial public offering, we shall calculate the royalty payable to Knight at the end of each calendar quarter. We shall pay to Knight the royalty amounts due with respect to a given calendar quarter within fifteen (15) business days after the end of such calendar quarter. Each payment of royalties due to Knight shall be accompanied by a statement specifying the total gross sales, the net sales and the deductions taken to arrive to net sales. For clarification purposes, the first royalty payment will be performed following the above instructions, on the first calendar quarter in which the qualified initial public offering takes place and will cover the sales of the period from January 1, 2022, until the end of said calendar quarter.

Should an initial public offering not occur by January 1, 2024, then all terms of the original Knight Loan and Knight Debenture would resume including any interest earned after March 31, 2022.

On October 11, 2017, we issued a $750,000 promissory note, as amended (the "Avante Note"), to Avante International Limited ("Avante") with accrued interest at an annual rate of 5.0% for the first six months, and 10% thereafter. On December 23, 2017, Avante transferred the Avante Note to Xu Yu Equity Conversion Note.

On December 11, 2022, Avante and us amended the Avante Note (the "Amendment"). The Amendment added a provision to automatically convert the outstanding principal and accumulated interest through March 31, 2022 to shares of common stock in the event we consummate an initial public offering. The Amendment also provides Avante the option to convert the outstanding principal and accumulated interest through March 31, 2022 to equity in the Company at the maturity date and will have 30 days from maturity to exercise this option. Cumulative interest after March 31, 2022 will be forfeited should the lender elect to convert the Note into equity. We evaluated the Amendment and determined that it constitutes an extinguishment as the option to convert interest through March 31, 2022 and is considered the addition of a substantive conversion option. Accordingly, the Amendment resulted in extinguishment accounting and a corresponding extinguishment gain of $120,683, which represents the difference between the carrying value of the Avante Note just prior to the Amendment and the fair value of the Avante Note just after the Amendment.

The extinguishment accounting resulted in a fair value of the Avante Note, including the Amendment of $1,099,578. The discount of $120,683 and costs incurred with third parties directly related to the Amendment of $1,767 will be amortized over the remaining life of the debt using the effective interest method. Amortization of the discount on the Avante Note, including the Amendment for the year ended December 31, 2022 was $4,955 ($0 in 2021). Interest expense related to the Note, including the Amendment, for the year ended December 31, 2022 was $115,546 ($104,558 in 2021).

On May 14, 2020, we issued the note to the U.S. Small Business Administration with a principal amount of $150,000 and a per annum interest rate of 3.75%. The current outstanding balance of the COVID-19 Loan is $163,022 as of December 31, 2022.

On May 19, 2022, we issued a Convertible Promissory Note to Geoffrey Dow, as assigned to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 on May 19, 2022 (the "Geoffrey Dow Trust Note"), with a principal amount of $44,444.44 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of such note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering.

On May 19, 2022, we issued a Convertible Promissory Note to Mountjoy Trust with a principal amount of $294,444.42 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of such note will convert immediately prior to the initial public offering at a price equal

to 80% of the price per share of the common stock sold in the initial public offering.

On May 24, 2022, we issued a note in the amount of $333,333.30 to Bigger Capital Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Bigger Capital Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued a note in the amount of $277,777.78 to Cavalry Investment Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Cavalry Investment Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued a note in the amount of $277,777.78 to Walleye Opportunities Master Fund Ltd. On the date of the pricing of our initial public offering, we will deliver to Walleye Opportunities Master Fund Ltd shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

**Contractual Obligations**

The following table summarizes our contractual obligations as of December 31, 2022:

| | Payments Due By Period | | | | |
|---|---|---|---|---|---|
| | Total | Less than 1 year | 1-3 years | 4-5 years | More than 5 years |
| Principal obligations on the debt arrangements | $ 8,997,383 | $ 8,847,383 | $ - | $ 1,574 | $ 148,426 |
| Interest obligations on the debt arrangements | 15,097,215 | 15,097,215 | - | - | - |
| Operating leases | 13,000 | 13,000 | - | - | - |
| Purchase obligations | 1,338,668 | 1,338,668 | - | - | - |
| Total | $ 25,446,266 | $ 25,296,266 | $ - | $ 1,574 | $ 148,426 |

**Cash Flows**

The following table sets forth the primary sources and uses of cash for each of the periods presented below:

*Twelve Months Ended December 31, 2022, and 2021*

| | Twelve Months Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | 2021 | $ Change | % Change |
| Net cash (used in) provided by: | | | | |
| Operating activities | $ (1,009,980) | $ (649,106) | $ (360,874) | 56% |
| Investing activities | (60,133) | (35,392) | (24,741) | (70) |
| Financing activities | 1,221,706 | 611,226 | 610,480 | 100 |
| Effect of foreign currency translation on cash flow | (2,127) | (3,031) | 904 | (30) |
| Net increase (decrease) in cash and cash equivalents | $ 149,466 | $ (76,303) | $ 225,769 | (296)% |

*Cash Used in Operating Activities*

Net cash used in operating activities was $1,009,980 for the twelve months ended December 31, 2022, as compared to $649,106 for the twelve months ended December 31, 2021. The increase in net cash used in operating activities was primarily due to the drop in product revenues from the end of the DoD procurement contract with none recorded for the twelve months ended December 31, 2022 ($1,068,750 recorded for the twelve months ended December 31, 2021).

*Cash Used in Investing Activities*

Net cash used in investing activities was $60,133 for the twelve months ended December 31, 2022, as compared to $35,392 for the twelve months ended December 31, 2021. The increase in net cash used in investing activities was primarily due to the acquisition of intangibles of $27,070.

*Cash Provided by Financing Activities*

Net cash provided by financing activities was $1,221,706 for the twelve months ended December 31, 2022, as compared to $611,226 for the twelve months ended December 31, 2021. The increase in net cash provided by financing activities was primarily due to $1,105,000 in bridge round financing received on May 24, 2022.

*Effect of foreign currency translation on cash flow*

Our foreign operations were small relative to U.S. operations for the years ended December 31, 2022 and December 31, 2021, thus effects of foreign currency translation have been minor.

**Critical Accounting Policies, Significant Judgments, and Use of Estimates**

The preparation of financial statements in conformity with United States generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Use of Estimates**

The preparation of financial statements in conformity with United States generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Revenue Recognition**

We receive revenues from sales of our Arakoda product to the DoD and resellers in the U.S. and abroad. We record deferred revenues for any advances and then recognize revenue upon shipment to the retailer who orders product for a specific customer. We record a receivable for any amounts to be received pursuant to such sales.

Research revenue was recognized when research expenses against the JPEO grant were recognized at the end of each month. Research revenues would not exceed research expenses for a given period as the grant did not include the general and administrative, overhead or profit components.

**Derivative Liabilities**

We assessed the classification of our derivative financial instruments as of December 31, 2022, which consist of bridge shares, convertible notes payable and certain warrants (excluding those for compensation) and have determined that such instruments qualify for treatment as derivative liabilities as they meet the criteria for liability classification under ASC 815.

We analyze all financial instruments with features of both liabilities and equity under FASB ASC Topic No. 480, "Distinguishing Liabilities from Equity" and FASB ASC Topic No. 815, ("ASC 815") "Derivatives and Hedging." Derivative liabilities are adjusted to reflect fair value at each reporting period, with any increase or decrease in the fair value recorded in the results of operations (other income/expense) as change in fair value of derivative liabilities. We use a Monte Carlo Simulation Model to determine the fair value of these instruments.

Upon conversion or repayment of a debt or equity instrument in exchange for shares of common stock, where the embedded conversion option has been bifurcated and accounted for as a derivative liability (generally convertible debt and warrants), we record the shares of common stock at fair value, relieve all related debt, derivative liabilities, and debt discounts, and recognize a net gain or loss on debt extinguishment. In connection with the debt extinguishment, we typically record an increase to additional paid-in capital for any remaining liability balance.

Equity instruments that are initially classified as equity that become subject to reclassification under ASC 815 are reclassified to liabilities at the fair value of the instrument on the reclassification date.

**Original Issue Discount**

For certain notes issued, we may provide the debt holder with an original issue discount. The original issue discount is recorded as a debt discount, reducing the face amount of the note, and is amortized to interest expense over the life of the debt in the Consolidated Statements of Operations and Comprehensive Loss.

**Debt Issue Cost**

Debt issuance costs paid to lenders or third parties are recorded as debt discounts and amortized to interest expense over the life of the underlying debt instrument in the Statements of Operations.

**Income Taxes**

From January 1, 2022 to May 31, 2022, 60 Degrees Pharmaceuticals, LLC was a C-corporation for income tax purposes before the incorporation/merger into 60 Degrees Pharmaceuticals, Inc. on June 1, 2022. We account for income taxes under the liability method, and deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying values of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. A valuation allowance is provided on deferred tax assets if it is determined that it is more likely than not that the deferred tax asset will not be realized in the following five years. We did not realize any benefits in the year ended December 31, 2022. Most of the deferred tax benefits are abroad and we do not project a profit in our subsidiary by 2026. We record interest, net of any applicable related income tax benefit, on potential income tax contingencies as a component of income tax expense.

We record tax positions taken or expected to be taken in a tax return based upon the amount that is more likely than not to be realized or paid, including in connection with the resolution of any related appeals or other legal processes. Accordingly, we recognize liabilities for certain unrecognized tax benefits based on the amounts that are more likely than not to be settled with the relevant taxing authority. We recognize interest and/or penalties related to unrecognized tax benefits as a component of income tax expense.

**Off-Balance Sheet Arrangements**

During 2022 and 2021, we did not have any relationships with unconsolidated organizations or financial partnerships, such as structured finance or special purpose entities that would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

**JOBS Act Accounting Election**

In April 2012, the JOBS Act was enacted. Section 107(b) of the JOBS Act provides that an “emerging growth company” can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

**Recent Accounting Pronouncements**

The Financial Accounting Standards Board (the "FASB") issues Accounting Standards Update ("ASUs") to amend the authoritative literature in ASC. There have been a number of ASUs to date, that amend the original text of ASC. Management believes that those issued to date either (i) provide supplemental guidance, (ii) are technical corrections, (iii) are not applicable to us or (iv) are not expected to have a significant impact on our consolidated financial statements.

In August 2020, FASB issued ASU 2020-06, Accounting for Convertible Instruments and Contracts in an Entity; Own Equity, as part of its overall simplification initiative to reduce costs and complexity of applying accounting standards while maintaining or improving the usefulness of the information provided to users of financial statements. Among other changes, the new guidance removes from GAAP separation models for convertible debt that require the convertible debt to be separated into a debt and equity component, unless the conversion feature is required to be bifurcated and accounted for as a derivative or the debt is issued at a substantial premium. As a result, after adopting the guidance, entities will no longer separately present such embedded conversion features in equity and will instead account for the convertible debt wholly as debt. The new guidance also requires use of the "if-converted" method when calculating the dilutive impact of convertible debt on earnings per share, which is consistent with our current accounting treatment under the current guidance. The guidance is effective for financial statements issued for fiscal years beginning after December 15, 2021, and interim periods within those fiscal years, with early adoption permitted, but only at the beginning of the fiscal year.

We adopted this pronouncement on January 1, 2022; however, the adoption of this standard did not have a material effect on our consolidated financial statements.

In May 2021, the FASB issued ASUs 2021-04, Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options. This new standard provides clarification and reduces diversity in an issuer's accounting for modifications or exchanges of freestanding equity-classified written call options (such as warrants) that remain equity classified after modification or exchange. This standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Issuers should apply the new standard prospectively to modifications or exchanges occurring after the effective date of the new standard. Early adoption is permitted, including adoption in an interim period. If an issuer elects to early adopt the new standard in an interim period, the guidance should be applied as of the beginning of the fiscal year that includes that interim period. We do not expect the adoption of this standard to have a material effect on our consolidated financial statements.

In October 2021, the FASB issued ASU 2021-08, Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers, which requires an acquirer in a business combination to recognize and measure contract assets and contract liabilities in accordance with Accounting Standards Codification Topic 606. ASU 2021-08 is effective for fiscal years beginning after December 15, 2022, and early adoption is permitted. While we are continuing to assess the timing of adoption and the potential impacts of ASU 2021-08, we do not expect ASU 2021-08 will have a material effect, if any, on its consolidated financial statements.

## BUSINESS

**Overview**

We are a growth-oriented specialty pharmaceutical company with a goal of using cutting-edge biological science and applied research to further develop and commercialize new therapies for the prevention and treatment of infectious diseases. We have successfully achieved regulatory approval of Arakoda, a malaria preventative treatment that has been on the market since late 2019. Currently, 60P's pipeline under development covers development programs for COVID-19, fungal, tick-borne, and other viral diseases utilizing three of the Company's future products: (i) new products that contain the Arakoda regimen of Tafenoquine; (ii) new products that contain Tafenoquine; and (iii) Celgosivir.

**Market Opportunity**

In 2018, the FDA approved Arakoda for malaria prevention in individuals 18 years and older, an indication for which there has historically been approximately 550,000 prescriptions (one prescription per three weeks of travel) in the United States each year for the current market-leading product (atovaquone-proguanil). Arakoda entered the U.S. supply chain in the third quarter of 2019, just prior to the COVID-19 pandemic. As the approved indication is for travel medicine, and international travel was substantially impacted by the pandemic, we did not undertake any active marketing efforts for Arakoda. Targeted marketing efforts will commence in the second half of 2023 to promote the malaria indication as resources permit, although we expect our primary efforts to be developing Arakoda for other applications.

We are repositioning the Arakoda regimen of Tafenoquine for new indications to address several therapeutic indications that have substantial U.S. caseloads, as further described below:

- Treatment of COVID-19. According to *The New York Times*, the lowest daily case rate for the COVID-19 virus since March 2020 based on a seven-day average has not typically been below 11,000 cases. Assuming this trend continues, this dynamic translates into a potential market size of at least 4,000,000 cases per year in 2023 and future years. Paxlovid and molnupiravir have received emergency use authorization for the prevention of death and hospitalization in individuals with high risk of disease progression and their use for those purposes continues to be recommended by public health experts. However, to our knowledge, there is not published evidence from randomized controlled clinical trials that either drug reduces the time to sustained clinical recovery for four or more days in standard risk patients infected with contemporary viral strains, and Pfizer has formally abandoned efforts related to this endpoint for paxlovid.[36] Additionally molnupiravir and paxlovid are not approved by FDA for use in patients without risk factors for disease progression, and that excluded lower risk population comprises about 25% of the U.S. population.[37] The economic value of that unsatisfied market may be a multi-billion-dollar opportunity, given that the value of paxlovid and molnupiravir in the 75% of the population in which they can be used was ~ $12 billion in 2022.[38] If proven effective for early relief of COVID-19 symptoms in standard risk COVID-19 patients, Tafenoquine (Arakoda regimen) could fulfill a patient's need unmet by the approved antivirals.

[36] Press release: https://www.pfizer.com/news/press-release/press-release-detail/pfizer-reports-additional-data-paxlovidtm-supporting.

[37] See the Paxlovid (www.paxlovid.com) and Lagevrio (www.lagevrio.com) prescribing information and epidemiology data described by Ajufo et al Am J Preventive Cardiol 2021;6:101156.

[38] See 2022 revenue data for Paxlovid in Pfizer (https://investors.pfizer.com/Investors/Financials/SEC-Filings/SEC-Filings-Details/default.aspx?FilingId=16428097) and Lagevrio (https://d18rn0p25nwr6d.cloudfront.net/CIK-0000064978/b390be48-92bf-4595-96da-ac5cd7c3d92e.pdf) in Merck financial reports.

- Treatment and Post-Exposure Prevention of Tick-Borne Diseases. There are at least 47,000 cases of babesiosis (red blood cell infections caused by deer tick bites) in the United States each year. This estimate is based on the observations of Krugeler who reported that 476,000 cases of Lyme disease occur in U.S. states where babesiosis is endemic and Krause et. al. who reported that 10% of Lyme disease patients are co-infected with babesiosis (thus 476,000*10% = 47,600 cases of babesiosis per year).[39] Furthermore, post-exposure prophylaxis following a tick-bite is a recognized indication to prevent Lyme disease, and it is likely that a drug proven to be effective for this indication for babesiosis would also be used in conjunction with Lyme prophylaxis. There may be more than 400,000 tick bites in the United States requiring medical treatment each year. This estimate is based on the observation that approximately 50,000 tick bites are treated in U.S. hospital emergency rooms each year but this calculation represents only about 12% of actual treated tick bites based on observations from comparable ex-U.S health systems.[40] Arakoda has the potential to be added to the existing standard of care for treatment of babesiosis, and to be a market leading product for pre- and post-exposure prophylaxis of babesiosis.

- Prevention of fungal pneumonias. There are up to ~ 91-92,000 new medical conditions each year in the United States including acute lymphoblastic leukemia (up to 6.540 cases) and large B-cell lymphoma (up to 18,000 cases) patients receiving CAR-T therapy, solid organ transplant patients (up to 42,887 cases), allogeneic (~ 9,000 cases) and autologous (~ 15,000 cases) hematopoietic stem cell transplant patients for whom the use of antifungal prophylaxis is recommended.[41] Despite the availability and use of antifungal prophylaxis, the risk of some patient groups contracting fungal pneumonia exceeds the risk of contracting malaria during travel to West Africa.[42] Arakoda has the potential to be added to existing standard of care regimens for the prevention of fungal pneumonias.

- Treatment of *Candida* infections. According to the Centers for Diseases Control (CDC), there are 50,000 cases of candidiasis (a type of fungal infection) each year in the United States and up to 1,900 clinical cases of *C. auris*, for which there are few available treatments, have been reported to date[43] Arakoda has the potential to be a market leading therapy for treatment/prevention of *C. auris*, and to be added to the standard of care regimens for other *Candida* infections.

Dengue and RSV, both afflictions against which 60P's early clinical candidates (e.g., Celgosivir) show potential in non-clinical studies, are associated with at least 4.1 million cases globally according to the European CDC (Dengue) [44] and up t0 200,000 hospitalizations (RSV) in children less than five years of age and adults greater than 65 years of age in the United States each year according to the CDC.[45]

More information about our products is provided in the next section, and the status of various development efforts for the above-mentioned diseases is outlined in Figure A, below.

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39 Krause et al JAMA 1996;275:1657-16602; Krugeler et al. *Emerg Infect Dis* 2021;27:616-619

[40] Marx et. al., MMWR 2021;70:612-616.

41 See statistics for solid organ transplants at the Organ Transplant and Procurement Network at: National data - OPTN (hrsa.gov); See statistics for hematopoietic stem cell transplant in Dsouza et al Biology of Blood and Bone Marrow Transplantation 202;26: e177-e182; See statistics for acute lymphoblastic leukemia at: Key Statistics for Acute Lymphocytic Leukemia (ALL) (cancer.org); See statistics for large cell large B-cell lymphoma at; Diffuse Large B-Cell Lymphoma - Lymphoma Research Foundation; Treatment guidelines recommending antifungal prophylaxis for these diseases can be reviewed in (i) Fishman et al Clinical Transplantation. 2019;33:e13587, (ii) Hematopoietic Cell Transplantation (cancernetwork.com), (iii) Cooper et al Journal of the National Comprehensive Cancer Network 2016;14:882-913 and (iv) Los Arcos et al Infection (2021) 49:215–231.

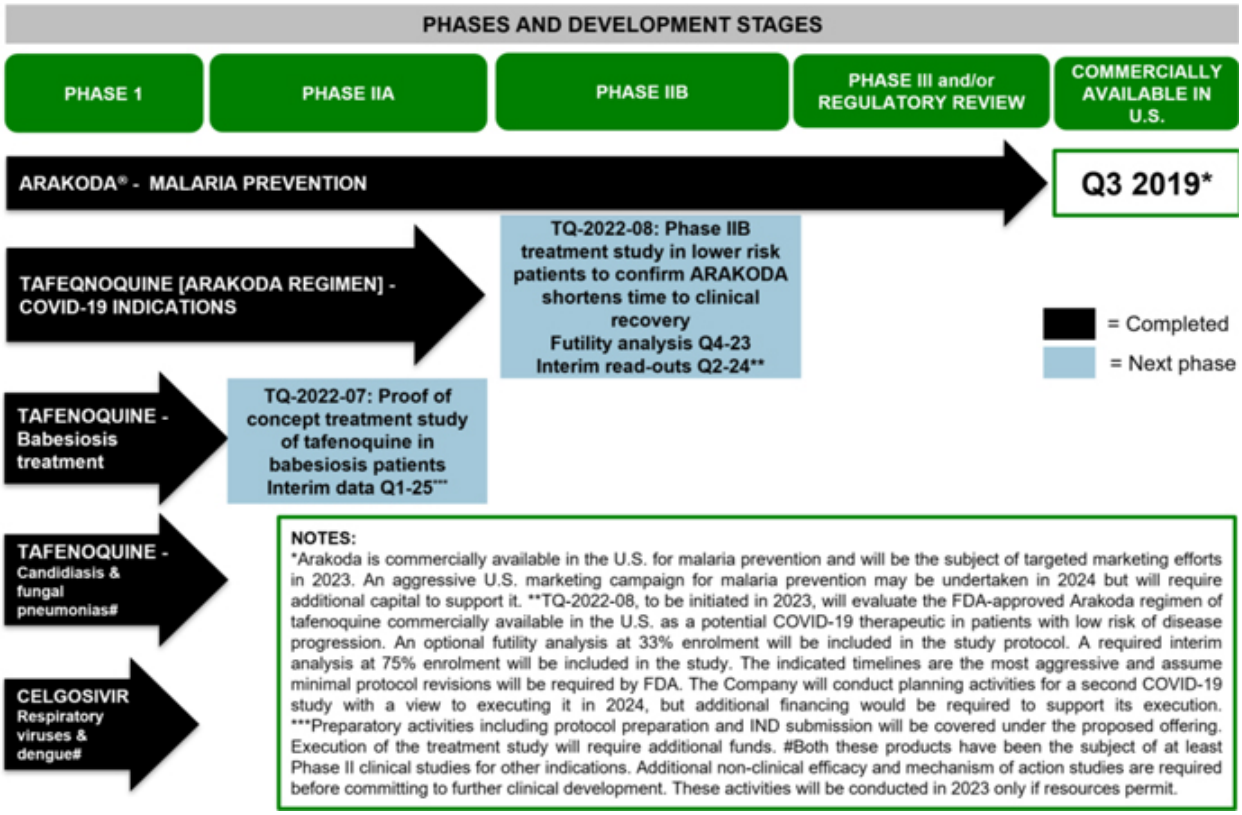
[42] Aguilar-Guisado et al Clin Transplant 2011;25:E629–38; Mace et al MMWR 202;70:1–35.

[43] https://www.cdc.gov/fungal/diseases/candidiasis/invasive/statistics.html.; https://www.cdc.gov/fungal/candida-auris/tracking-c-auris.html.

[44] https://www.ecdc.europa.eu/en/dengue-monthly#:~:text=This%20is%20an%20increase%20of%2032%20653%20cases%20and%2032,853%20deaths%20have%20been%20reported.

[45]https://www.cdc.gov/rsv/research/index.html#:~:text=Each%20year%20in%20the%20United,younger%20than%205%20years%20old.&text=58%2C000-80%2C000%20hospitalizations%20among%20children%20younger%20than%205%20years%20old.&text=60%2C000-120%2C000%20hospitalizations%20among%20adults%2065%20years%20and%20older.

Figure A


PHASES AND DEVELOPMENT STAGES
PHASE 1
PHASE IIA
PHASE IIB
PHASE III and/or REGULATORY REVIEW
COMMERCIALLY AVAILABLE IN U.S.
ARAKODA® - MALARIA PREVENTION
Q3 2019*
TAFEQNOQUINE [ARAKODA REGIMEN] - COVID-19 INDICATIONS
TQ-2022-08: Phase IIB treatment study in lower risk patients to confirm ARAKODA shortens time to clinical recovery
Futility analysis Q4-23
Interim read-outs Q2-24**
= Completed
= Next phase
TAFENOQUINE - Babesiosis treatment
TQ-2022-07: Proof of concept treatment study of tafenoquine in babesiosis patients
Interim data Q1-25***
TAFENOQUINE - Candidiasis & fungal pneumonias#
CELGOSIVIR Respiratory viruses & dengue#
NOTES:
*Arakoda is commercially available in the U.S. for malaria prevention and will be the subject of targeted marketing efforts in 2023. An aggressive U.S. marketing campaign for malaria prevention may be undertaken in 2024 but will require additional capital to support it. **TQ-2022-08, to be initiated in 2023, will evaluate the FDA-approved Arakoda regimen of tafenoquine commercially available in the U.S. as a potential COVID-19 therapeutic in patients with low risk of disease progression. An optional futility analysis at 33% enrolment will be included in the study protocol. A required interim analysis at 75% enrolment will be included in the study. The indicated timelines are the most aggressive and assume minimal protocol revisions will be required by FDA. The Company will conduct planning activities for a second COVID-19 study with a view to executing it in 2024, but additional financing would be required to support its execution. ***Preparatory activities including protocol preparation and IND submission will be covered under the proposed offering. Execution of the treatment study will require additional funds. #Both these products have been the subject of at least Phase II clinical studies for other indications. Additional non-clinical efficacy and mechanism of action studies are required before committing to further clinical development. These activities will be conducted in 2023 only if resources permit.

**Products**

***Arakoda (Tafenoquine) for malaria prevention***

We entered into a cooperative research and development agreement with the United States Army in 2014[46] to complete development of Arakoda for prevention of malaria. With the U.S. Army, and other private sector entities as partners, we coordinated the execution of two clinical trials, development of a full manufacturing package, gap-filling non-clinical studies, compilation of a full regulatory dossier, successful defense of its program at an FDA advisory committee meeting, and submitted an NDA to the FDA in 2018. The history of that collaboration has been publicly communicated by the U.S. Army.[47]

The FDA and Australia's medicinal regulatory agency, Therapeutic Goods Administration, subsequently approved Arakoda and Kodatef (brand name in Australia), respectively, for prevention of malaria in travelers in 2018. Prescribing information and guidance for patients can be found at *www.arakoda.com*. The features and benefits of Tafenoquine for malaria prophylaxis (marketed as Arakoda in the United States), some of which have been noted by third-party experts, include: convenient once weekly dosing following a three day load; the absence of reports of drug resistance during malaria prophylaxis; activity against liver and blood stages of malaria as well as both the major malaria species (*Plasmodium vivax* and *Plasmodium falciparum);* absence of any black-box safety warnings; good tolerability including in women and individuals with prior psychiatric medical history, and a comparable adverse event rate to placebo with up to 12 months continuous dosing.[48] Tafenoquine entered the commercial supply chains in the U.S. (as Arakoda) and Australia (as Kodatef) in the third quarter of 2019.

The only limitation of Arakoda is the requirement that a G6PD test be administered to a prospective patient prior to administration of Arakoda in order to prevent the potential occurrence of hemolytic anemia in individuals with G6PD deficiency.[49] The G6PD test must be administered to a prospective patient prior to administration of Arakoda in order to prevent the potential occurrence of hemolytic anemia in individuals with G6PD deficiency.[50] Because G6PD is one of the most common enzyme deficiencies and is implicated in hemolysis following administration/ingestion of a variety of oxidant drugs/food, and must also be ruled out as a possible cause when diagnosing neonatal jaundice, G6PD testing is widely available in the United States through commercial pathology service providers (e.g., Labcorp, Quest Diagnostics, etc.). Although these tests have a turn-around time of up to 72 hours, the test needs only to be administered once. Thus, existing U.S. testing infrastructure is sufficient to support the FDA-approved use of the product (malaria prevention) by members of the armed forces (who automatically have a G6PD test when they enlist), civilian travelers with a long planning horizon or repeat travelers.

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[46] In 2014, we signed a cooperative research and development agreement with the United States Army Medical and Materiel Development Activity (Agreement W81XWH-14-0313). Under this agreement, we agreed to submit a New Drug Application for Tafenoquine to the FDA (as Arakoda), while the US Army agreed to finance the bulk of the necessary development activities in support of that goal.

[47] Zottig et al Military Medicine 2020; 185 (S1): 687.

[48] Tan and Hwang Journal of Travel Medicine, 2018, 1–2; Baird Journal of Travel Medicine 2018:, 1–13; Schlagenhauf et al Travel Medicine and Infectious Disease 2022; 46:102268; See Arakoda prescribing information at www.arakoda.com; McCarthy et al CID 2019:69:480-486; Dow et al. Malar J (2015) 14:473; Dow et al. Malaria Journal 2014, 13:49; Novitt-Moreno et al Travel Med Infect Dis 2022 Jan-Feb;45:102211.

[49] See prescribing information at www.arakoda.com.

[50] See prescribing information at www.arakoda.com.

*Tafenoquine (Arakoda regimen) for COVID-19*

During the COVID-19 pandemic, since our commercial opportunities were limited, we embarked upon an exploratory research and development campaign to identify new indications for the Arakoda dosing regimen of Tafenoquine. In the second quarter and third quarter of 2020, we commissioned cell culture studies that showed that Tafenoquine, the active ingredient in Arakoda, inhibited replication of SARS-CoV-2 (the virus that causes COVID-19).[51] Then, we commissioned computer simulations, which showed that the predicted concentration of Tafenoquine in the lungs of COVID-19 patients following administration of the first four doses of the approved antimalarial prophylactic regimen of Arakoda exceeded those inhibiting the virus in cell culture. This provided the rationale for seeking approval from the FDA to conduct a Phase II clinical trial in patients with the COVID-19 disease, for which the FDA granted clearance to proceed in October 2020.

In 2021, with financial support from the US Army[52], we conducted a Phase II clinical investigation of the safety and efficacy of Tafenoquine using the Arakoda regimen in outpatients with mild-moderate COVID-19 disease (assumed to be mostly caused by the delta variant of SARS-COV-2). In summary, safety and efficacy of Tafenoquine administered at the approved dose for malaria prevention (200 mg dose once per day on days 1, 2, 3, and 10) was evaluated over a 28-day period in mild-moderate COVID-19 patients. The primary endpoint was day 14 clinical recovery from COVID-19 symptoms, defined as cough mild or absent, respiratory rate < 24 bpm, and no shortness of breath or fever. From March 2021 through September 2021, this study enrolled 87 of an originally planned 275 patients. In October 2021, a data safety monitoring board, after conducting a futility analysis for the primary endpoint and reviewing adverse event data, recommended that the study be continued as planned. However, at the time of the unblinding of this study, topline results from Phase III studies for three oral COVID-19 therapeutics in at risk patients with mild-moderate COVID-19 disease had been announced: Fluvoxamine, molnupiravir, and paxlovid reduced the risk of hospitalization by approximately 30%, 50% (in the first public announcement) and 90%, respectively.[53] As reported in our publication[54], an informal survey of potential funding/commercialization partners for a follow-on program suggested it would be important to know the magnitude of possible benefit prior to initiating such an effort. Primarily for the above reasons, the study was terminated and unblinded early.

The results of the study were accepted for peer-reviewed publication in May 2022.[56] For the primary endpoint, the proportion of patients not recovered on Day 14 was numerically decreased by 27% in the intent to treat population (8/45 v 10/42 not recovered in the Tafenoquine and placebo arms, $P = 0.60$) and 47% in the per protocol population (5/42 v 9/41, $P = 0.25$). Amongst individuals who recorded responses in an electronic diary at Day 28, all Tafenoquine patients were recovered, whereas up to 12% of placebo patients exhibited lingering shortness of breath. Analysis of secondary/exploratory endpoints suggested Arakoda reduced time to clinical recovery from shortness of breath, cough and fever ($P < 0.02$) and numerically improved aggregate symptom scores five days after treatment ($P < 0.1$).[57] The risk of COVID-19-related hospitalization was numerically reduced in the Arakoda arm (by approximately 50%; two instances for placebo versus one for Arakoda). Mild, drug related adverse events occurred in 8.4% of individuals in the Tafenoquine arm (v 2.4%

in the placebo). We plan to confirm that Arakoda accelerates sustained recovery from COVID-19 symptoms in our next study (described in "*Prospectus Summary—Strategy*" beginning on page 4).

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[51] U.S. Patent application # 17/189,544, Dow et. al.bioRxiv 2020.07.12.199059; doi: https://doi.org/10.1101/2020.07.12.199059.

[52] Financial support was obtained from Joint Program Executive Office for Chemical, Biological, Radiological and Nuclear Defense (which may be referred to as "JPEO") or JPEO via other transactional authority agreement #W911QY-21-9-0011.

[53] Reis et al Lancet Global Health 2022;10:e42-51, Bernal et al New Eng J Med 2021; https://doi.org/10.1056/NEJMoa2116044; Pfizer Inc. Press release (November 5, 2021) – Pfizer's novel COVID 19 oral antiviral treatment candidate reduced risk of hospitalization or death by 89% in interim analysis of Phase 2/3 EPIC-HR study. Accessible at: Pfizer's Novel COVID-19 Oral Antiviral Treatment Candidate Reduced Risk of Hospitalization or Death by 89% in Interim Analysis of Phase 2/3 EPIC-HR Study | Pfizer.

[54] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[55] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[56] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

In 2022, we conducted additional analyses of laboratory endpoint data from the clinical study described above and are preparing a manuscript for publication. That analysis and the scientific literature suggest two possible modes of action for Arakoda: (i) down-regulation of cytokines (immune system inflammatory proteins) associated with severe COVID-19 and a greater risk of hospitalization or death and/or (ii) inhibition of viral entry in the lung or elsewhere in the body, perhaps through inhibition of a host enzyme called TMPRSS2 (which facilitates entry of the virus that causes COVID-19, SARS-CoV-2, into human cells).

Assuming the efficacy of Tafenoquine in COVID-19 disease is proven in our next study, some of the features of the Arakoda regimen that make it ideal for malaria prophylaxis might also make it very useful for COVID-19 related indications. Tafenoquine is slowly metabolized and has few important drug-drug interactions, so it might be an ideal partner for standard of care oral COVID-19 therapeutics that reduce hospitalization but have no demonstrated effect on the time to clinical recovery in non-hospitalized patients. The Arakoda regimen requires fewer tablets (8 in the first ten days versus 30 or 40 for paxlovid and molnupiravir) which should make compliance with medication easier for patients. This is an important consideration in the attractiveness of a regimen in standard risk patients at lower risk of hospitalization, and who may be interested in taking a COVID-19 therapeutic primarily to treat early symptoms and accelerate recovery. The potential for better compliance may also suggest suitability for outbreak control in some settings (including, for example, nursing homes).

*Tafenoquine for other infectious diseases*

During the pandemic, we also worked with NIH to evaluate the utility of Tafenoquine as an antifungal. We, and the NIH, found that Tafenoquine exhibits a Broad Spectrum of Activity in cell culture against *Candida* and other yeast strains via a different Mode of Action than traditional antifungals and also exhibits antifungal activity against some fungal strains at clinically relevant doses in animal models.[53] Our work followed Legacy Studies that show Tafenoquine is effective for treatment and prevention of *Pneumocystis* pneumonia in animal models.[54] We believe that if added to the standard of care for anti-fungal and yeast infection treatments for general use, Tafenoquine has the potential to improve patient outcomes in terms of recovery from yeast infections, and prevention of fungal pneumonias in immunosuppressed patients. There are limited treatment options available for these indications, and Tafenoquine's novel mechanism of action might also mitigate problems of resistance. Clinical trial(s) to prove safety and efficacy, and approval by the FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

Tafenoquine is effective in animal models of babesiosis (tick borne red blood cell infections). In two of three recent clinical case studies, Tafenoquine administered after failure of conventional antibiotics in immunosuppressed babesiosis patients resulted in cures.[55] Consequently, we believe that (i) if combined with standard of care products, Tafenoquine has the potential to reduce the duration of treatment with antibiotic therapy in immunosuppressed patients and the time to parasite clearance in non-immunosuppressed patients and (ii) that once appropriate clinical studies have been conducted, it is likely that Tafenoquine would be quickly embraced for post-exposure prophylaxis of babesiosis in patients with tick bites and suspected of being co-infected with Lyme disease. Clinical trial(s) to prove safety and efficacy, and approval by FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

*Celgosivir*

Celgosivir is a host targeted glucosidase inhibitor that was developed separately by other sponsors for HIV then for hepatitis C.[60] The sponsors abandoned Celgosivir after completion of Phase II clinical trials involving 700+ patients, because other antivirals in development at the time had superior activity. The National University of Singapore initiated development of Celgosivir independently for Dengue fever. A clinical study, conducted in Singapore, and the results of which were accepted for publication in the peer-reviewed journal Lancet Infectious Diseases, confirmed its safety but the observed reduction in viral load was lower than what the study was powered to detect.[61] Celgosivir (as with other Dengue antivirals) exhibits greater capacity to cure Dengue infections in animal models when administered prior to symptom onset compared to post-symptom onset. In animal models, this problem can be addressed for Celgosivir, by administering the same dose of drug split into four doses per day rather than two doses per day (as was the case in the Singaporean clinical trial).[62] This observation led to the filing and approval of a patent related to Dengue, which we licensed from the National University of Singapore.

Additional clinical studies would be required to prove that such a 4x daily dosing regimen would be safe and effective in Dengue patients to regulators' satisfaction. To that end, earlier in our history, we, in partnership with the National University of Singapore, and Singapore General Hospital, successfully secured a grant from the government of Singapore for a follow-on clinical trial, but were unable at that time to raise matching private sector funding. We concluded as a result that development of Repositioned Molecules for Dengue, solely and without simultaneous development for other therapeutic use, despite substantial morbidity and mortality in tropical countries, was an effort best suited for philanthropic entities. Accordingly, during the pandemic, we undertook an effort (in partnership with NIH's Division of Microbiology and Infectious Diseases program and Florida State University) to determine whether Celgosivir might be more broadly useful for respiratory diseases that have impact in both tropical and temperate countries. Preliminary data suggest Celgosivir inhibits the replication of the virus that causes COVID-19 (SARS-CoV-2) in cell culture, and the RSV virus in cell culture and provides benefits in animals. We have filed and/or licensed patents in relation to Celgosivir for these other viruses as we believe there is potential applications to fight respiratory diseases that might have more commercial viability than historical development of Celgosivir to combat Dengue fever.

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[57] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[58] Queener et al Journal of Infectious Diseases 1992;165:764-8).

[59] Liu et al. Antimicrobial Agents Chemo 2021;65:e00204-21, Marcos et al. IDCases 2022;27:e01460; Rogers et al. Clin Infect Dis. 2022 Jun 10:ciac473.

[60] Sorbera et al, Drugs of the Future 2005; 30:545-552.

[61] Low et. al., Lancet ID 2014; 14:706-715.

[62] Watanabe et al, Antiviral Research 2016; 10:e19.

**Strategy**

Our general strategy is to demonstrate clinical proof of concept that the FDA-approved Arakoda regimen of Tafenoquine provides clinical benefits in non-malaria therapeutic areas. Our initial focus is on COVID-19, but additional indications have been identified for development, namely babesiosis and fungal infections, pending further data generation. Upon demonstration of clinical proof of concept, we plan to enter into a strategic partnership with a larger entity with commercialization capacity, or raise additional capital to facilitate commercialization of Arakoda, and any additional clinical studies that may be required by regulators, for both travel medicine and broad infectious disease indications. We will continue to develop our portfolio products as resources permit.

Beginning in the second half of 2023, we plan to execute a Phase IIB, randomized, placebo-controlled double blind clinical study powered (at 80%) to prove that the Arakoda regime of Tafenoquine accelerates time to sustained clinical recovery in patients with mild-moderate disease with low risk for disease progression. This trial will utilize the bulk of proceeds raised in this offering. Based on an analysis of unpublished data from our earlier COVID-19 clinical trial,[63] we believe that the Arakoda regimen of Tafenoquine has the potential to reduce the time to sustained clinical recovery by about three days (see Figure B, below). The study will be conducted in out-patient clinics in the United States. The study will utilize the majority of the proceeds of the offering reserved for research and development activities for this purpose. As of the date of this prospectus, we have completed a clinical study synopsis. Submission of the full protocol to the Ethics Committees and to U.S. regulators, and a subsequent posting at *clinicaltrials.gov* will follow this initial public offering.

Figure B

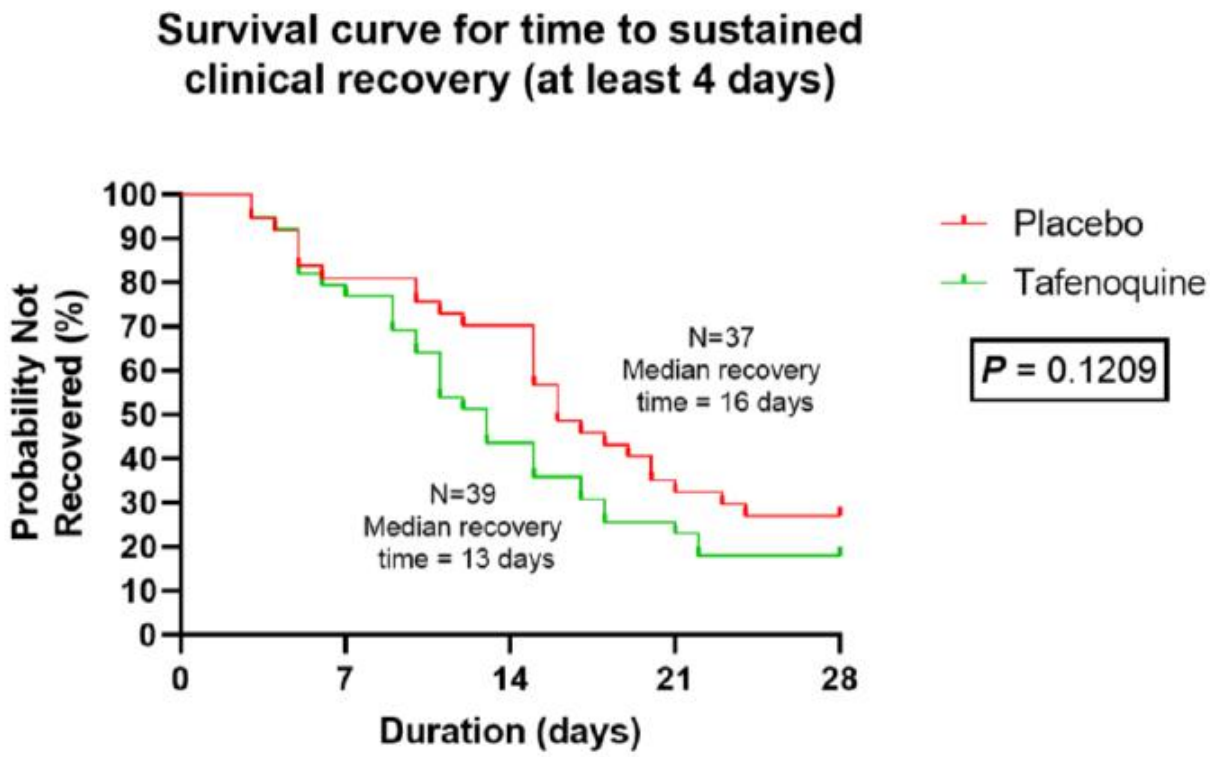


Figure B: Survival curve for sustained clinical recovery in outpatients with mild-moderate COVID-19 disease randomized to receive Tafenoquine (Arakoda regimen) or placebo. Sustained clinical recovery was defined as the first instance of patient reported symptoms scores being < 3 for four or more days, with symptoms scores assessed according to FDA guidance[64]. This analysis utilized unpublished data from our earlier Phase II clinical trial[65]. The analysis excludes individuals hospitalized or loss to follow-up and with a symptom score on the days of dosing < 3. This analysis represents a post-hoc analysis of our Phase II clinical trial data. If this were a formal, pre-conceived primary study endpoint, the *P* value of 0.1209 would imply the associated difference between Tafenoquine (Arakoda regimen) and placebo has a 12.09% chance of occurring by chance.

We intend to design the study, subject to approval by the FDA and Ethics Committee(s) as appropriate, to include two interim endpoints to manage risk. The first will be an optional futility analysis at the earlier of 33% enrollment or six months following the first patient enrolled, which would allow early termination of the study if the conditional power of proving the intended hypothesis is < 20%. The second, mandatory interim analysis will occur at 75% enrollment and follow a step-wise (sponsor-blinded) process involving testing for futility, statistical significance, and sample-size reassessment if required. The test for statistical significance would allow early termination of the study if results are unexpectedly positive and the sample size reassessment would allow the study to enroll more patients within pre-specified limits if variability is more, and/or the magnitude of the expected treatment effect is less, than expected.

We plan to conduct additional non-clinical studies to clarify the process by which Tafenoquine alters the course of COVID-19 illness. Specifically, such studies will attempt to determine whether Tafenoquine acts as an immunomodulator (by decreasing the production of immune system molecules that cause inflammation) and/or exhibits an antiviral effect via inhibition of the host protease TMPRSS2. Antivirals are generally utilized earlier, and immunomodulators later, in treating patients infected with COVID-19. However, the clinical hypothesis of our planned study will be that Arakoda accelerates clinical recovery by three days in individuals who have experienced symptoms for fewer than seven days, thereby confirming observations from our earlier clinical study (see Figure B). Since the potential clinical benefit is already known, the primary purpose of clarifying the manner in which Arakoda works is to (i) address anticipated regulatory questions and (ii) ascertain whether other indications, such as relief of COVID-19 symptoms during vaccination, treatment of long COVID-19 patients, or use during hospitalization, might be plausible.

Following completion of our planned COVID-19 clinical study, if warranted based on the data generated, we intend to request a change in prescribing information to facilitate an expansion of use of Arakoda for malaria prevention from six to twelve months (mirroring our recently published post-marketing safety study) and to include reference to the recently generated COVID-19 treatment data. Prior to doing so, we plan to discuss with the FDA additional labeling related to COVID-19 which might be acceptable.

We intend to design and conduct feasibility assessments for one or more additional studies in the same type of patients as the planned study and/or for a COVID 19-related indication different from that targeted by our clinical study in 2023. One of these additional studies would be conducted in Australia, and would be a requirement to secure tax rebates for the overall COVID-19 program (see next paragraph). A second study is likely to be required by regulators which may or may not be the same as the study conducted in Australia. The value of conducting additional studies, in addition to securing tax credits or for regulatory approvals, would be (i) independently confirming the therapeutic modality/clinical mode of action of Arakoda (i.e. that it accelerates clinical recovery from COVID-19 symptoms and/or acts as an antiviral or disease modulator) and (ii) broadening the COVID-19 indication beyond treatment of lower risk patients (i.e. potentially increasing the volume of annual prescriptions). Thus, possible study designs could be (i) a simple repetition of the planned study with a larger sample size, (ii) a treatment study in higher risk patients or (iii) a pre-treatment loading study in individuals known to be exposed to the virus that causes COVID-19, and/or (iv) amelioration of COVID-19 disease-like symptoms in individuals receiving mRNA COVID-19 vaccines (if it turns out Arakoda is an immunomodulator).

We plan to license ex-U.S. rights to COVID-19 indications to our Australian subsidiary, 60P Australia Pty Ltd. This will facilitate claiming the Australian government's research tax credit for any of our COVID-19-related research activities conducted in Australia. 60P Australia has been successful in securing research tax credits for malaria and Dengue-related research since 2013. Since conducting our planned COVID-19 study in Australia unlikely to be feasible (which at the time of writing we believe to be the case) and must be conducted in the U.S., we plan to apply for an overseas finding to the Australian Tax Office in Q1 2023 to request an overseas finding for the U.S. study. Should such a finding be awarded, it would allow a tax rebate of 43.5% on research and development costs associated with the planned U.S. COVID-19 study to be claimed, but commit the Company to conduct COVID-19 research activities in Australia of a value at least as much as the cost of the planned U.S. clinical study.

We are planning several commercial initiatives for the malaria market in parallel with further clinical development activities. Three routes exist for commercialization of Arakoda for the malaria prevention market are: (i) U.S. civilian travel clinics, travel prescribing centers, and large private sector entities with employees deployed overseas (e.g., mining companies), (ii) the prospect of additional DoD and government agency procurement in the future (noting that as described on page 60 our existing contract with DoD has been fulfilled and has not been extended or modified) and (iii) ex U.S. sales strategy where we currently (or in the future) have exclusive distribution arrangements in overseas markets.

As of the date of this prospectus, we did not have plans to hire a U.S. field sales force, but may explore possible commercial arrangements with contract sales organizations to target U.S. travel clinics for malaria prophylaxis. We will also closely monitor changes in market share in Australia where Kodatef will be actively marketed in 2023 by the local distributor, and a point of care G6PD test is approved. We may request that the DoD Uniform Formulary re-evaluate the formulary position of Arakoda following our recent adjustment of the U.S. WAC pricing to reflect expected international pricing. For US government agencies such as the DoD, the product is expected to meet many of the requirements for occupational malaria prevention identified by the independent parties that have endorsed the product, but they are price sensitive. In the third quarter of 2022, we made our first sale to our European distributor, and made additional sales to our Australian distributor in the second quarter of 2022. We intend to execute a contract with a distribution partner to facilitate named-patient sales in jurisdictions outside Australia, Europe, and the United States. We plan to undertake a focused marketing campaign for Arakoda for malaria prevention in the second half of 2023, consisting of promotion at relevant conferences, email promotion to prescribers, and target print and electronic advertisements.

[63] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[64] *FDA 2020 Guidance on Assessing COVID-19 Symptoms*-14 Common COVID-19 Symptoms Severity Scale.

[65] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

It is expected that a point of care G6PD test might be required to maximize the economic potential of a COVID-19 indication for Tafenoquine (regardless of regimen). We do not intend to pursue independent development of such a test as there are well resourced development efforts already underway or already approved by the FDA (see "*Risk Factors—Any future clinical trial for Arakoda will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we may not directly control the timing, conduct and expense of such testing*" beginning on page 18). However, we will continue to monitor the progress of development and U.S. commercialization of G6PD tests. We will seek to pursue collaborative commercial partnerships with the companies involved in commercialization efforts, if such activities can be conducted through resource sharing efforts.

We plan to generate additional validation data for our portfolio products if resources permit. Specifically, we will evaluate whether Celgosivir provides therapeutic benefit in a COVID-19 animal model, and complete critical activities related to confirming GMP process feasibility.

We may elect, as resources permit, to undertake a clinical study of Tafenoquine in combination with standard of care for hospitalized patients with babesiosis. We have developed such a protocol in partnership with academic collaborators and are planning to submit an IND to the FDA and pursue public and philanthropic funding to support our execution. We plan to seek public funding to support additional non-clinical studies to validate the mechanism of action of Tafenoquine against *Candida spp*. and further assess our utility in combination with standard of care agents in cell culture and animal studies.

Most new antimalarial treatment products are developed as drug combinations to proactively combat drug resistance. Tafenoquine, due to its long half-life and activity against all parasite species and strains, would be ideal partner in a drug combination. In the second half of 2023, we will actively seek out a potential partner antimalarial drug for Arakoda, with the goal of pursuing licensure of a new drug combination. We will only enter into a partnership to develop such a drug combination, if clear legal guidance can be obtained that such a combination if developed would have a high probability of securing a priority review voucher upon FDA approval.

There are currently efforts underway, in malaria-endemic countries outside the U.S., to generate datasets supporting the use of Tafenoquine for mass drug administration in asymptomatic individuals to prevent malaria transmission. We believe that such efforts are important to promote community acceptance of Tafenoquine, and may eventually support World Health Organization pre-qualification of Tafenoquine for malaria eradication efforts. To that end, we intend to support, on a case-by-case basis, clinical studies sponsored by others, by providing commercial Arakoda and/or Kodatef for research use (provided such product would not otherwise have been commercially salable, and the study sponsor covers shipping costs). We have previously provided Tafenoquine for such efforts on a limited basis.

We have a post-marketing requirement to conduct a malaria prophylaxis study of Arakoda in pediatric and adolescent subjects. We proposed to the FDA, in late 2021, that this might not be safe to execute given that malaria prevention is administered to asymptomatic individuals and that methemoglobinemia (damage to the hemoglobin in blood that carries oxygen) occurred in 5% of patients, and exceeded a level of 10% in 3% of individuals in a study conducted by another sponsor in pediatric subjects with symptomatic vivax malaria.[66] The FDA has asked us to propose an alternate design, for which we submitted a concept protocol in the fourth quarter of 2022, and plan to submit a full protocol by the end of the second quarter of 2023. We estimate the cost of conducting the study proposed by the FDA, if conducted in the manner suggested by the FDA, would be $2 million and due to the time periods required to secure protocol approvals from the FDA and Ethics Committees, could not be initiated any earlier than the third quarter of 2024. The funds from this offering to be expended on such a pediatric study will be limited to the minimum required to support protocol preparation and regulatory interactions with the FDA.

**Competitors and Competitive Advantage**

Arakoda is approved by the FDA for malaria prevention in travelers. The major (but not only) competing products are generic atovaquone-proguanil and doxycycline – these products have the benefit of being well established, not requiring a G6PD screen prior to travel (as is the case for Arakoda) and in the case of atovaquone-proguanil being generally recognized as well tolerated and safe. The major limitations of these two established products are the requirement for daily dosing including for up to 30 days post-travel in the case of doxycycline, the requirement to also take Primaquine (a medication used to treat and prevent malaria) for post-exposure prophylaxis to prevent relapse from *P. vivax* malaria, and the potential inconvenience for many patients of complying with a daily dosing regimen during travel. Doxycycline has the added disadvantages of a higher risk of vaginitis, sunburn following sun exposure, contraction of malaria due to missed daily doses, and esophageal necrosis. Drug resistance against the individual components of the atovaquone-proguanil is prevalent in some regions of the work, and the higher doses of atovaquone-proguanil used to treat malaria, are no longer effective in some parts of Southeast Asia.

[66] Velez et al 2021 - Lancet Child Adolesc Health 2022; 6: 86–95.

Arakoda has the benefit of a convenient weekly dosing regimen following a three-day loading dose and a single day of dosing for post-exposure prophylaxis upon return from travel. It is effective against all species of malaria everywhere in the world, which simplifies prescribing decisions. It is the only FDA-approved antimalarial other than mefloquine with a safety profile demonstrated based on continuous dosing for 12 months, but unlike that product, it does not have a black-box safety warning. While G6PD testing is a potential limitation for first time travelers with short planning horizons, this is not the case for institutional occupation travel or repeat business travel, because a G6PD test need only be performed once and can be captured in electronic health records. G6PD testing is routinely available in the United States through commercial laboratory pathology services. Over time, Arakoda is expected to capture a significant share of the antimalarial prophylaxis market as a consequence of these advantages.

We are targeting additional indications for the Arakoda regimen of Tafenoquine, of which the priority is treatment of COVID-19 in ambulatory patients. The main competitor products for this indication are molnupiravir and paxlovid, which have been granted emergency use authorization, and likely full marketing authorization in the future to lower the risk of hospitalization and death, principally in high-risk patients. However, neither of these products have been shown to reduce the time to sustained clinical recovery in non-hospitalized standard risk patients. We are targeting this therapeutic niche with the Arakoda regimen of Tafenoquine, for which we will attempt to confirm clinical benefit in a clinical study in the second half of 2023.

**Intellectual Property**

We are co-owners, with the U.S. Army, of patents in the United States and certain foreign jurisdictions directed toward use of Tafenoquine for malaria and have obtained an exclusive worldwide license from the U.S. Army to practice these inventions. We also have an exclusive worldwide license to use manufacturing information and non-clinical and clinical data that the U.S. Army possesses relating to use of Tafenoquine for all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. We have submitted patent applications in the United States and certain foreign jurisdictions for use of Tafenoquine for COVID-19, fungal lung infections, tick-borne diseases, and other infectious and non-infectious diseases in which induction of host cytokines/inflammation is a component of the disease process. The United States Patent and Trademark Office ("USPTO") recently allowed our first COVID-19 patent for Tafenoquine. We have optioned or licensed patents involving Celgosivir for the treatment and prevention of Dengue (from the National University of Singapore), COVID-19 & Zika (Florida State University), and have submitted provisional patent applications related to Celgosivir for RSV. We have optioned or own manufacturing methods related to Celgosivir. A detailed list of our intellectual property is as follows:

*Patents*

| Title | Patent No. | Country | Status | US Patent Date | Application No. | Estimated/ Anticipated Expiration Date |
|---|---|---|---|---|---|---|
| Dosing Regimen For Use Of Celgosivir As An Antiviral Therapeutic For Dengue Virus Infections | 2013203400 | Australia | | | 2013203400[+] | 10-April-2033* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 2014228035 | Australia | | | 2014228035 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | MY-170991-A | Malaysia | | | PI2015002372 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 378015 | Mexico | | | MX/a/2015/013115 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11201507254V | Singapore | | | 11201507254V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | Pending | Singapore | Pending | | 10201908089V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 9763921 | US | | 9/19/2017 | 14/772,873 | 14-Mar-2034^ |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 10517854 | US | | 12/31/2019 | 15/706,845 | 14-Mar-2034^ |
| Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11219616 | US | | 1/11/2022 | 16/725,387 | 14-Mar-2034^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 2015358566 | Australia | | | 2015358566 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Canada | Pending | | 2968694 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 10342791 | US | | 7/9/2019 | 15/532,280 | 02-Dec-2035^ |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | 10888558 | US | | 1/12/2021 | 16/504,533 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Singapore | Pending | | 10201904908Q | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | EP | Pending | | 15865264.4 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Hong Kong | Pending | | 18103081.4 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | Pending | US | Pending | | 17/145,530 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | New Zealand | Pending | | 731813 | 02-Dec-2035* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 2016368580 | Australia | | | 2016368580 | 09-Dec-2036* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | Pending | Singapore | Pending | | 10201912141Y | 09-Dec-2036* |
| Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 11000516 | US | | 5/11/2011 | 16/060,945 | 09-Dec-2036^ |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | EP | Pending | | 21764438.4 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | China | Pending | | 202180029643.7 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | Australia | Pending | | 2021231743 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Gram-Positive Bacteria, Fungus, Or Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/189,544 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Fungus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,679 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Sars-Cov-2 Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,718 | 02-Mar-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | 11369592 | US | | 6/28/2022 | 17/180,140[#] | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | Pending | US | Pending | | 17/664,693[#] | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibitors | Pending | EP | Pending | | 2021757552[#] | 19-Feb-2041* |
| Methods For The Treatment And Prevention Of Non-Viral Tick-Borne Diseases And Symptoms Thereof | *Provisional* | US | *Provisional* | | 63/461,060 | 21-Apr-2044[&] |
| Methods To Treat Respiratory Infection Utilizing Castanospermine Analogs | *Provisional* | US | *Provisional* | | 63/358,341 | ~05-Jul-2043[&] |
| Methods For The Treatment And Prevention Of Diseases Or Infections With Mcp-1 Involvement By Administration Of Tafenoquine | *Provisional* | US | *Provisional* | | 63/411,654 | ~30-Sep-2043[&] |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,328,061[+] | US | | 6-25-2019 | 15/584,952[+] | 2-May-37 |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,561,642[+] | US | | 2-18-2020 | 15/856,377[+] | 2-May-37 |

* = For foreign patents and applications, the estimated and/or anticipated patent expiration is the date that is twenty years from the PCT filing date. For all issued Australian patents, this estimated date was also confirmed through the Australian patent office web database.

^ = For issued U.S. patents, the estimated patent expiration was calculated using information from the front cover of the patent, *i.e.*, 20 years from the date of the nonprovisional filing plus any listed Patent Term Adjustment less any time disclaimed through a Terminal Disclaimer. For pending U.S. applications, the anticipated patent expiration is the date twenty years from the earliest nonprovisional filing date and does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

**&** = For U.S. provisional applications that are not yet the subject of a nonprovisional or PCT application, the anticipated patent expiration was determined using the assumption that a non-provisional application or PCT will be filed one year after filing the provisional application with a term lasting twenty years from the date of that nonprovisional or PCT filing. This does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

\+ = 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant and Geoffrey S. Dow, Ph.D. is not a listed inventor.

\# = 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant, but Geoffrey S. Dow, Ph.D. is a listed inventor.

All patents not designated with a “+” list Geoffrey S. Dow, Ph.D. as an inventor.
All patents not designated with a “+” or a “#” list 60 Degrees Pharmaceuticals, Inc. as an applicant.
All estimated patent expiration dates and anticipated patent expiration assume payment of any maintenance/annuity fees during the patent term.

*Trademarks*

| Country | Mark | Status | Application Number | Date Filed | Registration Date | Registration Number | BIR Ref Number | Due Date | Due Date Description |
|---|---|---|---|---|---|---|---|---|---|
| Australia | KODATEF | Registered | 1774631 | 2-Jun-16 | 6/2/2016 | 1774631 | 0081716-000029 | 2-Jun-26 | Renewal Due |
| Canada | KODATEF | Registered | 1785098 | 1-Jun-16 | 11/26/2019 | TMA1,064,371 | 0081716-000028 | 26-Nov-29 | Renewal Due |
| Canada | ARAKODA | Registered | 1899317 | 15-May-18 | 8/20/2020 | TMA1,081,180 | 0081716-000053 | 20-Aug-30 | Renewal Due |
| China | KODATEF | Registered | 20842242 | 2-Aug-16 | 9/28/2017 | 20842242 | 0081716-000035 | 27-Sep-27 | Renewal Due |
| European Union | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | 15508872 | 0081716-000034 | 3-Jun-26 | Renewal Due |
| European Union | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | 17900852 | 0081716-000054 | 16-May-28 | Renewal Due |
| Israel | KODATEF | Registered | 285476 | 6-Jun-16 | 6/6/2016 | 285476 | 0081716-000033 | 6-Jun-26 | Renewal Due |
| New Zealand | KODATEF | Registered | 1044407 | 7-Jun-16 | 12/8/2016 | 1044407 | 0081716-000031 | 6-May-26 | Renewal Due |
| Russian Federation | KODATEF | Registered | 2016720181 | 6-Jun-16 | 7/10/2017 | 623174 | 0081716-000032 | 6-Jun-26 | Renewal Due |
| Singapore | KODATEF | Registered | 40201707950V | 2-May-17 | 11/8/2017 | 40201707950V | 0081716-000040 | 2-May-27 | Renewal Due |
| United Kingdom | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | UK00917900852 | 0081716-000054 | 16-May-28 | Renewal Due |
| United Kingdom | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | UK009015508872 | 0081716-000072 | 3-Jun-26 | Renewal Due |
| United States of America | TQ 100 & TABLET DESIGN | Registered | 87608493 | 14-Sep-17 | 9/11/2018 | 5562900 | 0081716-000037 | 11-Sep-24 | Section 8 & 15 Due |
| United States of America | ARAKODA | Registered | 87688137 | 16-Nov-17 | 12/31/2019 | 5950691 | 0081716-000050 | 31-Dec-25 | Section 8 & 15 Due |
| United States of America | KODATEF | Allowed - 02/16/2021 | 90072885 | 24-Jul-20 | | | 0081716-000069 | 16-Aug-23 | Statement of Use/3rd Extension of Time Due |

**Key Relationships & Licenses**

On May 30, 2014, we entered into the Exclusive License Agreement (the "2014 NUS-SHS Agreement") with National University of Singapore ("NUS") and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Dosing Regimen for Use of Celgosivir as an Antiviral Therapeutic for Dengue Virus Infection" to develop, market and sell licensed products. The 2014 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2014 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales.

On July 15, 2015, we entered into the Exclusive License Agreement with the U.S. Army Medical Materiel Development Activity (the "U.S. Army"), which was subsequently amended (the "U.S. Army Agreement"), in which we obtained a license to develop and commercialize the licensed technology with respect to all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. This exclusion does not impact our ability to market Arakoda for the FDA-approved use, which is the prevention of malaria utilizing the indicated dose in asymptomatic individuals traveling to malarious areas (whereas the license exclusion relates to its use to treat symptomatic vivax malaria in a patient already presenting with that disease). The term of the U.S. Army Agreement will continue until the expiration of the last to expire of the patent application or valid claim of the licensed technology, or 20 years from the start date of the U.S. Army Agreement, unless terminated earlier by the parties. We will be required to make a minimum annual royalty payment of 3% of net sales for net sales < $35 million, and 5% of net sales greater than $35 million, with US government sales excluded from the definition of net sales. In addition, we must pay a milestone fee of $75,000 once cumulative net sales from all sources exceeds $6 million, $100,000 if the company is acquired or merges, and regulatory approval milestone payments once marketing authorizations are achieved in Canada ($5,000) and Europe ($5,000). Also, we will be required to obtain the U.S. Army Medical Materiel Development Activity's consent prior to a change of control of the Company, which consent was obtained on September 2, 2022.

On September 15, 2016, we entered into the Exclusive License Agreement (the "2016 NUS-SHS Agreement") with National University of Singapore ("NUS") and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Novel Dosing Regimens of Celgosivir for The Prevention of Dengue" to develop, market and sell licensed products. The 2016 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2016 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales or minimum annual royalty ($5,000 in 2022 and $15,000 in 2023). In July 2022, the Company renegotiated the timing of a license fee of $85,000 Singapore Dollars, payable to the National University of Singapore, such that payment would be due at the earlier of (i) enrollment of a patient in a Phase II clinical trial involving Celgosivir, (ii) two years from the agreement date and (iii) an initial public offering.

On December 4, 2020, we entered into the Other Transaction Authority for Prototype Agreement ("OTAP Agreement") with the Natick Contracting Division of the U.S. government in which we will, among other things, conduct activities for a Phase II clinical trial to assess the safety and efficacy of Tafenoquine for the treatment of mild to moderate COVID-19 disease, with the goal of delivering Tafenoquine with an FDA Emergency Use Authorization ("EUA") approved as a countermeasure against COVID-19. The total amount of the OTAP Agreement is $4,999,814. The term of the OTAP Agreement commences on December 4, 2020, and was completed in the third quarter of 2022. The U.S. government may terminate the OTAP Agreement for any or no reason by providing us with at least thirty (30) calendar days' prior written notice. Pursuant to the OTAP Agreement, we will not offer, sell or otherwise provide the EUA or licensed version of the prototype (Tafenoquine) that is FDA approved for COVID-19 or any like product to any entity at a price lower than that offered to the DoD, which applies only to products sold in the U.S., European Union and Canada related to COVID-19.

On February 15, 2021, we entered into the Inter-Institutional Agreement (the "FSURF Agreement") with the Florida State University Research Foundation ("FSURF") in which FUSRF granted us the right to manage the licensing of intellectual property created at FSURF. The term of the FSURF Agreement expires five years from February 15, 2021. After deduction of a 5% administrative fee by FSURF, capped at $15,000 annually, and reimbursement of patent prosecution expenses, we will receive 20% of license income and FSURF will receive 80% of license income. Payments of license income shall be paid in U.S. dollars quarterly each year. On February 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that

collectively granted an option, effective through August 19, 2023, to us to license methods for purifying castanospermine and its use for the treatment of COVID-19. On August 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that collectively granted an option, effective through August 19, 2023, to us to license a patent relating to the use of alpha glucosidase inhibitors (including castanospermine and celgosivir) for treatment of Zika infections.

Pursuant to the Knight Debt Conversion Agreement, for a period commencing on January 1, 2022 and ending upon the earlier of ten years after the closing date of this offering or the conversion or redemption in full of all of the shares of Series A Preferred Stock owned by Knight, we will pay Knight a royalty equal to 3.5% of our net sales, where “net sales” has the same meaning as in our license agreement with the U.S. Army for Tafenoquine. Upon succeeding with the qualified IPO, at the end of the quarter and each thereafter the royalty will be calculated, and payment will be made within fifteen days.

**Sales and Marketing**

For the remainder of 2023, we are committed to ensuring continuity of supply of Arakoda in the U.S. market for malaria prevention. As resources permit, we will undertake a limited marketing campaign for Arakoda for malaria prevention in the second half of 2023. This effort would consist of promotions at relevant conferences, email promotions to prescribers, targeted print and electronic advertisements, and outreach via social media as appropriate. The focus of promotional efforts would be on the proven features and benefits of Arakoda, and the recent publication demonstrating the good safety and tolerability of Arakoda for continuous weekly dosing for up to one year.[67]

We will be closely monitoring market share growth of Kodatef in Australia in 2023. Unlike Arakoda in the U.S., the Australian product will be actively marketed by a sales team to travel clinics, and the same distributor is also the licensor for the SD Biosensor point of care G6PD test (which is TGA approved). Comparison of Australian to U.S. civilian sales sector growth (the latter of which will be unsupported by sales staff and a marketed point of care G6PD test) over the same period will inform the design of any future commercialization plan for the malaria indication that we may wish to undertake.

Effective January 1, 2023, we have lowered the Arakoda WAC price to $235 USD per 16 x 100 mg tablet box. Although international pricing is independently set by our foreign distributors, we believe that the revised U.S. pricing will be similar relative to competitor products as it is elsewhere. Following this price adjustment, we will attempt to improve the position of Arakoda in the DoD formulary through engagement of a consulting firm with appropriate contacts.

We also plan to enter into contract sales agreements with a(n) appropriate organization(s) to further (i) ex U.S. named patient use.

**Manufacturing**

We do not currently own or operate manufacturing facilities for the production of clinical or commercial quantities of our product candidates.

**Australian Research Tax Credit and Overseas Finding Process**

Under Section 27 of the Industry Research and Development Act 1986[68], the Australian government offers a research tax credit of 43.5% on registered research and development activities executed in Australia by eligible Australian domiciled entities. Companies are eligible to receive tax credits if they meet the following criteria: (i) are domiciled in Australia, (ii) have incurred at least $20,000 in eligible research and development expenses, (iii) have conducted at least one eligible research and development activity, (iv) beneficial owner(s) with > 40 % beneficial ownership when considered together do not have > $20 million AUD aggregated turnover on an annual basis. 60P Australia Pty Ltd meets all these criteria, and will continue to do so following this offering unless our aggregate turnover, considered together with any of our shareholders who have > 40% beneficial ownership, have > $20 million AUD in aggregate annual turnover.

Under Section 28D of the Industry Research and Development Act 1986[69], research and development activities conducted outside Australia are also potentially eligible if they meet the following criteria: (i) they are approved in advance, (ii) they are linked to a core research and development activity conducted in Australia, (iii) cannot be conducted in Australia for various reasons and (iv) the value of activities conducted overseas is less than the value of activities conducted in Australia. These criteria would be met for the planned COVID-19 study if a population of suitable patients could not be found in Australia, and we conduct research activities linked to the COVID-19 study in Australia in the future which are greater in value than the cost of the planned COVID-19 clinical study.

**Government Regulation and Product Approvals**

Government authorities in the United States, at the federal, state and local level, and in other countries and jurisdictions, including the European Union, extensively regulate, among other things, the research, development, testing, manufacture, quality control, approval, packaging, storage, recordkeeping, labeling, advertising, promotion, distribution, marketing, post-approval monitoring and reporting, and import and export of pharmaceutical products. The processes for obtaining regulatory approvals in the United States and in foreign countries and jurisdictions, along with subsequent compliance with applicable statutes and regulations and other regulatory authorities, require the expenditure of substantial time and financial resources.

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[67] Novitt-Moreno et al. TMAID 2022; 45:102211.

[68] See Industry Research and Development Act 1986 (legislation.gov.au).

[69] See Australian Government R&D Tax Incentive – Overseas R&D: Information Sheet.

***Review and Approval of Drugs in the United States***

In the United States, the FDA regulates, among other things, the research, development, testing, manufacturing, approval, labeling, storage, recordkeeping, advertising, promotion and marketing, distribution, post approval monitoring and reporting and import and export of drugs in the U.S. to assure the safety and effectiveness of medical products for their intended use under the Federal Food, Drug, and Cosmetic Act ("FDCA"), and implementing regulations. The failure to comply with applicable U.S. requirements at any time during the product development process, approval process or after approval may subject an applicant and/or sponsor to a variety of administrative or judicial sanctions, including refusal by the FDA to approve pending applications, withdrawal of an approval, imposition of a clinical hold, issuance of warning letters and other types of letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, refusals of government contracts, denial of the ability to import and export certain products, restitution, disgorgement of profits, or civil or criminal investigations and penalties brought by the FDA and the Department of Justice or other governmental entities.

An applicant seeking approval to market and distribute a new drug product in the United States must typically undertake the following:

- completion of preclinical laboratory tests, animal studies and formulation studies in compliance with the FDA's good laboratory practice regulations;
- submission to the FDA of an IND, which must take effect before human clinical trials may begin;
- approval by an independent institutional review board representing each clinical site before each clinical trial may be initiated;
- performance of adequate and well-controlled human clinical trials in accordance with good clinical practices to establish the safety and efficacy of the proposed drug product for each indication;
- preparation and submission to the FDA of a new drug application;
- review of the product by an FDA advisory committee, where appropriate or if applicable;
- satisfactory completion of one or more FDA inspections of the manufacturing facility or facilities at which the product, or components thereof, are produced to assess compliance with cGMP, requirements and to assure that the facilities, methods and controls are adequate to preserve the product's identity, strength, quality and purity;
- satisfactory completion of FDA audits of clinical trial sites to assure compliance with GCPs and the integrity of the clinical data;
- payment of user fees and securing FDA approval of the NDA; and
- compliance with any post-approval requirements, including Risk Evaluation and Mitigation Strategies and post-approval studies required by the FDA.

*Preclinical Studies*

Preclinical studies include laboratory evaluation of the purity and stability of the manufactured drug substance or active pharmaceutical ingredient and the formulated drug or drug product, as well as *in vitro* and animal studies to assess the safety and activity of the drug for initial testing in humans and to establish a rationale for therapeutic use. The conduct of preclinical studies is subject to federal regulations and requirements, including GLP regulations. 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, are submitted to the FDA as part of an IND. Some long-term preclinical testing, such as animal tests of reproductive adverse events and carcinogenicity, may continue after the IND is submitted.

Companies usually must complete some long-term preclinical testing, such as animal tests of reproductive adverse events and carcinogenicity, and must also develop additional information about the chemistry and physical characteristics of the investigational product and 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, the manufacturer must develop methods for testing the identity, strength, 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.

*The IND and IRB Processes*

An IND is an exemption from the FDCA that allows an unapproved drug to be shipped in interstate commerce for use in an investigational clinical trial and a request for FDA authorization to administer an investigational drug to humans. Such authorization must be secured prior to interstate shipment and administration of any new drug that is not the subject of an approved NDA. In support of a request for an IND, applicants must submit a protocol for each clinical trial and any subsequent protocol amendments must be submitted to the FDA as part of the IND. In addition, 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, are submitted to the FDA as part of an IND. The FDA requires a 30-day waiting period after the filing of each IND before clinical trials may begin. This waiting period is designed to allow the FDA to review the IND to determine whether human research subjects will be exposed to unreasonable health risks. At any time during this 30-day period, the FDA may raise concerns or questions about the conduct of the trials as outlined in the IND and impose a clinical hold. In this case, the IND sponsor and the FDA must resolve any outstanding concerns before clinical trials can begin.

Following commencement of a clinical trial under an IND, the FDA may also place a clinical hold or partial clinical hold on that trial. A clinical hold is an order issued by the FDA to the sponsor to delay a proposed clinical investigation or to suspend an ongoing investigation. A partial clinical hold is a delay or suspension of only part of the clinical work requested under the IND. For example, a specific protocol or part of a protocol is not allowed to proceed, while other protocols may do so. No more than 30 days after imposition of a clinical hold or partial clinical hold, the FDA will provide the sponsor a written explanation of the basis for the hold.

Following issuance of a clinical hold or partial clinical hold, an investigation may only resume after the FDA has notified the sponsor that the investigation may proceed. The FDA will base that determination on information provided by the sponsor correcting the deficiencies previously cited or otherwise satisfying the FDA that the investigation can proceed.

A sponsor may choose, but is not required, to conduct a foreign clinical study under an IND. When a foreign clinical study is conducted under an IND, all FDA IND requirements must be met unless waived. When the foreign clinical study is not conducted under an IND, the sponsor must ensure that the study complies with certain FDA requirements in order to use the study as support for an IND or application for marketing approval.

In addition to the IND requirements, an IRB representing each institution participating in the clinical trial must review and approve the plan for any clinical trial before it commences at that institution, and the IRB must conduct continuing review and reapprove the study at least annually. The IRB must review and approve, among other things, the study protocol and informed consent information to be provided to study subjects. An IRB must operate in compliance with FDA regulations. An IRB can suspend or terminate approval of a clinical trial at its institution, or an institution it represents, if the clinical trial is not being conducted in accordance with the IRB’s requirements or if the product candidate has been associated with unexpected serious harm to patients.

Additionally, some trials are overseen by an independent group of qualified experts organized by the trial sponsor, known as a data safety monitoring board or committee. This group provides authorization for whether or not a trial may move forward at designated check points based on access that only the group maintains to available data from the study. Suspension or termination of development during any phase of clinical trials can occur if it is determined that the participants or patients are being exposed to an unacceptable health risk. Other reasons for suspension or termination may be made by us based on evolving business objectives and/or competitive climate.

Information about certain clinical trials must be submitted within specific timeframes to the National Institutes of Health, for public dissemination on its *ClinicalTrials.gov* website.

*Human Clinical Studies in Support of an NDA*

Clinical trials involve the administration of the investigational product to human subjects under the supervision of qualified investigators in accordance with GCP requirements, which include, among other things, the requirement that all research subjects provide their informed consent in writing before their participation in any clinical trial. Clinical trials are conducted under written study protocols detailing, among other things, the inclusion and exclusion criteria, the objectives of the study, the parameters to be used in monitoring safety and the effectiveness criteria to be evaluated.

Human clinical trials are typically conducted in the following sequential phases, which may overlap or be combined:

- Phase 1: The drug is initially introduced into healthy human subjects or, in certain indications such as cancer, patients with the target disease or condition and tested for safety, dosage tolerance, absorption, metabolism, distribution, excretion and, if possible, to gain an early indication of its effectiveness and to determine optimal dosage.

- Phase 2: The drug is administered to a limited patient population to identify possible adverse effects and safety risks, to preliminarily evaluate the efficacy of the product for specific targeted diseases and to determine dosage tolerance and optimal dosage.

- Phase 3: The drug is administered to an expanded patient population, generally at geographically dispersed clinical trial sites, in well-controlled clinical trials to generate enough data to statistically evaluate the efficacy and safety of the product for approval, to establish the overall risk-benefit profile of the product, and to provide adequate information for the labeling of the product.

- Phase 4: Post-approval studies, which are conducted following initial approval, are typically conducted to gain additional experience and data from treatment of patients in the intended therapeutic indication.

Progress reports detailing the results of the clinical trials must be submitted at least annually to the FDA and more frequently if serious adverse events occur. In addition, IND safety reports must be submitted to the FDA for any of the following: serious and unexpected suspected adverse reactions; findings from other studies or animal or *in vitro* testing that suggest a significant risk in humans exposed to the drug; and any clinically important increase in the case of a serious suspected adverse reaction over that listed in the protocol or investigator brochure. Phase 1, Phase 2 and Phase 3 clinical trials may not be completed successfully within any specified period, or at all. Furthermore, the FDA or the sponsor may suspend or terminate a clinical trial at any time on various grounds, including a finding that the research subjects are being exposed to an unacceptable health risk. Similarly, an IRB can suspend or terminate approval of a clinical trial at its institution, or an institution it represents, if the clinical trial is not being conducted in accordance with the IRB's requirements or if the drug has been associated with unexpected serious harm to patients. The FDA will typically inspect one or more clinical sites to assure compliance with GCP and the integrity of the clinical data submitted.

Concurrent with clinical trials, companies often complete additional animal studies and must also develop additional information about the chemistry and physical characteristics of the drug as well as 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 drug candidate and, among other things, must develop methods for testing the identity, strength, quality, purity, and potency of the final drug. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the drug candidate does not undergo unacceptable deterioration over its shelf life.

*Submission of an NDA to the FDA*

Assuming successful completion of required clinical testing and other requirements, the results of the preclinical studies and clinical trials, together with detailed information relating to the product's chemistry, manufacture, controls and proposed labeling, among other things, are submitted to the FDA as part of an NDA requesting approval to market the drug product for one or more indications. Under federal law, the submission of most NDAs is additionally subject to an application user fee and the sponsor of an approved NDA is also subject to annual product and establishment user fees. These fees are typically increased annually. Certain exceptions and waivers are available for some of these fees, such as an exception from the application fee for products with orphan designation and a waiver for certain small businesses, an exception from the establishment fee when the establishment does not engage in manufacturing the product during a particular fiscal year, and an exception from the product fee for a product that is the same as another product approved under an abbreviated pathway.

The FDA conducts a preliminary review of an NDA within 60 days of its receipt and strives to inform the sponsor by the 74th day after the FDA's receipt of the submission to determine whether the application is sufficiently complete to permit substantive review. The FDA may request additional information rather than accept an NDA for filing. In this event, the application must be resubmitted with additional information. The resubmitted application is also subject to review before the FDA accepts it for filing. Once the submission is accepted for filing, the FDA begins an in-depth substantive review. The FDA has agreed to certain performance goals in the review process of NDAs. Most such applications are meant to be reviewed within ten months from the date of filing, and most applications for "priority review" products are meant to be reviewed within six months of filing. The review process may be extended by the FDA for three additional months to consider new information or clarification provided by the applicant to address an outstanding deficiency identified by the FDA following the original submission.

Before approving an NDA, the FDA typically will inspect the facility or facilities where the product is or will be manufactured. These pre-approval inspections may cover all facilities associated with an NDA submission, including drug component manufacturing (such as active pharmaceutical ingredients), finished drug product manufacturing, and control testing laboratories. The FDA will not approve an application unless it determines that the manufacturing processes and facilities comply with cGMP requirements and adequate to assure consistent production of the product within required specifications. Additionally, before approving an NDA, the FDA will typically inspect one or more clinical sites to assure compliance with GCP. Under the FDA Reauthorization Act of 2017 ("FDARA"), the FDA must implement a protocol to expedite review of responses to inspection reports pertaining to certain drug applications, including applications for drugs in a shortage or drugs for which approval is dependent on remediation of conditions identified in the inspection report.

In addition, as a condition of approval, the FDA may require an applicant to develop a REMS. REMS use risk minimization strategies beyond professional labeling to ensure that the benefits of the product outweigh the potential risks. To determine whether a REMS is needed, the FDA will consider the size of the population likely to use the product, seriousness of the disease, expected benefit of the product, expected duration of treatment, seriousness of known or potential adverse events, and whether the product is a new molecular entity. REMS can include medication guides, physician communication plans for healthcare professionals, and elements to assure safe use, or ETASU. ETASU may include, but is not limited to, special training or certification for prescribing or dispensing, dispensing only under certain circumstances, special monitoring, and the use of patient registries. The FDA may require a REMS before approval or post-approval if it becomes aware of a serious risk associated with use of the product. The requirement for a REMS can materially affect the potential market and profitability of a product.

The FDA may refer an application for a novel drug to an advisory committee or explain why such referral was not made. Typically, an advisory committee is a panel of independent experts, including clinicians and other scientific experts, that reviews, evaluates and provides a recommendation as to whether the application should be approved and under what conditions. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations carefully when making decisions.

*Fast-Track, Breakthrough Therapy and Priority Review Designations*

The FDA is authorized to designate certain products for expedited review if they are intended to address an unmet medical need in the treatment of a serious or life-threatening disease or condition. These programs are referred to as fast-track designation, breakthrough therapy designation and priority review designation.

Specifically, the FDA may designate a product for fast-track review if it is intended, whether alone or in combination with one or more other products, for the treatment of a serious or life-threatening disease or condition, and it demonstrates the potential to address unmet medical needs for such a disease or condition. For fast-track products, sponsors may have greater interactions with the FDA and the FDA may initiate review of sections of a fast-track product's application before the application is complete. This rolling review may be available if the FDA determines, after preliminary evaluation of clinical data submitted by the sponsor, that a fast-track product may be effective. The sponsor must also provide, and the FDA must approve, a schedule for the submission of the remaining information and the sponsor must pay applicable user fees. However, the FDA's time period goal for reviewing a fast-track application does not begin until the last section of the application is submitted. In addition, the fast track designation may be withdrawn by the FDA if the FDA believes that the designation is no longer supported by data emerging in the clinical trial process.

Second, a product may be designated as a breakthrough therapy if it is intended, either alone or in combination with one or more other products, to treat a serious or life-threatening disease or condition and preliminary clinical evidence indicates that the product may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. The FDA may take certain actions with respect to breakthrough therapies, including holding meetings with the sponsor throughout the development process; providing timely advice to the product sponsor regarding development and approval; involving more senior staff in the review process; assigning a cross-disciplinary project lead for the review team; and taking other steps to design the clinical trials in an efficient manner.

Third, the FDA may designate a product for priority review if it is a product that treats a serious condition and, if approved, would provide a significant improvement in safety or effectiveness. The FDA determines, on a case-by-case basis, whether the proposed product represents a significant improvement when compared with other available therapies. Significant improvement may be illustrated by evidence of increased effectiveness in the treatment of a condition, elimination or substantial reduction of a treatment-limiting product reaction, documented enhancement of patient compliance that may lead to improvement in serious outcomes, and evidence of safety and effectiveness in a new subpopulation. A priority designation is intended to direct overall attention and resources to the evaluation of such applications, and to shorten the FDA's goal for taking action on a marketing application from ten months to six months.

*Tropical Disease PRVs*

The Tropical Disease Priority Review Voucher ("PRV") program was created by Congress under the Food and Drug Administration Amendments Act of 2007 ("FDAAA") in order to encourage innovation and public access to new medicines. Pursuant to Section 1102 of FDAAA, which amended section 524 of the Federal Food, Drug, and Cosmetic Act ("FFDCA"), along with later amendments, the FDA must award a PRV to certain applicants that obtain an approved NDA to treat certain tropical diseases. Congress later expanded the scope of diseases that were eligible for a PRV (e.g., a PRV for obtaining approval for a drug to treat rare pediatric diseases). A PRV entitles the holder of the voucher to designate a different drug application as qualifying for priority review from FDA. When a drug application is designated for priority review through use of a priority review voucher, that application must be reviewed by FDA no later than 6 months after receipt.[70] This guarantees a much more rapid review by FDA compared to the standard review time.

Tropical disease PRVs were created under the FDAAA to encourage pharmaceutical companies to develop treatments for specific neglected tropical diseases. As defined by the statute, tropical diseases refer to certain "infectious disease[s] for which there is no significant market in developed nations and that disproportionately affects poor and marginalized populations."[71] Because tropical diseases occur rarely in the United States, obtaining approval from the FDA for treating these diseases would normally be unprofitable for pharmaceutical companies due to the limited domestic market and the scope and significant financial costs of the post-marketing requirements imposed by FDA. Congress intended to incentivize companies to turn their attentions to tropical diseases by providing a PRV to those companies that obtained approval from FDA for a tropical disease drug product, and the granted PRV could then be sold to another company for money.

A PRV is an extremely valuable property interest. For example, Rhythm Pharmaceutical, Inc. announced in 2021 that it had sold a PRV for $100,000,000.[72]

*Accelerated Approval Pathway*

The FDA may grant accelerated approval to a drug for a serious or life-threatening condition that provides meaningful therapeutic advantage to patients over existing treatments based upon a determination that the drug has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit. The FDA may also grant accelerated approval for such a condition when the product has an effect on an intermediate clinical endpoint that can be measured earlier than an effect on irreversible morbidity or mortality ("IMM"), and that is reasonably likely to predict an effect on IMM or other clinical benefit, taking into account the severity, rarity or prevalence of the condition and the availability or lack of alternative treatments. Drugs granted accelerated approval must meet the same statutory standards for safety and effectiveness as those granted traditional approval.

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. Surrogate endpoints can often be measured more easily or more rapidly than clinical endpoints. An intermediate clinical endpoint is a measurement of a therapeutic effect that is considered reasonably likely to predict the clinical benefit of a drug, such as an effect on IMM. There is limited experience with accelerated approvals by the FDA based on intermediate clinical endpoints. However, the FDA has indicated that such endpoints generally may support accelerated approval where the therapeutic effect measured by the endpoint is not itself a clinical benefit and basis for traditional approval, if there is a basis for concluding that the therapeutic effect is reasonably likely to predict the ultimate clinical benefit of a drug.

The accelerated approval pathway is most often used in settings in which the course of a disease is long, and an extended period of time is required to measure the intended clinical benefit of a drug, even if the effect on the surrogate or intermediate clinical endpoint occurs rapidly. Thus, accelerated approval has been used extensively in the development and approval of drugs for treatment of a variety of cancers in which the goal of therapy is generally to improve survival or decrease morbidity and the duration of the typical disease course requires lengthy and sometimes large trials to demonstrate a clinical or survival benefit.

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[70] 21 U.S.C. § 360n(a)(1).

[71] 21 U.S.C. § 360n(a)(3).

[72] Ben Adams, *Newly acquired Alexion pays $100M for Rhythm's speedy review voucher*, Fierce Biotech (Jan 6, 2021, 10:23 AM), *available at* https://www.fiercebiotech.com/biotech/newly-acquired-alexion-pays-100m-for-rhythm-s-speedy-review-voucher.

The accelerated approval pathway is usually contingent on a sponsor's agreement to conduct, in a diligent manner, additional post-approval confirmatory studies to verify and describe the drug's clinical benefit. As a result, a drug candidate approved on this basis is subject to rigorous post-marketing compliance requirements, including the completion of Phase 4 or post-approval clinical trials to confirm the effect on the clinical endpoint. Failure to conduct required post-approval studies, or confirm a clinical benefit during post-marketing studies, would allow the FDA to withdraw the drug from the market on an expedited basis. All promotional materials for drug candidates approved under accelerated regulations are subject to prior review by the FDA.

*The FDA's Decision on an NDA*

On the basis of the FDA's evaluation of the NDA and accompanying information, including the results of the inspection of the manufacturing facilities, 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 generally outlines the deficiencies in the submission and may require substantial additional testing or information in order for the FDA to reconsider the application. If and when those deficiencies have been addressed to the FDA's satisfaction in a resubmission of the NDA, the FDA will issue an approval letter. The FDA has committed to reviewing such resubmissions in two or six months depending on the type of information included. Even with submission of this additional information, the FDA ultimately may decide that the application does not satisfy the regulatory criteria for approval.

If the FDA approves a product, it may limit the approved indications for use for the product, require that contraindications, warnings or precautions be included in the product labeling, require that post-approval studies, including Phase 4 clinical trials, be conducted to further assess the drug's safety after approval, require testing and surveillance programs to monitor the product after commercialization, or impose other conditions, including distribution restrictions or other risk management mechanisms, including REMS, which can materially affect the potential market and profitability of the product. The FDA may prevent or limit further marketing of a product based on the results of post-market studies or surveillance programs. After approval, many types of changes to the approved product, such as adding new indications, manufacturing changes and additional labeling claims, are subject to further testing requirements and FDA review and approval.

*Post-Approval Requirements*

Drugs manufactured or distributed pursuant to FDA approvals are subject to pervasive and continuing regulation by the FDA, including, among other things, requirements relating to recordkeeping, periodic reporting, product sampling and distribution, advertising and promotion and reporting of adverse experiences with the product. After approval, most changes to the approved product, such as adding new indications or other labeling claims, are subject to prior FDA review and approval. There also are continuing, annual user fee requirements for any marketed products and the establishments at which such products are manufactured, as well as new application fees for supplemental applications with clinical data.

In addition, drug manufacturers and other entities involved in the manufacture and distribution of approved drugs are required to register their establishments with the FDA and state agencies, and are subject to periodic unannounced inspections by the FDA and these state agencies for compliance with cGMP requirements. Changes to the manufacturing process are strictly regulated and often require prior FDA approval before being implemented. FDA regulations also require investigation and correction of any deviations from cGMP and impose reporting and documentation requirements upon the sponsor and any third-party manufacturers that the sponsor may decide to use. Accordingly, manufacturers must continue to expend time, money, and effort in the area of production and quality control to maintain cGMP compliance.

Once an approval is granted, the FDA may withdraw the 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 trials to assess new safety risks; or imposition of distribution or other restrictions under a REMS program. Other potential consequences include, among other things:

- restrictions on the marketing or manufacturing of the product, complete withdrawal of the product from the market or product recalls;
- fines, warning letters or holds on post-approval clinical trials;
- refusal of the FDA to approve pending NDAs or supplements to approved NDAs, or suspension or revocation of product license approvals;
- product seizure or detention, or refusal to permit the import or export of products; or
- injunctions or the imposition of civil or criminal penalties.

The FDA strictly regulates the marketing, labeling, advertising and promotion of prescription drug products placed on the market. This regulation includes, among other things, standards and regulations for direct-to-consumer advertising, communications regarding unapproved uses, industry-sponsored scientific and educational activities, and promotional activities involving the Internet and social media. Promotional claims about a drug's safety or effectiveness are prohibited before the drug is approved. After approval, a drug product generally may not be promoted for uses that are not approved by the FDA, as reflected in the product's prescribing information. In the United States, healthcare professionals are generally permitted to prescribe drugs for such uses not described in the drug's labeling, known as off-label uses, because the FDA does not regulate the practice of medicine. However, the FDA's regulations impose rigorous restrictions on manufacturers' communications, prohibiting the promotion of off-label uses. It may be permissible, under very specific, narrow conditions, for a manufacturer to engage in nonpromotional, non-misleading communication regarding off-label information, such as distributing scientific or medical journal information. If a company is found to have promoted off-label uses, it may become subject to adverse public relations and administrative and judicial enforcement by the FDA, the Department of Justice, or the Office of the Inspector General of the Department of Health and Human Services, as well as state authorities. This could subject a company to a range of penalties that could have a significant commercial impact, including civil and criminal fines and agreements that materially restrict the manner in which a company promotes or distributes drug products. The federal government has levied large civil and criminal fines against companies for alleged improper promotion, and has also requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed.

In addition, the distribution of prescription pharmaceutical products is subject to the Prescription Drug Marketing Act ("PDMA"), and its implementation regulations, as well as the Drug Supply Chain Security Act ("DSCSA"), which regulates the distribution of and tracing of prescription drugs and prescription drug samples at the federal level, and sets minimum standards for the regulation of drug distributors by the states. The PDMA, its implementing regulations and state laws limit the distribution of prescription pharmaceutical product samples, and the DSCSA imposes requirements to ensure accountability in distribution and to identify and remove counterfeit and other illegitimate products from the market.

*Abbreviated New Drug Applications for Generic Drugs*

In 1984, with passage of the Hatch-Waxman Amendments to the FDCA, Congress authorized the FDA to approve generic drugs that are the same as drugs previously approved by the FDA under the NDA provisions of the statute. To obtain approval of a generic drug, an applicant must submit an ANDA to the agency. In support of such applications, a generic manufacturer may rely on the preclinical and clinical testing previously conducted for a drug product previously approved under an NDA, known as the reference-listed drug ("RLD").

Specifically, in order for an ANDA to be approved, the FDA must find that the generic version is identical to the RLD with respect to the active ingredients, the route of administration, the dosage form, and the strength of the drug. At the same time, the FDA must also determine that the generic drug is "bioequivalent" to the innovator drug. Under the statute, a generic drug is bioequivalent to a RLD if "the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the listed drug..."

Upon approval of an ANDA, the FDA indicates whether the generic product is "therapeutically equivalent" to the RLD in its publication "Approved Drug Products with Therapeutic Equivalence Evaluations," also referred to as the "Orange Book." Physicians and pharmacists consider a therapeutic equivalent generic drug to be fully substitutable for the RLD. In addition, by operation of certain state laws and numerous health insurance programs, the FDA's designation of therapeutic equivalence often results in substitution of the generic drug without the knowledge or consent of either the prescribing physician or patient.

Under the Hatch-Waxman Amendments, the FDA may not approve an ANDA until any applicable period of non-patent exclusivity for the RLD has expired. The FDCA provides a period of five years of non-patent data exclusivity for a new drug containing a new chemical entity. For the purposes of this provision, a new chemical entity ("NCE"), is a drug that contains no active moiety that has previously been approved by the FDA in any other NDA. An active moiety is the molecule or ion responsible for the physiological or pharmacological action of the drug substance. In cases where such NCE exclusivity has been granted, an ANDA may not be filed with the FDA until the expiration of five years unless the submission is accompanied by a Paragraph IV certification, in which case the applicant may submit its application four years following the original product approval.

The FDCA also provides for a period of three years of exclusivity if the NDA includes reports of one or more new clinical investigations, other than bioavailability or bioequivalence studies, that were conducted by or for the applicant and are essential to the approval of the application. This three-year exclusivity period often protects changes to a previously approved drug product, such as a new dosage form, route of administration, combination or indication. Three-year exclusivity would be available for a drug product that contains a previously approved active moiety, provided the statutory requirement for a new clinical investigation is satisfied. Unlike five-year NCE exclusivity, an award of three-year exclusivity does not block the FDA from accepting ANDAs seeking approval for generic versions of the drug as of the date of approval of the original drug product. The FDA typically makes decisions about awards of data exclusivity shortly before a product is approved.

Under FDARA, a priority review track will be established for certain generic drugs, requiring the FDA to review a drug application within eight months for a drug that has three or fewer approved drugs listed in the Orange Book and is no longer protected by any patent or regulatory exclusivities, or is on the FDA's drug shortage list. The new legislation also authorizes the FDA to expedite review of "competitor generic therapies" or drugs with inadequate generic competition, including holding meetings with or providing advice to the drug sponsor prior to submission of the application.

*Hatch-Waxman Patent Certification and the 30-Month Stay*

Upon approval of an NDA or a supplement thereto, NDA sponsors are required to list with the FDA each patent with claims that cover the applicant's product or an approved method of using the product. Each of the patents listed by the NDA sponsor is published in the Orange Book. When an ANDA applicant files its application with the FDA, the applicant is required to certify to the FDA concerning any patents listed for the reference product in the Orange Book, except for patents covering methods of use for which the ANDA applicant is not seeking approval. To the extent that the Section 505(b)(2) applicant is relying on studies conducted for an already approved product, the applicant is required to certify to the FDA concerning any patents listed for the approved product in the Orange Book to the same extent that an ANDA applicant would.

Specifically, the applicant must certify with respect to each patent that:

- the required patent information has not been filed;
- the listed patent has expired;

- the listed patent has not expired, but will expire on a particular date and approval is sought after patent expiration; or
- the listed patent is invalid, unenforceable or will not be infringed by the new product.

A certification that the new product will not infringe the already approved product's listed patents or that such patents are invalid or unenforceable is called a Paragraph IV certification. If the applicant does not challenge the listed patents or indicates that it is not seeking approval of a patented method of use, the ANDA application will not be approved until all the listed patents claiming the referenced product have expired (other than method of use patents involving indications for which the ANDA applicant is not seeking approval).

If the ANDA applicant has provided a Paragraph IV certification to the FDA, the applicant must also send notice of the Paragraph IV certification to the NDA and patent holders once the ANDA has been accepted for filing by the FDA. The NDA and patent holders may then initiate a patent infringement lawsuit in response to the notice of the Paragraph IV certification. The filing of a patent infringement lawsuit within 45 days after the receipt of a Paragraph IV certification automatically prevents the FDA from approving the ANDA until the earlier of 30 months after the receipt of the Paragraph IV notice, expiration of the patent, or a decision in the infringement case that is favorable to the ANDA applicant.

*Pediatric Studies and Exclusivity*

Under the Pediatric Research Equity Act of 2003, an NDA or supplement thereto must contain data that are adequate to assess the safety and effectiveness of the drug 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. With enactment of the Food and Drug Safety and Innovation Act ("FDASIA"), in 2012, sponsors must also submit pediatric study plans prior to the assessment data. Those plans must contain an outline of the proposed pediatric study or studies the applicant plans to conduct, including study objectives and design, any deferral or waiver requests, and other information required by regulation. The applicant, the FDA, and the FDA's internal review committee must then review the information submitted, consult with each other, and agree upon a final plan. The FDA or the applicant may request an amendment to the plan at any time. For drugs intended to treat a serious or life-threatening disease or condition, the FDA must, upon the request of an applicant, meet to discuss preparation of the initial pediatric study plan or to discuss deferral or waiver of pediatric assessments.

In addition, FDARA requires the FDA to meet early in the development process to discuss pediatric study plans with drug sponsors. The legislation requires the FDA to meet with drug sponsors no later than the end-of-phase 1 meeting for serious or life-threatening diseases and by no later than 90 days after the FDA's receipt of the study plan.

The FDA may, on its own initiative or at the request of the applicant, grant deferrals for submission of some or all pediatric data until after approval of the product for use in adults, or full or partial waivers from the pediatric data requirements. Additional requirements and procedures relating to deferral requests and requests for extension of deferrals are contained in FDASIA. Unless otherwise required by regulation, the pediatric data requirements do not apply to products with orphan designation.

Pediatric exclusivity is another type of non-patent marketing exclusivity in the United States and, if granted, provides for the attachment of an additional six months of marketing protection to the term of any existing regulatory exclusivity, including the non-patent and orphan exclusivity. This six-month exclusivity may be granted if an NDA sponsor submits pediatric data that fairly responds to a written request from the FDA for such data. The data do not need to show the product to be effective in the pediatric population studied; rather, if the clinical trial is deemed to fairly respond to the FDA's request, additional protection is granted. If reports of requested pediatric studies are submitted to and accepted by the FDA within the statutory time limits, whatever statutory or regulatory periods of exclusivity or patent protection cover the product are extended by six months. This is not a patent term extension, but it effectively extends the regulatory period during which the FDA cannot approve another application. With regard to patents, the six-month pediatric exclusivity period will not attach to any patents for which a generic (ANDA or 505(b)(2) NDA) applicant submitted a paragraph IV patent certification, unless the NDA sponsor or patent owner first obtains a court determination that the patent is valid and infringed by a proposed generic product.

*Orphan Drug Designation and Exclusivity*

Under the Orphan Drug Act, the FDA may designate a drug product as an "orphan drug" if it is intended to treat a rare disease or condition (generally meaning that it affects fewer than 200,000 individuals in the United States, or more in cases in which there is no reasonable expectation that the cost of developing and making a drug product available in the United States for treatment of the disease or condition will be recovered from sales of the product). A company must request orphan product designation before submitting an NDA. If the request is granted, the FDA will disclose the identity of the therapeutic agent and its potential use. Orphan product designation does not convey any advantage in or shorten the duration of the regulatory review and approval process.

If a product with orphan status receives the first FDA approval for the disease or condition for which it has such designation or for a select indication or use within the rare disease or condition for which it was designated, the product generally will be receiving orphan product exclusivity. Orphan product exclusivity means that the FDA may not approve any other applications for the same product for the same indication for seven years, except in certain limited circumstances. Those circumstances include instances in which another sponsor's application for the same drug product and indication is shown to be "clinically superior" to the previously approved drug. In this context, clinically superior means that the drug provides a significant therapeutic advantage over and above the already approved drug in terms of greater efficacy, greater safety or by providing a major contribution to patient care. Competitors may receive approval of different products for the indication for which the orphan product has exclusivity and may obtain approval for the same product but for a different indication. If a drug or drug product designated as an orphan product ultimately receives marketing approval for an indication broader than what was designated in its orphan product application, it may not be entitled to exclusivity.

Under FDARA, orphan exclusivity will not bar approval of another orphan drug under certain circumstances, including if a subsequent product with the same drug for the same indication is shown to be clinically superior to the approved product on the basis of greater efficacy or safety, or providing a major contribution to patient care, or if the company with orphan drug exclusivity is not able to meet market demand. The new legislation reverses prior precedent holding that the Orphan Drug Act unambiguously required the FDA to recognize orphan exclusivity regardless of a showing of clinical superiority.

*Patent Term Restoration and Extension*

A patent claiming a new drug product may be eligible for a limited patent term extension under the Hatch-Waxman Act, which permits a patent restoration of up to five years for patent term lost during product development and the FDA regulatory review. The restoration period granted is typically one-half the time between the effective date of an IND and the submission date of an NDA, plus the time between the submission date of an NDA and the ultimate approval date. Patent term restoration cannot be used to extend the remaining term of a patent past a total of 14 years from the product's approval date. Only one patent applicable to an approved drug product is eligible for the extension, and the application for the extension must be submitted prior to the expiration of the patent in question. A patent that covers multiple drugs for which approval is sought can only be extended in connection with one of the approvals. The U.S. Patent and Trademark Office reviews and approves the application for any patent term extension or restoration in consultation with the FDA.

*Review and Approval of Medical Devices in the United States*

Medical devices in the United States are strictly regulated by the FDA. Under the FDCA, a medical device is defined as an instrument, apparatus, implement, machine, contrivance, implant, *in vitro* reagent, or other similar or related article, including a component part, or accessory which is, among other things: intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals; or intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes. This definition provides a clear distinction between a medical device and other FDA regulated products such as drugs. If the primary intended use of the product is achieved through chemical action or by being metabolized by the body, the product is usually a drug. If not, it is generally a medical device.

Medical devices are classified into one of three classes on the basis of the controls deemed by the FDA to be necessary to reasonably ensure their safety and effectiveness. Class I devices have the lowest level or risk associated with them, and are subject to general controls, including labeling, premarket notification and adherence to the Quality System Regulation ("QSR"). Class II devices are subject to general controls and special controls, including performance standards. Class III devices, which have the highest level of risk associated with them, such as life sustaining, life supporting or some implantable devices, or devices that have a new intended use, or use advanced technology that is not substantially equivalent to that of a legally marketed device, are subject to most of the aforementioned requirements as well as to premarket approval.

A 510(k) must demonstrate that the proposed device is substantially equivalent to another legally marketed device, or predicate device, which did not require premarket approval. In evaluating a 510(k), the FDA will determine whether the device has the same intended use as the predicate device, and (a) has the same technological characteristics as the predicate device, or (b) has different technological characteristics, and (i) the data supporting substantial equivalence contains information, including appropriate clinical or scientific data, if deemed necessary by the FDA, that demonstrates that the device is as safe and as effective as a legally marketed device, and (ii) does not raise different questions of safety and effectiveness than the predicate device. Most 510(k)s do not require clinical data for clearance, but the FDA may request such data. The FDA seeks to review and act on a 510(k) within 90 days of submission, but it may take longer if the agency finds that it requires more information to review the 510(k). If the FDA concludes that a new device is not substantially equivalent to a predicate device, the new device will be classified in Class III and the manufacturer will be most likely required to submit a PMA to market the product.

Under the PMA application process, the applicant must demonstrate that the device is safe and effective for its intended use. This PMA approval process applies to most Class III devices, and generally requires clinical data to support the safety and effectiveness of the device, obtained in conformance with Investigational Device Exemption regulations. The FDA will approve a PMA application if it finds that there is a reasonable assurance that the device is safe and effective for its intended purpose, and that the proposed manufacturing is in compliance with the QSRs. For novel technologies, the FDA will seek input from an advisory panel of medical experts regarding the safety and effectiveness of, and their benefit-risk analysis for the device. The PMA process is generally more detailed, lengthier and more expensive than the 510(k) process, though both processes can be expensive and lengthy, and require payment of significant user fees, unless an exemption is available.

Modifications to a 510(k)-cleared medical device may require the submission of another 510(k) or a PMA if the changes could significantly affect safety or effectiveness or constitute a major change in the intended use of the device. Modifications to a 510(k)-cleared device frequently require the submission of a traditional 510(k), but modifications meeting certain conditions may be candidates for FDA review under a Special 510(k). If a device modification requires the submission of a 510(k), but the modification does not affect the intended use of the device or alter the fundamental technology of the device, then summary information that results from the design control process associated with the cleared device can serve as the basis for clearing the application. A Special 510(k) allows a manufacturer to declare conformance to design controls without providing new data. When the modification involves a change in material, the nature of the "new" material will determine whether a traditional or Special 510(k) is necessary.

***Review and Approval of Drug Products in the European Union***

In order to market any product outside of the United States, a company must also 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 products. Whether or not it obtains FDA approval for a product, the company would need to obtain the necessary approvals by the comparable foreign regulatory authorities before it can commence clinical trials or marketing of the product in those countries or jurisdictions. The approval process ultimately 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.

*Procedures Governing Approval of Drug Products in the European Union*

Pursuant to the European Clinical Trials Directive, a system for the approval of clinical trials in the European Union has been implemented through national legislation of the member states. Under this system, an applicant must obtain approval from the competent national authority of an E.U. member state in which the clinical trial is to be conducted. Furthermore, the applicant may only start a clinical trial after a competent Ethics Committee has issued a favorable opinion. Clinical trial application must be accompanied by an investigational medicinal product dossier with supporting information prescribed by the European Clinical Trials Directive and corresponding national laws of the member states and further detailed in applicable guidance documents.

To obtain marketing approval of a product under European Union regulatory systems, an applicant must submit a marketing authorization application ("MAA"), either under a centralized or decentralized procedure. The centralized procedure provides for the grant of a single marketing authorization by the European Commission that is valid for all E.U. member states. The centralized procedure is compulsory for specific products, including for medicines produced by certain biotechnological processes, products designated as orphan medicinal products, advanced therapy products and products with a new active substance indicated for the treatment of certain diseases. For products with a new active substance indicated for the treatment of other diseases and products that are highly innovative or for which a centralized process is in the interest of patients, the centralized procedure may be optional.

Under the centralized procedure, the Committee for Medicinal Products for Human Use (the "CHMP"), established at the European Medicines Agency ("EMA"), is responsible for conducting the initial assessment of a product. The CHMP is also responsible for several post-authorization and maintenance activities, such as the assessment of modifications or extensions to an existing marketing authorization. Under the centralized procedure in the European Union, the maximum timeframe for the evaluation of an MAA is 210 days, excluding clock stops, when additional information or written or oral explanation is to be provided by the applicant in response to questions of the CHMP. Accelerated evaluation might be granted by the CHMP in exceptional cases, when a medicinal product is of major interest from the point of view of public health and in particular from the viewpoint of therapeutic innovation. In this circumstance, the EMA ensures that the opinion of the CHMP is given within 150 days.

The decentralized procedure is available to applicants who wish to market a product in various E.U. member states where such a product has not previously received marketing approval in any E.U. member states. The decentralized procedure provides for approval by one or more other, or concerned, member states of an assessment of an application performed by one member state designated by the applicant, known as the reference member state. Under this procedure, an applicant submits an application based on identical dossiers and related materials, including a draft summary of product characteristics, and draft labeling and package leaflet, to the reference member state and concerned member states. The reference member state prepares a draft assessment report and drafts of the related materials within 210 days after receipt of a valid application. Within 90 days of receiving the reference member state's assessment report and related materials, each concerned member state must decide whether to approve the assessment report and related materials.

If a member state cannot approve the assessment report and related materials on the grounds of potential serious risk to public health, the disputed points are subject to a dispute resolution mechanism and may eventually be referred to the European Commission, whose decision is binding on all member states.

*Clinical Trial Approval*

Requirements for the conduct of clinical trials in the European Union including Good Clinical Practice, are set forth in the Clinical Trials Directive 2001/20/EC and the GCP Directive 2005/28/EC. Pursuant to Directive 2001/20/EC and Directive 2005/28/EC, as amended, a system for the approval of clinical trials in the European Union has been implemented through national legislation of the E.U. member states. Under this system, approval must be obtained from the competent national authority of each E.U. member state in which a study is planned to be conducted. To this end, a clinical trial application is submitted, which must be supported by an investigational medicinal product dossier ("IMPD"), and further supporting information prescribed by Directive 2001/20/EC and Directive 2005/28/EC and other applicable guidance documents. Furthermore, a clinical trial may only be started after a competent Ethics Committee has issued a favorable opinion on the clinical trial application in that country.

In April 2014, the European Union passed the new Clinical Trials Regulation, (EU) No 536/2014, which will replace the current Clinical Trials Directive 2001/20/EC. To ensure that the rules for clinical trials are identical throughout the European Union, the new E.U. clinical trials legislation was passed as a regulation that is directly applicable in all E.U. member states. All clinical trials performed in the European Union are required to be conducted in accordance with the Clinical Trials Directive 2001/20/EC until the new Clinical Trials Regulation (EU) No 536/2014 becomes applicable. According to the current plans of EMA, the new Clinical Trials Regulation will become applicable in 2019. The Clinical Trials Directive 2001/20/EC will, however, still apply three years from the date of entry into application of the Clinical Trials Regulation to (i) clinical trials applications submitted before the entry into application and (ii) clinical trials applications submitted within one year after the entry into application if the sponsor opts for old system.

The new Clinical Trials Regulation aims to simplify and streamline the approval of clinical trials in the European Union. The main characteristics of the regulation include: a streamlined application procedure via a single entry point, the E.U. portal; a single set of documents to be prepared and submitted for the application as well as simplified reporting procedures that will spare sponsors from submitting broadly identical information separately to various bodies and different member states; a harmonized procedure for the assessment of applications for clinical trials, which is divided in two parts—Part I is assessed jointly by all member states concerned. Part II is assessed separately by each member state concerned; strictly defined deadlines for the assessment of clinical trial applications; and the involvement of the Ethics Committees in the assessment procedure in accordance with the national law of the member state concerned but within the overall timelines defined by the Clinical Trials Regulation.

*Data and Market Exclusivity in the European Union*

In the European Union, new chemical entities qualify for eight years of data exclusivity upon marketing authorization and an additional two years of market exclusivity. This data exclusivity, if granted, prevents regulatory authorities in the European Union from referencing the innovator's data to assess a generic (abbreviated) application for eight years, after which generic marketing authorization can be submitted, and the innovator's data may be referenced, but not approved for two years. The overall ten-year period will be extended to a maximum of eleven years if, during the first eight years of those ten years, the marketing authorization holder obtains an authorization for one or more new therapeutic indications which, during the scientific evaluation prior to their authorization, are held to bring a significant clinical benefit in comparison with existing therapies. Even if a compound is considered to be a new chemical entity and the sponsor is able to gain the prescribed period of data exclusivity, another company nevertheless could also market another version of the product if such company can complete a full MAA with a complete database of pharmaceutical tests, preclinical tests and clinical trials and obtain marketing approval of its product.

In order to market any product outside of the United States, a company must also 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 drug products. Whether or not it obtains FDA approval for a product, the company would need to obtain the necessary approvals by the comparable foreign regulatory authorities before it can commence clinical trials or marketing of the product in those countries or jurisdictions. The approval process ultimately 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.

*Periods of Authorization and Renewals*

Marketing authorization is valid for five years in principle and the marketing authorization may be renewed after five years on the basis of a re-evaluation of the risk-benefit balance by the EMA or by the competent authority of the authorizing member state. To this end, the marketing authorization holder must provide the EMA or the competent authority with a consolidated version of the file in respect of quality, safety and efficacy, including all variations introduced since the marketing authorization was granted, at least six months before the marketing authorization ceases to be valid. Once renewed, the marketing authorization is valid for an unlimited period, unless the European Commission or the competent authority decides, on justified grounds relating to pharmacovigilance, to proceed with one additional five-year renewal. Any authorization which is not followed by the actual placing of the drug on the European Union market (in case of centralized procedure) or on the market of the authorizing member state within three years after authorization ceases to be valid (the so-called sunset clause).

*Orphan Drug Designation and Exclusivity*

Regulation 141/2000 provides that a drug shall be designated as an orphan drug if its sponsor can establish: that the product is intended for the diagnosis, prevention or treatment of a life-threatening or chronically debilitating condition affecting not more than five in ten thousand persons in the European Community when the application is made, or that the product is intended for the diagnosis, prevention or treatment of a life-threatening, seriously debilitating or serious and chronic condition in the European Community and that without incentives it is unlikely that the marketing of the drug in the European Community would generate sufficient return to justify the necessary investment. For either of these conditions, the applicant must demonstrate that there exists no satisfactory method of diagnosis, prevention or treatment of the condition in question that has been authorized in the European Community or, if such method exists, the drug will be of significant benefit to those affected by that condition.

Regulation 847/2000 sets out criteria and procedures governing designation of orphan drugs in the European Union. Specifically, an application for designation as an orphan product can be made any time prior to the filing of an application for approval to market the product. Marketing authorization for an orphan drug leads to a ten-year period of market exclusivity. This period may, however, be reduced to six years if, at the end of the fifth year, it is established that the product no longer meets the criteria for orphan drug designation, for example because the product is sufficiently profitable not to justify market exclusivity. Market exclusivity can be revoked only in very selected cases, such as consent from the marketing authorization holder, inability to supply sufficient quantities of the product, demonstration of "clinically relevant superiority" by a similar medicinal product, or, after a review by the Committee for Orphan Medicinal Products, requested by a member state in the fifth year of the marketing exclusivity period (if the designation criteria are believed to no longer apply). Medicinal products designated as orphan drugs pursuant to Regulation 141/2000 shall be eligible for incentives made available by the European Community and by the member states to support research into, and the development and availability of, orphan drugs.

*Brexit and the Regulatory Framework in the United Kingdom*

On June 23, 2016, the electorate in the United Kingdom (U.K.) voted in favor of leaving the European Union (commonly referred to as "Brexit"). Thereafter, on March 29, 2017, the country formally notified the European Union of its intention to withdraw pursuant to Article 50 of the Lisbon Treaty. The withdrawal of the U.K. from the European Union will take effect either on the effective date of the withdrawal agreement or, in the absence of agreement, two years after the U.K. provides a notice of withdrawal pursuant to the E.U. Treaty. Since the regulatory framework for pharmaceutical products in the U.K. covering quality, safety and efficacy of pharmaceutical products, clinical trials, marketing authorization, commercial sales and distribution of pharmaceutical products is derived from European Union directives and regulations, Brexit could materially impact the future regulatory regime which applies to products and the approval of product candidates in the U.K. It remains to be seen how, if at all, Brexit will impact regulatory requirements for product candidates and products in the U.K.

***Regulatory Framework in Australia***

The Therapeutic Goods Administration, through the Therapeutic Goods Act 1989 and the Therapeutic Goods Regulations is responsible for the efficacy, quality, safety and timely availability of drugs and medical devices in Australia. The mission statement of the TGA is "To ensure the safety, quality and efficacy of therapeutic goods available in Australia at a standard equal to that of comparable countries, and that premarket assessment of therapeutic goods is conducted within a reasonable time."

The drug regulation process in Australia is complex and resource intensive. It must be accountable in terms of the quality, safety and efficacy of drugs made available in Australia. This accountability includes an acceptance of a balance between safety and efficacy. The approval process is a detailed evaluation of the data supplied by the company sponsoring an application.

A drug may first come to the attention of the TGA when an application for marketing is received or when an Australian clinical trial is being planned. For clinical trials, the sponsoring company may submit preliminary data for evaluation to the TGA or notify the TGA that the trial has been approved by an institutional Ethics Committee.

The drug evaluation process for new chemical entities is as follows:

*Application*

- Check to see data complies with Australian guidelines.
- Invoice sponsor for 75% of evaluation fee.

*Evaluation*

- Evaluate pharmaceutical and chemical data.
- Evaluate animal pharmacology and toxicology data.
- Evaluate clinical data.
- Evaluation Unit reviews reports (coordinates external evaluations if used), prepares a summary and makes an initial recommendation.
- Pre ADEC consultation with sponsor.
- Prepare approved product information and consider consumer product information.
- Submit final package of summaries and recommendations to the ADEC (six meetings per year).

*Approval*

- ADEC review and advice to the TGA.
- Final decision by the TGA.
- Finalize conditions of registration.
- Advice to sponsor, invoice final 25% of evaluation fee.
- For new chemical entity, advise drug information centers, forensic laboratories, etc.

*Registration*

- Sponsor applies to register the product on the Australian Register of Therapeutic Goods.
- Supply is permitted once the applicable number is allocated.

The drug's chemistry, toxicology and clinical use are evaluated using data submitted by the sponsoring company. Most of the evaluations are done within the TGA, but external evaluations can be used. When all the data have been evaluated, the application is considered by the Australian Drug Evaluation Committee ("ADEC"). This committee is a group of doctors appointed by the Minister to advise on the suitability of drugs for marketing in Australia. The TGA takes into consideration the advice received from the ADEC when making a final recommendation.

The evaluation process relates to pre-marketing activity, but the TGA is also responsible for drugs after they are marketed.

Other activities under the control of the TGA include:

- maintenance of the Australian Register of Therapeutic Goods for the registration and listing of products;
- control of drug and device exports from Australia;
- inspection and licensing of manufacturing premises;
- post marketing surveillance;
- adverse drug reaction monitoring;
- reports were received by the Adverse Drug Reactions Advisory Committee;
- medical device complaint reporting;
- drug and device recalls;
- laboratory testing, sample testing;
- complaint reporting and follow up; and
- drug and device advertising controls

The performance of the TGA is monitored in quarterly performance reports which are reviewed by the Industry/Government Consultative Committee. This committee has membership from the TGA, the Department of Finance, the Department of Industry, Science and Technology, and the peak industry organizations representing the manufacturers of prescription drugs, non-prescription drugs, medical devices and herbal and nutritional products.

If the TGA does not meet the statutory timelines in approving a drug, then it forgoes 25% of the evaluation fee as a penalty. The sponsor concerned can also consider the outcome as a “deemed refusal” and appeal to the Administrative Appeals Tribunal for a resolution. For variations to the registration of a drug, the TGA must raise an objection within 45 working days, otherwise the application is deemed to be approved.

**Pharmaceutical Coverage, Pricing and Reimbursement**

Significant uncertainty exists as to the coverage and reimbursement status of products approved by the FDA and other government authorities. Sales of products will depend, in part, on the extent to which third-party payors, including government health programs in the United States such as Medicare and Medicaid, commercial health insurers and managed care organizations, provide coverage, and establish adequate reimbursement levels for, such products. The process for determining whether a payor will provide coverage for a product may be separate from the process for setting the price or reimbursement rate that the payor will pay for the product once coverage is approved. Third-party payors are increasingly challenging the prices charged, examining the medical necessity, and reviewing the cost-effectiveness of medical products and services and imposing controls to manage costs. Third-party payors may limit coverage to specific products on an approved list, or formulary, which might not include all of the approved products for a particular indication.

In order to secure coverage and reimbursement for any product that might be approved for sale, a company may need to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of the product, in addition to the costs required to obtain FDA or other comparable regulatory approvals. Nonetheless, product candidates may not be considered medically necessary or cost effective. Additionally, a payor’s decision to provide coverage for a drug product does not imply that an adequate reimbursement rate will be approved. Further, one payor’s determination to provide coverage for a drug product does not assure that other payors will also provide coverage for the drug product. Third-party reimbursement may not be sufficient to maintain price levels high enough to realize an appropriate return on investment in product development.

The containment of healthcare costs also has become a priority of federal, state and foreign governments and the prices of drugs have been a focus in this effort. Governments have shown significant interest in implementing cost-containment programs, including price controls, restrictions on reimbursement and requirements for substitution of generic products. Adoption of price controls and cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit our net revenue and results. Coverage policies and third-party reimbursement rates may change at any time. Even if favorable coverage and reimbursement status is attained for one or more products for which a company or its collaborators receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future.

Outside the United States, ensuring adequate coverage and payment for our product candidates 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 our product candidates or products 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 drug 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 drug candidate to currently available therapies. For example, the European Union provides options for its member states to restrict the range of drug 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 drug product or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the drug product on the market. Other member states allow companies to fix their own prices for drug products, but monitor and control company profits. The downward pressure on health care costs in general, particularly prescription drugs, has become intense. As a result, increasingly high barriers are being erected to the entry of new products. In addition, in some countries, cross-border imports from low-priced markets exert competitive pressure that may reduce pricing within a country. Any country that has price controls or reimbursement limitations for drug products may not allow favorable reimbursement and pricing arrangements.

**Healthcare Law and Regulation**

Healthcare providers and third-party payors play a primary role in the recommendation and prescription of drug products that are granted regulatory approval. Arrangements with providers, consultants, third-party payors and customers are subject to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain our business and/or financial arrangements. Such restrictions under applicable federal and state healthcare laws and regulations, include the following:

- the federal Anti-Kickback Statute, which prohibits, among other things, persons and entities from knowingly and willfully soliciting, offering, receiving or providing remuneration (including any kickback, bribe or rebate), directly or indirectly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, lease or order of, any good or service, for which payment may be made, in whole or in part, under a federal healthcare program such as Medicare and Medicaid;

- the federal civil and criminal false claims laws, including the civil False Claims Act, and civil monetary penalties laws, which prohibit individuals or entities from, among other things, knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government;

- the federal Health Insurance Portability and Accountability Act of 1996, which created additional federal criminal laws that prohibit, among other things, knowingly and willingly executing, or attempting to execute, a scheme or making false statements in connection with the delivery of or payment for health care benefits, items, or services;

- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations, which also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information on covered entities and their business associates that associates that perform certain functions or activities that involve the use or disclosure of protected health information on their behalf;

- the federal transparency requirements known as the federal Physician Payments Sunshine Act, under the Patient Protection and Affordable Care Act, as amended by the Health Care Education Reconciliation Act (collectively the "ACA"), which 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 report annually to the Centers for Medicare & Medicaid Services ("CMS"), within the U.S. Department of Health and Human Services, information related to payments and other transfers of value to physicians and teaching hospitals and information regarding ownership and investment interests held by physicians and their immediate family members; and

- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, which may apply to healthcare items or services that are reimbursed by non-governmental third-party payors, including private insurers.

Some state laws require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government in addition to requiring drug manufacturers to report information related to payments to physicians and other health care providers or marketing expenditures. State and foreign laws also govern the privacy and security of health information in some circumstances, many of which differ from each other in significant ways and often are not pre-empted by HIPAA, thus complicating compliance efforts.

**Healthcare Reform**

A primary trend in the United States healthcare industry and elsewhere is cost containment. There have been a number of federal and state proposals during the last few years regarding the pricing of pharmaceutical and biopharmaceutical products, limiting coverage and reimbursement for drugs and other medical products, government control and other changes to the healthcare system in the United States.

In March 2010, the United States Congress enacted the Affordable Care Act, which, among other things, includes changes to the coverage and payment for drug products under government health care programs. Among the provisions of the ACA of importance to our potential product candidates are:

- an annual, non-deductible fee on any entity that manufactures or imports specified branded prescription drugs and biologic agents, apportioned among these entities according to their market share in certain government healthcare programs;

- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to certain individuals with income at or below 133% of the federal poverty level, thereby potentially increasing a manufacturer's Medicaid rebate liability;

- expanded manufacturers' rebate liability under the Medicaid Drug Rebate Program by increasing the minimum rebate for both branded and generic drugs and revising the definition of "average manufacturer price," or AMP, for calculating and reporting Medicaid drug rebates on outpatient prescription drug prices;

- addressed a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted or injected;

- expanded the types of entities eligible for the 340B drug discount program;

- established the Medicare Part D coverage gap discount program by requiring manufacturers to provide a 50% point-of-sale-discount off the negotiated price of applicable brand drugs to eligible beneficiaries during their coverage gap period as a condition for the manufacturers' outpatient drugs to be covered under Medicare Part D; and

- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

Other legislative changes have been proposed and adopted in the United States since the ACA was enacted. In August 2011, the Budget Control Act of 2011, among other things, created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This includes aggregate reductions of Medicare payments to providers of up to 2% per fiscal year, which went into effect in April 2013 and will remain in effect through 2024 unless additional Congressional action is taken. In January 2013, President Obama signed into law the American Taxpayer Relief Act of 2012, which, among other things, further reduced Medicare payments to several providers, including hospitals, imaging centers and cancer treatment centers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.

Since enactment of the ACA, there have been numerous legal challenges and Congressional actions to repeal and replace provisions of the law. In May 2017, the U.S. House of Representatives passed legislation known as the American Health Care Act of 2017. Thereafter, the Senate Republicans introduced and then updated a bill to replace the ACA known as the Better Care Reconciliation Act of 2017. The Senate Republicans also introduced legislation to repeal the ACA without companion legislation to replace it, and a "skinny" version of the Better Care Reconciliation Act of 2017. In addition, the Senate considered proposed healthcare reform legislation known as the Graham-Cassidy bill. None of these measures were passed by the U.S. Senate.

In January 2017, President Trump signed an Executive Order directing federal agencies with authorities and responsibilities under the ACA to waive, defer, grant exemptions from, or delay the implementation of any provision of the ACA that would impose a fiscal or regulatory burden on states, individuals, healthcare providers, health insurers, or manufacturers of pharmaceuticals or medical devices. In October 2017, the President signed a second Executive Order allowing for the use of association health plans and short-term health insurance, which may provide fewer health benefits than the plans sold through the ACA exchanges. At the same time, the Administration announced that it will discontinue the payment of cost-sharing reduction ("CSR"), payments to insurance companies until Congress approves the appropriation of funds for such CSR payments. The loss of the CSR payments is expected to increase premiums on certain policies issued by qualified health plans under the ACA.

A bipartisan bill to appropriate funds for CSR payments was introduced in the Senate, but the future of that bill is uncertain. Further, each chamber of Congress has put forth multiple bills designed to repeal or repeal and replace portions of the ACA. Although none of these measures have been enacted by Congress to date, Congress may consider other legislation to repeal and replace elements of the ACA. Congress will likely consider other legislation to replace elements of the ACA, during the next Congressional session. We will continue to evaluate the effect that the ACA and its possible repeal and replacement could have on our business.

In August 2022, the Inflation Reduction Act of 2022 was signed into law and requires the federal government to negotiate prices for some high-cost drugs covered under Medicare, requires drug manufacturers to pay rebates to Medicare if they increase prices faster than inflation for drugs used by Medicare beneficiaries, and caps Medicare beneficiaries' out-of-pocket spending under the Medicare Part D benefit. We will monitor this issue to determine the effects of this legislation on our business.

**Human Capital Resources**

As of December 31, 2022, we had a total of two employees, both of which are full-time. We also utilize the services of two part-time contractors.

Our human capital resources objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our existing and new employees, advisors and consultants. The principal purposes of our equity and cash incentive plans are to attract, retain and reward personnel through the granting of stock-based and cash-based compensation awards, in order to increase stockholder value and the success of our Company by motivating such individuals to perform to the best of their abilities and achieve our objectives.

**Properties**

Our corporate headquarters are located at 1025 Connecticut Avenue NW Suite 1000, Washington, D.C. 20036. We do not own any physical property, plant or labs. We currently lease two offices at the above address and recognized a Right of Use Asset of $99,615 as of December 31, 2022 with offsetting accumulated depreciation of $86,967 ($99,615 at December 31, 2021 with offsetting accumulated depreciation of $40,947). The current lease expired March 31, 2023 and has been renewed for an additional two-year term.

**Legal Proceedings**

From time to time, we may become involved in various claims and legal proceedings. We are not currently a party to any legal proceedings that, in the opinion of our management, are likely to have a material adverse effect on our business. Regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

**History**

60 Degrees Pharmaceuticals, Inc. is a Delaware corporation that was incorporated on June 1, 2022. On June 1, 2022, 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company ("60P LLC"), entered into the Agreement and Plan of Merger with 60 Degrees Pharmaceuticals, Inc., pursuant to which 60P LLC merged into 60 Degrees Pharmaceuticals, Inc. The value of each outstanding member's membership interest in 60P LLC was correspondingly converted into common stock of 60 Degrees Pharmaceuticals, Inc., par value $0.0001 per share, with a cost-basis equal to $5.00 per share.

We also operate one subsidiary. A summary of our majority-owned subsidiary is below.

We own 88% equity in 60P Australia Pty Ltd, a Sydney-Australia based subsidiary ("60P Australia"). 60P Australia holds sub-licensing rights for several ex-U.S. territories for our product.

60P Australia previously solely owned a Singaporean subsidiary company, 60P Singapore Pte. Ltd., which dissolved at our election in the second quarter of 2022.

## MANAGEMENT

The following table sets forth the name, age and position of each of our executive officers, directors and director nominees as of April 28, 2023.

| Name | Age | Position | Director Since |
|---|---|---|---|
| Geoffrey Dow | 49 | Chief Executive Officer, President and Director | June 1, 2022 |
| Tyrone Miller | 48 | Chief Financial Officer | — |
| Bryan Smith | 57 | Chief Medical Officer | — |
| Charles Allen | 47 | Director Nominee | — |
| Cheryl Xu | 55 | Director Nominee | — |
| Stephen Toovey | 69 | Director Nominee | — |
| Paul Field | 59 | Director Nominee | — |

**Executive Officers and Directors**

***Geoffrey Dow*** is our Chief Executive Officer, President, and is also our sole Director. Dr. Dow has over 20 years of product development experience in tropical diseases and has an extensive publication and patent history. His decades of hands-on experience include 13 years in key leadership and advisory roles in the antimalarial drug development program at the Walter Reed Army Institute of Research and at the U.S. Army Medical Materiel Development Activity. Dr. Dow co-founded 60P in 2010. Since then, he has been involved in various projects, including leading the project development team in securing FDA-regulatory approval for Tafenoquine (as Arakoda) for malaria prophylaxis, securing a supply chain and access relating to Arakoda, managing post-marketing regulatory commitments, ensuring the successful prosecution of supporting patents on which Dr. Dow was an inventor, and ensuring the company adheres to GMP, quality, and pharmacovigilance requirements. Dr. Dow has also published a number of important safety reviews, clinical trials, non-clinical studies, on which he was a thought leader or contributor, which dispelled many of the myths about 8-aminoquinolines. As a scientist, experienced industry project manager and inventor, Dr. Dow's ultimate goal is to develop and secure the regulatory approval and commercial success of products, old and new, for new indications in infectious disease. Dr. Dow received a B.Sc. (Hons) in Veterinary and Biomedical Science from Murdoch University, Perth, Western Australia ("Murdoch") in 1994, a Ph.D. in Veterinary and Biomedical Science from Murdoch in 2000 and an MBA from the University of Maryland at College Park in 2012. We believe that Mr. Dow is well qualified to serve as a Director given his product development experience in tropical diseases.

***Tyrone Miller*** is our Chief Financial Officer. Mr. Miller joined us in 2014 and has held a number of roles since then, including Treasurer. He worked with the founder and Chief Executive Officer of 60P and raised over $6 million in external financing. Mr. Miller also established a multinational financial reporting system and worked with consultants in designing tax and credit strategies. He also provides key strategic advice in areas of financing and business planning to 60P. In addition, he is the founder and Principal of Tax & Accounting Practice at Miller Tax & Advisory since 2011. In that role, Mr. Miller advises owners of closely held businesses on accounting, financial and tax matters and has designed accounting systems for private sector businesses. From 2002 to 2011, he was a Senior Accountant at Sachs Figurelli, LLC, where he prepared and processed corporate and individual tax returns, consulted on reengineering accounting processes for construction, restaurant and professional services businesses and managed staff in preparation and processing of payroll and personal property returns. Mr. Miller is currently a Certified Public Accountant. He received a Bachelor's of Business Administration with a concentration in International Business from Emory University in 1996.

***Bryan Smith*** is our Chief Medical Officer. Dr. Smith is a medical doctor with expertise in clinical pharmacology, pharmacovigilance, regulatory strategy development and translational medicine and is a retired military colonel with over 30 years of governmental research and leadership experience. He joined us in 2016 as Chief Medical Officer and works with other members of the senior management team to establish all functional areas, including complying with national and international laws and regulations and developing and overseeing research and development projects and agenda. He also is currently a Senior Medical Director, Clinical and Regulatory Affairs at Fast-Track Drugs & Biologics, LLC since 2019, where he is responsible for developing clinical development plans for therapeutic products, managing clinical and regulatory projects and designing and writing clinical trial protocols. Since 2016, Dr. Smith has been the Chief Medical Officer and member of Amivas LLC, where he establishes all functional areas required to successfully secure FDA approvals. In addition, from 2016 to 2019, he was the Principal Medical Consultant at Clinical Network Services, Inc., where he provided required medical, clinical pharmacology, regulatory, translational medicine review, oversight and consultation as requested for over 25 unique clients in a range of activities and tasks for devices, small molecules and large molecules in a range of therapeutic areas. Dr. Smith received a Bachelor of Science in General Science, with highest honors, from Oregon State University and a Doctor of Medicine from Uniformed Services University of the Health Sciences.

**Director Nominees**

***Charles Allen*** is one of our director nominees and since February 5, 2014 has served as the Chief Executive Officer of BTCS Inc. ("BTCS") and the Chairman of the Board of BTCS since September 11, 2014. Mr. Allen is responsible for BTCS' overall corporate strategy and direction. Since December 2, 2022, Mr. Allen has been a director of Innovation1 Biotech Inc. Since January 12, 2018, Mr. Allen has been the Chief Executive Officer of Global Bit Ventures Inc. ("GBV"). Since October 10, 2017, Mr. Allen has been a director of GBV. Mr. Allen has extensive experience in business strategy and structuring and executing a variety of investment banking and capital markets transactions, including financings, initial public offerings, and mergers and acquisitions. Prior to his work in the blockchain industry at BTCS, he worked domestically and internationally on projects in technology, media, natural resources, logistics, medical services, and financial services. He has served as a managing director at numerous boutique investment banks focused on advising and raising capital for small and mid-size companies. Mr. Allen received a Bachelor of Science in Mechanical Engineering from Lehigh University and a Master of Business Administration from the Mason School of Business at the College of William & Mary. The Board concludes that Mr. Allen's background and leadership experiences in the financial industry qualify him to be nominated as a potential member of the Board.

***Cheryl Xu*** is one of our director nominees and until recently served as Biogen's Vice President, Public Policy & Government Affairs since 2020. Ms. Xu was PhRMA's first Representative to China. Subsequently she started a consulting business in 2005, advising well-known multinational companies such as Pfizer, J&J and UnitedHealth Group on their market access and expansion strategies in China. Cheryl has provided consultations to both the U.S. and Chinese governments on pharmaceutical policies including strengthening of IP protection and monitoring system for China's API exports. Prior to that, she was the Director of International Finance at Pharmacia based in New Jersey from 1998 to 2003. Ms. Xu received her Bachelor of Science degree in Physics from Peking University, and Master of Business Administration in Finance from Washington University in St. Louis. The Board concludes that Ms. Xu's background and leadership experiences in the pharmaceutical industry qualify her to be nominated as a potential member of the Board.

***Dr. Stephen Toovey*** is one of our director nominees and is an infectious and tropical disease physician. Dr. Toovey has worked in the pharmaceutical industry and academia in both developed and developing countries, and currently specializes in the research of influenza and other respiratory viruses, malaria, rabies and the neurological aspects of infectious diseases. He is currently the Chief Executive Officer of Pegasus, a medical and scientific services company and has held that position since 2008. Dr. Toovey also advises a number of pharmaceutical companies and biotech organizations on infection and immunology related matters, from translation through Phase IV, and founded numerous pharmaceutical and pharma-related companies, with the most recent being the co-founding of Ark Biosciences in 2014. Dr. Toovey served as Chief Medical Officer of Ark Biosciences from 2014 until 2020. In addition, he held a teaching and clinical post at the Royal Free and University College Medical School in London, United Kingdom, Academic Centre for Travel Medicine and Vaccines, World Health Organization Collaborating Center, appointed in 2008. He has been editor of the journal Travel Medicine and Infectious Disease since its foundation in 2003. Dr. Toovey has authored over 100 publications in peer reviewed medical journals, contributed to a number of textbooks and has presented at over 50 scientific meetings. Dr. Toovey received his PhD from the University of Ghent. The Board concludes that Dr. Toovey's background and leadership experiences in the pharmaceutical industry and academia qualify him to be nominated as a potential member of the Board.

***Paul Field*** is one of our director nominees. Paul has over 30 years of business development experience across a range of disease areas, and a deep network in the global biopharmaceutical industry. He is currently a corporate advisor at Imunexus since 2020, Marinova since 2018, and GARDP (Switzerland) since 2018. He was until recently the Australian representative of FIND (Switzerland) from 2018 to 2021 and a business development advisor to the drug discovery company Biocurate from 2018 to 2020. Paul was previously the life sciences specialist at Austrade from 2014 to 2018, the Australian Government's investment promotion agency, where he facilitated foreign direct investment into Australian research in neglected tropical diseases, infectious diseases, autoimmune diseases, cancer and other therapeutic areas. Paul was the founder and Executive Chairman of Bio-Link from 2005 to 2014, a privately owned biotechnology business development company. His work at Bio-Link involved the commercialization of discovery, pre-clinical and early-stage clinical programs undertaken by Australian biotech companies and medical research institutions. Paul has served on a number of Boards of Directors, and he is a Fellow of the Australian Institute of Company Directors. The Board concludes that Mr. Field's background and leadership experiences in the biotechnology industry qualify him to be nominated as a potential member of the Board.

**Significant Employees**

We are a virtually managed pharmaceutical company for which the significant employees are its officers.

**Code of Ethics**

Our Board has adopted a written code of business conduct and ethics ("Code") that applies to our directors, officers and employees, including our principal executive officer, principal financial officer and principal accounting officer or controller, or persons performing similar functions. We intend to post on our website a current copy of the Code and all disclosures that are required by law in regard to any amendments to, or waivers from, any provision of the Code.

**Board Leadership Structure and Risk Oversight**

Our Board has responsibility for the oversight of our risk management processes and, either as a whole or through its committees, regularly discusses with management our major risk exposures, their potential impact on our business and the steps we take to manage them. The risk oversight process includes receiving regular reports from board committees and members of senior management to enable our Board to understand our risk identification, risk management, and risk mitigation strategies with respect to areas of potential material risk, including operations, finance, legal, regulatory, cybersecurity, strategic, and reputational risk.

**Board of Directors**

Upon the effectiveness of the registration statement of which this prospectus forms a part, we expect that our Board will consist of five members. Our business and affairs are managed under the direction of our Board.

Directors serve until the next annual meeting and until their successors are elected and qualified. Officers are appointed to serve until their successors have been elected and qualified.

**Director Independence**

Our Board will be composed of a majority of "independent directors" as defined under the rules of Nasdaq upon completion of this offering. We use the definition of "*independence*" applied by Nasdaq to make this determination. Nasdaq Listing Rule 5605(a)(2) provides that an "*independent director*" is a person other than an officer or employee of the company or any other individual having a relationship which, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The Nasdaq listing rules provide that a director cannot be considered independent if:

- the director is, or at any time during the past three (3) years was, an employee of the company;
- the director or a family member of the director accepted any compensation from the company in excess of $120,000 during any period of twelve (12) consecutive months within the three (3) years preceding the independence determination (subject to certain exemptions, including, among other things, compensation for board or board committee service);
- the director or a family member of the director is a partner in, controlling shareholder of, or an executive officer of an entity to which the company made, or from which the company received, payments in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenue for that year or $200,000, whichever is greater (subject to certain exemptions);
- the director or a family member of the director is employed as an executive officer of an entity where, at any time during the past three (3) years, any of the executive officers of the company served on the compensation committee of such other entity; or
- the director or a family member of the director is a current partner of the company's outside auditor, or at any time during the past three (3) years was a partner or employee of the company's outside auditor, and who worked on the company's audit.

Under such definitions, our Board has undertaken a review of the independence of each director and director nominee. Based on information provided by each director and director nominee concerning his or her background, employment and affiliations, our Board has determined that Charles Allen, Stephen Toovey and Paul Field, once elected to the Board, will be independent directors of the Company. Our common stock is not currently quoted or listed on any national exchange or interdealer quotation system with a requirement that a majority of our Board be independent and, therefore, we currently are not subject to any director independence requirements; however, we expect to be listed under Nasdaq, in which case we will be subject to director independence requirements.

**Committees of the Board of Directors**

Upon the effectiveness of the registration statement of which this prospectus forms a part, our Board will have three standing committees: (i) an audit committee (the "Audit Committee"); (ii) a compensation committee (the "Compensation Committee"); and (iii) a nominating and corporate governance committee (the "Nominating and Corporate Governance Committee"). Our Board has not yet adopted procedures by which stockholders may recommend nominees to the Board. The composition and responsibilities of each of the committees of our Board are described below. Members serve on these committees until their resignation or until as otherwise determined by our Board.

**Audit Committee**

Upon the effectiveness of the registration statement of which this prospectus forms a part, we will establish the Audit Committee consisting of Charles Allen, who will be the Chairman of the Audit Committee, Stephen Toovey and Paul Field. Charles Allen qualifies as an audit committee financial expert within the meaning of Item 407(d) of Regulation S-K under the Securities Act. Our Board adopted an Audit Committee Charter on March 16, 2023, of which will be effective as of the effectiveness date of the registration statement of which this prospectus forms a part. The Audit Committee's duties, which are specified in our Audit Committee Charter, include, but are not limited to:

- reviewing and discussing with management and the independent auditor the annual audited financial statements, and recommending to the board whether the audited financial statements should be included in our annual disclosure report;
- discussing with management and the independent auditor significant financial reporting issues and judgments made in connection with the preparation of our financial statements;

- discussing with management major risk assessment and risk management policies;
- monitoring the independence of the independent auditor;
- verifying the rotation of the lead (or coordinating) audit partner having primary responsibility for the audit and the audit partner responsible for reviewing the audit as required by law;
- reviewing and approving all related-party transactions;
- inquiring and discussing with management our compliance with applicable laws and regulations;
- pre-approving all audit services and permitted non-audit services to be performed by our independent auditor, including the fees and terms of the services to be performed;
- appointing or replacing the independent auditor;
- determining the compensation and oversight of the work of the independent auditor (including resolution of disagreements between management and the independent auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work;
- establishing procedures for the receipt, retention and treatment of complaints received by us regarding accounting, internal accounting controls or reports which raise material issues regarding our financial statements or accounting policies; and
- approving reimbursement of expenses incurred by our management team in identifying potential target businesses.

The Audit Committee will be composed exclusively of "independent directors" who are "financially literate" as defined under the Nasdaq listing standards. The Nasdaq listing standards define "financially literate" as being able to read and understand fundamental financial statements, including a company's balance sheet, income statement and cash flow statement.

In addition, we intend to certify to Nasdaq that the committee has, and will continue to have, at least one member who has past employment experience in finance or accounting, requisite professional certification in accounting, or other comparable experience or background that results in the individual's financial sophistication.

**Compensation Committee**

Upon the effectiveness of the registration statement of which this prospectus forms a part, we will establish the Compensation Committee, which will be composed exclusively of independent directors consisting of Paul Field, who will be Chairman of the Compensation Committee, Charles Allen and Stephen Toovey. Each member of the Compensation Committee will be a non-employee director, as defined under Rule 16b-3 promulgated under the Exchange Act, and an outside director, as defined pursuant to Section 162(m) of the Code. Our Board adopted a Compensation Committee Charter on March 16, 2023, of which will be effective as of the effectiveness date of the registration statement of which this prospectus forms a part. The Compensation Committee's duties, which are specified in our Compensation Committee Charter, include, but are not limited to:

- reviews, approves and determines, or makes recommendations to our Board regarding, the compensation of our executive officers;
- administers our equity compensation plans;
- reviews and approves, or makes recommendations to our Board, regarding incentive compensation and equity compensation plans; and
- establishes and reviews general policies relating to compensation and benefits of our employees.

**Nominating and Corporate Governance Committee**

Upon effectiveness of the registration statement of which this prospectus forms a part, we will establish the Nominating and Corporate Governance Committee, which will be composed exclusively of independent directors consisting of Stephen Toovey, who will be the Chairman of the Nominating and Corporate Governance Committee, Charles Allen and Paul Field. Our Board adopted a Nominating and Corporate Governance Committee Charter on March 16, 2023, of which will be effective as of the effectiveness date of the registration statement of which this prospectus forms a part. The Nominating and Corporate Governance Committee's duties, which are specified in our Nominating and Corporate Governance Audit Committee Charter, include, but are not limited to:

- identifying, reviewing and evaluating candidates to serve on our Board consistent with criteria approved by our Board;
- evaluating director performance on our Board and applicable committees of our Board and determining whether continued service on our Board is appropriate;
- evaluating nominations by stockholders of candidates for election to our Board; and
- corporate governance matters.

**Family Relationships**

There are no family relationships among any of our executive officers or directors.

**Involvement in Certain Legal Proceedings**

Except as disclosed below, to our knowledge, none of our current directors or executive officers has, during the past ten (10) years:

- been convicted in a criminal proceeding or been subject to a pending criminal proceeding (excluding traffic violations and other minor offenses);
- had any bankruptcy petition filed by or against the business or property of the person, or of any partnership, corporation or business association of which he was a general partner or executive officer, either at the time of the bankruptcy filing or within two (2) years prior to that time;
- been subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction or federal or state authority, permanently or temporarily enjoining, barring, suspending or otherwise limiting, his or her involvement in any type of business, securities, futures, commodities, investment, banking, savings and loan, or insurance activities, or to be associated with persons engaged in any such activity;
- been found by a court of competent jurisdiction in a civil action or by the SEC or the Commodity Futures Trading Commission to have violated a federal or state securities or commodities law, and the judgment has not been reversed, suspended, or vacated;
- been the subject of, or a party to, any federal or state judicial or administrative order, judgment, decree, or finding, not subsequently reversed, suspended or vacated (not including any settlement of a civil proceeding among private litigants), relating to an alleged violation of any federal or state securities or commodities law or regulation, any law or regulation respecting financial institutions or insurance companies including, but not limited to, a temporary or permanent injunction, order of disgorgement or restitution, civil money penalty or temporary or permanent cease-and-desist order, or removal or prohibition order, or any law or regulation prohibiting mail or wire fraud or fraud in connection with any business entity; or

- been the subject of, or a party to, any sanction or order, not subsequently reversed, suspended or vacated, of any self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act), any registered entity (as defined in Section 1(a)(29) of the Commodity Exchange Act), or any equivalent exchange, association, entity or organization that has disciplinary authority over its members or persons associated with a member.

**2022 Equity Incentive Plan**

On November 22, 2022, the Board and majority stockholder adopted the 60 Degrees Pharmaceuticals, Inc. 2022 Equity Incentive Plan (the "Plan"). The Plan provides for the grant of the following types of stock awards: (i) incentive stock options, (ii) nonstatutory stock options, (iii) stock appreciation rights, (iv) restricted stock awards, (v) restricted stock Unit awards and (vi) other stock awards. The Plan is intended to help us secure and retain the services of eligible award recipients, provide incentives for such persons to exert maximum efforts for our success and any of our affiliates and provide a means by which the eligible recipients may benefit from increases in value of the common stock. The Board reserved 238,601 shares of common stock issuable upon the grant of awards under the Plan.

## EXECUTIVE COMPENSATION

The following table illustrates the compensation paid by us to our executive officers. The disclosure is provided for the years ended December 31, 2022, and December 31, 2021.

| Name and Principal Position | Year | Base Salary($)[1] | Guaranteed Payments($)[1] | Stock Award($) | Total($) |
|---|---|---|---|---|---|
| Geoffrey Dow | 2022 | $ 54,510 | $ - | $ - | $ 54,510 |
| President and Chief Executive Officer | 2021 | - | 519,996 | - | 519,996 |
| (Principal Executive Officer) | | | | | |
| Tyrone Miller | 2022 | $ 148,672 | $ - | $ - | $ 148,672 |
| Chief Financial Officer | 2021 | - | 363,996 | - | 363,996 |
| (Principal Financial and Accounting Officer) | | | | | |
| Bryan Smith[2] | 2022 | $ - | $ - | $ - | $ - |
| Chief Medical Officer | 2021 | - | - | - | - |
| (Outsourced) | | | | | |

(1) We periodically review, and may increase, base salaries in accordance with our normal annual compensation review for each of our named executive officers.

(2) Bryan Smith's part time services are acquired through a contractual relationship with his direct employer.

**Equity Awards**

Upon the listing of the shares of our common stock, (i) Dr. Dow will be granted a five-year option to purchase a total of 15,000 shares of our common stock on the last day of each quarter in each calendar year (for a cumulative total or no more than 300,000 shares over five years) and (ii) Mr. Miller will be granted a five-year option to purchase a total of 12,000 shares of our common stock on the last day of each quarter in each calendar year (for a cumulative total or no more than 240,000 shares over five years). The per share exercise price of the option shall be equal to the per share closing price of our common stock on the date of grant and shall have a cashless exercise provision.

**Employment Agreements**

***Dow Employment Agreement.*** We entered into an Employment Agreement dated as of January 12, 2023, with Geoffrey Dow (the "Dow Employment Agreement"), our Chief Executive Officer and Chairman of our Board. The term of the Dow Employment Agreement began on January 12, 2023, and will continue for a period of two years, with subsequent automatic renewals unless either party thereto provides notice to terminate at least 90 days prior to the applicable renewal date. The Dow Employment Agreement provides Dr. Dow an annual base salary of $228,000, bonuses to the extent certain events occur or if applicable performance goals are met and employee benefits that are generally given to our senior executives. Upon the listing of the shares of our common stock, Dr. Dow will be granted a five-year option to purchase a total of 15,000 shares of our common stock that vest on the last day of each quarter in each calendar year (for a cumulative total or no more than 300,000 shares over five years). The per share exercise price of the option shall be equal to the per share closing price of our common stock on the date of the initial public offering and shall have a cashless exercise provision.

We may terminate Dr. Dow's employment for Cause, as defined in the Dow Employment Agreement, at any time upon notice to Dr. Dow setting forth in reasonable detail the nature of such Cause. We also may terminate Dr. Dow's employment other than for Cause at any time upon thirty (30) days' written notice to him. Dr. Dow may terminate his employment for Good Reason, as defined in the Dow Employment Agreement, at any time upon thirty (30) days' written notice to us. In the event that Dr. Dow's employment is terminated other than for Cause or for Good Reason, Dr. Dow will be entitled to, among other things, a continuation of his annual salary plus health insurance benefits for a period not exceeding 18 months. In addition, in the event of a Change in Control, as defined in the Dow Employment Agreement, on, or at any time during the 24 months following, the Change in Control, (i) we terminate Dr. Dow's employment for any reason other than Cause or Disability, as defined in the Dow Employment Agreement, or (ii) Dr. Dow terminates his employment for Good Reason, Dr. Dow will be entitled to Change in Control severance.

Dr. Dow is subject to non-competition and non-solicitation during the term of his employment and for a period of 24 months after termination of his employment.

***Miller Employment Agreement***. We entered into an Employment Agreement dated as of January 12, 2023 with Tyrone Miller (the "Miller Employment Agreement"), our Chief Financial Officer. The term of the Miller Employment Agreement began on January 12, 2023 and will continue for a period of two years, with subsequent automatic renewals unless either party thereto provides notice to terminate at least 90 days prior to the applicable renewal date. The Miller Employment Agreement provides Mr. Miller an annual base salary of $204,000, bonuses to the extent certain events occur or if applicable performance goals are met and employee benefits that are generally given to our senior executives. Upon the listing of the shares of our common stock, Mr. Miller will be granted a five-year option to purchase a total of 12,000 shares of our common stock that vest on the last day of each quarter in each calendar year (for a cumulative total or no more than 240,000 shares over five years). The per share exercise price of the option shall be equal to the per share closing price of our common stock on the date of the initial public offering and shall have a cashless exercise provision.

We may terminate Mr. Miller's employment hereunder for Cause, as defined in the Miller Employment Agreement, at any time upon notice to Mr. Miller setting forth in reasonable detail the nature of such Cause. We also may terminate Mr. Miller's employment other than for Cause at any time upon thirty (30) days' written notice to him. Mr. Miller may terminate his employment for Good Reason, as defined in the Miller Employment Agreement, at any time upon thirty (30) days' written notice to us. In the event that Mr. Miller's employment is terminated other than for Cause or for Good Reason, Mr. Miller will be entitled to, among other things, a continuation of his annual salary plus health insurance benefits for a period not exceeding 18 months. In addition, in the event of a Change in Control, as defined in the Miller Employment Agreement, on, or at any time during the 24 months following, the Change in Control, (i) we terminate Mr. Miller's employment for any reason other than Cause or Disability, as defined in the Dow Employment Agreement, or (ii) Mr. Miller terminates his employment for Good Reason, Mr. Miller will be entitled to Change in Control severance.

Mr. Miller is subject to non-competition and non-solicitation during the term of his employment and for a period of 24 months after termination of his employment.

**2022 Equity Incentive Plan**

***Overview***

On November 22, 2022, our Board and our stockholders approved the 60 Degrees Pharmaceuticals, Inc. 2022 Equity Incentive Plan. The Plan governs equity awards to our employees, directors, officers, consultants and other eligible participants. Initially, the maximum number of shares of our common stock that may be subject to awards under the Plan is equal to 238,601.

The purpose of the Plan is to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, directors and consultants, and to promote the success of our business. The administrator of the Plan may, in its sole discretion, amend, alter, suspend or terminate the Plan, or any part thereof, at any time and for any reason. We will obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with legal and regulatory requirements relating to the administration of equity-based awards. Unless earlier terminated by the administrator, the Plan will terminate ten years from the date it is adopted by our Board.

***Authorized Shares***

Initially, the maximum number of shares of our common stock that may be subject to awards under the Plan is equal 238,601.

***Plan Administration***

One or more committees appointed by our Board will administer the Plan. Initially, the Compensation Committee shall administer the Plan. In addition, if we determine it is desirable to qualify transactions under the Plan as exempt under Rule 16b-3 of the Exchange Act, such transactions will be structured with the intent that they satisfy the requirements for exemption under Rule 16b-3. Subject to the provisions of the Plan, the administrator has the power to administer the Plan and make all determinations deemed necessary or advisable for administering the Plan, including the power to determine the fair market value of our common stock, select the service providers to whom awards may be granted, determine the number of shares covered by each award, approve forms of award agreements for use under the 2022 Plan, determine the terms and conditions of awards (including the exercise price, the time or times at which the awards may be exercised, any vesting acceleration or waiver or forfeiture restrictions and any restriction or limitation regarding any award or the shares relating thereto), construe and interpret the terms of the Plan and awards granted under it, prescribe, amend and rescind rules relating to the Plan, rules and regulations relating to sub-plans established for the purpose of facilitating compliance with applicable non-U.S. laws, easing the administration of the Plan and/or for qualifying for favorable tax treatment under applicable non-U.S. laws, in each case as the administrator may deem necessary or advisable and modify or amend each award (subject to the provisions of the Plan), including the discretionary authority to extend the post-termination exercisability period of awards and to extend the maximum term of an option or stock appreciation right (subject to the provisions of the Plan), to allow Participants to satisfy withholding tax obligations in a manner permissible under the Plan, to authorize any person to execute on behalf of us any instrument required to effect the grant of an award previously granted by the administrator and to allow a participant to defer the receipt of payment of cash or the delivery of shares that would otherwise be due to such participant under an award. The administrator also has the authority to allow participants the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator and to institute an exchange program by which outstanding awards may be surrendered or cancelled in exchange for awards of the same type which may have a higher or lower exercise price or different terms, awards of a different type or cash, or by which the exercise price of an outstanding award is increased or reduced. The administrator's decisions, interpretations and other actions are final and binding on all participants.

***Eligibility***

Awards under the Plan, other than incentive stock options, may be granted to our employees (including our officers and directors) or a parent or subsidiary, members of our Board, or consultants engaged to render bona fide services to us or a parent or subsidiary. Incentive stock options may be granted only to our employees or a subsidiary, provided the services (i) are not in connection with the offer or sale of securities in a capital-raising transaction, and (ii) do not directly promote or maintain a market for our securities, in each case, within the meaning of Form S-8 promulgated under the Securities Act, and provided further, that a consultant will include only those persons to whom the issuance of shares may be registered under Form S-8 promulgated under the Securities Act.

***Stock Options***

Stock options may be granted under the Plan. The exercise price of options granted under the Plan generally must at least be equal to the fair market value of our common stock on the date of grant. The term of each option will be as stated in the applicable award agreement; provided, however, that the term may be no more than 10 years from the date of grant. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares or other property acceptable to the administrator, as well as other types of consideration permitted by applicable law. After the termination of service of an employee, director or consultant, they may exercise their option for the period of time stated in their option agreement. In the absence of a specified time in an award agreement, if termination is due to death or disability, the option will remain exercisable for six months. In all other cases, in the absence of a specified time in an award agreement, the option will remain exercisable for three months following the termination of service. An option may not be exercised later than the expiration of its term. Subject to the provisions of the Plan, the administrator determines the other terms of options.

***Stock Appreciation Rights***

Stock appreciation rights may be granted under the Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our common stock between the exercise date and the date of grant. Stock appreciation rights may not have a term exceeding 10 years. After the termination of service of an employee, director or consultant, they may exercise their stock appreciation right for the period of time stated in their stock appreciation right agreement. In the absence of a specified time in an award agreement, if termination is due to death or disability, the stock appreciation rights will remain exercisable for six months. In all other cases, in the absence of a specified time in an award agreement, the stock appreciation rights will remain exercisable for three months following the termination of service. However, in no event may a stock appreciation right be exercised later than the expiration of its term. Subject to the provisions of the Plan, the administrator determines the other terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash or with shares of our common stock, or a combination thereof, except that the per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right will be no less than 100% of the fair market value per share on the date of grant.

***Restricted Stock***

Restricted stock may be granted under the Plan. Restricted stock awards are grants of shares of our common stock that vest in accordance with terms and conditions established by the administrator. The administrator will determine the number of shares of restricted stock granted to any employee, director or consultant and, subject to the provisions of the Plan, will determine the terms and conditions of such awards. The administrator may impose whatever conditions to vesting it determines to be appropriate (for example, the administrator may set restrictions based on the achievement of specific performance goals or continued service to us); provided, however, that the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to vesting, unless the administrator provides otherwise. Shares of restricted stock that do not vest are subject to our right of repurchase or forfeiture.

***Restricted Stock Units***

RSUs may be granted under the Plan. RSUs are bookkeeping entries representing an amount equal to the fair market value of one share of our common stock. Subject to the provisions of the Plan, the administrator determines the terms and conditions of RSUs, including the vesting criteria and the form and timing of payment. The administrator may set vesting criteria based upon the achievement of Company-wide, divisional, business Unit or individual goals (including continued employment or service), applicable federal or state securities laws or any other basis determined by the administrator in its discretion. The administrator, in its sole discretion, may pay earned RSUs in the form of cash, in shares of our common stock or in some combination thereof. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any vesting requirements will be deemed satisfied.

***Performance Awards***

Performance awards may be granted under the Plan. Performance awards are awards that will result in a payment to a participant only if performance goals established by the administrator are achieved or the awards otherwise vest. The administrator will set objectives or vesting provisions, that, depending on the extent to which they are met, will determine the value the payout for the performance awards. The administrator may set vesting criteria based on the achievement of Company-wide, divisional, business Unit, or individual goals (including, but not limited to, continued employment or service), or any other basis determined by the administrator in its discretion. Each performance award’s threshold, target, and maximum payout values are established by the administrator on or before the grant date. After the grant of a performance award, the administrator, in its sole discretion, may reduce or waive any performance objectives or other vesting provisions for such performance award. The administrator, in its sole discretion, may pay earned performance awards in the form of cash, in shares, or in some combination thereof.

***Non-transferability of Awards***

Unless the administrator provides otherwise, the Plan generally does not allow for the transfer of awards other than by will or by the laws of descent and distribution and only the recipient of an award may exercise an award during their lifetime. If the administrator makes an award transferrable, such award will contain such additional terms and conditions as the administrator deems appropriate.

***Certain Adjustments***

In the event of certain changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under the Plan, the administrator will adjust the number and class of shares that may be delivered under the Plan or the number, and price of shares covered by each outstanding award and the numerical share limits set forth in the Plan.

***Dissolution or Liquidation***

In the event of our proposed liquidation or dissolution, the administrator will notify participants as soon as practicable and all awards will terminate immediately prior to the consummation of such proposed transaction.

***Merger or Change in Control***

The Plan provides that in the event of our merger with or into another corporation or entity or a "change in control" (as defined in the Plan), each outstanding award will be treated as the administrator determines, including, without limitation, that (i) awards will be assumed, or substantially equivalent awards will be substituted, by the acquiring or succeeding corporation (or an affiliate thereof) with appropriate adjustments as to the number and kind of shares and prices; (ii) upon written notice to a participant, that the participant's awards will terminate upon or immediately prior to the consummation of such merger or change in control; (iii) outstanding awards will vest and become exercisable, realizable or payable, or restrictions applicable to an award will lapse, in whole or in part, prior to or upon consummation of such merger or change in control and, to the extent the administrator determines, terminate upon or immediately prior to the effectiveness of such merger or change in control; (iv) (A) the termination of an award in exchange for an amount of cash or property, if any, equal to the amount that would have been attained upon the exercise of such award or realization of the participant's rights as of the date of the occurrence of the transaction (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the administrator determines in good faith that no amount would have been attained upon the exercise of such award or realization of the participant's rights, then such award may be terminated by us without payment) or (B) the replacement of such award with other rights or property selected by the administrator in its sole discretion; or (v) any combination of the foregoing. The administrator will not be obligated to treat all awards, all awards a participant holds, or all awards of the same type, similarly. In the event that awards (or portion thereof) are not assumed or substituted for in the event of a merger or change in control, the participant will fully vest in and have the right to exercise all of their outstanding options and stock appreciation rights, including shares as to which such awards would not otherwise be vested or exercisable, all restrictions on restricted stock and RSUs or performance awards will lapse and, with respect to awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at 100% of target levels and all other terms and conditions met, in all cases, unless specifically provided otherwise under the applicable award agreement or other written agreement between the participant and us or any of our subsidiaries or parents, as applicable. If an option or stock appreciation right is not assumed or substituted in the event of a merger or change in control, the administrator will notify the participant in writing or electronically that the option or stock appreciation right will be exercisable for a period of time determined by the administrator in its sole discretion and the vested option or stock appreciation right will terminate upon the expiration of such period.

For awards granted to an outside director, the outside director will fully vest in and have the right to exercise options and/or stock appreciation rights as to all of the shares underlying such award, including those shares which would not be vested or exercisable, all restrictions on restricted stock and RSUs will lapse, and, with respect to awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at one hundred percent (100%) of target levels and all other terms and conditions met, unless specifically provided otherwise under the applicable award agreement or other written agreement between the participant and us or any of our subsidiaries or parents, as applicable.

***Clawback***

Awards will be subject to any clawback policy that we are required to adopt pursuant to the listing standards of any national securities exchange or association on which our securities are listed or as is otherwise required by the Dodd-Frank Act or other applicable laws. The administrator also may specify in an award agreement that the participant's rights, payments or benefits with respect to an award will be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of certain specified events. The administrator may require a participant to forfeit, return or reimburse us all or a portion of the award or shares issued under the award, any amounts paid under the award and any payments or proceeds paid or provided upon disposition of the shares issued under the award in order to comply with such clawback policy or applicable laws.

***Amendment and Termination***

The administrator has the authority to amend, suspend or terminate the Plan provided such action does not impair the existing rights of any participant. The Plan automatically will terminate on November 22, 2032, unless it is terminated sooner.

**Board Compensation**

In November and December 2022, we signed agreements with four director nominees (Cheryl Xu, Paul Field, Charles Allen and Stephen Toovey) which come into effect on the date the registration statement of which this prospectus forms a part becomes effective. Each director will receive cash compensation of $11,250 per quarter. In addition, the two non-audit committee chairs (Mr. Toovey and Mr. Field) will receive $1,250 per quarter and the audit committee chair (Mr. Allen) will receive an additional $2,000 per quarter. Each director will receive a one-off issuance of common stock of value $50,000 (share price is the lower of $5 per share or the initial public offering price) and a non-qualified option to purchase an additional $50,000 of common stock (exercise price is the initial public offering price). Each director will also receive annual equity compensation beginning on the effective date of the registration statement of which this prospectus forms a part, and renewing annually thereafter unless determined otherwise by the Board, in the form of restricted stock units valued at $40,000 (vesting quarterly over twelve months, with the share price being the lower of $5 per share or the initial public offering price) and a non-qualified option to purchase $40,000 of common stock (twelve month vesting with an exercise price equal to the initial public offering price).

## PRINCIPAL STOCKHOLDERS

The following table sets forth certain information, as of April 27, 2023 with respect to the holdings of (1) each person who is the beneficial owner of more than 5% of our voting stock, (2) each of our directors, (3) each executive officer, and (4) all of our current directors and executive officers as a group.

Beneficial ownership of the voting stock is determined in accordance with the rules of the SEC and includes any shares of company voting stock over which a person exercises sole or shared voting or investment power, or of which a person has a right to acquire ownership at any time within 60 days of April 27, 2023. Except as otherwise indicated, we believe that the persons named in this table have sole voting and investment power with respect to all shares of voting stock held by them. Applicable percentage ownership in the following table is based on 2,378,009 shares of common stock issued and outstanding on April 27, 2023 (excludes shares of common stock to be issued on the conversion of our convertible notes which automatically converts upon the consummation of this offering and shares of common stock to be issued prior to the closing of this offering as a success fee pursuant to the Investment Agreement), and 5,399,408 shares of common stock after the offering assuming an offering of 1,415,095 Units (excluding shares which may be sold upon exercise of the underwriters' over-allotment option), plus, for each individual, any securities that individual has the right to acquire within 60 days of April 27, 2023.

To the best of our knowledge, except as otherwise indicated, each of the persons named in the table has sole voting and investment power with respect to the shares of our common stock beneficially owned by such person, except to the extent such power may be shared with a spouse. To our knowledge, none of the shares listed below are held under a voting trust or similar agreement, except as noted. To our knowledge, there is no arrangement, including any pledge by any person of our securities, the operation of which may at a subsequent date result in a change in control of the Company.

| Name and Address of Beneficial Owner[1] | Title | Beneficially Owned Before Offering | Beneficially Owned After Offering | Percent of Class Before Offering | Percent of Class After Offering |
|---|---|---|---|---|---|
| **Officers and Directors** | | | | | |
| Geoffrey Dow | President, Chief Executive Officer and Director | 667,143(2) | 703,107(3) | 28.05% | 12.99% |
| Tyrone Miller | Chief Financial Officer | 101,928 | 113,928(4) | 4.29% | 2.11% |
| Bryan Smith | Chief Medical Officer | — | — | —% | —% |
| Charles Allen | Director Nominee | —(5) | 23,334(5) | —% | * % |
| Cheryl Xu | Director Nominee | —(6) | 23,334(6) | —% | * % |
| Stephen Toovey | Director Nominee | —(7) | 23,334(7) | —% | * % |
| Paul Field | Director Nominee | —(8) | 23,334(8) | —% | * % |
| **Officers and Directors as a Group (total of 7 persons)** | | | | | |
| | | 769,071 | 910,371 | 32.34% | 16.46% |
| | | | | | |
| **5%+ Stockholders** | | | | | |
| Kentucky Technology Inc. | | 525,000 | 525,000 | 22.08% | 9.72% |
| Florida State University Research Foundation, Inc. | | 405,000 | 405,000 | 17.03% | 7.50% |
| Douglas Loock | | 165,938 | 165,938 | 6.98% | 3.07% |
| Trevally, LLC | | 120,000 | 120,000 | 5.05% | 2.22% |
| Knight Therapeutics International S.A. (9) | | — | 1,074,483 | —% | 19.90% |

* Less than 1%

(1) Unless otherwise indicated, the principal address of the named directors and directors and 5% stockholders of the Company is c/o 1025 Connecticut Avenue NW Suite 1000, Washington, D.C. 20036.

(2) Includes 667,143 shares of common stock held by the Geoffrey S. Dow Revocable Trust (the "Dow Trust"), of which Geoffrey Dow is the trustee and has control over the voting and disposition of the shares of common stock held by the Dow Trust.

(3) Includes (i) 667,143 shares of common stock held by the Geoffrey S. Dow Revocable Trust (the "Dow Trust"), of which Geoffrey Dow is the trustee and has control over the voting and disposition of the shares of common stock held by the Dow Trust, (ii) 10,482 shares upon mandatory conversion of a convertible note issued to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 immediately prior to the consummation of the initial public offering, (iii) 10,482 shares of common stock issuable upon exercise of warrants issued to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 and (iv) 15,000 shares of common stock issuable upon exercise of options issued to Geoffrey Dow on the Nasdaq listing date of our common stock and tradeable warrants pursuant to Geoffrey Dow's executive employment agreement.

(4) Includes 12,000 shares of common stock issuable upon exercise of options issued to Tyrone Miller on the Nasdaq listing date of our common stock and tradeable warrants pursuant to Tyrone Miller's executive employment agreement.

(5) Mr. Allen will beneficially own a total of 23,334 shares of common stock on the date of effectiveness of the registration statement of which this prospectus forms a part, of which includes (i) 10,000 shares of common stock held in the name of Mr. Allen, (ii) 11,334 shares of common stock issuable upon the exercise of vested options and (iii) 2,000 shares of restricted stock units that vests within 60 days of the date of this prospectus.

(6) Ms. Xu will beneficially own a total of 23,334 shares of common stock on the date of effectiveness of the registration statement of which this prospectus forms a part, of which includes (i) 10,000 shares of common stock held in the name of Ms. Xu, (ii) 11,334 shares of common stock issuable upon the exercise of vested options and (iii) 2,000 shares of restricted stock units that vests within 60 days of the date of this prospectus.

(7) Mr. Toovey will beneficially own a total of 23,334 shares of common stock on the date of effectiveness of the registration statement of which this

prospectus forms a part, of which includes (i) 10,000 shares of common stock held in the name of Mr. Toovey, (ii) 11,334 shares of common stock issuable upon the exercise of vested options and (iii) 2,000 shares of restricted stock units that vests within 60 days of the date of this prospectus.

(8) Mr. Field will beneficially own a total of 23,334 shares of common stock on the date of effectiveness of the registration statement of which this prospectus forms a part, of which includes (i) 10,000 shares of common stock held in the name of Mr. Field, (ii) 11,334 shares of common stock issuable upon the exercise of vested options and (iii) 2,000 shares of restricted stock units that vests within 60 days of the date of this prospectus.

(9) The principal address of Knight is 3400 de Maisonneuve W. Suite 1055, Montreal, QC Canada H3Z 3B8.

## CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

On May 19, 2022, we issued the Convertible Promissory Note to Mountjoy Trust with a principal amount of $294,444.42 and a per annum interest rate of 6%. As of March 31, 2023, the outstanding balance of this note was $309,705.19. Upon the occurrence of our initial public offering, the balance of such note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering. We also issued to Mountjoy Trust a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to 100% of the common stock issued to Mountjoy Trust as a result of the conversion of the note on the pricing date of our initial public offering at the exercise price equal to 110% of the initial public offering price, or if we fail to complete the initial public offering prior to May 31, 2023, 90% of the initial public offering price. John Dow, a relative of Geoffrey Dow, our President, Chief Executive Officer and Director, is the trustee of the Mountjoy Trust.

On December 31, 2021, the majority member, Geoffrey Dow, converted cumulative borrowings and interest into 3,942,919 member Units with a par value of $1.00 and thus all debt owed to the majority member was extinguished. We issued 37,067 shares to Geoffrey Dow (at $5.00 per share) on August 28, 2022, in recognition of capital contributions of $185,335 made between January 1, 2022 and April 1, 2022. There are no other outstanding related party debt or obligations.

On January 2, 2023, we issued a total of 100,000 shares of our common stock to our legal counsel for payment of legal fees.

In March 2023, we received $200,000 paid in capital from the Geoffrey S. Dow Revocable Trust. In April 2023, we received $23,000 paid in capital from the Geoffrey S. Dow Revocable Trust and $25,000 from Tyrone Miller.

*The above summary description of related part transactions includes some of the general terms and provisions of the agreements related to such transactions. For a more detailed description of those agreements, you should refer to such agreements which are included as exhibits to the registration statement of which this prospectus forms a part.*

## DESCRIPTION OF SECURITIES

The following description of our securities is only a summary and is qualified in its entirety by reference to the actual terms and provisions of the capital stock contained in our Certificate of Incorporation and our Bylaws.

### General

We are authorized to issue one class of stock. The total number of shares of stock which we are authorized to issue is 151,000,000 shares of capital stock, 150,000,000 of which are common stock, $0.0001 par value per share, and 1,000,000 of which are “blank check” preferred stock. As of April 27, 2023, 2,378,009 shares of common stock were issued and outstanding and held by 15 stockholders of record.

### *Common Stock*

The holders of our common stock are entitled to the following rights:

***Voting Rights***. Each share of our common stock entitles its holder to one vote per share on all matters to be voted or consented upon by the stockholders.

***Dividend Rights***. Subject to limitations under Delaware law, holders of our common stock are entitled to receive ratably such dividends or other distributions, if any, as may be declared by our Board out of funds legally available therefor.

***Liquidation Rights***. In the event of liquidation, dissolution or winding up of our business, the holders of our common stock are entitled to share ratably in the assets available for distribution after the payment of all of our debts and other liabilities.

***Other Matters.*** The holders of our common stock have no subscription, redemption or conversion privileges; in addition, such common stock does not entitle its holders to pre-emptive rights. All of the outstanding shares of our common stock are fully paid and non-assessable.

***Preferred Stock***

Our Certificate of Incorporation authorizes 1,000,000 shares of "blank check" preferred stock, par value $0.0001 per share. Upon the consummation of this initial public offering, we will have authorized 80,965 shares of Series A Preferred Stock with the following terms and rights: (i) 6% dividend, (ii) non-voting; (iii) not redeemable; and (iv) convertible into shares of common stock, solely at the Company's discretion, determined by (A) multiplying the number of shares of Series A Preferred Stock to be converted by $100, (B) adding to the result all accrued and accumulated and unpaid dividends on such shares to be converted, if any, and then (C) dividing the result by a price equal to the lower of (1) $100, (2) the price paid for the shares of common stock in this offering and (3) the 10-day volume weighted average share price immediately preceding our election to convert the shares of Series A Preferred Stock; provided that the conversion of the shares of Series A Preferred Stock does not result in the holder's ownership of common stock exceeding 19.9%.

The Board may provide for the issue of any or all of the unissued and undesignated shares of the preferred stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting powers, full or limited, or no voting powers, and such designation, preferences, and relative, participating, optional, or other rights and such qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board providing for the issuance of such shares and as may be permitted by law, without stockholder approval. Our Board is able to determine, with respect to any series of preferred stock, the terms and rights of that series, including:

- the designation of the series;
- the number of shares of the series;
- whether dividends, if any, will be cumulative or non-cumulative and the dividend rate, if any, of the series;
- the dates at which dividends, if any, will be payable;
- the redemption rights and price or prices, if any, for shares of the series;
- the terms and amounts of any sinking fund provided for the purchase or redemption of shares of the series;
- the amounts payable on shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the affairs of our Company;
- whether the shares of the series will be convertible into shares of any other class or series, or any other security, of our Company or any other entity, and, if so, the specification of the other class or series or other security, the conversion price or prices or rate or rates and provisions for any adjustments to such prices or rates, the date or dates as of which the shares will be convertible, and all other terms and conditions upon which the conversion may be made;
- the ranking of such series with respect to dividends and amounts payable on our liquidation, dissolution or winding-up, which may include provisions that such series will rank senior to our common stock with respect to dividends and those distributions;
- restrictions on the issuance of shares of the same series or any other class or series; or
- voting rights, if any, of the holders of the series.

The issuance of preferred stock could adversely affect, among other things, the voting power of holders of common stock and the likelihood that stockholders will receive dividend payments and payments upon our liquidation, dissolution or winding up. The issuance of preferred stock could also have the effect of delaying, deferring or preventing a change in control of us.

**Warrants Issued in this Offering**

*Overview*

The following summary of certain terms and provisions of the warrants offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the Warrant Agent Agreement and the form of warrant, both of which are filed as exhibits to the registration statement of which this prospectus is a part. Prospective investors should carefully review the terms and provisions set forth in the Warrant Agent Agreement, including the annexes thereto, and form of warrant.

The following summary of certain terms and provisions of the warrants included in the Units offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the Warrant Agent Agreement between us and our transfer agent and the forms of Tradeable Warrant and Non-tradeable Warrant, all of which are filed as exhibits to the registration statement of which this prospectus is a part. Prospective investors should carefully review the terms and provisions set forth in the Warrant Agent Agreement, including the annexes thereto, and forms of warrant. The Tradeable Warrant and the Non-tradeable Warrant have identical terms except that (i) unlike the Non-tradeable Warrant, the Tradeable Warrant will be tradeable and has been applied for listing on The Nasdaq Capital Market, and (ii) the exercise price per share of common stock is $6.095 per share (based on an assumed public offering price of $5.30 per Unit) for the Tradeable Warrant and $6.36 for the Non-tradeable Warrant (based on an assumed public offering price of $5.30 per Unit).

The exercise price and number of shares of common stock issuable upon exercise of the warrants may be adjusted in certain circumstances, including in the event of a stock dividend or recapitalization, reorganization, merger or consolidation. However, the warrants will not be adjusted for issuances of common stock at prices below its exercise price.

*Exercisability*

The warrants are exercisable at any time after their original issuance and at any time up to the date that is five years after their original issuance. The warrants may be exercised upon surrender of the warrant certificate on or prior to the expiration date at the offices of the Warrant Agent, by utilizing the exercise form on the reverse side of the warrant certificate completing and executing as indicated, accompanied by full payment of the exercise price, by certified or official bank check payable to us, for the number of warrants being exercised. Under the terms of the Warrant Agent Agreement, we must use our best efforts to maintain the effectiveness of the registration statement and current prospectus relating to common stock issuable upon exercise of the warrants until the expiration of the warrants. If we fail to maintain the effectiveness of the registration statement and current prospectus relating to the common stock issuable upon exercise of the warrants, the holders of the warrants shall have the right to exercise the warrants solely via a cashless exercise feature provided for in the warrants, until such time as there is an effective registration statement and current prospectus relating to common stock issuable upon exercise of the warrants.

*Exercise Limitation*

A holder may not exercise any portion of a warrant to the extent that the holder, together with its affiliates and any other person or entity acting as a group, would own more than 4.99% of the outstanding common stock after exercise, as such percentage ownership is determined in accordance with the terms of the warrant, except that upon prior notice from the holder to us, the holder may waive such limitation up to a percentage not in excess of 9.99%.

*Exercise Price*

The exercise price per whole share of common stock purchasable upon exercise of the Tradeable Warrants is $6.095 per share (based on an assumed public offering price of $5.30 per Unit) or 115% of the public offering price of the common stock. The exercise price per whole share of common stock purchasable upon exercise of the Non-tradeable Warrants is $6.36 per share (based on an assumed public offering price of $5.30 per Unit) or 120% of the public offering price of the common stock. The exercise price is subject to appropriate adjustment in the event of certain stock dividends and distributions, stock splits, stock combinations, reclassifications or similar events affecting our common stock and also upon any distributions of assets, including cash, stock or other property to our stockholders.

*Fractional Shares*

No fractional shares of common stock will be issued upon exercise of the warrants. If, upon exercise of the warrant, a holder would be entitled to receive a fractional interest in a share, we will, upon exercise, pay a cash adjustment in respect of such fraction in an amount equal to such fraction multiplied by the exercise price. If multiple warrants are exercised by the holder at the same time, we shall pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

*Transferability*

Subject to applicable laws, the warrants may be offered for sale, sold, transferred or assigned without our consent.

*Exchange Listing*

Our Tradeable Warrants have been applied for listing on The Nasdaq Capital Market under the symbol “SXTPW.”

*Warrant Agent; Global Certificate*

The warrants will be issued in registered form under a Warrant Agent Agreement between the Warrant Agent and us. The warrants shall initially be represented only by one or more global warrants deposited with the Warrant Agent, as custodian on behalf of The Depository Trust Company (“DTC”) and registered in the name of Cede & Co., a nominee of DTC, or as otherwise directed by DTC. Our transfer agent, Equity Stock Transfer, LLC, will serve as the Warrant Agent.

*Fundamental Transactions*

In the event of a fundamental transaction, as described in the warrants and generally including any reorganization, recapitalization or reclassification of our common stock, the sale, transfer or other disposition of all or substantially all of our properties or assets, our consolidation or merger with or into another person, the acquisition of more than 50% of our outstanding common stock, or any person or group becoming the beneficial owner of 50% of the voting power represented by our outstanding common stock, the holders of the warrants will be entitled to receive the kind and amount of securities, cash or other property that the holders would have received had they exercised the warrants immediately prior to such fundamental transaction.

*Rights as a Stockholder*

The warrant holders do not have the rights or privileges of holders of common stock or any voting rights until they exercise their warrants and receive shares of common stock. After the issuance of shares of common stock upon exercise of the warrants, each holder will be entitled to one vote for each share held of record on all matters to be voted on by stockholders.

*Governing Law*

The warrants and the Warrant Agent Agreement are governed by New York law.

***Notes Outstanding***

On December 10, 2015, we entered into the Loan Agreement and Engagement with Knight, as amended eight times, pursuant to which, we originally borrowed $500,000 at a per annum interest rate of 15% (the “Knight Loan”) and a debenture agreement of face value $3 million on April 24, 2018. As of December 31, 2022, the current outstanding balance of the Knight Loan and Knight Debenture is $20,596,595.

Pursuant to the Knight Debt Conversion Agreement, executed January 9, 2023 and modified on January 13, 2023, and again on January 27, 2023, Knight and us agreed, to formalize a previously negotiated term sheet that, in the event of a successful initial public offering, we will fix Knight’s cumulative debt to the value as it stood on March 31, 2022, which consisted of $10,770,037 in principal and $8,096,486 in accumulated interest, and to convert the aforementioned amounts, should we consummate an initial public offering that results in gross proceeds of at least $7,000,000 prior to December 31, 2023 as follows:

- We agreed to convert the principal amount into (i) that number of shares of common stock equal to dividing the principal amount by an amount equal to the offering price of the common stock in the initial public offering discounted by 15% (the "Conversion Common Shares"), rounding up for fractional shares, in a number of Conversion Shares up to 19.9% of our outstanding common stock after giving effect of the initial public offering; (ii) we will make a milestone payment of $10 million to Knight if, after the date of a qualifying initial public offering, we sell ARAKODA or if a Change of Control (as per the definition included in the original loan agreement dated on December 10, 2015) occurs, provided that the purchaser of ARAKODA or individual or entity gaining control of us is not Knight or an affiliate of Knight; (iii) following the License and Supply agreement dated on December 10, 2015 and subsequently amended on January 21, 2019, an expansion of existing distribution rights to Tafenoquine/Arakoda to include COVID-19 indications as well as malaria prevention across the Territory as defined in said documents, subject to U.S. Army approval; and (iv) we will retain Knight or an affiliate of Knight to provide financial consulting services, management, strategic and/or regulatory advice of value $30,000 per month for five years (the parties will negotiate the terms of that consulting agreement separately in good faith).

- The parties agreed to convert the accrued interest into that number of shares of a new class of preferred stock by dividing the Accrued Interest by $100.00, then rounding up. The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% cumulative dividend accumulated annually on March 31; (ii) shall be non-voting stock; (iii) are not redeemable, (iv) be convertible to shares of common stock at a price equal to the lower of (1) the price paid for the shares of common stock in the initial public offering and (2) the 10 day volume weighted average share price immediately prior to conversion; and (v) conversion of the preferred stock to common shares will be at our sole discretion. Notwithstanding the foregoing, we shall not convert the Preferred Stock into shares of common stock if as a result of such conversion Knight will own 19.9% or more of our outstanding common stock.

- In addition to the conversion of the debt, for a period commencing on January 1, 2022 and ending upon the earlier of 10 years after the closing of the initial public offering or the conversion or redemption in full of the Conversion Preferred Shares, we shall pay Knight a royalty equal to 3.5% of our net sales, where "Net Sales" has the same meaning as in our license agreement with the U.S. Army for Tafenoquine. Upon the qualified initial public offering, we shall calculate the royalty payable to Knight at the end of each calendar quarter. We shall pay to Knight the royalty amounts due with respect to a given calendar quarter within fifteen (15) business days after the end of such calendar quarter. Each payment of royalties due to Knight shall be accompanied by a statement specifying the total gross sales, the net sales and the deductions taken to arrive to net sales. For clarification purposes, the first royalty payment will be performed following the above instructions, on the first calendar quarter in which the qualified initial public offering takes place and will cover the sales of the period from January 1, 2022, until the end of said calendar quarter.

Should an initial public offering not occur by January 1, 2024, then all terms of the original Knight Loan and Knight Debenture would resume including any interest earned after March 31, 2022.

On October 11, 2017, we issued a $750,000 promissory note, as amended, to Avante International Limited with accrued interest at an annual rate of 5.0% for the first six months, and 10% thereafter. On December 23, 2017, Avante transferred the Avante Note to Xu Yu Equity Conversion Note. On December 11, 2022, Avante and us amended the Avante Note. The Amendment added a provision to automatically convert the outstanding principal and accumulated interest through March 31, 2022 to shares of common stock in the event we consummate an initial public offering. The Amendment also provides Avante the option to convert the outstanding principal and accumulated interest through March 31, 2022 to equity in the Company at the maturity date and will have 30 days from maturity to exercise this option. Cumulative interest after March 31, 2022 will be forfeited should the lender elect to convert the Note into equity.

We evaluated the Amendment and determined that it constitutes an extinguishment as the option to convert interest through March 31, 2022 and is considered the addition of a substantive conversion option. Accordingly, the Amendment resulted in extinguishment accounting and a corresponding extinguishment gain of $120,683, which represents the difference between the carrying value of the Avante Note just prior to the Amendment and the fair value of the Avante Note just after the Amendment.

The extinguishment accounting resulted in a fair value of the Avante Note, including the Amendment of $1,099,578. The discount of $120,683 and costs incurred with third parties directly related to the Amendment of $1,767 will be amortized over the remaining life of the debt using the effective interest method. Amortization of the discount on the Avante Note, including the Amendment for the year ended December 31, 2022 was $4,955 ($0 in 2021). Interest expense related to the Note, including the Amendment, for the year ended December 31, 2022 was $115,546 ($104,558 in 2021).

On May 14, 2020, we issued the note to the U.S. Small Business Administration with a principal amount of $150,000 and a per annum interest rate of 3.75%. The current outstanding balance of the COVID-19 Loan is $163,022 as of December 31, 2022.

On May 19, 2022, we issued a Convertible Promissory Note to Geoffrey Dow, as assigned to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 on May 19, 2022 (the “Geoffrey Dow Trust Note”), with a principal amount of $44,444.44 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of such note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering.

On May 19, 2022, we issued a Convertible Promissory Note to Mountjoy Trust with a principal amount of $294,444.42 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of such note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering.

On May 24, 2022, we issued a note in the amount of $333,333.30 to Bigger Capital Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Bigger Capital Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued a note in the amount of $277,777.78 to Cavalry Investment Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Cavalry Investment Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued a note in the amount of $277,777.78 to Walleye Opportunities Master Fund Ltd. On the date of the pricing of our initial public offering, we will deliver to Walleye Opportunities Master Fund Ltd shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of our common stock calculated using a $27 million pre-money valuation and the number of our outstanding shares of common stock on May 24, 2023.

***Warrants***

On May 19, 2022, we issued to Geoffrey Dow a right to receive five-year (5) warrants upon the closing of an initial public offering, with an exercise price of 110% of the initial public offering price. If the initial public offering is not completed by May 31, 2023, the exercise price is 90% of the initial public offering price.

On May 19, 2022, we issued to Mountjoy Trust a right to receive five-year (5) warrants upon the closing of an initial public offering, with an exercise price of 110% of the initial public offering price. If the initial public offering is not completed by May 31, 2023, the exercise price is 90% of the initial public offering price.

On May 24, 2022, we issued to Bigger Capital Fund, LP a right to receive five-year (5) warrants upon the closing of an initial public offering, with an exercise price of 110% of the initial public offering price.

On May 24, 2022, we issued to Cavalry Investment Fund, LP a right to receive five-year (5) warrants upon the closing of an initial public offering, with an exercise price of 110% of the initial public offering price.

On May 24, 2022, we issued to Walleye Opportunities Master Fund Ltd a right to receive five-year (5) warrants upon the closing of an initial public offering, with an exercise price of 110% of the initial public offering price.

***Options***

None.

**Section 203 of the Delaware General Corporation Law**

We are subject to the provisions of Section 203 of the DGCL regulating corporate takeovers. This statute prevents certain Delaware corporations, under certain circumstances, from engaging in a “business combination” with:

- a stockholder who owns 15% or more of our outstanding voting stock (otherwise known as an “interested stockholder”);

- an affiliate of an interested stockholder; or
- an associate of an interested stockholder, for three years following the date that the stockholder became an interested stockholder.

A “business combination” includes a merger or sale of more than 10% of our assets. However, the above provisions of Section 203 do not apply if:

- our Board approves the transaction that made the stockholder an “interested stockholder,” prior to the date of the transaction; or
- after the completion of the transaction that resulted in the stockholder becoming an interested stockholder, that stockholder owned at least 85% of our voting stock outstanding at the time the transaction commenced, other than statutorily excluded shares of common stock.

**Potential Effects of Authorized but Unissued Stock**

Our shares of common and preferred stock are available for future issuance without stockholder approval. We may utilize these additional shares for a variety of corporate purposes, including future public offerings to raise additional capital, to facilitate corporate acquisitions, payment as a dividend on the capital stock or as equity compensation to our service providers under our equity compensation plans.

The existence of unissued and unreserved common stock and preferred stock may enable our Board to issue shares to persons friendly to current management or to issue preferred stock with terms that could render more difficult or discourage a third-party attempt to obtain control by means of a merger, tender offer, proxy contest or otherwise, thereby protecting the continuity of our management. In addition, our Board has the discretion to determine designations, rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences of each series of preferred stock, all to the fullest extent permissible under the Delaware General Corporation Law and subject to any limitations set forth in our Certificate of Incorporation. The purpose of authorizing the Board to issue preferred stock and to determine the rights and preferences applicable to such preferred stock is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing desirable flexibility in connection with possible financings, acquisitions and other corporate purposes, could have the effect of making it more difficult for a third-party to acquire, or could discourage a third-party from acquiring, a majority of our outstanding voting stock.

Also, if we issue additional shares of our authorized, but unissued, common stock, these issuances will dilute the voting power and distribution rights of our existing common stockholders.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock will be Equity Stock Transfer, LLC ("Equity Stock Transfer"), located at 237 West 37th Street, Suite 602, New York, NY 10018. The phone number and facsimile number for Equity Stock Transfer are (212) 575-5757 and (347) 584-3644, respectively. Additional information about Equity Stock Transfer can be found on its website at *www.equitystock.com*.

**Listing**

We have applied to have our common stock and Tradeable Warrants listed on The Nasdaq Capital Market under the symbols "SXTP" and "SXTPW," respectively, which listing is a condition to this offering. We do not intend to apply for listing of the Non-tradeable Warrants on any exchange or market.

## SHARES ELIGIBLE FOR FUTURE SALE

There is not currently an established U.S. trading market for our common stock. We cannot predict the effect, if any, that market sales of shares of our common stock or the availability of shares of our common stock for sale will have on the market price of our common stock prevailing from time to time. Sales of substantial amounts of our common stock, including shares issued upon exercise of outstanding warrants, in the public market after this offering, could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through the sale of our equity securities.

Upon completion of the sale of 1,415,095 shares of common stock pursuant to this offering, we will have 5,399,408 shares of common stock issued and outstanding. In the event the underwriters exercise the over-allotment option in full, we will have 5,611,672 shares of common stock issued and outstanding. The common stock sold in this offering will be freely tradable without restriction or further registration or qualification under the Securities Act.

All previously issued shares of common stock that were not offered and sold in this offering, are or will be upon issuance, "restricted securities," as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if such public resale is registered under the Securities Act or if the resale qualifies for an exemption from registration under Rule 144 under the Securities Act, which are summarized below.

In general, a person who has beneficially owned restricted shares of our common stock for at least six months in the event we have been a reporting company under the Exchange Act for at least ninety (90) days before the sale, would be entitled to sell such securities, provided that such person is not deemed to be an affiliate of ours at the time of sale or to have been an affiliate of ours at any time during the ninety (90) days preceding the sale. A person who is an affiliate of ours at such time would be subject to additional restrictions, by which such person would be entitled to sell within any three-month period only a number of shares that does not exceed the greater of the following:

1% of the number of shares of our common stock then outstanding; or

1% of the average weekly trading volume of our common stock during the four calendar weeks preceding the filing by such person of a notice on Form 144 with respect to the sale;

provided that, in each case, we are subject to the periodic reporting requirements of the Exchange Act for at least 90 days before the sale. Rule 144 trades must also comply with the manner of sale, notice and other provisions of Rule 144, to the extent applicable.

**Lock-Up Agreements**

Our executive officers and directors have agreed with the underwriters not to sell, transfer or dispose of any shares or similar securities for six months following the effective date of the registration statement for this offering. Any other holders of more than 5% of the outstanding shares of our common stock have also agreed with the underwriters not to sell, transfer or dispose of any shares or similar securities for six months following the effective date of the registration statement for this offering without the prior written consent of the underwriters.

**Selling Stockholder Resale Prospectus**

As described in the Explanatory Note to the registration statement of which this prospectus forms a part, the registration statement also contains the Resale Prospectus to be used in connection with the potential resale by certain selling stockholders of our common stock. These shares of common stock have been registered to permit public resale of such shares, and the Selling Stockholders may offer the shares for resale from time to time pursuant to the Resale Prospectus. The Selling Stockholders may also sell, transfer or otherwise dispose of all or a portion of their shares in transactions exempt from the registration requirements of the Securities Act or pursuant to another effective registration statement covering those shares. Any shares sold by the Selling Stockholders will occur at prevailing market prices or in privately negotiated prices.

## UNDERWRITING

We are offering our securities described in this prospectus through the underwriters named below. WallachBeth Capital LLC is acting as representative of the underwriters. We have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, each of the underwriters has severally agreed to purchase, and we have agreed to sell to the underwriters, the number of common stock and warrants listed next to its name in the following table.

| Underwriters | Number of Shares | Number of Tradeable Warrants | Number of Non-Tradeable Warrants |
|---|---|---|---|
| WallachBeth Capital LLC | | | |
| Total | | | |

The underwriting agreement provides that the underwriters must buy all of the securities being sold in this offering if they buy any of them. However, the underwriters are not required to take or pay for the securities covered by the underwriters' option to purchase additional securities as described below.

Our securities are offered subject to a number of conditions, including:

- receipt and acceptance of our common stock and warrants by the underwriters; and
- the underwriters' right to reject orders in whole or in part.

In connection with this offering, certain of the underwriters or securities dealers may distribute prospectuses electronically.

**Indemnification**

We have agreed to indemnify the underwriters against specified liabilities, including liabilities under the Securities Act, and to contribute to payments the underwriters may be required to make in respect thereof.

The underwriters are offering the Units, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel and other conditions specified in the underwriting agreement. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

**Over-Allotment Option**

We have granted the underwriters an option exercisable for 45 days after the date of this prospectus, to purchase, from time to time, in whole or in part, up to an aggregate of (i) 212,265 shares of common stock included in the Units at a price of $5.30 per share (the midpoint of the estimated range of $4.30 and $6.30) and/or (ii) Tradeable Warrants to purchase 212,265 shares of common stock included in the Units at a price of $0.15 per Tradeable Warrant (15% of the shares of common stock and warrants included in the Units sold in this offering) and/or (iii) Non-tradeable Warrants to purchase 212,265 shares of common stock included in the Units at a price of $0.15 per Non-tradeable Warrant (15% of the shares of common stock and warrants included in the Units sold in this offering) from us in any combination thereof to cover over allotments, if any, at the public offering price, less underwriting discounts and commissions and the non-accountable expense allowance payable to the underwriters. To the extent that this option is exercised, each underwriter will be obligated, subject to certain conditions, to purchase its pro rata portion of these additional shares or warrants based on the underwriter's percentage underwriting commitment in this offering as indicated in the table at the beginning of this Underwriting Section.

**Underwriting Discount**

Securities sold by the underwriters to the public will initially be offered at the initial Unit offering price set forth on the cover of this prospectus. Any securities sold by the underwriters to securities dealers may be sold at a discount of up to $ per Unit from the initial public offering price. The underwriters may offer the securities through one or more of their affiliates or selling agents. If all the Units are not sold at the initial public offering price, WallachBeth Capital LLC may change the offering price and the other selling terms. Upon execution of the underwriting agreement, the underwriters will be obligated to purchase the securities at the prices and upon the terms stated therein.

The following table shows the per Unit and total underwriting discount we will pay to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase up to 212,265 additional common stock and/or 212,265 additional Tradeable Warrants and/or 212,265 additional Non-tradeable Warrants.

| | Per Unit | Total without Over-Allotment Option | Total with Over-Allotment Option |
|---|---|---|---|
| Public offering price | $ | $ | $ |
| Underwriting discounts and commissions (8%) | $ | $ | $ |
| Proceeds, before expenses to us | $ | $ | $ |

We have agreed to pay WallachBeth Capital LLC a non-accountable expense allowance of 1.5% of the gross proceeds of the offering. We also have agreed to pay WallachBeth Capital LLC's reasonable out-of-pocket fees and expenses up to a maximum amount of $145,000. We have paid $10,000 to WallachBeth Capital LLC as an advance to be applied towards reasonable out-of-pocket expenses, or the advance. Any portion of the advance shall be returned back to us to the extent not actually incurred.

We estimate that the total expenses of the offering payable by us, not including the underwriting discount, will be approximately $ . We have also agreed to reimburse the underwriters for certain expenses incurred by them.

**Right of First Refusal**

For a period of one year from the closing of this offering, we will grant to WallachBeth Capital LLC an irrevocable right of first refusal to act as lead underwriter or book-running manager or placement agent for each and every future public and private equity and debt offerings of the Company, or any successor to or any subsidiary of the Company in any stock exchange during such one-year period.

**Other Relationships**

Some of the underwriters and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

**No Public Market**

Prior to this offering, there has not been a public market for our securities in the U.S. and the public offering price for our Units will be determined through negotiations between us and the underwriters. Among the factors to be considered in these negotiations will be prevailing market conditions, our financial information, market valuations of other companies that we and the underwriters believe to be comparable to us, estimates of our business potential, the present state of our development and other factors deemed relevant.

We offer no assurances that the initial public offering price will correspond to the price at which our common stock will trade in the public market subsequent to this offering or that an active trading market for our common stock will develop and continue after this offering.

**Stock Exchange**

We have applied to have our common stock and Tradeable Warrants listed on The Nasdaq Capital Market under the symbols “SXTP” and “SXTPW,” respectively. There can be no assurance that we will be successful in listing our common stock and Tradeable Warrants on The Nasdaq Capital Market. We do not intend to apply for listing of the Non-tradeable Warrants on any exchange or market.

**Electronic Distribution**

A prospectus in electronic format may be made available on websites or through other online services maintained by one or more of the underwriters of this offering, or by their affiliates. Other than the prospectus in electronic format, the information on any underwriter’s website and any information contained in any other website maintained by an underwriter is not part of this prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or any underwriter in its capacity as underwriter, and should not be relied upon by investors.

**Price Stabilization, Short Positions**

In connection with this offering, the underwriters may engage in activities that stabilize, maintain or otherwise affect the price of our common stock during and after this offering, including:

- stabilizing transactions;
- short sales;
- purchases to cover positions created by short sales;
- imposition of penalty bids; and
- syndicate covering transactions.

Stabilizing transactions consist of bids or purchases made for the purpose of preventing or retarding a decline in the market price of our common stock while this offering is in progress. Stabilization transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. These transactions may also include making short sales of our common stock, which involve the sale by the underwriters of a greater number of common stock than they are required to purchase in this offering and purchasing common stock on the open market to cover short positions created by short sales. Short sales may be “covered short sales,” which are short positions in an amount not greater than the underwriters’ option to purchase additional shares referred to above, or may be “naked short sales,” which are short positions in excess of that amount.

The underwriters may close out any covered short position by either exercising their option, 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 as compared to the price at which they may purchase shares through the over-allotment option.

Naked short sales are short sales made in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchased in this offering.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because has repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions.

These stabilizing transactions, short sales, purchases to cover positions created by short sales, the imposition of penalty bids and syndicate covering transactions may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result of these activities, the price of our common stock may be higher than the price that otherwise might exist in the open market. The underwriters may carry out these transactions on The Nasdaq Capital Market, in the over-the-counter market or otherwise. Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of the shares. Neither we, nor any of the underwriters make any representation that the underwriters will engage in these stabilization transactions or that any transaction, once commenced, will not be discontinued without notice.

**Determination of Offering Price**

Prior to this offering, there was no public market for our common stock. The initial public offering price will be determined by negotiation between us and WallachBeth Capital LLC. The principal factors to be considered in determining the initial public offering price include, but are not limited to:

- the information set forth in this prospectus and otherwise available to WallachBeth Capital LLC;
- our history and prospects and the history and prospects for the industry in which we compete;
- our past and present financial performance;
- our prospects for future earnings and the present state of our development;
- the general condition of the securities market at the time of this offering;
- the recent market prices of, and demand for, publicly traded shares of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

The estimated public offering price range set forth on the cover page of this preliminary prospectus is subject to change as a result of market conditions and other factors. Neither we nor the underwriters can assure investors that an active trading market will develop for our common stock or that the common stock will trade in the public market at or above the initial public offering price.

**Affiliations**

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. The underwriters and their affiliates may from time to time in the future engage with us and perform services for us or in the ordinary course of their business for which they will receive customary fees and expenses. In the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of us. The underwriters and their respective affiliates may also make investment recommendations and/or publish or express independent research views in respect of these securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in these securities and instruments.

**Offer Restrictions Outside the United States**

No action has been taken in any jurisdiction (except in the United States) that would permit a public offering of the common stock the possession, circulation or distribution of this prospectus or any other material relating to us or the common stock in any jurisdiction where action for that purpose is required. Accordingly, the common stock may not be offered or sold, directly or indirectly, and neither this prospectus nor any other material or advertisements in connection with the common stock may be distributed or published, in or from any country or jurisdiction except in compliance with any applicable laws, rules and regulations of any such country or jurisdiction.

## INTERESTS OF NAMED EXPERTS AND COUNSEL

Carmel, Milazzo & Feil LLP, New York, New York, our counsel, owns 100,000 shares of our common stock for payment of legal fees.

## EXPERTS

RBSM LLP, an independent registered public accounting firm, audited our financial statements for the years ended December 31, 2022 and 2021, respectively. We have included our financial statements in this prospectus and elsewhere in the registration statement in reliance on the reports of RBSM LLP, given their authority as experts in accounting and auditing.

## LEGAL MATTERS

Certain legal matters with respect to the validity of the securities being offered by this prospectus will be passed upon by Carmel, Milazzo & Feil LLP, New York, New York. TroyGould PC, Los Angeles, California, is acting as counsel for the underwriters with respect to the offering.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, some of which is contained in exhibits to the registration statement as permitted by the rules and regulations of the SEC. For further information with respect to us and our common stock, we refer you to the registration statement, including the exhibits filed as a part of the registration statement. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. You may obtain copies of this information by mail from the Public Reference Section of the SEC, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, at prescribed rates. You may obtain information on the operation of the public reference rooms by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy statements and other information about issuers, like us, that file electronically with the SEC. The address of that website is *www.sec.gov*.

We are subject to the information and reporting requirements of the Exchange Act and, in accordance with this law, are required to file periodic reports, proxy statements and other information with the SEC. These periodic reports, proxy statements and other information are available for inspection and copying at the SEC's public reference facilities and the website of the SEC referred to above. We also maintain a website at *https://60degreespharma.com/*. You may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.

# 60 DEGREES PHARMACEUTICALS, INC

## CONSOLIDATED FINANCIAL STATEMENTS
## YEARS ENDED DECEMBER 31, 2022 AND 2021

**60 DEGREES PHARMACEUTICALS, INC**

**INDEX TO FINANCIAL STATEMENTS**

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
60 Degrees Pharmaceuticals, Inc.

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of 60 Degrees Pharmaceuticals, Inc. (formerly known as 60 Degrees Pharmaceuticals, LLC) and subsidiaries ("the Company") as of December 31, 2022 and 2021, and the related statements of operations and comprehensive loss, shareholders' and members' deficit, and cash flows for each of the years in the two-year period ended December 31, 2022, and the related notes (collectively referred to as the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

**Change in Reporting Entity**

As described in Note 6, the Company operated as a Limited Liability Company, LLC, from January 1, 2022 to May 31, 2022 and converted to a "C" Corporation starting from June 1, 2022 through December 31, 2022. Prior to the Company's conversion from an LLC to a Corporation, the LLC equity structure consisted of "Membership Units.

**The Company's Ability to Continue as a Going Concern**

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has an accumulated deficit, recurring losses and expects future losses that raise substantial doubt about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

**Basis for Opinion**

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ RBSM LLP

We have served as the Company's auditor since 2022.

Las Vegas, Nevada

April 3, 2023

**60 DEGREES PHARMACEUTICALS, INC**
**CONSOLIDATED BALANCE SHEETS**

| | December 31, 2022 | December 31, 2021 |
|---|---|---|
| **ASSETS** | | |
| Current Assets: | | |
| Cash | $ 264,865 | $ 115,399 |
| Accounts Receivable | 45,965 | 146,362 |
| Prepaid and Other | 200,967 | 225,869 |
| Deferred Offering Costs | 68,629 | - |
| Inventory (Note 3) | 518,578 | 689,042 |
| **Total Current Assets** | **1,099,004** | **1,176,672** |
| Property and Equipment, net (Note 4) | 21,300 | 48,948 |
| Other Assets: | | |
| Right of Use Asset (Note 11) | 12,647 | 58,667 |
| Intangible Assets, net (Note 5) | 164,255 | 109,240 |
| **Total Other Assets** | **176,902** | **167,907** |
| **Total Assets** | **$ 1,297,206** | **$ 1,393,527** |
| **LIABILITIES AND SHAREHOLDERS' DEFICIT** | | |
| Current Liabilities: | | |
| Accounts Payable and Accrued Expenses | $ 758,668 | $ 588,678 |
| Lease Liability (Note 11) | 13,000 | 46,795 |
| Deferred Compensation (Note 7) | 325,000 | - |
| Related Party Notes, net *(including accrued interest)* (Note 9) | 195,097 | - |
| Debenture (Note 8) | 4,276,609 | - |
| SBA EIDL *(including accrued interest)* (Note 8) | 2,750 | - |
| Promissory Notes *(including accrued interest)* (Notes 8 and 9) | 16,855,887 | - |
| Derivative Liabilities (Note 9) | 1,129,840 | - |
| Derivative Liabilities – Related Parties (Note 9) | 364,360 | - |
| **Total Current Liabilities** | **23,921,211** | **635,473** |
| Long-Term Liabilities: | | |
| Deferred Compensation (Note 7) | 255,000 | 154,743 |
| Lease Liability (Note 11) | - | 13,000 |
| Debenture (Note 8) | - | 3,388,570 |
| SBA EIDL *(including accrued interest)* (Note 8) | 160,272 | 159,161 |
| Promissory Notes *(including accrued interest)* (Note 8) | 1,109,783 | 15,197,064 |
| **Total Long-Term Liabilities** | **1,525,055** | **18,912,538** |
| **Total Liabilities** | **25,446,266** | **19,548,011** |
| Commitments and Contingencies (Note 11) | | |
| **SHAREHOLDERS' DEFICIT** | | |
| Members' Capital | - | 4,979,365 |
| Preferred stock, $0.0001 par value, 1,000,000 shares authorized; no shares issued and outstanding | - | - |
| Class A common stock, $0.0001 par value, 150,000,000 shares authorized; 2,386,009 and no shares issued and outstanding as of December 31, 2022 and December 31, 2021, respectively (Note 6) | 239 | - |
| Additional Paid-in-Capital | 5,164,461 | - |
| Accumulated Other Comprehensive Income | 73,708 | 75,835 |
| Accumulated Deficit | (28,815,148) | (22,633,428) |
| 60P Shareholders' Deficit | (23,576,740) | (17,578,228) |
| Noncontrolling interest | (572,320) | (576,256) |
| **Total Shareholders' Deficit** | **(24,149,060)** | **(18,154,484)** |
| **Total Liabilities and Shareholders' Deficit** | **$ 1,297,206** | **$ 1,393,527** |

*The accompanying notes are an integral part of these audited consolidated financial statements.*

**60 DEGREES PHARMACEUTICALS, INC**
**CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**

| For Fiscal Years Ended December 31, | 2022 | 2021 |
|---|---|---|
| Product Revenues – net of Discounts and Rebates | $ 192,913 | $ 1,078,440 |
| Service Revenues | 30,295 | 81,900 |
| Product and Service Revenues | 223,208 | 1,160,340 |
| Cost of Revenues | 432,370 | 850,742 |
| Gross (Loss) Profit | (209,162) | 309,598 |
| Research Revenues | 288,002 | 5,192,516 |
| Net Revenue | 78,840 | 5,502,114 |
| | | |
| Operating Expenses | | |
| Research and Development | 525,563 | 5,510,866 |
| General and Administrative Expenses | 1,303,722 | 1,115,350 |
| Total Operating Expenses | 1,829,285 | 6,626,216 |
| | | |
| Loss from Operations | (1,750,445) | (1,124,102) |
| | | |
| Interest Expense | (3,989,359) | (3,172,712) |
| Derivative Expense | (504,613) | - |
| Change in Fair Value of Derivative Liabilities | (10,312) | - |
| Gain on Debt Extinguishment | 120,683 | - |
| Other (Expense) Income | (43,238) | 37,515 |
| Total Interest and Other Expense (Income), net | (4,426,839) | (3,135,197) |
| Loss from Operations before Provision for Income Taxes | (6,177,284) | (4,259,299) |
| Provision for Income Taxes (Note 10) | 500 | 1,000 |
| Net Loss including Noncontrolling interest | (6,177,784) | (4,260,299) |
| Net Gain (Loss) – Noncontrolling Interest | 3,936 | (8,554) |
| Net Loss – attributed to 60 Degrees Pharmaceuticals, Inc. | (6,181,720) | (4,251,745) |
| | | |
| Comprehensive Loss: | | |
| Net Loss | (6,177,784) | (4,260,299) |
| Unrealized Foreign Currency Translation Gain (Loss) | (2,127) | (3,031) |
| Total Comprehensive Loss | (6,179,911) | (4,263,330) |
| | | |
| Net Gain (Loss) – Noncontrolling Interest | 3,936 | (8,554) |
| Unrealized Foreign Currency Translation (Loss) Gain from Noncontrolling Interest | - | 1,588 |
| | | |
| **Comprehensive Loss – attributed to 60 Degrees Pharmaceuticals, Inc.** | **$ (6,183,847)** | **$ (4,256,364)** |
| | | |
| Net loss (June 1 – December 31, 2022) per common share | | |
| Basic and Diluted | $ 1.78 | $ - |
| Weighted average number of common shares outstanding (June 1 – December 31, 2022) | | |
| Basic and Diluted | 2,380,986 | - |

*The accompanying notes are an integral part of these audited consolidated financial statements.*

## For Fiscal Years Ended December 31, 2022 and 2021

| | Members' Equity | | Common Stock | | Additional Paid-in | Accumulated | Accumulated Other Comprehensive | Total Shareholders' Equity (Deficit) | Noncontrolling Interest on | Total Shareholders' |
|---|---|---|---|---|---|---|---|---|---|---|
| | Units | Amount | Shares | Amount | Capital | Deficit | Income (Loss) | Attributable to 60P | Shareholders | Deficit |
| **Balance—December 31, 2020** | **14,675,500** | **$ 799,700** | - | $ - | $ - | **$ (18,381,683)** | **$ 80,454** | **$ (17,501,529)** | **$ (569,290)** | **$ (18,070,819)** |
| Conversion of Debt into Member Units | 4,179,665 | 4,179,665 | - | - | - | - | - | 4,179,665 | | 4,179,665 |
| Foreign Translation (Loss) Gain | - | - | - | - | - | - | (4,619) | (4,619) | 1,588 | (3,031) |
| Net loss | - | - | - | - | - | (4,251,745) | - | (4,251,745) | (8,554) | (4,260,299) |
| **Balance—December 31, 2021** | **18,855,165** | **$ 4,979,365** | - | $ - | $ - | **(22,633,428)** | **$ 75,835** | **$ (17,578,228)** | **$ (576,256)** | **(18,154,484)** |
| Net Foreign Translation Loss through May 31, 2022 | - | - | - | - | - | - | (28,654) | (28,654) | (611) | (29,265) |
| Net (Loss) Gain through May 31, 2022 | - | - | - | - | - | (1,949,246) | - | (1,949,246) | 1,370 | (1,947,876) |
| Business Combination: June 1, 2022 (60P, LLC into 60P, Inc.) | (18,855,165) | (4,979,365) | 2,348,942 | 235 | 4,979,130 | - | - | - | - | - |
| Issuance of Shares June 30, 2022 | - | - | 37,067 | 4 | 185,331 | - | - | 185,335 | - | 185,335 |
| Net Foreign Translation Gain after June 1, 2022 | - | - | - | - | - | - | 26,527 | 26,527 | 611 | 27,138 |
| Net (Loss) Gain after June 1, 2022 | - | - | - | - | - | (4,232,474) | - | (4,232,474) | 2,566 | (4,229,908) |
| **Balance—December 31, 2022** | - | $ - | **2,386,009** | **$ 239** | **$ 5,164,461** | **$ (28,815,148)** | **$ 73,708** | **$ (23,576,740)** | **$ (572,320)** | **$ (24,149,060)** |

*The accompanying notes are an integral part of these audited consolidated financial statements.*

**60 DEGREES PHARMACEUTICALS, INC**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

| For the Years Ended December 31, | 2022 | 2021 |
|---|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES** | | |
| Net Loss | $ (6,177,784) | $ (4,260,299) |
| Adjustments to Reconcile Net Loss to Net Cash Used in Operating Activities: | | |
| Depreciation | 27,648 | 27,528 |
| Amortization | 5,118 | 3,310 |
| Amortization of Debt Discount | 1,090,387 | 604,595 |
| Amortization of ROU Asset | 46,020 | 40,947 |
| Amortization of Note Issuance Costs | 74,496 | - |
| Gain on Debt Extinguishment | (120,683) | - |
| Derivative expense | 504,613 | - |
| Change in fair value of derivative liabilities | 10,312 | - |
| Inventory Reserve | 223,400 | 38,322 |
| Changes in Operating Assets and Liabilities: | | |
| Accounts Receivable | 100,397 | 713,063 |
| Prepaid and Other | 24,902 | 135,844 |
| Inventory | (52,936) | 312,226 |
| Accounts Payable and Accrued Liabilities | 169,990 | (844,670) |
| Accrued Interest | 2,685,678 | 2,568,118 |
| Reduction of Lease Liability | (46,795) | (39,820) |
| Deferred Compensation | 425,257 | 51,730 |
| **Net Cash Used in Operating Activities** | **(1,009,980)** | **(649,106)** |
| | | |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | | |
| Capitalization of Patents | (33,063) | (32,324) |
| Purchases of Property and Equipment | - | (3,068) |
| Acquisition of Intangibles | (27,070) | - |
| **Net Cash Used in Investing Activities** | **(60,133)** | **(35,392)** |
| | | |
| **CASH FLOWS FROM FINANCING ACTIVITIES** | | |
| Payment of Deferred Offering Costs | (68,629) | - |
| Proceeds from Notes Payable | 800,000 | - |
| Proceeds from Notes Payable – Related Parties | 305,000 | 683,226 |
| Repayments on Notes Payable – Related Party | - | (72,000) |
| Proceeds from Advances – Related Party | 185,335 | - |
| **Net Cash Provided by Financing Activities** | **1,221,706** | **611,226** |
| | | |
| Foreign Currency Translation Loss | (2,127) | (3,031) |
| | | |
| Change in Cash | 149,466 | (76,303) |
| Cash—Beginning of Year | 115,399 | 191,702 |
| **Cash—End of Year** | **$ 264,865** | **$ 115,399** |
| | | |
| **SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION** | | |
| Cash paid During the Year for Interest | $ 2,193 | $ - |
| Cash paid During the Year for Income Taxes | 1,000 | 750 |
| | | |
| **NONCASH INVESTING/FINANCING ACTIVITIES** | | |
| Right-of-use asset obtained in exchange for new operating lease liability | - | 99,615 |
| Debt discount recorded in connection with derivative liabilities | 1,105,000 | - |
| Conversion of Debt into Shares | 185,335 | - |
| Conversion of Debt into Member Units | $ - | $ 4,179,665 |

*The accompanying notes are an integral part of these audited consolidated financial statements.*

## 1. NATURE OF OPERATIONS

60 Degrees Pharmaceuticals, Inc. was incorporated in Delaware on June 1, 2022 and merged on the same day with 60$^{o}$ Pharmaceuticals, LLC which was organized on September 9, 2010 in the District of Columbia. The financial statements of 60 Degrees Pharmaceuticals, Inc. and its subsidiaries (which may be referred to as the "Company", "we", "us", "our", "60P" or "60 Degrees Pharmaceuticals") are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The Company's headquarters are located in Washington, DC.

60 Degrees Pharmaceuticals, Inc. was formed to develop new medicines for the treatment and prevention of infectious diseases. Since its founding, the Company has developed Arakoda™ for the prevention of malaria. The Company continues to develop its novel products targeting the effects and treatment of diseases such as Coronaviruses.

**Going Concern**

The Company's financial statements are prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of obligations in the normal course of business. However, the Company has not demonstrated the ability to generate enough revenues to date to cover operating expenses and has accumulated losses to date. This condition, among others, raises substantial doubt about the ability of the Company to continue as a going concern for one year from the date the financial statements are issued.

In view of these matters, continuation as a going concern is dependent upon continued operations of the Company, which in turn is dependent upon the Company's ability to meet its financial requirements, raise additional capital, and the success of its future operations. The financial statements do not include any adjustments to the amount and classification of assets and liabilities that may be necessary should the Company not continue as a going concern.

Management plans to fund operations of the Company through third-party and related party debt/advances, private placement of restricted securities and the issuance of stock in a public offering until such a time as a business combination or other profitable investment may be achieved. There currently is a plan in place to take the Company public in an IPO transaction in the first half of 2023. Management believes that this plan provides an opportunity for the Company to continue as a going concern.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Basis of Presentation**

The accounting and reporting policies of the Company and its subsidiaries are presented on a consolidated basis and conform to accounting principles generally accepted in the United States of America ("US GAAP") after elimination of intercompany transactions and accounts. These consolidated financial statements are presented in US Dollars, which is the Company's functional currency. The Company has adopted the calendar year as its basis of reporting.

**Principles of Consolidation and Non-Controlling Interest**

The Company's consolidated financial statements include the financial statements of its majority-owned (87.53%) subsidiary 60P Australia Pty Ltd, as well as the financial statements of 60P Singapore Pty Lte, a wholly owned subsidiary of 60P Australia Pty Ltd. 60P Singapore Pty Lte was closed via dissolution as of March 31, 2022. All significant intercompany accounts and transactions have been eliminated in consolidation. 60P Singapore Pty Lte was originally set up to conduct research in Singapore. The entity had no assets and its liabilities were to both 60P Australia Pty Ltd, its direct owner, and 60P. Through consolidation accounting the closure of the business Unit resulted in a currency exchange gain.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Principles of Consolidation and Non-Controlling Interest (Continued)**

For entities that are consolidated, but not 100% owned, a portion of the income or loss and corresponding equity is allocated to owners other than the Company. The aggregate of the income or loss and corresponding equity that is not owned by us is included in Non-controlling Interest in the consolidated financial statements.

**Use of Estimates**

The preparation of financial statements in conformity with United States GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates, and those estimates may be material. Significant estimates include the reserve for inventory, deferred compensation, derivative liabilities and valuation allowance for the deferred tax asset.

**Cash and Cash Equivalents**

Cash and cash equivalents include all cash in banks and short-term highly liquid investments (with original maturities of three months or less) as cash equivalents. The Company's cash is deposited in demand accounts at financial institutions that management believes are creditworthy. The Company's cash and cash equivalents in bank deposit accounts, at times, may exceed federally insured limits. On December 31, 2022, the Company's cash and cash equivalents did not exceed FDIC insured limits (did not exceed FDIC insured limits at December 31, 2021). The Company also held cash at its subsidiaries in Australia and Singapore though the amounts were minimal. The Company has not experienced any losses related to amounts in excess of FDIC limits. The Company does not hold any cash equivalents, which would consist of highly liquid investments with original maturities of three months or less at the time of purchase.

**Accounts Receivable and Allowance for Doubtful Accounts**

The Company records accounts receivable at net realizable value. This value includes an appropriate allowance for estimated uncollectible accounts to reflect any loss anticipated on the trade accounts receivable balances and charged to the provision for doubtful accounts. Based on the Company's history there has been no need to make a recording to allowance for doubtful accounts. Most of the Company's revenue has been earned via government contracts, and with a large American pharmaceutical distributor. As the Company continues to engage with smaller distributors, we will continue to analyze whether an entry should be recorded in Allowance for Doubtful Accounts. There was no allowance as of December 31, 2022 and December 31, 2021. At the year ended December 31, 2022, the US government accounted for 66% of the outstanding AR balance (84% at December 31, 2021) and the American pharmaceutical distributor accounted for 30% of the outstanding AR balance at the year ended December 31, 2022 (15% at the year ended December 31, 2021).

**Inventory**

Inventories are stated at the lower of cost or net realizable value. Cost comprises direct materials and, where applicable, costs that have been incurred in bringing the inventories to their present location and condition. The Company uses the Specific Identification method per lot. A box price is calculated per lot number and sales are recognized by their lot number.

**Property and Equipment**

Property and equipment are stated at cost. Normal repairs and maintenance costs are charged to earnings as incurred and additions and major improvements are capitalized. The cost of assets retired or otherwise disposed of and the related depreciation are eliminated from the accounts in the period of disposal and the resulting gain or loss is credited or charged to earnings.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Property and Equipment (Continued)**

Depreciation is computed over the estimated useful lives of the related asset type or term of the operating lease using the straight-line method for financial statement purposes. The estimated service lives for Property and Equipment is either three (3), five (5) or seven (7) years.

**Impairment of Long-lived Assets**

Long-lived assets, such as property and equipment and identifiable intangibles with finite useful lives, are periodically evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. We look for indicators of a trigger event for asset impairment and pay attention to any adverse change in the extent or manner in which the asset is being used or in its physical condition. Assets are grouped and evaluated for impairment at the lowest level of which there are identifiable cash flows, which is generally at a location level. Assets are reviewed using factors including, but not limited to, our future operating plans and projected cash flows. The determination of whether impairment has occurred is based on an estimate of undiscounted future cash flows directly related to the assets, compared to the carrying value of the assets. If the sum of the undiscounted future cash flows of the assets does not exceed the carrying value of the assets, full or partial impairment may exist. If the asset's carrying amount exceeds its fair value, an impairment charge is recognized in the amount by which the carrying amount exceeds the fair value of the asset. Fair value is determined using an income approach, which requires discounting the estimated future cash flows associated with the asset.

**Intangible Assets**

The Company capitalizes its patent and filing fees and legal patent and prosecution fees in connection with internally developed pending patents. When pending patents are issued, patents will be amortized over the expected period to be benefitted, not to exceed the patent lives, which may be as long as ten to fifteen years.

**Website Development Costs**

The Company accounts for website development costs in accordance with ASC 350-50 "Website Development Costs". Accordingly, all costs incurred in the planning stage are expensed as incurred, costs incurred in the website application and infrastructure development stage that meet specific criteria are capitalized and costs incurred in the day-to-day operation of the website are expensed as incurred. All costs associated with the websites are subject to straight-line amortization over a three-year period.

For the years ended December 31, 2022 and 2021, the Company capitalized website development or related costs of $27,070 and none, respectively, in connection with the upgrade and enhancement of functionality of corporate website at www.60-p.com.

**Derivative Liabilities**

The Company assessed the classification of its derivative financial instruments as of December 31, 2022 and December 31, 2021, which consist of bridge shares, convertible notes payable and certain warrants (excluding those for compensation) and has determined that such instruments qualify for treatment as derivative liabilities as they meet the criteria for liability classification under ASC 815.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Derivative Liabilities (Continued)**

The Company analyzes all financial instruments with features of both liabilities and equity under FASB ASC Topic No. 480, ("ASC 480"), "Distinguishing Liabilities from Equity" and FASB ASC Topic No. 815, ("ASC 815") "Derivatives and Hedging". Derivative liabilities are adjusted to reflect fair value at each reporting period, with any increase or decrease in the fair value recorded in the results of operations (other income/expense) as change in fair value of derivative liabilities. The Company uses a Monte Carlo Simulation Model ("MCSM") to determine the fair value of these instruments.

Upon conversion or repayment of a debt or equity instrument in exchange for shares of common stock, where the embedded conversion option has been bifurcated and accounted for as a derivative liability (generally convertible debt and warrants), the Company records the shares of common stock at par value, relieves all related debt, derivative liabilities, and debt discounts, and recognizes a net gain or loss on debt extinguishment. In connection with the debt extinguishment, the Company typically records an increase to additional paid-in capital for any remaining liability balance.

Equity instruments that are initially classified as equity that become subject to reclassification under ASC Topic 815 are reclassified to liabilities at the fair value of the instrument on the reclassification date.

**Original Issue Discount ("OID")**

For certain notes issued, the Company may provide the debt holder with an original issue discount. The original issue discount is recorded as a debt discount, and is amortized to interest expense over the life of the debt, in the Consolidated Statements of Operations and Comprehensive Loss.

**Debt Issuance Cost**

Debt issuance costs paid to lenders, or third parties are recorded as debt discounts and amortized to interest expense over the life of the underlying debt instrument, in the Consolidated Statements of Operations and Comprehensive Loss.

**Income Taxes**

60 Degrees Pharmaceuticals, Inc. is a corporation and has accepted the default taxation status of C corporation. The merger does not materially impact tax matters in 2022 as the LLC had elected to be taxed as a C corporation for income tax purposes at the beginning of 2022. Previously, the LLC was taxed as a partnership in which for federal purposes, all income tax benefits of a partnership are passed through to the members. The District of Columbia taxes partnerships on form D-30 (District of Columbia Unincorporated Business Franchise Tax Return) and corporations on form D-20 (District of Columbia (DC) Corporation Franchise Tax Return) and both returns have a minimum tax due of $250 if gross receipts are at $1 million or less and a $1,000 if above. The tax years that remain subject to examination by major tax jurisdictions include the years ended December 31, 2019, 2020 and 2021.

60P Australia Pty Ltd is subject to the taxes of the Australian Taxation Office and the now closed 60P Singapore Pte Ltd was subject to the taxes of the Inland Revenue Authority of Singapore.

**Concentrations**

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash, accounts receivable, inventory purchases, and lending.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Concentrations (Continued)**

Significant customers represent any customer whose business makes up 10% of our receivables or revenues. 96% of receivables (consisting of three customers and two significant at 66% and 30%) and 100% of revenues (consisting of four customers and three significant at 40%, 39% and 14% respectively) were generated by significant customers for the year ended December 31, 2022. 99% of the Company's receivables (consisting of three customers and two significant at 84% and 15%) and 100% of the revenues (consisting of three customers and all of them significant at 95%, 3% and 2% respectively) were generated by the Company from significant customers during the year ended December 31, 2021. Currently, the Company has exclusive relationships with distributors in Australia and Europe. A failure to perform by any of our current distributors would create disruption for patients in those markets. The US government has historically been the Company's largest customer through a purchase support contract and a clinical study. Both of those activities ended as during 2022 and near-term receivables and revenues from the government are not anticipated to be significant.

Since the Company first started working on tafenoquine all inventory has been acquired in a collaborative relationship from a sole vendor. Should the vendor cease to supply tafenoquine it would take time and be expensive to rebuild the supply chain with a new sole vendor sourcing the active pharmaceutical ingredient (API).

As of December 31, 2022, 85% (93% at December 31, 2021) of the Company's non-related party debt is held by Knight Therapeutics, the senior secured lender and also a publicly traded Canadian company. The amount of senior secured debt with Knight Therapeutics currently limits the Company's ability to access additional credit and management has been informed that additional lending with Knight Therapeutics is not currently possible.

**Business Segments**

The Company uses the "management approach" to identify its reportable segments. The management approach requires companies to report segment financial information consistent with information used by management for making operating decisions and assessing performance as the basis for identifying the Company's reportable segments. The Company manages its business in one identifiable segment.

**Revenue Recognition**

The Company recognizes revenue in accordance with the Financial Accounting Standards Board's ("FASB"), Accounting Standards Codification ("ASC") ASC 606, Revenue from Contracts with Customers ("ASC 606"). Revenues are recognized when control is transferred to customers in amounts that reflect the consideration the Company expects to be entitled to receive in exchange for those goods. Revenue recognition is evaluated through the following five steps: (i) identification of the contract, or contracts, with a customer; (ii) identification of the performance obligations in the contract; (iii) determination of the transaction price; (iv) allocation of the transaction price to the performance obligations in the contract; and (v) recognition of revenue when or as a performance obligation is satisfied.

The Company received the majority of its revenues from sales of its Arakoda™ product to the US Department of Defense (the "DoD") and resellers in the US and abroad. The Company records US commercial revenues as a receivable when our American distributor transfers shipped product to their title model for 60P. Sales to the DoD are recognized upon their acceptance after product is shipped to them. Foreign sales to both Australia and Europe are recognized as a receivable at the point product is shipped to distributor. The shipments to Australia and Europe are further subject to profit sharing agreements for boxes sold to customers.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Research and Development Costs**

The Company accounts for research and development costs in accordance with ASC subtopic 730-10, Research and Development ("ASC 730-10"). Under ASC 730-10, all research and development costs must be charged to expense as incurred. Accordingly, internal research and development costs are expensed as incurred.

The Company recorded $525,563 in research and development costs during the year ended December 31, 2022 ($5,510,866 for the year ended December 31, 2021).

**Fair Value of Financial Instruments**

The carrying value of the Company's financial instruments included in current assets and current liabilities (such as cash and cash equivalents, accounts receivable, accounts payable, and accrued expenses) approximate their fair value due to the short-term nature of such instruments.

The inputs used to measure fair value are based on a hierarchy that prioritizes observable and unobservable inputs used in valuation techniques. These levels, in order of highest to lowest priority, are described below:

***Level 1***—Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities.

***Level 2***—Observable prices that are based on inputs not quoted on active markets but corroborated by market data

***Level 3***—Unobservable inputs reflecting the Company's assumptions, consistent with reasonably available assumptions made by other market participants. These valuations require significant judgment.

See Note 9 regarding Derivative Liabilities.

Liabilities measured at fair value at December 31, 2022 and December 31, 2021 are as follows:

| | December 31, 2022 | | | |
|---|---|---|---|---|
| | **Level 1** | **Level 2** | **Level 3** | **Total** |
| Liabilities | | | | |
| Derivative Liabilities | $ - | $ - | $ 1,494,200 | $ 1,494,200 |
| Total | $ - | $ - | $ 1,494,200 | $ 1,494,200 |

**Foreign Currency Transactions and Translation**

The individual financial statements of each group entity are measured and presented in the currency of the primary economic environment in which the entity operates (its functional currency). The consolidated financial statements of the group and the statement of financial position and equity of the company are presented in US dollars, which is the functional currency of the Company and the presentation currency for the consolidated financial statements.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Foreign Currency Transactions and Translation (Continued)**

For the purpose of presenting consolidated financial statements, the assets and liabilities of the group's foreign operations are mostly translated at exchange rates prevailing on the reporting date. Income and expense items are

translated at the average exchange rates for the period, unless exchange rates fluctuate significantly during that period, in which case the exchange rates at the dates of the transactions are used. Exchange differences arising, if any, are recognized in other income. Exchange rates along with historical rates used in these financial statements are as follows:

| | Average Exchange Rate as of December 31, | | December 31, | December 31, |
|---|---|---|---|---|
| **Currency** | **2022** | **2021** | **2022** | **2021** |
| 1 AUD = | 0.6948 USD | 0.7513 USD | 0.6805 USD | 0.72644959 USD |
| 1 SGD = | 1.015 AUD* | 0.9912 AUD | 1.023 AUD* | 1.02069301 AUD |
| | * Through 4/30/2022 (account closure date) | | | |

**Reclassifications**

Certain prior year amounts have been reclassified for consistency with the current year presentation. These reclassifications had no material effect on the consolidated results of operations and comprehensive loss, shareholders' deficit, or cash flows.

**Accumulated Comprehensive Income (Loss)**

Other comprehensive loss consists of foreign currency translation adjustments, unrealized gains and losses from cash flow hedges.

**2022 Equity Incentive Plan**

On November 22, 2022, the Company adopted a 2022 Equity Incentive Plan also referred to as ("2022 Plan"). The maximum shares available under the 2022 Plan is equal to 10% of the currently outstanding shares or 238,601.

**Subsequent Events**

The Company considers events or transactions that occur after the balance sheet date, but prior to the issuance of the financial statements to provide additional evidence relative to certain estimates or to identify matters that require additional disclosure. Subsequent events have been evaluated through April 3, 2023, which is the date the financial statements were issued.

**Recently Issued and Adopted Accounting Pronouncements**

The FASB issues ASUs to amend the authoritative literature in ASC. There have been a number of ASUs to date, that amend the original text of ASC. Management believes that those issued to date either (i) provide supplemental guidance, (ii) are technical corrections, (iii) are not applicable to us or (iv) are not expected to have a significant impact on our consolidated financial statements.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**Recently Issued and Adopted Accounting Pronouncements (Continued)**

In August 2020, FASB issued ASU 2020-06, Accounting for Convertible Instruments and Contracts in an Entity; Own Equity ("ASU 2020-06"), as part of its overall simplification initiative to reduce costs and complexity of applying accounting standards while maintaining or improving the usefulness of the information provided to users of financial statements. Among other changes, the new guidance removes from GAAP separation models for convertible debt that require the convertible debt to be separated into a debt and equity component, unless the conversion feature is required to be bifurcated and accounted for as a derivative or the debt is issued at a substantial premium. As a result, after adopting the guidance, entities will no longer separately present such embedded conversion features in equity and will instead account for the convertible debt wholly as debt. The new guidance also requires use of the "if-converted" method when calculating the dilutive impact of convertible debt on earnings per share, which is consistent with the Company's current accounting treatment under the current guidance. The guidance is effective for financial statements issued for fiscal years beginning after December 15, 2021, and interim periods within those fiscal years, with early adoption permitted, but only at the beginning of the fiscal year.

We adopted this pronouncement on January 1, 2022; however, the adoption of this standard did not have a material effect on the Company's consolidated financial statements.

In May 2021, the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update ("ASU") 2021-04, Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options. This latter standard provides clarification and reduces diversity in an issuer's accounting for modifications or exchanges of freestanding equity-classified written call options (such as warrants) that remain equity classified after modification or exchange. This standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Issuers should apply the new standard prospectively to modifications or exchanges occurring after the effective date of the new standard. Early adoption is permitted, including adoption in an interim period. If an issuer elects to early adopt the new standard in an interim period, the guidance should be applied as of the beginning of the fiscal year that includes that interim period. The Company does not expect the adoption of this standard to have a material effect on the Company's consolidated financial statements.

In October 2021, the FASB issued ASU 2021-08, Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers, which requires an acquirer in a business combination to recognize and measure contract assets and contract liabilities in accordance with Accounting Standards Codification Topic 606. ASU 2021-08 is effective for fiscal years beginning after December 15, 2022 and early adoption is permitted. While the Company is continuing to assess the timing of adoption and the potential impacts of ASU 2021-08, it does not expect ASU 2021-08 will have a material effect, if any, on its consolidated financial statements.

**Related Parties**

Parties are considered to be related to the Company if the parties, directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with the Company. Related parties also include principal owners of the Company, its management, members of the immediate families of principal owners of the Company and its management and other parties with which the Company may deal with if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.

## 3. INVENTORY

Inventory consists of the following major classes:

| | December, 31 2022 | December 31, 2021 |
|---|---|---|
| Raw Material (API) | $ 397,487 | $ 538,320 |
| Packaging | 97,486 | 88,468 |
| Finished Goods | 183,943 | 37,514 |
| Clinical Trial Supplies | 63,062 | 63,062 |
| **Total Inventory** | **741,978** | **727,364** |
| Reserve for Expiring Inventory | (223,400) | (38,322) |
| **Inventory, net** | **$ 518,578** | **$ 689,042** |

## 4. PROPERTY AND EQUIPMENT

As of December 31, 2022 and December 31, 2021, Property and Equipment consists of:

| | December 31, 2022 | December 31, 2021 |
|---|---|---|
| Lab Equipment | $ 132,911 | $ 132,911 |
| Computer Equipment | 12,261 | 12,261 |
| Furniture | 3,030 | 3,030 |
| **Property and Equipment, at Cost** | **148,202** | **148,202** |
| Accumulated depreciation | (126,902) | (99,254) |
| **Property and Equipment, Net** | **$ 21,300** | **$ 48,948** |

Depreciation expenses for Lab and Computer Equipment for the years ended December 31, 2022, and 2021 were in the amount of $27,648 and $27,528 respectively.

## 5. INTANGIBLE ASSETS

As of December 31, 2022 and December 31, 2021, Intangible Assets consist of:

| | December 31, 2022 | December 31, 2021 |
|---|---|---|
| Patents | $ 145,613 | $ 112,550 |
| Website Development Costs | 27,070 | - |
| Intangible Assets, at Cost | 172,683 | - |
| Accumulated Amortization | (8,428) | (3,310) |
| **Intangible Assets, Net** | **$ 164,255** | **$ 109,240** |

Amortization expense for the years ended December 31, 2022, and 2021 was in the amount of $5,118 and $3,310, respectively.

## 5. INTANGIBLE ASSETS (CONTINUED)

The following table summarizes the estimated future amortization expense related to our patents and website development costs for the years ended December 31:

| Year | Patents | Website Development Costs |
|---|---|---|
| 2023 | $ 4,033 | $ 9,023 |
| 2024 | 4,033 | 9,023 |
| 2025 | 4,033 | 7,520 |
| 2026 | 4,033 | - |
| Thereafter | 31,345 | - |
| **Total** | **$ 47,477** | **$ 25,566** |

The Company additionally has $91,644 in capitalized patent expenses that will be amortizable as the patents they are associated with are awarded.

## 6. CAPITALIZATION AND EQUITY TRANSACTIONS

**Business Combination – Subsidiary**

On June 1, 2022, 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company ("60P LLC"), entered into the Agreement and Plan of Merger with 60 Degrees Pharmaceuticals, Inc, pursuant to which 60P LLC merged into 60 Degrees Pharmaceuticals, Inc. The value of each outstanding member's membership interest in 60P LLC was correspondingly converted into common stock of 60 Degrees Pharmaceuticals, Inc, par value $0.0001 per share, with a cost basis equal to $5 per share.

On June 30, 2022 the Company issued 37,067 shares of common stock to its Chief Executive Officer for $185,335 ($5/share).

## 7. DEFERRED COMPENSATION

In 2020, the Company received consulting services from Biointelect Pty Ltd of Australia with a value of $100,000, which is payable contingent upon a future capital raise and is non-interest bearing. On May 5, 2022, the Company agreed to modify their contract with Biointelect Pty Ltd. Previously, Biointelect potentially could earn $60,000 in deferred cash compensation and $400,000 in warrants in connection with a fundraise and other services provided. As the Company considered this compensation unlikely, it agreed to restructure by increasing the cash component to $100,000, tying $155,000 in equity compensation to an IPO/future qualifying transaction while leaving $245,000 in equity compensation with the original triggering events. The Company took a deferred compensation charge for the $155,000 in equity compensation in Q2 of 2022.

## 7. DEFERRED COMPENSATION (CONTINUED)

Also in 2020, the Company entered into an agreement with Latham Biopharma for contingent compensation. As of June 17, 2022, $57,198 had been earned and was due ($54,743 was earned as of December 31, 2021). On June 17, 2022 the Company and Latham Biopharma agreed to convert the deferred compensation of $57,198 and $12,500 of accrued expense into a 100% contingent deferred compensation amount of $38,900 in cash and $60,000 in shares of the Company if within the next five years the Company nets at least $10,000,000 in an IPO or any private financing that secures the retirement and/or conversion to equity of all secured debt excluding the loans advanced by the Small Business Administration. Then before the end of the year the Company and Latham Biopharma initiated an agreement that converted the entire deferred compensation into 65,000 shares valued at $5 per share. The Company has taken a contingent deferred compensation charge of $226,100 in Q4 of 2022 to reflect this subsequent agreement.

## 8. DEBT

**Promissory Notes**

On December 27, 2019 the Company restructured its cumulative borrowing with its senior secured lender, Knight Therapeutics, Inc, into a note for the principal amount of $6,309,823 and accrued interest of $4,160,918 and a debenture of $3,483,851, collectively referred to as the 'Knight Loan'. The Knight Loan matures on December 31, 2023. The Knight Loan bears an annual interest rate of 15% compounded quarterly. Under the Knight Loan, the Company is required to pay the lender 15% of cumulative gross profits of above $7,000,000. At the end of December 31, 2022, the Company had reached cumulative gross profits of $1,583,231 ($1,790,744 at December 31, 2021).

On October 11, 2017 the Company issued a promissory note ("Note") with an individual investor in the amount of $750,000. The Note matures 60 days after the Knight Loan is repaid. The Note bore an interest rate of 5% from inception for the first six months and 10% per annum thereafter both compounded quarterly on a calendar basis. The lender has an option to convert the Note into equity in the Company at the maturity date and will have 30 days from maturity to exercise this option. Cumulative interest would have originally been forfeited prior to the Amendment (discussed below), should the lender have elected to convert the Note into equity.

On December 11, 2022, the Company and the individual investor amended the Note ("the Amendment"). The Amendment added a provision to automatically convert the outstanding principal and accumulated interest through March 31, 2022 into common shares in the event the Company consummates an IPO. The Amendment also provides the lender the option to convert the outstanding principal and accumulated interest through March 31, 2022 into equity in the Company at the maturity date and will have 30 days from maturity to exercise this option. Cumulative interest after March 31, 2022 will be forfeited should the lender elect to convert the Note into equity. The Company evaluated the Amendment and determined that it constitutes an extinguishment as the option to convert interest through March 31, 2022 is considered the addition of a substantive conversion option. Accordingly, the Amendment resulted in extinguishment accounting and a corresponding extinguishment gain of $120,683, which represents the difference between the carrying value of the Note just prior to the Amendment and the fair value of the Note just after the Amendment. The extinguishment accounting resulted in a fair value of the Note, including the Amendment of $1,099,578. The discount of $120,683 and costs incurred with third parties directly related to the Amendment of $1,767 will be amortized over the remaining life of the debt using the effective interest method. Amortization of the discount on the Note for the year ended December 31, 2022 was $4,955 ($0 in 2021). Interest expense related to the Note, including the Amendment, for the year ended December 31, 2022 was $115,546 ($104,558 in 2021).

Promissory notes are summarized as follows at December 31, 2022:

| | Knight Therapeutics | Note, including amendment | Bridge Notes | Total |
|---|---|---|---|---|
| Promissory Notes and Interest less Discounts | 16,319,986 | 1,109,783 | 535,901 | 17,965,670 |
| Less Current Maturities | 16,319,986 | - | 535,901 | 16,855,887 |
| Long Term Promissory Notes | - | 1,109,783 | - | 1,109,783 |

## 8. DEBT (CONTINUED)

**Promissory Notes (Continued)**

Promissory notes are summarized as follows at December 31, 2021:

| | Knight Therapeutics | Note, including amendment | Total |
|---|---|---|---|
| Promissory Notes and Interest less Discounts | 14,085,333 | 1,111,731 | 15,197,064 |
| Less Current Maturities | - | - | - |
| Long Term Promissory Notes | 14,085,333 | 1,111,731 | 15,197,064 |

**Debenture**

On April 24, 2019 60P entered into the Knight debenture of $3,000,000 with an original issue discount ("OID") of $2,100,000. The OID is being amortized using the effective interest method. The Company subsequently restructured the Knight Loan (see Subsequent Events footnote 13). $500,103 of the original issue discount was amortized to interest expense during the twelve months ended December 31, 2022 ($431,625 during twelve months ended December 31, 2021) and the unamortized original issue discount at December 31, 2022 was $279,061 ($779,164 at December 31, 2021

| | December 31, 2022 | December 31, 2021 |
|---|---|---|
| Original Debenture | $ 3,000,000 | $ 3,000,000 |
| Unamortized debt discount | (279,061) | (779,164) |
| Debenture Prior to Accumulated Interest | 2,720,939 | 2,220,836 |
| Accumulated Interest | 1,555,670 | 1,167,734 |
| **Debenture** | **$ 4,276,609** | **$ 3,388,570** |

**SBA COVID-19 EIDL**

On May 14, 2020, the Company received COVID-19 EIDL lending from the Small Business Administration (SBA) in the amount of $150,000. The loan bears interest at an annual rate of 3.75% calculated on a monthly basis. The Company was committed to make $731 monthly payments first due June 4, 2021. On March 31, 2021, the SBA announced the deferment period has been extended an additional eighteen months. Thus, the Company was first obligated to start making payments of $731 on November 4, 2022. The current balance is $163,022 for the year ended December 31, 2022 ($159,161 at December 31, 2021). The current maturity is $2,750 and the long-term liability is $160,272. The current future payment obligations of the principal are as follows:

| Period | Principal Payments |
|---|---|
| 2023 | $ - |
| 2024 | - |
| 2025 | - |
| 2026 | 250 |
| 2027 | 3,211 |
| Thereafter | 146,539 |
| **Total** | **$ 150,000** |

Due to the deferral, the Company is expected to make a balloon payment of $32,283 to be due on 10/12/2050.

## 9. DERIVATIVE LIABILITIES

**Promissory Notes, Bridge Shares and Warrants**

During May 2022, the Company executed promissory notes having a face amount of $888,889. The notes contain an original issue discount of 10% ($88,889) and debt issuance costs of $91,436, resulting in net proceeds of $708,564. These notes bear interest at 10% with a default interest rate of 15% and are unsecured. The notes are due at the earlier of one-year (1) from the issuance date or the closing of an initial public offering ("IPO"). In connection with the issuance of these notes, the Company will also issue common stock to each note holder equivalent to (a) 100% of the face amount of the note divided by the IPO price per share, or (b) if the Company fails to complete the IPO prior to May 24, 2023, the number of shares of the Company's common stock calculated using a $27,000,000 pre-money valuation of the Company and the number of the Company's outstanding shares of common stock on May 24, 2023. Additionally, each of these note holders are entitled to receive five-year (5) fully vested warrants upon the closing of an IPO, with an exercise price of 110% of the IPO price.

**Convertible Promissory Notes and Warrants - Related Parties**

During May 2022, the Company executed convertible promissory notes with the Company's Chief Executive Officer and a family member related to the Chief Executive Officer, having a face amount of $338,888. The notes contain an original issue discount of 10% ($33,888) and debt issuance costs of $34,289, resulting in net proceeds of $270,711. These notes bear interest at 6% with a default interest rate of 15% and are unsecured. The notes are due at the earlier of one-year (1) from the issuance date or the closing of an IPO. Upon the closing of an IPO, these notes are mandatorily redeemable at the lesser of (a) 20% discount to the IPO price or (b) $27,000,000 pre-money valuation. Additionally, each of these note holders are entitled to receive five-year (5) fully vested warrants upon the closing of an IPO, with an exercise price of 110% of the IPO price. If the IPO is not completed by May 31, 2023, the exercise price is 90% of the IPO price.
Promissory notes and Convertible notes – related parties are summarized as follows at December 31, 2022:

| | Promissory Notes | Convertible Notes |
|---|---|---|
| Issuance date of promissory notes | May 2022 | May 2022 |
| Maturity date of promissory notes | **1** | **1** |
| Interest rate | 10% | 6% |
| Default interest rate | 15% | 15% |
| Collateral | Unsecured | Unsecured |
| Conversion Rate | **2** | **2** |
| | | |
| Balance - December 31, 2021 | $ - | $ - |
| Face amount of notes | 888,889 | 338,888 |
| Less: unamortized debt discount | (407,555) | (155,443) |
| Add: accrued interest on promissory notes | 54,567 | 11,651 |
| Balance - December 31, 202 | $ 535,901 | $ 195,097 |

For the twelve months ended December 31, 2022, the Company recorded amortization of debt discount of $664,780.

**1** - earlier of 1 year from date of issuance or closing of IPO.
**2** - see discussion above in (a) and (b)

## 9. DERIVATIVE LIABILITIES (CONTINUED)

**Convertible Promissory Notes and Warrants - Related Parties (Continued)**

As noted above, certain of the Company's bridge shares, warrants and convertible notes (containing an embedded conversion feature) are accounted for as derivative liabilities since there is an unknown exercise price associated with each instrument. The exercise price is dependent upon a yet to be completed IPO or a failed IPO. In both cases, the possible exercise prices contain different conditions (related to the success or failure of the IPO) that could result in issuing an undeterminable amount of common stock to settle any conversions.

A reconciliation of the beginning and ending balances for the derivative liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) is as follows at December 31, 2022 and December 31, 2021:

| | Bridge Shares | Warrants | Convertible Notes Payable | Total |
|---|---|---|---|---|
| Derivative liabilities - December 31, 2021 | $ - | $ - | $ - | $ - |
| Fair value - commitment date | 823,687 | 565,007 | 95,194 | 1,483,888 |
| Fair value - mark to market adjustment | 10,665 | 13,157 | (13,510) | 10,312 |
| Derivative liabilities - December 31, 2022 | $ 834,352 | $ 578,164 | $ 81,684 | $ 1,494,200 |

Changes in fair value of derivative liabilities (mark to market adjustment) are included in other income (expense) in the accompanying consolidated statements of operations and comprehensive loss.

During the year ended December 31, 2022, the Company recorded a change in fair of derivative liabilities of $10,312. In connection with the valuation of the Company's derivative liabilities, and accounting for these instruments at fair value, the Company computed a fair value on the commitment date of $1,483,888, and upon the initial valuation of these instruments, determined that the fair value of the liabilities exceeded the cash value raised of $979,275. As a result, the Company recorded a debt discount at the maximum amount allowed (the face amount of the debt less the OID and debt issuance costs), which required the excess to be recorded as a derivative expense.

For the year ended December 31, 2022, the Company recorded a derivative expense of $504,613.

Derivative expense is summarized as follows:

| Commitment Date | May 2022 |
|---|---|
| Fair value of derivative liabilities | 1,483,888 |
| Less: face amount of debt | (979,275) |
| Derivative expense | 504,613 |

On the commitment date (Day 1 valuation), the fair value of the Company's potential future issuances of common stock related to common stock issued with promissory notes, warrants and embedded conversion features in convertible promissory notes is established with an estimate using the Monte Carlo Simulation Model to compute fair value. The

Monte Carlo simulation requires the input of assumptions, including our stock price, the volatility of our stock price, remaining term in years, expected dividend yield, and risk-free rate.

In addition, the valuation model considers the probability of the occurrence or nonoccurrence of an IPO within the terms of our liability-classified financial instruments, as an IPO event can potentially impact the settlement.

## 9. DERIVATIVE LIABILITIES (CONTINUED)

**Convertible Promissory Notes and Warrants - Related Parties (Continued)**

Additionally, at each subsequent reporting period, we remeasure the fair value of our liability-classified bridge shares, warrants and embedded conversion features in convertible promissory notes using the Monte Carlo simulation.

The assumptions used to perform the Monte-Carlo Simulation were as follows at the Commitment Date as well as for the year ended December 31, 2022:

| **Commitment Date** | **May 2022** |
|---|---|
| Stock price | $ 5.00 |
| Volatility | 99.7% |
| Expected term (in years) – Notes | 1.00 - 1.03 |
| Expected term (in years) – Warrants | 5 |
| Risk-free interest rate | 2.76% - 2.84% |
| Dividend yield | 0% |
| IPO probability (prior to note maturity date) | 95% |

| **Mark to Market** | **December 31, 2022** |
|---|---|
| Stock price | $ 5.00 |
| Volatility | 101.9% |
| Expected term (in years) – Notes | 0.39 - 0.41 |
| Expected term (in years) – Warrants | 4.39 |
| Risk-free interest rate | 4.06% |
| Dividend yield | 0% |
| IPO probability (prior to note maturity date) | 95% |

## 10. INCOME TAXES

The Company currently pays taxes at the federal level as a “C Corporation”. Previously, for federal income tax purposes, 60 Degrees Pharmaceuticals, LLC filed as a partnership whereby all liability and benefit was attached to the Members’ returns through December 31, 2021. The District of Columbia, however, taxed the entity separately as an unincorporated business on a D-30 franchise tax return when income was over $12,000 annually. Additionally, there was a minimum tax of $250 for revenues at and below $1,000,0000 and $1,000 for those revenues above.

60P, LLC elected to be taxed as a C-Corporation as of January 1, 2022. A final DC return of the LLC (five-month period ended May 31, 2022) will be filed on the District of Columbia’s D-20 Corporation Franchise Tax Return, which also has minimum taxes for revenues above $1,000,000 ($1,000) and at or below ($250). As a result of the merger of 60P, LLC into 60P, Inc., all accumulated DC net operating losses incurred prior to January 1, 2022 are not transferable (irreversibly vacated). Prospectively, DC net operating loss will not be considered in deferred tax asset computations as the 12/31/2021 balance of $577,978 has been written off to reflect the relinquished DC net operating loss. The provision for income taxes for the year ended December 31, 2022 consists of the following:

## 10. INCOME TAXES (CONTINUED)

| | Federal | DC |
|---|---|---|
| Taxable loss | $(5,807,867) | $(5,807,367) |
| DC Franchise tax | - | 500 |
| Provision (added) used | (1,219,652) | (479,108) |
| Allowance added (used) | 1,219,652 | 479,108 |
| **Net Provision for income tax** | **$ -** | **$ 500** |

Federally the Company has a cumulative net loss of $5,807,867 as of December 31, 2022 (none as of December 31, 2021). The net tax benefit associated with loss accumulated through the year ending December 31, 2022 is $1,219,652 (none as of December 31, 2021) with the federal tax rate of 21%.

The Company has cumulative net loss in DC of $5,807,367 for the twelve months ended December 31, 2022 ($6,996,799 as of December 31, 2021). The net tax benefit is the cumulative net loss multiplied by the District of Columbia corporate tax rate of 8.25%. The Company's net tax benefit at December 31, 2022 is $479,108 ($577,978 at December 31, 2021.

Australian subsidiary has cumulative losses of AUD9,640,315 at December 31, 2022 (and AUD8,997,499 at December 31, 2021). The Australian subsidiary has also measured a deferred tax benefit associated with the cumulative losses of AUD2,410,079 at December 31, 2022 (and AUD2,249,375 at December 31, 2021). The current tax rate in Australia is now 25% for businesses with an aggregated turnover (ordinary income of the Company and its affiliates) of AUD50 million. The Company projects to continue to qualify for the lower tax rate in the near future.")

Management assesses the available positive and negative evidence to estimate if sufficient future taxable income will be generated to use the existing deferred tax assets. On the basis of this evaluation, the Company has determined that it is more likely than not that the Company will not recognize the benefits of the foreign and state net deferred tax assets, and, as a result, full valuation allowance has been set against its net deferred tax assets as of December 31, 2022, and December 31, 2021. The amount of the deferred tax asset to be realized could be adjusted if estimates of future taxable income during the carryforward period are reduced or increased.

| **As of the Period Ended** | **December 31, 2022** | **December 31, 2021** |
|---|---|---|
| Federal Deferred Tax Asset | $ 1,219,652 | $ - |
| DC Deferred Tax Asset | 479,108 | 577,978 |
| Australian Deferred Tax Asset (USD) | 1,640,059 | 1,634,058 |
| | 3,338,819 | 2,212,036 |
| Allowance | 3,338,819 | 2,212,036 |
| **Net Value of Deferred Tax Asset** | **$ -** | **$ -** |

The Company recognizes the impact of a tax position in the financial statements if that position is more likely than not to be sustained on a tax return upon examination by the relevant taxing authority, based on the technical merits of the position. As of December 31, 2022, and December 31, 2021, the Company had no recognized tax benefits. The Company recognizes interest and penalties related to income tax matters as other expense and non-deductible penalties, respectively. As of December 31, 2022, the Company has recognized a potential tax penalty regarding a US foreign tax reporting form of $30,000 and none at December 31, 2021.

## 11. COMMITMENTS AND CONTINGENCIES

**Operating Lease**

On February 3, 2016, the Company entered into the lease agreement with CXI Corp to rent business premises. The contract most recently amended on December 10, 2020 with an additional term of twenty-four months that was set to expire on March 31, 2023 has been extended for an additional two year term until March 31, 2025. We have renewed the lease for an additional two years. As a result of our adoption of ASC 842, the operating leases are reflected on our balance sheet within operating lease right-of-use (ROU) assets and the related current and non-current operating lease liabilities. ROU assets represent the right to use an underlying asset for the lease term, and lease liabilities represent the obligation to make lease payments arising from lease agreement. Lease expense is recognized on a straight-line basis over the lease term, subject to any changes in the lease or expectation regarding the terms. Variable lease costs such as common area maintenance, property taxes and insurance are expensed as incurred.

When the new accounting standard was adopted on December 31, 2021 the Company had current and long-term operating lease liabilities of $46,795 and $13,000, respectively, and right of use of asset of $58,667.

Future minimum lease payments on a discounted and undiscounted basis under this lease are as follows:

| | Undiscounted Cash Flows |
|---|---|
| Discount rate | 15.00% |
| 2023 (January 1 to March 31) | 13,326 |
| Total undiscounted minimum future payments | 13,326 |
| Imputed interest | (326) |
| Total operating lease payments | 13,000 |
| Short-term lease liabilities | 13,000 |
| Long-term lease liabilities | $ - |

Other information related to our operating lease is as follows:

| | December 31, 2022 |
|---|---|
| Weighted average remaining lease term in years | 0.25 years |
| Weighted average discount rate | 15.00% |

Rent expenses were in the amount of $51,894 and $51,894 as of the years ended December 31, 2022, and December 31, 2021, respectively.

**Board of Directors**

In November and December 2022, the Company signed agreements with four director nominees (Cheryl Xu, Paul Field, Charles Allen and Stephen Toovey) which come into effect on the date the Company's S-1 becomes effective. Each director will receive cash compensations of $11,250 quarterly. In addition, the two non-audit committee chairs (Toovey, Field) will receive $1,250 per quarter and the audit committee chair (Allen) will receive an additional $2,000 per quarter. Each director will receive a one-off issuance of common stock of value $50,000 and a non-qualified option to purchase an additional $50,000 of common stock. Each director will receive equity compensation in the form of restricted stock Units valued at $40,000 and a non-qualified option to purchase $40,000 of common stock.

## 11. COMMITMENTS AND CONTINGENCIES (CONTINUED)

**Contingencies**

The Company's operations are subject to a variety of local and state regulations. Failure to comply with one or more of those regulations could result in fines, restrictions on its operations, or losses of permits that could result in the Company ceasing operations.

**Contingent Compensation**

Prior to 2015 the Company agreed with certain vendors, advisors and employees to deferred compensation that expires on December 31, 2023. The net amount of these contingent payments is $43,581. The Company does not anticipate the trigger for these payments to be reached prior to expiration.

In 2020, the Company engaged with two vendors to help secure COVID-19 trial funding for the Company's Phase II COVID trial. Ultimately, the efforts were unsuccessful but a tail does remain. If one Australian fund participates in the Company's IPO a maximum of $520,000 would be due as of December 31, 2021. Due to subsequent agreement the maximum amount due would be $305,000 as of December 31, 2022. Currently, the Company is not engaged with the Australian fund to solicit their participation in the Company's IPO.

**Litigation, Claims and Assessments**

From time to time, the Company may be involved in litigation relating to claims arising out of operations in the normal course of business. As of December 31, 2022, there were no pending or threatened lawsuits that could reasonably be expected to have a material effect on the results of the Company's operations.

## 12. SUBSEQUENT EVENTS

The Company has evaluated subsequent events through April 3, 2023, which is the date the financial statements were issued.

On January 1, 2023 the Company lowered the wholesale acquisition cost [WAC] price of a box of Arakoda™ [16 x 100 mg tablets] from $285 to $235 per box, to better align the cost of utilizing Arakoda™ for malaria prophylaxis with competing products including atovaquone-proguanil.

On January 9, 2023, and in two subsequent amendments, the Company and Knight Therapeutics agreed to extinguish Knight's debt in the event of an IPO. Key points of this agreement are as follows:

- The Parties agreed to fix Knight's cumulative debt to the value as it stood on March 31, 2022, which consisted of $10,770,037 in principal and $8,096,486 in accumulated interest should the Company execute an IPO that results in gross proceeds of at least $7,000,000 prior to December 31, 2023. Should an IPO not occur by January 1, 2024 then all terms of the original loans would resume including any interest earned after March 31, 2022. From April 1, 2022 through December 31, 2022 the Company has recorded $2,009,133 in accumulated Interest that would be subject to reversal should the IPO be successfully executed.

- The Parties agreed to convert the Principal Amount into (i) that number of shares of Common Stock equal to dividing the Principal Amount by an amount equal to the offering price of the Common Stock in the IPO discounted by 15% (the "Conversion Common Shares"), rounding up for fractional shares, in a number of Conversion Shares up to 19.9% of the Company's outstanding Common Stock after giving effect of the IPO; (ii) the Company will make a milestone payment of $10 million to Knight if, after the date of a Qualifying IPO, the Company sells Arakoda™ or if a Change of Control (as per the definition included in the original loan agreement dated on December 10, 2015) occurs, provided that the purchaser of Arakoda™ or individual or entity gaining control of the Borrower is not the Lender or an affiliate of the Lender; (iii) following the License and Supply agreement dated on December 10, 2015 and subsequently amended on January 21, 2019, an expansion of existing distribution rights to tafenoquine/Arakoda™ to include COVID-19 indications as well as malaria prevention across the Territory as defined in said documents, subject to US Army approval; and (iv) Company will retain Lender or an affiliate to provide financial consulting services, management, strategic and/or regulatory advice of value $30,000 per month for five years (the parties will negotiate the terms of that consulting agreement separately in good faith).

**12. SUBSEQUENT EVENTS (CONTINUED)**

- The Parties agreed to convert the accrued interest into that number of shares (the "Conversion Preferred Shares" and, together with the Conversion Common Shares, the "Conversion Shares") of a new class of preferred stock (the "Preferred Stock") by dividing the Accrued Interest by [$100.00], then rounding up (resulting in the issuance of 80,965 preferred shares at the IPO). The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% [cumulative] dividend accumulated annually on March 31; (ii) shall be non-voting stock; (iii) are not redeemable, (iv) be convertible to shares of Common Stock at a price equal to the lower of (1) the price paid for the shares of Common Stock in the IPO and (2) the 10 day volume weighted average share price immediately prior to conversion; and (v) conversion of the preferred stock to common shares will be at the sole discretion of the Company. Notwithstanding the foregoing, the Company shall not convert the Preferred Stock into shares of Common Stock if as a result of such conversion Lender will own 19.9% or more of the Company's outstanding Common Stock.

- In addition to the conversion of the Debt, for a period commencing on January 1, 2022 and ending upon the earlier of 10 years after the Closing or the conversion or redemption in full of the Conversion Preferred Shares, Company shall pay Lender a royalty equal to 3.5% of the Company's net sales (the "Royalty"), where "Net Sales" has the same meaning as in the Company's license agreement with the U.S. Army for tafenoquine. Upon success of the Qualified IPO, the Company shall calculate the royalty payable to Knight Therapeutics International S.A. ("Knight") at the end of each calendar quarter. The Company shall pay to Knight the royalty amounts due with respect to a given calendar quarter within fifteen (15) Business Days after the end of such calendar quarter. Each payment of royalties due to Knight shall be accompanied by a statement specifying the total gross sales, the net sales and the deductions taken to arrive to net sales. For clarification purposes, the first royalty payment will be performed following the above instructions, on the first calendar quarter in which the Qualified IPO takes place and will cover the sales of the period from January 1, 2022 until the end of said calendar quarter.

On January 12, 2023 Geoff Dow signed an updated employment agreement as Chief Executive Officer with a two-year agreement subject to automatic annual renewals unless either party provides notice within 90 days of expiration. Notable provisions are as follows:

- Annual salary will be $228,000 per year with a cash bonus of up to 25% of base pay should performance goals be met.

- Upon the Company becoming public, Geoff Dow will be awarded 300,000 options which will vest at the end of each quarter over five years. The exercise price will be the closing price of the stock on the day of the IPO.

- The Executive will be awarded a two times base salary cash bonus if in a change of control transaction, the Company's share price is two times the closing price on the day of the IPO.

## 12. SUBSEQUENT EVENTS (CONTINUED)

On January 12, 2023 Tyrone Miller signed an updated employment agreement as Chief Financial Officer with a two-year agreement subject to automatic annual renewals unless either party provides notice within 90 days of expiration. Notable provisions are as follows:

- Annual salary will be $204,000 per year with a cash bonus of up to 25% of base pay should performance goals be met.
- Upon the Company becoming public, Tyrone Miller will be awarded 240,000 options which will vest at the end of each quarter over five years. The exercise price will be the closing price of the stock on the day of the IPO.
- The Executive will be awarded a two times base salary cash bonus if in a change of control transaction, the Company's share price is two times the closing price on the day of the IPO.

The Company must meet a NASDAQ listing requirement of a minimum public float of $15 million. As of December 31, 2022, the value of the Company's potentially freely tradable shares was $1,715,246 representing 165,938 shares of value $829,690 owned by Douglas Loock, and an obligation to the three interim investors (Bigger, Calvary and Walleye) to issue common shares of value $885,556 at the IPO. Subsequently the Company issued common shares in exchange for services to the following organizations in the indicated amounts: Carmel, Milazzo & Feil LLP (100,000 shares), Florida State University Research Foundation (405,000 shares), Trevally LLC (120,000 shares), ENA Healthcare Communications LLC (8,500 shares), 4C Pharma Solutions LLC (54,000 shares), Hybrid Financial Inc. (65,000 shares), Method Health Communications LLC (20,000 shares), Kentucky Technology Inc. (525,000), Ludlow Business Services Inc. (37,500), and Delve Innovation Pty Ltd (13,000). We also issued 30,000 shares of our common shares to Elliot Berman in exchange for services provided by Berman Accounting & Advisory P.A. Additionally, the Company issued Latham BioPharm Group LLC 65,000 common shares in exchange for extinguishment of $98,900 in deferred compensation that would otherwise have been payable in the event of an IPO.

On January 16, 2023 the Company and their Australian distributor agreed to settle historical profit share through September 30, 2022 for $24,486 (AUD$35,000) through the issuance of a onetime pandemic credit of $18,637 (AUD$26,640). On March 3, 2023, the Company's Board, with the consent of Geoffrey S. Dow decided to cancel 18,217 common shares issued to the Geoffrey S. Dow Revocable Trust and, with the consent of Tyrone Miller, decided to cancel 2,783 shares issued to Tyrone Miller.

On January 21, 2023, the Company's Board, with the consent of Geoffrey S. Dow decided to cancel 1,240,682 common shares issued to the Geoffrey S. Dow Revocable Trust and, with the consent of Tyrone Miller, decided to cancel 189,318 shares issued to Tyrone Miller.

On March 1, 2023, the Company signed an investment relations consulting agreement with Red Chip. This Agreement obligates the Company to issue Red Chip $40,000 of Rule 144 stock, based on the 30-day average of the publicly traded common shares after the IPO. All shares are deemed earned immediately upon signing, acceptance, and execution of this Agreement.

In March 2023, the Company received $200,000 in paid-in capital from the Geoffrey S. Dow Revocable Trust. As of the day of finalization of these statements, the Board had not made a decision regarding the capitalization of the aforementioned paid-in capital.

There have been no other events or transactions during this time which would have a material effect on these financial statements.

There have been no other events or transactions during this time which would have a material effect on these financial statements.

**1,415,095 Units**
**Each Unit Consisting of**
**One Share of Common Stock,**
**One Warrant to Purchase One share of Common Stock, and**
**One Non-tradeable Warrant to Purchase One Share of Common Stock**
**and the 2,830,190 Shares of Common Stock underlying such Warrants**


# 60 Degrees Pharmaceuticals, Inc.

**PRELIMINARY PROSPECTUS**

# WallachBeth Capital LLC

**, 2023**

Through and including, _____, 2023, (the 25th day after the date of this prospectus), all dealers effecting transactions in the common stock, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

The information in this 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 prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state or other jurisdiction where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED APRIL 28, 2023**

**PRELIMINARY PROSPECTUS**

**1,856,580 Shares of Common Stock**


# 60 Degrees Pharmaceuticals, Inc.

This prospectus relates to the resale of 1,856,580 shares of common stock, par value $0.0001 per share, of 60 Degrees Pharmaceuticals, Inc., consisting of (i) 10,482 shares of common stock to be issued upon conversion of a convertible note immediately prior to the consummation of the initial public offering, (ii) 237,159 shares of common stock to be issued upon exercise of warrants after the date of this prospectus and prior to the closing of the initial public offering and (iii) 1,608,938 shares of common stock held by certain of the selling stockholders listed in the section "*Selling Stockholders*" (the "Selling Stockholders") as set forth herein.

Prior to the initial public offering, there has been no public market for our common stock or warrants. We have applied to list our common stock and Tradeable Warrants for trading on The Nasdaq Capital Market under the symbols "SXTP" and "SXTPW," respectively. There is no guarantee or assurance that our shares of common stock and Tradeable Warrants will be approved for listing on The Nasdaq Capital Market. This offering is contingent upon receiving approval of our listing from The Nasdaq Stock Market LLC ("Nasdaq") and the closing of our initial public offering. We will not receive any proceeds from the sale of shares by the selling stockholders.

Any shares sold by the Selling Stockholders until our common stock and Tradeable Warrants are listed or quoted on an established public trading market will take place at $ per share, which is the per Unit public offering price we are selling in our initial public offering. Thereafter, any sales will occur at prevailing market prices or in privately negotiated prices. The distribution of securities offered hereby may be effected in one or more transactions that may take place in ordinary brokers' transactions, privately negotiated transactions or through sales to one or more dealers for resale of such securities as principals. Usual and customary or specifically negotiated brokerage fees or commissions may be paid by the Selling Stockholders. No sales of the shares covered by this prospectus shall occur until the common stock and Tradeable Warrants sold in our initial public offering begins trading on The Nasdaq Capital Market. The Selling Stockholders have represented to us that they will not offer or sell their shares prior to the closing of the initial public offering.

On , 2023, a registration statement under the Securities Act of 1933, as amended (the "Securities Act") with respect to our initial public offering of Units, with each Unit consisting of one share of common stock, one Tradeable Warrant to purchase one share of common stock and one Non-tradeable Warrant to purchase one share of common stock, was declared effective by the Securities and Exchange Commission (the "SEC"). We received approximately $ million in net proceeds from the offering (assuming no exercise of the underwriters' over-allotment option) after payment of underwriting discounts and commissions and estimated expenses of the offering.

**Investing in our common stock involves a high degree of risk, including the risk of losing your entire investment. See "*Risk Factors*" beginning on page 18 of the primary offering prospectus contained in the registration statement of which this prospectus forms a part, to read about factors you should consider before buying our common stock.**

**Neither the SEC nor any state securities commission nor any other regulatory body has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is , 2023**

## PROSPECTUS SUMMARY

*This summary provides a brief overview of the key aspects of our business and our securities. The reader should read the entire prospectus carefully, especially the risks of investing in our securities discussed under "Risk Factors." Some of the statements contained in this prospectus, including statements under "Summary" and "Risk Factors" as well as those noted in the documents incorporated herein by reference, are forward-looking statements and may involve a number of risks and uncertainties. Our actual results and future events may differ significantly based upon a number of factors. The reader should not put undue reliance on the forward-looking statements in this document, which speak only as of the date on the cover of this prospectus.*

Unless the context otherwise requires, references in this prospectus to "60P," the "Company," "we," "us" and "our" refer to 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, and its majority-owned subsidiary.

### Overview

We are a growth-oriented specialty pharmaceutical company with a goal of using cutting-edge biological science and applied research to further develop and commercialize new therapies for the prevention and treatment of infectious diseases. We have successfully achieved regulatory approval of Arakoda, a malaria preventative treatment that has been on the market since late 2019. Currently, 60P's pipeline under development covers development programs for COVID-19, fungal, tick-borne, and other viral diseases utilizing three of the Company's future products: (i) new products that contain the Arakoda regimen of Tafenoquine; (ii) new products that contain Tafenoquine; and (iii) Celgosivir.

### Mission

Our mission is to address the unmet medical need associated with infectious diseases, through the development and commercialization of new small molecule therapeutics, focusing on synthetic drugs (made by chemists in labs, excluding biologics) with good safety profiles based on prior clinical studies, in order to reduce cost, risk, and capitalize on existing research. We are seeking to expand Arakoda's use for malaria prevention and to demonstrate clinical benefit for other disease indications. We are further testing the viability of another product (Celgosivir) to determine whether to advance it into further clinical development, and may seek to develop and license other molecules in the future. Celgosivir is being developed for COVID-19, RSV and Dengue.

### Market Opportunity

In 2018, the FDA approved Arakoda for malaria prevention in individuals 18 years and older, an indication for which there has historically been approximately 550,000 prescriptions (one prescription per three weeks of travel) in the United States each year for the current market-leading product (atovaquone-proguanil). Arakoda entered the U.S. supply chain in the third quarter of 2019, just prior to the COVID-19 pandemic. As the approved indication is for travel medicine, and international travel was substantially impacted by the pandemic, we did not undertake any active marketing efforts for Arakoda. Targeted marketing efforts will commence in the second half of 2023 to promote the malaria indication as resources permit, although we expect our primary efforts to be developing Arakoda for other applications.

We are repositioning the Arakoda regimen of Tafenoquine for new indications to address several therapeutic indications that have substantial U.S. caseloads, as further described below:

- Treatment of COVID-19. According to *The New York Times*, the lowest daily case rate for the COVID-19 virus since March 2020 based on a seven-day average has not typically been below 11,000 cases. Assuming this trend continues, this dynamic translates into a potential market size of at least 4,000,000 cases per year in 2023 and future years. Paxlovid and molnupiravir have received emergency use authorization for the prevention of death and hospitalization in individuals with high risk of disease progression and their use for those purposes continues to be recommended by public health experts. However, to our knowledge, there is not published evidence from randomized controlled clinical trials that either drug reduces the time to sustained clinical recovery for four or more days in standard risk patients infected with contemporary viral strains, and Pfizer has formally abandoned efforts related to this endpoint for paxlovid.[2] Additionally molnupiravir and paxlovid are not approved by FDA for use in patients without risk factors for disease progression, and that excluded lower risk population comprises about 25% of the U.S. population.[3] The economic value of that unsatisfied market may be a multi-billion-dollar opportunity, given that the value of paxlovid and molnupiravir in the 75% of the population in which they can be used was ~ $12 billion in 2022.[4] If proven effective for early relief of COVID-19 symptoms in standard risk COVID-19 patients, Tafenoquine (Arakoda regimen) could fulfill a patient's need unmet by the approved antivirals.

[2] Press release: https://www.pfizer.com/news/press-release/press-release-detail/pfizer-reports-additional-data-paxlovidtm-supporting.

[3] See the Paxlovid (www.paxlovid.com) and Lagevrio (www.lagevrio.com) prescribing information and epidemiology data described by Ajufo et al Am J Preventive Cardiol 2021;6:101156.

[4] See 2022 revenue data for Paxlovid in Pfizer (https://investors.pfizer.com/Investors/Financials/SEC-Filings/SEC-Filings-Details/default.aspx?FilingId=16428097) and Lagevrio (https://d18rn0p25nwr6d.cloudfront.net/CIK-0000064978/b390be48-92bf-4595-96da-ac5cd7c3d92e.pdf) in Merck financial reports.

- Treatment and Post-Exposure Prevention of Tick-Borne Diseases. There are at least 47,000 cases of babesiosis (red blood cell infections caused by deer tick bites) in the United States each year. This estimate is based on the observations of Krugeler who reported that 476,000 cases of Lyme disease occur in U.S. states where babesiosis is endemic and Krause et. al. who reported that 10% of Lyme disease patients are co-infected with babesiosis (thus 476,000*10% = 47,600 cases of babesiosis per year).[5] Furthermore, post-exposure prophylaxis following a tick-bite is a recognized indication to prevent Lyme disease, and it is likely that a drug proven to be effective for this indication for babesiosis would also be used in conjunction with Lyme prophylaxis. There may be more than 400,000 tick bites in the United States requiring medical treatment each year. This estimate is based on the observation that approximately 50,000 tick bites are treated in U.S. hospital emergency rooms each year but this calculation represents only about 12% of actual treated tick bites based on observations from comparable ex-U.S health systems.[6] Arakoda has the potential to be added to the existing standard of care for treatment of babesiosis, and to be a market leading product for pre- and post-exposure prophylaxis of babesiosis.

- Prevention of fungal pneumonias. There are up to ~ 91-92,000 new medical conditions each year in the United States including acute lymphoblastic leukemia (up to 6.540 cases) and large B-cell lymphoma (up to 18,000 cases) patients receiving CAR-T therapy, solid organ transplant patients (up to 42,887 cases), allogeneic (~ 9,000 cases) and autologous (~ 15,000 cases) hematopoietic stem cell transplant patients for whom the use of antifungal prophylaxis is recommended.[7] Despite the availability and use of antifungal prophylaxis, the risk of some patient groups contracting fungal pneumonia exceeds the risk of contracting malaria during travel to West Africa.[6] Arakoda has the potential to be added to existing standard of care regimens for the prevention of fungal pneumonias.

- Treatment of *Candida* infections. According to the Centers for Diseases Control (CDC), there are 50,000 cases of candidiasis (a type of fungal infection) each year in the United States and up to 1,900 clinical cases of *C. auris*, for which there are few available treatments, have been reported to date[9] Arakoda has the potential to be a market leading therapy for treatment/prevention of *C. auris*, and to be added to the standard of care regimens for other *Candida* infections.

Dengue and RSV, both afflictions against which 60P's early clinical candidates (e.g., Celgosivir) show potential in non-clinical studies, are associated with at least 4.1 million cases globally according to the European CDC (Dengue) [10] and up to 240,000 hospitalizations (RSV) in children less than five years of age and adults greater than 65 years of age in the United States each year according to the CDC.[11]

More information about our products is provided in the next section, and the status of various development efforts for the above-mentioned diseases is outlined in Figure A, below.

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[5] Krause et al JAMA 1996;275:1657-16602. Krugeler et al *Emerg Infect Dis* 2021;27:616-619

[6] Marx et. al., MMWR 2021;70:612-616.

[7] See statistics for solid organ transplants at the Organ Transplant and Procurement Network at: National data - OPTN (hrsa.gov); See statistics for hematopoietic stem cell transplant in Dsouza et al Biology of Blood and Bone Marrow Transplantation 202;26: e177-e182; See statistics for acute lymphoblastic leukemia at: Key Statistics for Acute Lymphocytic Leukemia (ALL) (cancer.org); See statistics for large cell large B-cell lymphoma at; Diffuse Large B-Cell Lymphoma - Lymphoma Research Foundation; Treatment guidelines recommending antifungal prophylaxis for these diseases can be reviewed in (i) Fishman et al Clinical Transplantation. 2019;33:e13587, (ii) Hematopoietic Cell Transplantation (cancernetwork.com), (iii) Cooper et al Journal of the National Comprehensive Cancer Network 2016;14:882-913 and (iv) Los Arcos et al Infection (2021) 49:215–231.

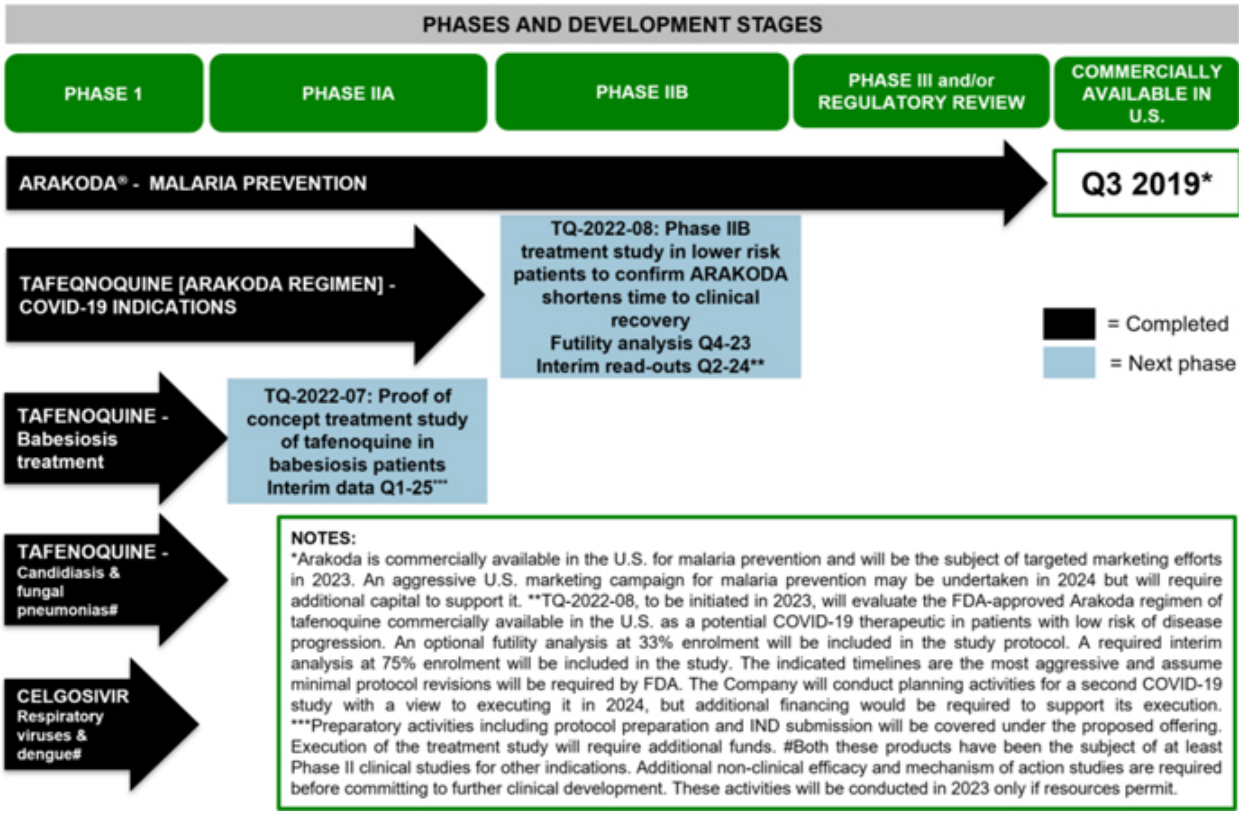
[8] Aguilar-Guisado et al Clin Transplant 2011;25:E629–38; Mace et al MMWR 202;70:1–35

[9] https://www.cdc.gov/fungal/diseases/candidiasis/invasive/statistics.html.; https://www.cdc.gov/fungal/candida-auris/tracking-c-auris.html.

[10] https://www.ecdc.europa.eu/en/dengue-monthly#:~:text=This%20is%20an%20increase%20of%2032%20653%20cases%20and%2032,853%20deaths%20have%20been%20reported.

[11] https://www.cdc.gov/rsv/research/index.html#:~:text=Each%20year%20in%20the%20United,younger%20than%205%20years%20old.&text=58%2C000-80%2C000%20hospitalizations%20among%20children%20younger%20than%205%20years%20old.&text=60%2C000-120%2C000%20hospitalizations%20among%20adults%2065%20years%20and%20older.

Figure A




**Products**

***Arakoda (Tafenoquine) for malaria prevention***

We entered into a cooperative research and development agreement with the United States Army in 2014 to complete development of Arakoda for prevention of malaria.[12] With the U.S. Army, and other private sector entities as partners, we coordinated the execution of two clinical trials, development of a full manufacturing package, gap-filling non-clinical studies, compilation of a full regulatory dossier, successful defense of our program at an FDA advisory committee meeting, and submitted a new drug application ("NDA") to the FDA in 2018. The history of that collaboration has been publicly communicated by the U.S. Army.[13]

The FDA and Australia's medicinal regulatory agency, Therapeutic Goods Administration, subsequently approved Arakoda and Kodatef (brand name in Australia), respectively, for prevention of malaria in travelers in 2018. Prescribing information and guidance for patients can be found at *www.arakoda.com*. The features and benefits of Tafenoquine for malaria prophylaxis (marketed as Arakoda in the United States), some of which have been noted by third-party experts, include: convenient once weekly dosing following a three day load; the absence of reports of drug resistance during malaria prophylaxis; activity against liver and blood stages of malaria as well as both the major malaria species (*Plasmodium vivax* and *Plasmodium falciparum);* absence of any black-box safety warnings; good tolerability including in women and individuals with prior psychiatric medical history, and a comparable adverse event rate to placebo with up to 12 months continuous dosing.[14] Tafenoquine entered the commercial supply chains in the U.S. (as Arakoda) and Australia (as Kodatef) in the third quarter of 2019.

The only limitation of Arakoda is the requirement for a G6PD test prior to administration.[15] The G6PD test must be administered to a prospective patient prior to administration of Arakoda in order to prevent the potential occurrence of hemolytic anemia in individuals with G6PD deficiency.[16] G6PD is one of the most common enzyme deficiencies and is implicated in hemolysis following administration/ingestion of a variety of oxidant drugs/food. G6PD must also be ruled out as a possible cause when diagnosing neonatal jaundice. As a consequence, G6PD testing is widely available in the United States through commercial pathology service providers (e.g., Labcorp, Quest Diagnostics, etc.). Although these tests have a turn-around time of up to 72 hours, the test needs only to be administered once. Thus, existing U.S. testing infrastructure is sufficient to support the FDA-approved use of the product (malaria prevention) by members of the armed forces (who automatically have a G6PD test when they enlist), civilian travelers with a long planning horizon or repeat travelers.

*Tafenoquine (Arakoda regimen) for COVID-19*

During the COVID-19 pandemic, since our commercial opportunities were limited, we embarked upon an exploratory research and development campaign to identify new indications for the Arakoda dosing regimen of Tafenoquine. In the second quarter and third quarter of 2020, we commissioned cell culture studies that showed that Tafenoquine, the active ingredient in Arakoda, inhibited replication of SARS-CoV-2 (the virus that causes COVID-19).[17] Then, we commissioned computer simulations, which showed that the predicted concentration of Tafenoquine in the lungs of COVID-19 patients following administration of the first four doses of the approved antimalarial prophylactic regimen of Arakoda exceeded those inhibiting the virus in cell culture. The foregoing provided the rationale for seeking approval from the FDA to conduct a Phase II clinical trial in patients with the COVID-19 disease, for which the FDA granted clearance to proceed in October 2020.

In 2021, with financial support from the U.S. Army[16], we conducted a Phase II clinical investigation of the safety and efficacy of Tafenoquine using the Arakoda regimen in outpatients with mild-moderate COVID-19 disease (assumed to be mostly caused by the delta variant of SARS-COV-2). In summary, safety and efficacy of Tafenoquine administered at the approved dose for malaria prevention (200 mg dose once per day on days 1, 2, 3, and 10) was

evaluated over a 28-day period in mild-moderate COVID-19 patients. The primary endpoint was day 14 clinical recovery from COVID-19 symptoms, defined as cough mild or absent, respiratory rate < 24 bpm, and no shortness of breath or fever. From March 2021 through September 2021, this study enrolled 87 of the originally planned 275 patients. In October 2021, a data safety monitoring board, after conducting a futility analysis for the primary endpoint and reviewing adverse event data, recommended that the study be continued as planned. However, at the time of the unblinding of this study, topline results from Phase III studies for three oral COVID-19 therapeutics in at risk patients with mild-moderate COVID-19 disease had been announced: Fluvoxamine, molnupiravir, and paxlovid reduced the risk of hospitalization by approximately 30%, 50% (in the first public announcement) and 90%, respectively.[19] As reported in our publication[18], an informal survey of potential funding/commercialization partners for a follow-on program suggested it would be important to know the magnitude of possible benefit prior to initiating such an effort. Primarily for the above reasons, the study was terminated and unblinded early.

The results of the study were accepted for peer-reviewed publication in May 2022.[21] For the primary endpoint, the proportion of patients not recovered on Day 14 was numerically decreased by 27% in the intent to treat population (8/45 v 10/42 not recovered in the Tafenoquine and placebo arms, $P = 0.60$) and 47% in the per protocol population (5/42 v 9/41, $P = 0.25$). Amongst individuals who recorded responses in an electronic diary on day 28, all Tafenoquine patients were recovered, whereas up to 12% of placebo patients exhibited lingering shortness of breath. Analysis of secondary/exploratory endpoints suggested Arakoda reduced time to clinical recovery from shortness of breath, cough and fever ($P < 0.02$) and numerically improved aggregate symptom scores five days after treatment ($P < 0.1$).[22] The risk of COVID-19-related hospitalization was numerically reduced in the Arakoda arm (by approximately 50%; two instances for placebo versus one for Arakoda). Mild, drug related adverse events occurred in 8.4% of individuals in the Tafenoquine arm (v 2.4% in the placebo). We plan to confirm that Arakoda accelerates sustained recovery from COVID-19 symptoms in our next study (described in "*Prospectus Summary—Strategy*" beginning on page 4).

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[12] In 2014, we signed a cooperative research and development agreement with the United States Army Medical and Materiel Development Activity (Agreement W81XWH-14-0313). Under this agreement, we agreed to submit an NDA for Tafenoquine to the FDA (as Arakoda), while the US Army agreed to finance the bulk of the necessary development activities in support of that goal.

[13] Zottig et al Military Medicine 2020; 185 (S1): 687.

[14] Tan and Hwang Journal of Travel Medicine, 2018, 1–2; Baird Journal of Travel Medicine 2018:, 1–13; Schlagenhauf et al Travel Medicine and Infectious Disease 2022; 46:102268; See Arakoda prescribing information at www.arakoda.com; McCarthy et al CID 2019:69:480-486; Dow et al. Malar J (2015) 14:473; Dow et al. Malaria Journal 2014, 13:49; Novitt-Moreno et al Travel Med Infect Dis 2022 Jan-Feb;45:102211.

[15] See prescribing information at www.arakoda.com.

[16] See prescribing information at www.arakoda.com.

[17] U.S. Patent application # 17/189,544, Dow et. al. bioRxiv 2020.07.12.199059; doi: https://doi.org/10.1101/2020.07.12.199059.

[18] Financial support was obtained from Joint Program Executive Office for Chemical, Biological, Radiological and Nuclear Defense (which may be referred to as "JPEO") or JPEO via other transactional authority agreement #W911QY-21-9-0011.

[19] Reis et al Lancet Global Health 2022;10:e42-51, Bernal et al New Eng J Med 2021; https://doi.org/10.1056/NEJMoa2116044; Pfizer Inc. Press release (November 5, 2021) – Pfizer's novel COVID 19 oral antiviral treatment candidate reduced risk of hospitalization or death by 89% in interim analysis of Phase 2/3 EPIC-HR study. Accessible at: Pfizer's Novel COVID-19 Oral Antiviral Treatment Candidate Reduced Risk of Hospitalization or Death by 89% in Interim Analysis of Phase 2/3 EPIC-HR Study | Pfizer.

[20] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[21] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

[22] Dow and Smith, New Microbe and New Infect 2022; 47:100986.

In 2022, we conducted additional analyses of laboratory endpoint data from the clinical study described above and are preparing a manuscript for publication. That analysis and the scientific literature suggest two possible modes of action for Arakoda: (i) down-regulation of cytokines (immune system inflammatory proteins) associated with severe COVID-19 and a greater risk of hospitalization or death and/or (ii) inhibition of viral entry in the lung or elsewhere in the body, perhaps through inhibition of a host enzyme called TMPRSS2 (which facilitates entry of the virus that causes COVID-19, SARS-CoV-2, into human cells).

Assuming the efficacy of Tafenoquine in COVID-19 disease is proven in our next study, some of the features of the Arakoda regimen that make it ideal for malaria prophylaxis might also make it very useful for COVID-19 related indications. Tafenoquine is slowly metabolized and has few important drug-drug interactions, so it might be an ideal partner for standard of care oral COVID-19 therapeutics that reduce hospitalization but have no demonstrated effect on the time to clinical recovery in non-hospitalized patients. The Arakoda regimen requires fewer tablets (8 in the first ten days versus 30 or 40 for paxlovid and molnupiravir) which should make compliance with medication easier for patients. This is an important consideration in the attractiveness of a regimen in standard risk patients at lower risk of hospitalization, and who may be interested in taking a COVID-19 therapeutic primarily to treat early symptoms and accelerate recovery. The potential for better compliance may also suggest suitability for outbreak control in some settings (including, for example, nursing homes).

*Tafenoquine for other infectious diseases*

During the pandemic, we also worked with NIH to evaluate the utility of Tafenoquine as an antifungal. We, and the NIH, found that Tafenoquine exhibits a Broad Spectrum of Activity in cell culture against *Candida* and other yeast strains via a different Mode of Action than traditional antifungals and also exhibits antifungal activity against some fungal strains at clinically relevant doses in animal models.[23] Our work followed Legacy Studies that show Tafenoquine is effective for treatment and prevention of *Pneumocystis* pneumonia in animal models.[24] We believe that if added to the standard of care for anti-fungal and yeast infection treatments for general use, Tafenoquine has the potential to improve patient outcomes in terms of recovery from yeast infections, and prevention of fungal pneumonias in immunosuppressed patients. There are limited treatment options available for these indications, and Tafenoquine's novel mechanism of action might also mitigate problems of resistance. Clinical trial(s) to prove safety and efficacy, and approval by the FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

Tafenoquine is effective in animal models of babesiosis (tick borne red blood cell infections). In two of three recent clinical case studies, Tafenoquine administered after failure of conventional antibiotics in immunosuppressed babesiosis patients resulted in cures.[25] Consequently, we believe that (i) if combined with standard of care products, Tafenoquine has the potential to reduce the duration of treatment with antibiotic therapy in immunosuppressed patients and the time to parasite clearance in non-immunosuppressed patients and (ii) that once appropriate clinical studies have been conducted, it is likely that Tafenoquine would be quickly embraced for post-exposure prophylaxis of babesiosis in patients with tick bites and suspected of being co-infected with Lyme disease. Clinical trial(s) to prove safety and efficacy, and approval by FDA and other regulators, would be required before Tafenoquine could be marketed for these indications.

*Celgosivir*

Celgosivir is a host targeted glucosidase inhibitor that was developed separately by other sponsors for HIV then for hepatitis C.[26] The sponsors abandoned Celgosivir after completion of Phase II clinical trials involving 700+ patients, because other antivirals in development at the time had superior activity. The National University of Singapore initiated development of Celgosivir independently for Dengue fever. A clinical study, conducted in Singapore, and the results of which were accepted for publication in the peer-reviewed journal Lancet Infectious Diseases, confirmed its safety but the observed reduction in viral load was lower than what the study was powered to detect.[27] Celgosivir (as with other Dengue antivirals) exhibits greater capacity to cure Dengue infections in animal models when administered prior to symptom onset compared to post-symptom onset. In animal models, this problem can be addressed for Celgosivir, by administering the same dose of drug split into four doses per day rather than two doses per day (as was the case in the Singaporean clinical trial).[28] This observation led to the filing and approval of a patent related to Dengue, which we licensed from the National University of Singapore.

[23] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[24] Queener et al Journal of Infectious Diseases 1992;165:764-8).

[25] Liu et al. Antimicrobial Agents Chemo 2021;65:e00204-21, Marcos et al. IDCases 2022;27:e01460; Rogers et al. Clin Infect Dis. 2022 Jun 10:ciac473, Prasad and Wormsner. Pathogens 2022;11:1015.

[26] Sorbera et al, Drugs of the Future 2005; 30:545-552.

[27] Low et. al., Lancet ID 2014; 14:706-715.

[28] Watanabe et al, Antiviral Research 2016; 10:e19.

Additional clinical studies would be required to prove that such a 4x daily dosing regimen would be safe and effective in Dengue patients to regulators' satisfaction. To that end, earlier in our history, we, in partnership with the National University of Singapore, and Singapore General Hospital, successfully secured a grant from the government of Singapore for a follow-on clinical trial, but were unable at that time to raise matching private sector funding. We concluded as a result that development of Repositioned Molecules for Dengue, solely and without simultaneous development for other therapeutic use, despite substantial morbidity and mortality in tropical countries, was an effort best suited for philanthropic entities. Accordingly, during the pandemic, we undertook an effort (in partnership with NIH's Division of Microbiology and Infectious Diseases program and Florida State University) to determine whether Celgosivir might be more broadly useful for respiratory diseases that have impact in both tropical and temperate countries. Preliminary data suggest Celgosivir inhibits the replication of the virus that causes COVID-19 (SARS-CoV-2) in cell culture, and the RSV virus in cell culture and provides benefits in animals. We have filed and/or licensed patents in relation to Celgosivir for these other viruses as we believe there is potential applications to fight respiratory diseases that might have more commercial viability than historical development of Celgosivir to combat Dengue fever.

**Competitive Strengths**

Our main competitive strength has been our ability to achieve important clinical milestones inexpensively in therapeutic areas that other entities have found extremely challenging. With a small virtual management team, we have successfully built productive research partnerships with public and academic entities, and licensed products with well characterized safety profiles in prior clinical studies, thereby reducing the cost and risk of clinical development. This business and product model enabled Arakoda to be approved in 2018, with a total operating expense of < $10 million. We plan to focus in the future on generating proof of concept clinical data sets for the approved Arakoda regimen of Tafenoquine in other therapeutic areas, all of which is expected to foster and continue our existing tradition of inexpensive product development.

**Strategy**

Our general strategy is to demonstrate clinical proof of concept that the FDA-approved Arakoda regimen of Tafenoquine provides clinical benefits in non-malaria therapeutic areas. Our initial focus is on COVID-19, but additional indications have been identified for development, namely babesiosis and fungal infections, pending further data generation. Upon demonstration of clinical proof of concept, we plan to enter into a strategic partnership with a larger entity with commercialization capacity, or raise additional capital to facilitate commercialization of Arakoda, and any additional clinical studies that may be required by regulators, for both travel medicine and broad infectious disease indications. We will continue to develop our portfolio products as resources permit.

Beginning in the second half of 2023, we plan to execute a Phase IIB, randomized, placebo-controlled double blind clinical study powered (at 80%) to prove that the Arakoda regimen of Tafenoquine accelerates time to sustained clinical recovery in patients with mild-moderate disease with low risk for disease progression. This trial will utilize the bulk of proceeds raised in this offering. Based on an analysis of unpublished data from our earlier COVID-19 clinical trial,[29] we believe that the Arakoda regimen of Tafenoquine has the potential to reduce the time to sustained clinical recovery by about three days (see Figure B, below). The study will be conducted in out-patient clinics in the United States. The study will utilize the majority of the proceeds of the offering reserved for research and development activities for this purpose. As of the date of this prospectus, we have completed a clinical study synopsis. Submission of the full protocol to the Ethics Committees and to U.S. regulators, and a subsequent posting at *clinicaltrials.gov* will follow this initial public offering.

Figure B

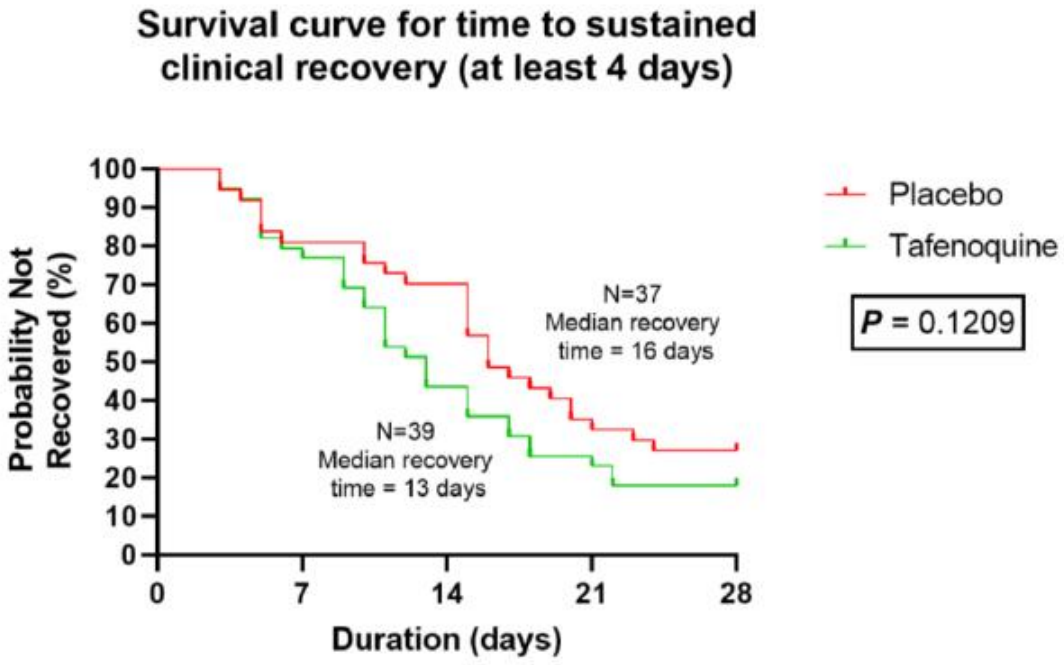


Figure B: Survival curve for sustained clinical recovery in outpatients with mild-moderate COVID-19 disease randomized to receive Tafenoquine (Arakoda regimen) or placebo. Sustained clinical recovery was defined as the first instance of patient reported symptoms scores being < 3 for four or more days, with symptoms scores assessed according to FDA guidance.[30] This analysis utilized unpublished data from our earlier Phase II clinical trial.[31] The analysis excludes individuals hospitalized or loss to follow-up and with a symptom score on the days of dosing < 3. This analysis represents a post-hoc analysis of our Phase II clinical trial data. If this were a formal, pre-conceived primary study endpoint, the *P* value of 0.1209 would imply the associated difference between Tafenoquine (Arakoda regimen) and placebo has a 12.09% chance of occurring by chance.

We intend to design the study, subject to approval by the FDA and Ethics Committee(s) as appropriate, to include two interim endpoints to manage risk. The first will be an optional futility analysis at the earlier of 33% enrollment or six months following the first patient enrolled, which would allow early

termination of the study if the conditional power of proving the intended hypothesis is < 20%. The second, mandatory interim analysis will occur at 75% enrollment and follow a step-wise (sponsor-blinded) process involving testing for futility, statistical significance, and sample-size reassessment if required. The test for statistical significance would allow early termination of the study if results are unexpectedly positive and the sample size reassessment would allow the study to enroll more patients within pre-specified limits if variability is more, and/or the magnitude of the expected treatment effect is less, than expected.

We plan to conduct additional non-clinical studies to clarify the process by which Tafenoquine alters the course of COVID-19 illness. Specifically, such studies will attempt to determine whether Tafenoquine acts as an immunomodulator (by decreasing the production of immune system molecules that cause inflammation) and/or exhibits an antiviral effect via inhibition of the host protease TMPRSS2. Antivirals are generally utilized earlier, and immunomodulators later, in treating patients with COVID-19 disease. However, the clinical hypothesis of our planned study will be that Arakoda accelerates clinical recovery by three days in individuals who have experienced symptoms for fewer than seven days, thereby confirming observations from our earlier clinical study (see Figure B). Since the potential clinical benefit is already known, the primary purpose of clarifying the manner in which Arakoda works is to (i) address anticipated regulatory questions and (ii) ascertain whether other indications, such as relief of COVID-19 symptoms during vaccination, treatment of long COVID-19 patients, or use during hospitalization, might be plausible.

Following completion of our planned COVID-19 clinical study, if warranted based on the data generated, we intend to request a change in prescribing information to facilitate an expansion of use of Arakoda for malaria prevention from six to twelve months (mirroring our recently published post-marketing safety study) and to include reference to the recently generated COVID-19 treatment data. Prior to doing so, we plan to discuss with the FDA additional labeling related to COVID-19 which might be acceptable.

We intend to design and conduct feasibility assessments for one or more additional studies in the same type of patients as the planned study and/or for a COVID 19-related indication different from that targeted by our clinical study in 2023. One of these additional studies would be conducted in Australia, and would be a requirement to secure tax rebates for the overall COVID-19 program (see next paragraph). A second study is likely to be required by regulators which may or may not be the same as the study conducted in Australia. The value of conducting additional studies, in addition to securing tax credits or for regulatory approvals, would be (i) independently confirming the therapeutic modality/clinical mode of action of Arakoda (i.e. that it accelerates clinical recovery from COVID-19 symptoms and/or acts as an antiviral or disease modulator) and (ii) broadening the COVID-19 indication beyond treatment of lower risk patients (i.e. potentially increasing the volume of annual prescriptions). Thus, possible study designs could be (i) a simple repetition of the planned study with a larger sample size, (ii) a treatment study in higher risk patients or (iii) a pre-treatment loading study in individuals known to be exposed to the virus that causes COVID-19, and/or (iv) amelioration of COVID-19 disease-like symptoms in individuals receiving mRNA COVID-19 vaccines (if it turns out Arakoda is an immunomodulator).

We plan to license ex-U.S. rights to COVID-19 indications to our Australian subsidiary, 60P Australia Pty Ltd. This will facilitate claiming the Australian government's research tax credit for any of our COVID-19-related research activities conducted in Australia. 60P Australia has been successful in securing research tax credits for malaria and Dengue-related research since 2013. Since conducting our planned COVID-19 study in Australia is likely to be unfeasible and must be conducted in the U.S., we plan to apply for an overseas finding to the Australian Tax Office in the second quarter of 2023 to request an overseas finding for the U.S. study. Should such a finding be awarded, it would allow a tax rebate of 43.5% on research and development costs associated with the planned U.S. COVID-19 study to be claimed, but commit the Company to conduct COVID-19 research activities in Australia of a value at least as much as the cost of the planned U.S. clinical study.

[29] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

[30] *FDA 2020 Guidance on Assessing COVID-19 Symptoms*-14 Common COVID-19 Symptoms Severity Scale.

[31] Dow and Smith, New Microbe and New Infect 2022; 45: 100964.

We are planning several commercial initiatives for the malaria market in parallel with further clinical development activities. Three routes exist for commercialization of Arakoda for the malaria prevention market are: (i) U.S. civilian travel clinics, travel prescribing centers, and large private sector entities with employees deployed overseas (e.g., mining companies), (ii) the prospect of additional U.S. Department of Defense ("DoD") and government agency procurement in the future (noting that as described on page 60 our existing contract with DoD has been fulfilled and has not been extended or modified) and (iii) ex U.S. sales strategy where we currently (or in the future) have exclusive distribution arrangements in overseas markets.

As of the date of this prospectus, we did not have plans to hire a U.S. field sales force, but are exploring possible commercial arrangements with contract sales organizations to target U.S. travel clinics for malaria prophylaxis. We may consummate a contract with a lobbying firm/contract sales organization to attempt to improve the position of Arakoda in the DoD formulary and to raise awareness of Arakoda amongst other U.S. government agencies. For such agencies, the product is expected to meet many of the requirements for occupational malaria prevention identified by the independent parties that have endorsed the product. We have been successful in securing procurement contracts with U.S. government agencies for Arakoda, and anticipate continued success in the future. In the third quarter of 2022, we made our first sale to our European distributor, and made additional sales to our Australian distributor in the second quarter of 2022. We are actively exploring the possibility of named-patient sales in jurisdictions outside Australia, Europe, and the United States. We plan to undertake a focused marketing campaign for Arakoda for malaria prevention in the second half of 2023. This will consist of promotion at relevant conferences, email promotion to prescribers, and target print and electronic advertisements.

It is expected that a point of care G6PD test might be required to maximize the economic potential of a COVID-19 indication for Tafenoquine (regardless of regimen). We do not intend to pursue independent development of such a test as there are well resourced development efforts already underway (see "*Risk Factors—Any future clinical trial for Arakoda will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we may not directly control the timing, conduct and expense of such testing*" beginning on page 18). However, we will continue to monitor the progress of development and U.S. commercialization of G6PD tests. We will seek to pursue collaborative commercial partnerships with the companies involved in commercialization efforts, if such activities can be conducted through resource sharing efforts.

We plan to generate additional validation data for our portfolio products if resources permit. Specifically, we will evaluate whether Celgosivir provides therapeutic benefit in a COVID-19 animal model, and complete critical activities related to confirming GMP process feasibility.

We may elect, as resources permit, to undertake a clinical study of Tafenoquine in combination with standard of care for hospitalized patients with babesiosis. We have developed such a protocol concept in partnership with academic collaborators and are planning to submit an investigational new drug application ("IND") to the FDA and pursue public and philanthropic funding to support our execution. We plan to seek public funding to support additional non-clinical studies to validate the mechanism of action of Tafenoquine against *Candida spp*. and further assess our utility in combination with standard of care agents in cell culture and animal studies.

Most new antimalarial treatment products are developed as drug combinations to proactively combat drug resistance. Tafenoquine, due to its long half-life and activity against all parasite species and strains, would be ideal partner in a drug combination. In the second half of 2023, we will actively seek out a potential partner antimalarial drug for Arakoda, with the goal of pursuing licensure of a new drug combination. We will only enter into a partnership to develop such a drug combination, if clear legal guidance can be obtained that such a combination if developed would have a high probability of securing a priority review voucher upon FDA approval.

There are currently efforts underway, in malaria-endemic countries outside the U.S., to generate datasets supporting the use of Tafenoquine for mass drug administration in asymptomatic individuals to prevent malaria transmission. We believe that such efforts are important to promote community acceptance of Tafenoquine and may eventually support World Health Organization pre-qualification of Tafenoquine for malaria eradication efforts. To that end, we intend to support, on a case-by-case basis, clinical studies sponsored by others, by providing commercial Arakoda and/or Kodatef for research use (provided such product would not otherwise have been commercially salable, and the study sponsor covers shipping costs). We have previously provided Tafenoquine for such efforts on a limited basis.

We have a post-marketing requirement to conduct a malaria prophylaxis study of Arakoda in pediatric and adolescent subjects. We proposed to the FDA, in late 2021, that this might not be safe to execute given that malaria prevention is administered to asymptomatic individuals and that methemoglobinemia (damage to the hemoglobin in blood that carries oxygen) occurred in 5% of patients, and exceeded a level of 10% in 3% of individuals in a study conducted by another sponsor in pediatric subjects with symptomatic vivax malaria.[32] The FDA has asked us to propose an alternate design, for which we submitted a concept protocol in the fourth quarter of 2022, and plan to submit a full protocol by the end of the second quarter of 2023. We estimate the cost of conducting the study proposed by the FDA, if conducted in the manner suggested by the FDA, would be $2 million, and, due to the time periods required to secure protocol approvals from the FDA and Ethics Committees, could not be initiated any earlier than the third quarter of 2024. The funds from this offering to be expended on such a pediatric study will be limited to the minimum required to support protocol preparation and regulatory interactions with the FDA.

[32] Velez et al 2021 - Lancet Child Adolesc Health 2022; 6: 86–95.

**Intellectual Property**

We are co-owners, with the U.S. Army, of patents in the United States and certain foreign jurisdictions directed toward use of Tafenoquine for malaria and have obtained an exclusive worldwide license from the U.S. Army to practice these inventions. We also have an exclusive worldwide license to use manufacturing information and non-clinical and clinical data that the U.S. Army possesses relating to use of Tafenoquine for all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. We have submitted patent applications in the United States and certain foreign jurisdictions for use of Tafenoquine for COVID-19, fungal lung infections, tick-borne diseases, and other infectious and non-infectious diseases in which induction of host cytokines/inflammation is a component of the disease process. The United States Patent and Trademark Office ("USPTO") recently allowed our first COVID-19 patent for Tafenoquine. We have optioned or licensed patents involving Celgosivir for the treatment and prevention of Dengue (from the National University of Singapore), COVID-19 & Zika (Florida State University), and have submitted provisional patent applications related to Celgosivir for RSV. We have optioned or own manufacturing methods related to Celgosivir. A detailed list of our intellectual property is as follows:

*Patents*

| Title | Patent No. | Country | Status | US Patent Date | Application No. | Estimated/ Anticipated Expiration Date |
|---|---|---|---|---|---|---|
| Dosing Regimen For Use Of Celgosivir As An Antiviral Therapeutic For Dengue Virus Infections | 2013203400 | Australia | | | 2013203400+ | 10-April-2033* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 2014228035 | Australia | | | 2014228035 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | MY-170991-A | Malaysia | | | PI2015002372 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 378015 | Mexico | | | MX/a/2015/013115 | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11201507254V | Singapore | | | 11201507254V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | Pending | Singapore | Pending | | 10201908089V | 14-Mar-2034* |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 9763921 | US | | 9/19/2017 | 14/772,873 | 14-Mar-2034^ |
| Novel Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 10517854 | US | | 12/31/2019 | 15/706,845 | 14-Mar-2034^ |
| Dosing Regimens Of Celgosivir For The Treatment Of Dengue | 11219616 | US | | 1/11/2022 | 16/725,387 | 14-Mar-2034^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 2015358566 | Australia | | | 2015358566 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Canada | Pending | | 2968694 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | 10342791 | US | | 7/9/2019 | 15/532,280 | 02-Dec-2035^ |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | 10888558 | US | | 1/12/2021 | 16/504,533 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Singapore | Pending | | 10201904908Q | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | EP | Pending | | 15865264.4 | 02-Dec-2035* |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | Hong Kong | Pending | | 18103081.4 | 02-Dec-2035* |
| Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naive Subjects | Pending | US | Pending | | 17/145,530 | 02-Dec-2035^ |
| Novel Regimens Of Tafenoquine For Prevention Of Malaria In Malaria-Naïve Subjects | Pending | New Zealand | Pending | | 731813 | 02-Dec-2035* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 2016368580 | Australia | | | 2016368580 | 09-Dec-2036* |
| Novel Dosing Regimens Of Celgosivir For The Prevention Of Dengue | Pending | Singapore | Pending | | 10201912141Y | 09-Dec-2036* |
| Dosing Regimens Of Celgosivir For The Prevention Of Dengue | 11000516 | US | | 5/11/2011 | 16/060,945 | 09-Dec-2036^ |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | EP | Pending | | 21764438.4 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | China | Pending | | 202180029643.7 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections By Administration Of Tafenoquine | Pending | Australia | Pending | | 2021231743 | 02-Mar-2041* |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Gram-Positive Bacteria, Fungus, Or Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/189,544 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Fungus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,679 | 02-Mar-2041^ |
| Methods For The Treatment And Prevention Of Lung Infections Caused By Sars-Cov-2 Virus By Administration Of Tafenoquine | Pending | US | Pending | | 17/683,718 | 02-Mar-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibtors | 11369592 | US | | 6/28/2022 | 17/180,140# | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibtors | Pending | US | Pending | | 17/664,693# | 19-Feb-2041^ |
| Treatment Of Human Coronavirus Infections Using Alpha-Glucosidase Glycoprotein Processing Inhibtors | Pending | EP | Pending | | 2021757552# | 19-Feb-2041* |
| Methods For The Treatment And Prevention Of Non-Viral Tick-Borne Diseases And Symptoms Thereof | *Provisional* | US | *Provisional* | | 63/461,060 | ~21-Apr-2044& |
| Methods To Treat Respiratory Infection Utilizing Castanospermine Analogs | *Provisional* | US | *Provisional* | | 63/358,341 | ~05-Jul-2043& |
| Methods For The Treatment And Prevention Of Diseases Or Infections With Mcp-1 Involvement By Administration Of Tafenoquine | *Provisional* | US | *Provisional* | | 63/411,654 | ~30-Sep-2043& |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,328,061+ | US | | 6-25-2019 | 15/584,952+ | 2-May-37 |
| Treatment Of Zika Virus Infections Using Alpha Glucosidase Inhibitors | 10,561,642+ | US | | 2-18-2020 | 15/856,377+ | 2-May-37 |

*= For foreign patents and applications, the estimated and/or anticipated patent expiration is the date that is twenty years from the PCT filing date. For all issued Australian patents, this estimated date was also confirmed through the Australian patent office web database.

^= For issued U.S. patents, the estimated patent expiration was calculated using information from the front cover of the patent, *i.e.*, 20 years from the date of the nonprovisional filing plus any listed Patent Term Adjustment less any time disclaimed through a Terminal Disclaimer. For pending U.S. applications, the anticipated patent expiration is the date twenty years from the earliest nonprovisional filing date and does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

&= For U.S. provisional applications that are not yet the subject of a nonprovisional or PCT application, the anticipated patent expiration was determined using the assumption that a non-provisional application or PCT will be filed one year after filing the provisional application with a term lasting twenty years from the date of that nonprovisional or PCT filing. This does not account for possible Patent Term Adjustment (PTA), Patent Term Extension (PTE), or Terminal Disclaimers.

+= 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant and Geoffrey S. Dow, Ph.D. is not a listed inventor.

#= 60 Degrees Pharmaceuticals, Inc. is not a listed Applicant, but Geoffrey S. Dow, Ph.D. is a listed inventor.

All patents not designated with a "+" list Geoffrey S. Dow, Ph.D. as an inventor.
All patents not designated with a "+" or a "#" list 60 Degrees Pharmaceuticals, Inc. as an applicant.
All estimated patent expiration dates and anticipated patent expiration assume payment of any maintenance/annuity fees during the patent term.

*Trademarks*

| COUNTRY | MARK | STATUS | APPLICATION NUMBER | DATE FILED | REGISTRATION DATE | REGISTRATION NUMBER | BIR REF NUMBER | DUE DATE | DUE DATE DESCRIPTION |
|---|---|---|---|---|---|---|---|---|---|
| Australia | KODATEF | Registered | 1774631 | 2-Jun-16 | 6/2/2016 | 1774631 | 0081716-000029 | **2-Jun-26** | **Renewal Due** |
| Canada | KODATEF | Registered | 1785098 | 1-Jun-16 | 11/26/2019 | TMA1,064,371 | 0081716-000028 | **26-Nov-29** | **Renewal Due** |
| Canada | ARAKODA | Registered | 1899317 | 15-May-18 | 8/20/2020 | TMA1,081,180 | 0081716-000053 | **20-Aug-30** | **Renewal Due** |
| China | KODATEF | Registered | 20842242 | 2-Aug-16 | 9/28/2017 | 20842242 | 0081716-000035 | **27-Sep-27** | **Renewal Due** |
| European Union | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | 15508872 | 0081716-000034 | **3-Jun-26** | **Renewal Due** |
| European Union | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | 17900852 | 0081716-000054 | **16-May-28** | **Renewal Due** |
| Israel | KODATEF | Registered | 285476 | 6-Jun-16 | 6/6/2016 | 285476 | 0081716-000033 | **6-Jun-26** | **Renewal Due** |
| New Zealand | KODATEF | Registered | 1044407 | 7-Jun-16 | 12/8/2016 | 1044407 | 0081716-000031 | **6-May-26** | **Renewal Due** |
| Russian Federation | KODATEF | Registered | 2016720181 | 6-Jun-16 | 7/10/2017 | 623174 | 0081716-000032 | **6-Jun-26** | **Renewal Due** |
| Singapore | KODATEF | Registered | 40201707950V | 2-May-17 | 11/8/2017 | 40201707950V | 0081716-000040 | **2-May-27** | **Renewal Due** |
| United Kingdom | ARAKODA | Registered | 17900852 | 16-May-18 | 9/20/2018 | UK00917900852 | 0081716-000054 | **16-May-28** | **Renewal Due** |
| United Kingdom | KODATEF | Registered | 15508872 | 3-Jun-16 | 9/21/2016 | UK009015508872 | 0081716-000072 | **3-Jun-26** | **Renewal Due** |
| United States of America | TQ 100 & TABLET DESIGN | Registered | 87608493 | 14-Sep-17 | 9/11/2018 | 5562900 | 0081716-000037 | **11-Sep-24** | **Section 8 & 15 Due** |
| United States of America | ARAKODA | Registered | 87688137 | 16-Nov-17 | 12/31/2019 | 5950691 | 0081716-000050 | **31-Dec-25** | **Section 8 & 15 Due** |
| United States of America | KODATEF | Allowed - 02/16/2021 | 90072885 | 24-Jul-20 | | | 0081716-000069 | **16-Aug-23** | **Statement of Use/3rd Extension of Time Due** |

**Key Relationships & Licenses**

On May 30, 2014, we entered into the Exclusive License Agreement (the "2014 NUS-SHS Agreement") with National University of Singapore ("NUS") and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Dosing Regimen for Use of Celgosivir as an Antiviral Therapeutic for Dengue Virus Infection" to develop, market and sell licensed products. The 2014 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2014 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales.

On July 15, 2015, we entered into the Exclusive License Agreement with the U.S. Army Medical Materiel Development Activity (the "U.S. Army"), which was subsequently amended (the "U.S. Army Agreement"), in which we obtained a license to develop and commercialize the licensed technology with respect to all therapeutic applications and uses excluding radical cure of symptomatic vivax malaria. This exclusion does not impact our ability to market Arakoda for the FDA-approved use, which is the prevention of malaria utilizing the indicated dose in asymptomatic individuals traveling to high-malaria or malaria-prone regions (whereas the license exclusion relates to its use to treat symptomatic vivax malaria in a patient already presenting with that disease). The term of the U.S. Army Agreement will continue until the expiration of the last to expire of the patent application or valid claim of the licensed technology, or 20 years from the start date of the U.S. Army Agreement, unless terminated earlier by the parties. We will be required to make a minimum annual royalty payment of 3% of net sales for net sales < $35 million, and 5% of net sales greater than $35 million, with US government sales excluded from the definition of net sales. In addition, we must pay a milestone fee of $75,000 once cumulative net sales from all sources exceeds $6 million, $100,000 if we are acquired or merge, and regulatory approval milestone payments once marketing authorizations are achieved in Canada ($5,000) and Europe ($5,000). Also, we will be required to obtain the U.S. Army Medical Materiel Development Activity's consent prior to a change of control of the Company, which consent was obtained on September 2, 2022.

On September 15, 2016, we entered into the Exclusive License Agreement (the "2016 NUS-SHS Agreement") with National University of Singapore and Singapore Health Services Pte Ltd ("SHS") in which we were granted a license from NUS and SHS with respect to their share of patent rights regarding "Novel Dosing Regimens of Celgosivir for The Prevention of Dengue" to develop, market and sell licensed products. The 2016 NUS-SHS Agreement continues in force until the expiration of the last to expire of any patents under the patent rights unless terminated earlier in accordance with the 2016 NUS-SHS Agreement. We are obligated to pay at the rate of 1.5% of gross sales or minimum annual royalty ($5,000 in 2022 and $15,000 in 2023). In July 2022, we renegotiated the timing of a license fee of $85,000 Singapore Dollars, payable to NUS, such that payment would be due at the earlier of (i) enrollment of a patient in a Phase II clinical trial involving Celgosivir, (ii) two years from the agreement date and (iii) an initial public offering.

On December 4, 2020, we entered into the Other Transaction Authority for Prototype Agreement ("OTAP Agreement") with the Natick Contracting Division of the U.S. government in which we will, among other things, conduct activities for a Phase II clinical trial to assess the safety and efficacy of Tafenoquine for the treatment of mild to moderate COVID-19 disease, with the goal of delivering Tafenoquine with an FDA Emergency Use Authorization ("EUA") approved as a countermeasure against COVID-19. The total amount of the OTAP Agreement is $4,999,814. The term of the OTAP Agreement commences on December 4, 2020 and was completed in the third quarter of 2022. Pursuant to the OTAP Agreement, we will not offer, sell or otherwise provide the EUA or licensed version of the prototype (Tafenoquine) that is FDA approved for COVID-19 or any like product to any entity at a price lower than that offered to the DoD, which applies only to products sold in the U.S., European Union and Canada related to COVID-19.

On February 15, 2021, we entered into the Inter-Institutional Agreement (the "FSURF Agreement") with the Florida State University Research Foundation ("FSURF") in which FUSRF granted us the right to manage the licensing of intellectual property created at FSURF. The term of the FSURF Agreement expires five years from February 15, 2021. After deduction of a 5% administrative fee by FSURF, capped at $15,000 annually, and reimbursement of patent prosecution expenses, we will receive 20% of license income and FSURF will receive 80% of license income. Payments of license income shall be paid in U.S. dollars quarterly each year. On February 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that collectively granted an option, effective through August 19, 2023, to us to license methods for purifying castanospermine and its use for the treatment of COVID-19. On August 19, 2021, we entered into an agreement with FSURF, subsequently amended on February 15, 2023, that collectively granted an option, effective through August 19, 2023, to us to license a patent relating to the use of alpha glucosidase inhibitors (including castanospermine and Celgosivir) for treatment of Zika infections.

Pursuant to the Knight Debt Conversion Agreement, for a period commencing on January 1, 2022 and ending upon the earlier of ten years after the closing date of this offering or the conversion or redemption in full of all of the shares of Series A Preferred Stock owned by Knight, we will pay Knight a royalty equal to 3.5% of our net sales, where "net sales" has the same meaning as in our license agreement with the U.S. Army for Tafenoquine. Upon succeeding with the qualified IPO, at the end of the quarter and each thereafter the royalty will be calculated, and payment will be made within fifteen days.

**Corporate Structure**

60 Degrees Pharmaceuticals, Inc. is a Delaware corporation that was incorporated on June 1, 2022.

On June 1, 2022, 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company ("60P LLC"), entered into the Agreement and Plan of Merger with 60 Degrees Pharmaceuticals, Inc., pursuant to which 60P LLC merged into 60 Degrees Pharmaceuticals, Inc. The value of each outstanding member's membership interest in 60P LLC was correspondingly converted into common stock of 60 Degrees Pharmaceuticals, Inc., par value $0.0001 per share, with a cost-basis equal to $5.00 per share.

Our majority-owned subsidiary, 60P Australia Pty Ltd, an Australian proprietary company limited by shares ("60P Australia"), was formed and registered in Queensland on December 3, 2013, and conducts operations in Australia.

60P Australia previously solely owned a Singaporean subsidiary company, 60P Singapore Pte. Ltd., which dissolved at our election in the second quarter of 2022.

**Going Concern**

Our independent auditors have issued a report raising substantial doubt of our ability to continue as a going concern. We anticipate that we will require additional capital to continue as a going concern and expand our operations in accordance with our current business plan.

**Suppliers**

We have quality and contract manufacturing agreements relating to Arakoda in place with Piramal Enterprises Limited (API, tablets) and PCI Pharma Services (secondary packaging) ("PCI") and supply/quality/pharmacovigilance agreements in place with Biocelect Pty Ltd, Scandinavian Biopharma, and Knight Therapeutics Inc. (to allow supply of Arakoda/Kodatef to Australia, Europe and Canada/Israel/Latin America and Russia, respectively). As of the date of this prospectus, we have not supplied any of our products to Russia nor do we anticipate supplying any of our products to Russia in the near future.

**Recent Developments**

***Effects of COVID-19 Outbreak***. In December 2019, a novel strain of coronavirus was reported to have surfaced in Wuhan, China, which has and is continuing to spread throughout China and other parts of the world, including the United States. On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a "Public Health Emergency of International Concern." On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the U.S. healthcare community in responding to COVID-19, and on March 11, 2020 the World Health Organization characterized the outbreak as a "pandemic." A significant outbreak of COVID-19 and other infectious diseases could result in a widespread health crisis that could adversely affect the economies and financial markets worldwide.

We are monitoring the global outbreak and spread of COVID-19 and taking steps in an effort to identify and mitigate the adverse impacts on, and risks to, our business posed by its spread and the governmental and community reactions thereto. The current outbreak of COVID-19 has globally resulted in loss of life, business closures, restrictions on travel, and widespread cancellation of social gatherings. The extent to which the COVID-19 pandemic impacts our business will depend on future developments, which are highly uncertain and cannot be predicted at this time, including:

- new information which may emerge concerning the severity of the disease;

- the duration and spread of the outbreak;
- the severity of travel restrictions imposed by geographic areas in which we operate, mandatory or voluntary business closures;
- regulatory actions taken in response to the pandemic, which may impact our product offerings;
- other business disruptions that affect our workforce and supply chain;
- the impact on capital and financial markets; and
- actions taken throughout the world, including in markets in which we operate, to contain the COVID-19 outbreak or treat its impact.

In addition, the current outbreak of COVID-19 has resulted in a widespread global health crisis and adversely affected global economies and financial markets, and similar public health threats could do so in the future. Such events have impacted, and could in the future impact, demand for our products, which in turn could adversely affect our revenue and results of operations.

The spread of COVID-19 has caused us to modify our business practices, including employee travel, employee work locations in certain cases, and cancellation of physical participation in certain meetings, events and conferences and further actions may be taken as required or recommended by government authorities or as we determine are in the best interests of our employees, customers and other business partners. We are monitoring the global outbreak of the pandemic and are taking steps in an effort to identify and mitigate the adverse impacts on, and risks to, our business posed by its spread and the governmental and community reactions thereto. See "*Risk Factors—Our financial condition and results of operations may be adversely affected by the COVID-19 pandemic*."

**Summary Risk Factors**

Our business is subject to a number of risks. You should be aware of these risks before making an investment decision. These risks are discussed more fully in the section of this prospectus titled "*Risk Factors*," which begins on page 18 of this prospectus. These risks include, among others, that:

- Our financial statements have been prepared on a going-concern basis and our continued operations are in doubt;
- We have incurred net losses since our inception and if we continue to incur net losses in the foreseeable future, the market price of our common stock may decline;
- There is no assurance that we will be profitable;
- There is no assurance that we will be eligible for Australian government research and development tax rebates;
- Our financial condition and results of operations may be adversely affected by the COVID-19 pandemic;
- If we are not able to successfully develop, obtain FDA approval for, and provide for the commercialization of non-malaria prevention indications for Tafenoquine (Arakoda or other regimen) or Celgosivir in a timely manner, we may not be able to expand our business operations;
- Our clinical trials for our product candidates may not yield results that will enable us to further develop our products and obtain regulatory approvals necessary to sell them;
- The mechanisms of actions of some of our products, and interactions with other antiviral products are not known, which may restrict regulatory label claims;

- We expect to depend on existing and future collaborations with third parties for the development of some of our product candidates. If those collaborations are not successful, we may not be able to complete the development of these product candidates;

- Even if one of our product candidates receives marketing approval, it may fail to achieve the degree of market acceptance by physicians, patients, third-party payors and others in the medical community necessary for commercial success, in which case we may not generate significant revenues or become profitable;

- Any future clinical trial for Arakoda will require screening for G6PD deficiency in order to safely administer the product. In the United States, G6PD testing can obtained through commercial pathology services which is associated with delays. The use of a third-party diagnostic provider of point of care testing may be required and we do not directly control the timing, conduct, expense of such testing or the timing of market entry into the US;

- Our product candidates are subject to extensive regulation, which can be costly and time-consuming, and unsuccessful or delayed regulatory approvals could increase our future development costs or impair our future revenue;

- If our product candidates receive regulatory approval, we would be subject to ongoing regulatory obligations and restrictions, which will continue to change, and which may result in significant expenses and limit our ability to develop and commercialize other potential products;

- We have no manufacturing capacity which puts us at risk of lengthy and costly delays of bringing our products to market;

- We rely on relationships with third-party contract manufacturers and raw material suppliers, which limits our ability to control the availability of, and manufacturing costs for, our product candidates;

- Our future growth depends on our ability to successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and our other product candidates, and we can provide no assurance that we will successfully commercialize Arakoda, Tafenoquine (Arakoda or other regimen) for non-malaria prevention indications, Celgosivir and other product candidates;

- Health care reform measures could materially and adversely affect our business;

- Our competitors may be better positioned in the marketplace and thereby may be more successful than us at developing, manufacturing and marketing approved products;

- We compete in an industry characterized by extensive research and development efforts and rapid technological progress. New discoveries or commercial developments by our competitors could render our potential products obsolete or non-competitive;

- We would be subject to applicable regulatory approval requirements of the foreign countries in which we market our products, which are costly and may prevent or delay us from marketing our products in those countries;
- Defending against claims relating to improper handling, storage or disposal of hazardous chemicals, radioactive or biological materials could be time consuming and expensive;

- Geopolitical conditions, including direct or indirect acts of war or terrorism could have an adverse effect on our operations and financial results;

- If product liability lawsuits are successfully brought against us, then we will incur substantial liabilities and may be required to limit commercialization of Arakoda, Celgosivir or other product candidates;

- Our intellectual property rights may not preclude competitors from developing competing products and our business may suffer;

- If the manufacture, use or sale of our products infringe on the intellectual property rights of others, we could face costly litigation, which could cause us to pay substantial damages or licensing fees and limit our ability to sell some or all of our products;
- We may not be able to protect our intellectual property rights throughout the world;
- Patent terms may be inadequate to protect our competitive position on our product candidates for an adequate amount of time;
- The earliest Paragraph IV certification date for Arakoda has passed. Generic companies may file an ANDA at any time, and successful challenge of our malaria use patents would negatively impact our business;
- There has been no public market for our common stock prior to this offering, and we cannot assure you that an active trading market will develop in the near future. An active market in which investors can resell their shares may not develop. If there is no viable public market for our common stock, you may be unable to sell your shares at or above the initial public offering price;
- We may not be able to satisfy listing requirements of Nasdaq to maintain a listing of our common stock or Tradeable Warrants;
- There is no public market for the Non-tradeable Warrants being offered in this offering;
- The warrants may have an adverse effect on the market price of our common stock and make it more difficult to effect a business combination;
- Any failure to maintain effective internal controls over financial reporting could have an adverse impact on us; and
- We are an "emerging growth company" and a "smaller reporting company" under the JOBS Act, and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies will make our common stock less attractive to investors.

**Information Regarding our Capitalization**

As of April 27, 2023, we had 2,378,009 shares of common stock issued and outstanding. Additional information regarding our issued and outstanding securities may be found under "*Market for Common Equity and Related Stockholder Matters*" and "*Description of Securities*."

Unless otherwise specifically stated, information throughout this prospectus does not assume the exercise of outstanding options or warrants to purchase shares of our common stock.

**Corporate Information**

Our principal executive offices are located at 1025 Connecticut Avenue NW Suite 1000, Washington, D.C. 20036. Our corporate website address is *60degreespharma.com*. Our telephone number is (202) 327-5422. The information included on our website is not part of this prospectus.

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

We are an "emerging growth company," as defined in the JOBS Act. We will remain an emerging growth company until the earlier of (i) the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common stock pursuant to an effective registration statement under the Securities Act; (ii) the last day of the fiscal year in which we have total annual gross revenues of $1.235 billion or more; (iii) the date on which we have issued more than $1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under applicable SEC rules. We expect that we will remain an emerging growth company for the foreseeable future, but cannot retain our emerging growth company status indefinitely and will no longer qualify as an emerging growth company on or before the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common stock pursuant to an effective registration statement under the Securities Act. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from specified disclosure requirements that are applicable to other public companies that are not emerging growth companies.

These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" disclosure;
- not being required to comply with the requirement of auditor attestation of our internal controls 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; and
- not being required to hold a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

An emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act to comply with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this extended transition period and, as a result, we will not be required to adopt new or revised accounting standards on the dates on which adoption of such standards is required for other public reporting companies.

We are also a "smaller reporting company" as defined in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and have elected to take advantage of certain of the scaled disclosure available for smaller reporting companies. We will remain a smaller reporting company until the end of the fiscal year in which (1) we have a public common equity float of more than $250 million, or (2) we have annual revenues for the most recently completed fiscal year of more than $100 million and a public common equity float or public float of more than $700 million. We also would not be eligible for status as a smaller reporting company if we become an investment company, an asset-backed issuer or a majority-owned subsidiary of a parent company that is not a smaller reporting company.

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

## THE RESALE OFFERING

| | |
|---|---|
| Common stock offered | 1,856,580 shares |
| Shares of common stock outstanding before this offering | 2,378,009 shares. |
| Shares of common stock outstanding after this offering | 5,399,408 shares[(1)] |
| Use of proceeds | We will not receive any proceeds from the sale of common stock held by the Selling Stockholder being registered in this prospectus. |
| Proposed Trading Symbol | We have applied to list our common stock and Tradeable Warrants for trading on The Nasdaq Capital Market under the symbols "SXTP" and "SXTPW," respectively. The initial public offering, and therefore this resale offering, will not be consummated until we have received Nasdaq's approval of our application for the listing of our common stock and Tradeable Warrants. No assurance can be given that our application will be approved. |
| Risk factors | An investment in our securities involves a high degree of risk. See "*Risk Factors*" beginning on page 18 of the primary offering prospectus contained in the registration statement of which this prospectus forms a part, and other information included in this prospectus and the registration statement of which this prospectus forms a part, for a discussion of factors you should carefully consider before deciding to invest in our common stock. |

(1) Assumes the issuance and sale by us of 1,415,095 shares of our common stock underlying the Units, pursuant to the primary offering prospectus filed contemporaneously herewith and assumes the 212,265 over-allotment options available for sale to the underwriters in the primary offering prospectus have not been exercised. In addition, assumes the issuance of (i) 29,245 shares of our common stock issued to BioIntelect Pty Ltd ("BioIntelect") pursuant to the Master Consultancy Agreement dated as of May 29, 2013 (the "BioIntelect Agreement"), which provides that in connection with our initial public offering, BioIntelect will be entitled to receive deferred equity compensation in the amount equal to $155,000 (or $245,000 if Australian VC Horizon Biotech participates in the offering), (ii) 1,064,545 shares of our common stock issued to Knight Therapeutics International S.A. (formerly known as Knight Therapeutics (Barbados) Inc.) ("Knight") as a result of the conversion of certain of our outstanding debt owed to Knight pursuant to the Debt Conversion Agreement dated as of January 9, 2023, as amended on January 19, 2023 and January 27, 2023 (the "Knight Debt Conversion Agreement"), (iii) 247,642 shares of our common stock that are to be issued prior to the closing of this offering as a result of the conversion of our convertible promissory notes excluding the Xu Yu Equity Conversion Note, (iv) 214,934 shares of our common stock that are to be issued prior to the closing of this offering pursuant to the Equity Conversion Note dated as of October 11, 2017, as amended on December 23, 2017 and December 11, 2022 (the "Xu Yu Equity Conversion Note") entered into with Xu Yu and (v) 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part.

## USE OF PROCEEDS

We will not receive any of the proceeds from the sale of the common stock held by the Selling Stockholders.

## SELLING STOCKHOLDERS

This prospectus relates to the sale or other disposition of up to 1,856,580 shares of our common stock by the Selling Stockholders and their donees, pledgees, transferees or other successors-in-interest selling shares of common stock or interests in shares of common stock received after the date of this prospectus from a Selling Stockholder as a gift, pledge, partnership distribution or other transfer.

The table below sets forth information as of the date of this prospectus, to our knowledge, the Selling Stockholders and other information regarding the beneficial ownership (as determined under Section 13(d) of the Exchange Act and the rules and regulations thereunder) of the shares of common stock held by the Selling Stockholders. The second column lists the number of shares of common stock beneficially owned by the Selling Stockholders, as of April 27, 2023. The third column lists the maximum number of shares of common stock that may be sold or otherwise disposed of by the Selling Stockholders pursuant to the registration statement of which this prospectus forms a part. The Selling Stockholders may sell or otherwise dispose of some, all or none of their shares. Pursuant to Rules 13d-3 and 13d-5 of the Exchange Act, beneficial ownership includes any shares of our common stock as to which a stockholder has sole or shared voting power or investment power, and also any shares of our common stock which the stockholder has the right to acquire within 60 days.

The percentage of beneficial ownership for the Selling Stockholders is based on shares of common stock outstanding as of the date of this prospectus, which gives effect to: the issuance of (i) 29,245 shares of our common stock issued to BioIntelect pursuant to the BioIntelect Agreement, which provides that in connection with our initial public offering, BioIntelect will be entitled to receive deferred equity compensation in the amount equal to $155,000 (or $245,000 if Australian VC Horizon Biotech participates in the offering), (ii) 1,064,545 shares of our common stock issued to Knight as a result of the conversion of certain of our outstanding debt owed to Knight pursuant to the Knight Debt Conversion Agreement, (iii) 247,642 shares of our common stock that are to be issued prior to the closing of this offering as a result of the conversion of our convertible promissory notes excluding the Xu Yu Equity Conversion Note, (iv) 214,934 shares of our common stock that are to be issued prior to the closing of this offering pursuant to the Xu Yu Equity Conversion Note entered into with Xu Yu and (v) 40,000 shares of our common stock that are to be issued to four of our directors on the date of effectiveness of the registration statement of which this prospectus forms a part.

Except as described below, to our knowledge, none of the Selling Stockholders have had any material relationship with us within the past three years. Our knowledge is based on information provided by the Selling Stockholders in registration statement questionnaires.

The shares of common stock being covered hereby may be sold or otherwise disposed of from time to time during the period the registration statement of which this prospectus is a part remains effective, by or for the account of the Selling Stockholders. After the date of effectiveness of the registration statement of which this prospectus forms a part, the Selling Stockholders may have sold or transferred, in transactions covered by this prospectus, some or all of their common stock.

Information about the Selling Stockholders may change over time. Any changed information will be set forth in an amendment to the registration statement or supplement to this prospectus, to the extent required by law.

| | Shares Beneficially Owned as of the date of this Prospectus | | Shares Offered by this | Shares Beneficially Owned After the Offering[1] | |
|---|---|---|---|---|---|
| **Name of Selling Stockholder** | **Number** | **Percent** | **Prospectus** | **Number** | **Percent** |
| Geoffrey S. Dow Revocable Trust[2] | 667,143 | 28.05% | 10,482 | 680,530 | % |
| Douglas Loock[3] | 165,938 | 6.98% | 165,938 | 0 | 0% |
| Carmel, Milazzo & Feil LLP[4] | 100,000 | 4.21% | 100,000 | 0 | 0% |
| Florida State University Research Foundation, Inc. [5] | 405,000 | 17.03% | 405,000 | 0 | 0% |
| Latham BioPharm Group, LLC[6] | 65,000 | 2.73% | 65,000 | 0 | 0% |
| Trevally, LLC[7] | 120,000 | 5.05% | 120,000 | 0 | 0% |
| Edward Newland | 8,500 | *% | 8,500 | 0 | 0% |
| 4C Pharma Solutions, LLC | 54,000 | 2.27% | 54,000 | 0 | 0% |
| Hybrid Financial Ltd.[8] | 65,000 | 2.73% | 65,000 | 0 | 0% |
| Sheila Burke[9] | 20,000 | *% | 20,000 | 0 | 0% |
| Kentucky Technology Inc.[10] | 525,000 | 22.08% | 525,000 | 0 | 0% |
| Mountjoy Trust[11] | 0 | 0% | 88,688 | 0 | 0% |
| Walleye Opportunities Master Fund Ltd.[12] | 0 | 0% | 66,934 | 0 | 0% |
| Bigger Capital Fund, LP[13] | 0 | 0% | 80,321 | 0 | 0% |
| Cavalry Investment Fund, LP.[14] | 0 | 0% | 66,934 | 0 | 0% |
| Ludlow Business Services, Inc.[15] | 37,500 | 1.58% | 37,500 | 0 | 0% |
| Elliot Berman | 30,000 | 1.26% | 30,000 | 0 | 0% |
| Delve Innovation Pty Ltd[16] | 13,000 | *% | 13,000 | 0 | 0% |

* Less than 1%.

(1) Assumes the sale of all shares offered pursuant to the primary offering prospectus, except that those issued to the Geoffrey S. Dow Revocable Trust upon mandatory conversion of the Geoffrey Dow Trust Note which will subject to a lock-up agreement.

(2) Geoffrey S. Dow Revocable Trust owns 667,143 shares as of the date of this prospectus, and will be issued 10,482 shares upon mandatory conversion of a convertible note issued to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 immediately prior to the consummation of the initial public offering. All 677,625 shares will be subject to lock-up. Geoffrey Dow has voting and dispositive control over the shares held by the Geoffrey S. Dow Revocable Trust.

(3) Douglas Loock is one of our former directors.

(4) Carmel, Milazzo & Feil LLP is our legal counsel, of which is controlled by Ross D. Carmel, Esq.

(5) Florida State University Research Foundation Inc. provides consultant services to us. Stacey Peterson has voting and dispositive control over the shares held by Florida State University Research Foundation Inc. The principal address of Florida State University Research Foundation Inc. is 2000 Levy Avenue, Building A, Suite 351, Tallahassee, FL 32310.

(6) Latham BioPharm Group, LLC provides consultant services to us. Matthieu Courtecuisse has voting and dispositive control over the shares held by Latham BioPharm Group, LLC. The principal address of Latham BioPharm Group, LLC is 6810 Deerpath Road, Suite 405, Elkridge, MD 21075.

(7) Trevally, LLC provides consultant services to us. Gary Ostrander and Eric Holmes have shared equal voting and dispositive control over the shares held by Trevally, LLC. The principal address of Trevally, LLC is 8999 Winged Foot Drive, Tallahassee, FL 32312

(8) Hybrid Financial Ltd. provides consultant services to us. Steven Marshall has voting and dispositive control over the shares held by Hybrid Financial Ltd. The principal address of Hybrid Financial Ltd. is 222 Bay Street, Suite 2600, PO 37, Toronto, ON M5K 1B7.

(9) Method Health Communications LLC provides consultant services to us, of which Sheila Burke is the president.

(10) Kentucky Technology Inc. provides consultant services to us. The principal address of Kentucky Technology Inc. is 824 Bull Lea Run, Suite 2100, Lexington, KY 40511.

(11) On the effective date of the registration statement of which this prospectus forms a part, we will issue 92,620 shares of our common stock to the Mountjoy Trust as a result of the conversion of the Convertible Promissory Note we issued to Mountjoy Trust on May 19, 2022. John Dow has voting and dispositive control over the shares held by the Mountjoy Trust.

(12) On the effective date of this registration statement of which this prospectus forms a part, we will issue 66,934 shares of our common stock to Walleye Opportunities Master Fund Ltd. as a result of the conversion of the Convertible Promissory Note we issued to Walleye Opportunities Master Fund Ltd. on May 24, 2022. William England has voting and dispositive control over the shares held by Walleye Opportunities Master Fund Ltd. The principal address of Walleye Opportunities Master Fund Ltd. is 2800 Niagara Ln. N., Plymouth, MN 55447.

(13) On the effective date of this registration statement of which this prospectus forms a part, we will issue 80,321 shares of our common stock to Bigger Capital Fund, LP as a result of the conversion of the Convertible Promissory Note we issued to Bigger Capital Fund, LP on May 24, 2022. Michael Bigger has voting and dispositive control over the shares held by Bigger Capital Fund, LP. The principal address of Bigger Capital Fund, LP is 11700 West Charleston Blvd. #170-659, Las Vegas, NV 89135.

(14) On the effective date of this registration statement of which this prospectus forms a part, we will issue 66,934 shares of our common stock to Cavalry Investment Fund, LP. as a result of the conversion of the Convertible Promissory Note we issued to Cavalry Investment Fund, LP. on May 24, 2022. Thomas Walsh has voting and dispositive control over the shares held by Cavalry Investment Fund, LP. The principal address of Cavalry Investment Fund, LP. is 82 E. Allendale Rd., Ste 5B Saddle River, NJ 07458.

(15) Ludlow Business Services, Inc. provides consultant services to us. Patrick Gaynes has voting and dispositive control over the shares held by Ludlow Business Services, Inc. The principal address of Ludlow Business Services, Inc. is 1632 1st Ave #20260, New York, NY 10028.

(16) Delve Innovation Pty Ltd provides consultant services to us. The principal address of Delve Innovation Pty Ltd is Level 29, 12 Creek Street, Comalco Place, Brisbane City QLD 4000, Australia.

## SELLING STOCKHOLDER PLAN OF DISTRIBUTION

The Selling Stockholders may, from time to time, sell any or all of their shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed or negotiated prices. The Selling Stockholders may use any one or more of the following methods when selling shares:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales effected after the date the registration statement of which this prospectus is a part is declared effective by the SEC;
- broker-dealers may agree with the Selling Stockholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated. The Selling Stockholders do not expect these commissions and discounts to exceed what is customary in the types of transactions involved. Any profits on the resale of shares of common stock by a broker-dealer acting as principal might be deemed to be underwriting discounts or commissions under the Securities Act. Discounts, concessions, commissions and similar selling expenses, if any, attributable to the sale of shares will be borne by a Selling Stockholder. The Selling Stockholders may agree to indemnify any agent, dealer or broker-dealer that participates in transactions involving sales of the shares if liabilities are imposed on that person under the Securities Act.

The Selling Stockholders may from time to time pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time under this prospectus after we have filed a supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act supplementing or amending the list of Selling Stockholders to include the pledgee, transferee or other successors in interest as Selling Stockholders under this prospectus.

The Selling Stockholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus and may sell the shares of common stock from time to time under this prospectus after we have filed a supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act supplementing or amending the list of Selling Stockholders to include the pledgee, transferee or other successors in interest as Selling Stockholders under this prospectus.

The Selling Stockholders and any broker-dealers or agents that are involved in selling the shares of common stock held by the Selling Stockholders or its transferees, pledgees or other successors in interest may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares of common stock purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act.

We are required to pay all fees and expenses incident to the registration of the shares of common stock held by the Selling Stockholders. We have agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

The Selling Stockholders have advised us that they have not entered into any agreements, understandings or arrangements with any underwriters or broker-dealers regarding the sale of their shares of common stock, nor is there an underwriter or coordinating broker acting in connection with a proposed sale of common stock by any Selling Stockholder. If we are notified by any Selling Stockholder that any material arrangement has been entered into with a broker-dealer for the sale of shares of his, her, or its common stock, if required, we will file a supplement to this prospectus. If the Selling Stockholders use this prospectus for any sale of their shares of common stock, they will be subject to the prospectus delivery requirements of the Securities Act.

In order to comply with the securities laws of some states, if applicable, the common stock held by the Selling Stockholders or its transferees, pledgees or other successors in interest may be sold in these jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the common stock may not be sold unless it has been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

We have advised the Selling Stockholders that the anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of shares in the market and to the activities of the Selling Stockholders and their affiliates. In addition, to the extent applicable we will make copies of this prospectus (as it may be supplemented or amended from time to time) available to the Selling Stockholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The Selling Stockholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

We have agreed with the Selling Stockholders to keep the registration statement of which this prospectus constitutes a part effective until the earliest of (1) such time as all of the shares covered by this prospectus have been disposed of pursuant to and in accordance with the registration statement and (2) the date on which all of the shares may be sold without restriction pursuant to Rule 144 of the Securities Act.

## LEGAL MATTERS

Certain legal matters with respect to the validity of the securities being offered by this prospectus will be passed upon by Carmel, Milazzo & Feil LLP, New York, New York.

**1,856,580 Shares of Common Stock**


# 60 Degrees Pharmaceuticals, Inc.

**RESALE PROSPECTUS**

**You should rely only on the information contained in this prospectus. No dealer, salesperson or other person is authorized to give information that is not contained in this prospectus. This prospectus is not an offer to sell nor is it seeking an offer to buy these securities in any jurisdiction where the offer or sale is not permitted. The information contained in this prospectus is correct only as of the date of this prospectus, regardless of the time of the delivery of this prospectus or the sale of these securities.**

**, 2023**

## 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 ("SEC") registration fee and the Financial Industry Regulatory Authority, Inc. ("FINRA") filing.

| | Amount |
|---|---|
| Securities and Exchange Commission registration fee | $ 5,138.66 |
| FINRA filing fee | 5,135 |
| NASDAQ listing fee | 75,000 |
| Accountants' fees and expenses | 140,000 |
| Legal fees and expenses | 200,000 |
| Printing and engraving expenses | 10,500 |
| Miscellaneous | 15,000.34 |
| Total expenses | $ 450,774 |

**Item 14. Indemnification of Directors and Officers.**

Section 102 of the General Company Law of the State of Delaware ("DGCL") permits a company to eliminate the personal liability of directors of a company to the company or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our charter provides that none of our directors shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability, except to the extent that the DGCL prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the DGCL provides that a company has the power to indemnify a director, officer, employee, or agent of the company, or a person serving at the request of the company for another company, partnership, joint venture, trust or other enterprise in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he was or is a party or is threatened to be made a party to any threatened, ending or completed action, suit or proceeding by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the company, 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 company, 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 company 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.

Our charter provides that we will indemnify to the fullest extent permitted from time to time by the DGCL or any other applicable laws as presently or hereafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including, without limitation, an action by or in the right of the Company, by reason of his acting as a director or officer of the Company or any of its subsidiaries (and the Company, in the discretion of the Board, may so indemnify a person by reason of the fact that he is or was an employee or agent of the Company or any of its subsidiaries or is or was serving at the request of the Company in any other capacity for or on behalf of the Company) against any liability or expense actually and reasonably incurred by such person in respect thereof. Note that for liabilities arising under the Securities Act, we have 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 any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act of 1933 (the "Securities Act"), against certain liabilities.

**Item 15. Recent Sales of Unregistered Securities.**

Set forth below is information regarding securities issued by us within the last three years which were not registered under the Securities Act of 1933, as amended.

(a) Issuance of Capital Stock.

- On June 1, 2022, 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company ("60P LLC"), entered into the Agreement and Plan of Merger with 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, pursuant to which 60P LLC merged into 60 Degrees Pharmaceuticals, Inc. (the "Company"). The value of each outstanding members' membership interest in 60P LLC was automatically converted into common stock of the Company, par value $0.0001 per share, with a cost-basis equal to $5.00 per share.

- We issued 37,067 shares to Geoffrey Dow (at $5.00 per share) on August 28, 2022 in recognition of capital contributions of $185,335 made between January 1, 2022 and April 1, 2022. There are no other outstanding related party debt or obligations.

- On January 2, 2023, we issued a total of 100,000 shares of our common stock to our legal counsel for payment of certain legal fees.

- On January 21, 2023, we cancelled 1,240,682 common shares owned by the Geoffrey S. Dow Revocable Trust.

- On January 21, 2023, we cancelled 189,318 common shares owned by Tyrone Miller.

- On January 26, 2023, we issued 405,000 shares of our common stock to Florida State University Research Foundation Inc. in exchange for its services.

- On January 26, 2023, we issued 65,000 shares of our common stock to Latham BioPharm Group, LLC in exchange for its services.

- On January 26, 2023, we issued 120,000 shares of our common stock to Trevally, LLC in exchange for its services.

- On January 26, 2023, we issued 8,500 shares of our common stock to ENA Healthcare Communications, LLC in exchange for its services.

- On January 26, 2023, we issued 54,000 shares of our common stock to 4C Pharma Solutions, LLC in exchange for the cancellation of debt and credit.

- On January 26, 2023, we issued 65,000 shares of our common stock to Hybrid Financial in exchange for its services.

- On January 26, 2023, we issued 20,000 shares of our common stock to Sheila Burke in exchange for services provided by Method Health Communications LLC.

- On January 26, 2023, we issued 525,000 shares of our common stock to University of Kentucky School of Pharmacy in exchange for its services.

- On January 26, 2023, we issued 37,500 shares of our common stock to Ludlow Business Services, Inc. in exchange for its services.

- On January 26, 2023, we issued 30,000 shares of our common stock to Elliot Berman in exchange for services provided by Berman Accounting & Advisory P.A.

- On March 19, 2023, we issued 13,000 shares of our common stock to a consultant.

- On March 22, 2023, we cancelled 18,217 shares of our common stock owned by Geoffrey Dow.

- On March 22, 2023, we cancelled 2,783 shares of our common stock owned by Ty Miller.

- On the effective date of this registration statement, we issued 13,980 of our common stock to Geoffrey S. Dow Revocable Trust as a result of the conversion of the Convertible Promissory Note we issued to the Geoffrey S. Dow Revocable Trust on May 19, 2022 (the "Geoffrey S. Dow Revocable Trust Note").

- On the effective date of this registration statement, we issued 92,620 shares of our common stock to Mountjoy Trust as a result of the conversion of the Convertible Promissory Note we issued to Mountjoy Trust on May 19, 2022 (the "Mountjoy Note").

- On the effective date of this registration statement, we issued 66,934 shares of our common stock to Walleye Opportunities Master Fund Ltd. as a result of the conversion of the Convertible Promissory Note we issued to Walleye Opportunities Master Fund Ltd. on May 24, 2022 (the "Walleye Note").

- On the effective date of this registration statement, we issued 80,321 shares of our common stock to Bigger Capital Fund, LP as a result of the conversion of the Convertible Promissory Note we issued to Bigger Capital Fund, LP on May 24, 2022 (the "Bigger Capital Fund Note").

- On the effective date of this registration statement, we issued 66,934 shares of our common stock to Cavalry Investment Fund, LP. as a result of the conversion of the Convertible Promissory Note we issued to Cavalry Investment Fund, LP. on May 24, 2022 (the "Cavalry Note").

The issuance of the capital stock listed above was deemed exempt from registration under Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder in that the issuance of securities were made to an accredited investor and did not involve a public offering. The recipient of such securities represented its intention to acquire the securities for investment purposes only and not with a view to or for sale in connection with any distribution thereof.

(b) Warrants.

On May 19, 2022, we issued to Geoffrey Dow a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to (i) the total number of common stock issued to Geoffrey Dow as a result of the conversion of the Dow Note, which will occur on the pricing date of our initial public offering, at the exercise price equal to 110% of the initial public offering price, or (ii) if we fail to complete the initial public offering prior to May 31, 2023, 90% of the initial public offering price.

On May 19, 2022, we issued to Mountjoy Trust a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to (i) the total number of common stock issued to Mountjoy Trust as a result of the conversion of the Mountjoy Note, which is to occur on the pricing date of our initial public offering, at the exercise price equal to 110% of the initial public offering price, or (ii) if we fail to complete the initial public offering prior to May 31, 2023, 90% of the initial public offering price.

On May 24, 2022, we issued to Bigger Capital Fund, LP a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to 50% of the total number of common stock issued to Bigger Capital Fund, LP as a result of the conversion of the Bigger Capital Fund Note, which is to occur on the pricing date of our initial public offering, at the exercise price equal to 110% of the initial public offering price.

On May 24, 2022, we issued to Cavalry Investment Fund, LP a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to 50% of the total number of common stock issued to Cavalry Investment Fund, LP as a result of the conversion of the Cavalry Investment Fund Note, which is to occur on the pricing date of our initial public offering, at the exercise price equal to 110% of the initial public offering price.

On May 24, 2022, we issued to Walleye Opportunities Master Fund Ltd a Common Stock Purchase Warrant to purchase a number of shares of our common stock equal to 50% of the total number of common stock issued to Walleye Opportunities Master Fund Ltd as a result of the conversion of the Walleye Note, which is to occur on the pricing date of our initial public offering, at the exercise price equal to 110% of the initial public offering price.

The warrants described above were deemed exempt from registration in reliance on Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder in that the issuance of securities were made to an accredited investor and did not involve a public offering. The recipients of such securities represented its intention to acquire the securities for investment purposes only and not with a view to or for sale in connection with any distribution thereof.

(c) Option Grants.

None.

(d) Issuance of Notes.

On May 14, 2020, we issued the Note to the U.S. Small Business Administration with a principal amount of $150,000 and a per annum interest rate of 3.75%.

On May 19, 2022, we issued the Convertible Promissory Note to Geoffrey Dow, as assigned to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 on May 19, 2022 (the "Dow Note"), with a principal amount of $44,444.44 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of the Dow Note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering.

On May 19, 2022, we issued the Mountjoy Note with a principal amount of $294,444.42 and a per annum interest rate of 6%. Upon the occurrence of our initial public offering, the balance of the Mountjoy Note will convert immediately prior to the initial public offering at a price equal to 80% of the price per share of the common stock sold in the initial public offering.

On May 24, 2022, we issued the Bigger Capital Fund Note in the amount of $333,333.30 to Bigger Capital Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Bigger Capital Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of common stock calculated using a $27 million pre-money valuation and the number of outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued the Cavalry Investment Fund Note a note in the amount of $277,777.78 to Cavalry Investment Fund, LP. On the date of the pricing of our initial public offering, we will deliver to Cavalry Investment Fund, LP shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of common stock calculated using a $27 million pre-money valuation and the number of outstanding shares of common stock on May 24, 2023.

On May 24, 2022, we issued the Walleye Note in the amount of $277,777.78 to Walleye Opportunities Master Fund Ltd. On the date of the pricing of our initial public offering, we will deliver to Walleye Opportunities Master Fund Ltd shares of our common stock equal to (i) 100% of the face value of the note divided by the initial public offering price per share or (ii) if we fail to complete the initial public offering prior to May 24, 2023, the number of shares of common stock calculated using a $27 million pre-money valuation and the number of outstanding shares of common stock on May 24, 2023.

The notes described above were deemed exempt from registration in reliance on Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder in that the issuance of securities were made to an accredited investor and did not involve a public offering. The recipients of such securities represented its intention to acquire the securities for investment purposes only and not with a view to or for sale in connection with any distribution thereof.

**Item 16. Exhibits and Financial Statement Schedules.**

(a) ***Exhibits***: Reference is made to the Exhibit Index following Item 17 of Part II hereto, which Exhibit Index is hereby incorporated into this Item.

(b) ***Financial Statement Schedules***: All schedules are omitted because the required information is inapplicable or the information is presented in the financial statements and the related notes.

**Item 17. Undertakings.**

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; provided, however, that paragraphs (1)(i), (1)(ii) and (1)(iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment 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.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser:

(A) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(5) That for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the 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 any charter provision, by law or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than 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.

**EXHIBIT INDEX**

| Exhibit No. | Description |
|---|---|
| 1.1 | Form of Underwriting Agreement |
| 3.1 | Certificate of Incorporation of the Registrant |
| 3.2 | Certificate of Designation of Series A Preferred Stock |
| 3.3 | Certificate of Correction to Certificate of Incorporation of the Registrant |
| 3.4 | Amended and Restated Bylaws of the Registrant |
| 4.1 | Form of Tradeable Warrant |
| 4.2 | Form of Non-Tradeable Warrant |
| 4.3 | Form of Representative Warrant |
| 4.4 | Warrant Agent Agreement |
| 5.1 | Opinion of Counsel to the Registrant |
| 10.1** | Securities Purchase Agreement dated as of May 19, 2022, by and between the Registrant and Geoffrey Dow |
| 10.2** | Common Stock Purchase Warrant dated as of May 19, 2022, issued by the Registrant to Geoffrey Dow, as assigned to the Geoffrey S. Dow Revocable Trust dated August 27, 2018 |
| 10.3** | Convertible Promissory Note dated as of May 19, 2022, issued by the Registrant to Geoffrey Dow |
| 10.4** | Securities Purchase Agreement dated as of May 19, 2022, by and between Registrant and Mountjoy Trust |
| 10.5 | Common Stock Purchase Warrant dated as of May 19, 2022, issued by the Registrant to Mountjoy Trust |
| 10.6 | Convertible Promissory Note dated as of May 19, 2022, issued by the Registrant to Mountjoy Trust |
| 10.7** | Securities Purchase Agreement dated as of May 24, 2022, by and between Registrant and Bigger Capital Fund, LP |
| 10.8 | Common Stock Purchase Warrant dated as of May 24, 2022, issued by the Registrant to Bigger Capital Fund, LP |
| 10.9 | Promissory Note dated as of May 24, 2022, issued by the Registrant to Bigger Capital Fund, LP |
| 10.10** | Securities Purchase Agreement dated as of May 24, 2022, by and between Registrant and Cavalry Investment Fund, LP |
| 10.11 | Common Stock Purchase Warrant dated as of May 24, 2022, issued by the Registrant to Cavalry Investment Fund, LP |
| 10.12 | Promissory Note dated as of May 24, 2022, issued by the Registrant to Cavalry Investment Fund, LP |
| 10.13** | Securities Purchase Agreement dated as of May 24, 2022, by and between Registrant and Walleye Opportunities Master Fund Ltd |
| 10.14 | Common Stock Purchase Warrant dated as of May 24, 2022, issued by the Registrant to Walleye Opportunities Master Fund Ltd |
| 10.15 | Promissory Note dated as of May 24, 2022, issued by the Registrant to Walleye Opportunities Master Fund Ltd |
| 10.16** | Debt Conversion Agreement dated as of January 9, 2023, by and between the Registrant to Knight Therapeutics International S.A. |
| 10.17** | First Amendment to the Debt Conversion Agreement dated as of January 19, 2023, by and between the Registrant to Knight Therapeutics International S.A. |
| 10.18** | Second Amendment to The Debt Conversion Agreement dated as of January 27, 2023, by and between the Registrant to Knight Therapeutics International S.A. |
| 10.19** | Inter-Institutional Agreement dated as of February 15, 2021, by the Registrant and Florida State University Research Foundation |
| 10.20** | Exclusive License Agreement dated as of September 15, 2016, between National University of Singapore, Singapore Health Services Pte Ltd, the Registrant and 60P Australia Pty Ltd |
| 10.21** | Master Consultancy Agreement dated as of May 29, 2013, by and between the Registrant and BioIntelect Pty Ltd |
| 10.22+ | Employment Agreement dated as of January 12, 2023, between the Registrant and Geoffrey Dow |
| 10.23+ | Employment Agreement dated as of January 12, 2023, between the Registrant and Tyrone Miller |
| 10.24** | Subscription Agreement dated as of October 11, 2017, by and between the Registrant and Avante International Limited |
| 10.25** | Promissory Note dated as of October 11, 2017, issued by the Registrant to Avante International Limited |

| | |
|---|---|
| 10.26** | Convertible Promissory Note dated as of December 31, 2016, issued by the Registrant to Geoffrey Dow |
| 10.27** | Agreement to Consolidate and Convert Existing Debt dated as of December 31, 2021, between the Registrant and Geoffrey Dow |
| 10.28** | Agreement to Convert Debt to Equity dated as of December 31, 2021, issued by the Registrant to Geoffrey Dow |
| 10.29** | Convertible Promissory Note dated as of December 31, 2016, issued by the Registrant to Tyrone Miller |
| 10.30** | Agreement to Convert Debt to Equity dated as of December 31, 2021, issued by the Registrant to Tyrone Miller |
| 10.31 | Convertible Promissory Note dated as of December 31, 2016, issued by the Registrant to Douglas Loock |
| 10.32 | Agreement to Convert Debt to Equity dated as of August 31, 2021, issued by the Registrant to Douglas Loock |
| 10.33 | Agreement and Plan of Merger dated as of June 1, 2022, by and between the Registrant and 60 Degrees Pharmaceuticals, LLC |
| 10.34** | Exclusive License Agreement dated as of May 30, 2014, between National University of Singapore, Singapore Health Services Pte Ltd, the Registrant and 60P Australia Pty Ltd |
| 10.35+ | 2022 Equity Incentive Plan |
| 21.1 | List of Subsidiaries of the Registrant |
| 23.1 | Consent of RBSM LLP dated as of April 28, 2023 |
| 23.2 | Consent of Counsel to the Registrant (included in Exhibit 5.1) |
| 99.1 | Consent of Director Nominee of Charles Allen |
| 99.2 | Consent of Director Nominee of Cheryl Xu |
| 99.3 | Consent of Director Nominee of Stephen Toovey |
| 99.4 | Consent of Director Nominee of Paul Field |
| 99.5 | Audit Committee Charter |
| 99.6 | Compensation Committee Charter |
| 99.7 | Nominating and Corporate Governance Committee Charter |
| 99.8 | Code of Conduct |
| 107 | Filing Fee Table |

*To be filed by amendment.
**Parts of certain information have been redacted.
+ Management contract or compensatory plan.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Washington, District of Columbia, on April 28, 2023.

**60 DEGREES PHARMACEUTICALS, INC.**

By: */s/ Geoffrey Dow*
Geoffrey Dow
President and Chief Executive Officer
(Principal Executive Officer)

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.

| Name | Position | Date |
|---|---|---|
| */s/ Geoffrey Dow*<br>Geoffrey Dow | President, Chief Executive Officer and Director<br>(Principal Executive Officer) | April 28, 2023 |
| */s/ Tyrone Miller*<br>Tyrone Miller | Chief Financial Officer<br>(Principal Financial and Accounting Officer) | April 28, 2023 |

**Exhibit 1.1**

**60 DEGREES PHARMACEUTICALS, INC.**
**UNDERWRITING AGREEMENT**
**[●] Units,**
**Each Consisting of**
**One Share of Common Stock,**
**One Warrant to Purchase One Share of Common Stock, and**
**One Non-tradeable Warrant to Purchase One Share of Common Stock**

[●], 2023

WallachBeth Capital LLC
Harborside Financial Center Plaza 5
185 Hudson Street, Ste 1410
Jersey City, NJ 07311

*As Representative of the Several Underwriters Named on Schedule I hereto*

Ladies and Gentlemen:

60 DEGREES PHARMACEUTICALS, INC., a Delaware corporation (the "Company"), proposes, subject to the terms and conditions stated herein, to issue and sell to the underwriters named in **Schedule I** hereto (the "Underwriters," or each, an "Underwriter"), for whom WallachBeth Capital LLC is acting as Representative (the "Representative"), an aggregate of [●] Units (the "Firm Units"), each Firm Unit consisting of: (i) one share of the Company's common stock, $0.0001 par value per share (the "Common Stock"); (ii) one tradeable warrant to purchase one share of Common Stock (the "Firm Tradeable Warrants"); and, one non-tradeable warrant the "Firm Non-tradeable Warrants" and together with the Firm Tradeable Warrants, the "Firm Warrants"). The [●] shares of Common Stock referred to in this Section are hereinafter referred to as the "Firm Shares" together with the Firm Units and the Firm Warrants, the "Firm Securities." The Firm Warrants shall be issued pursuant to and shall have the rights and privileges set forth in, a warrant agent agreement, dated on or before the Closing Date, between the Company and Equity Stock Transfer, LLC, as warrant agent (the "Warrant Agreement"). The Company also proposes to grant to the Underwriters, upon the terms and conditions set forth in Section 4 hereof, an option (the "Over-allotment Option") to purchase up to an additional [●] shares of Common Stock, representing up to fifteen percent (15%) of the Firm Shares sold in the offering (the "Option Shares"), and/or [●] tradeable warrants at a price of $0.01 per tradeable warrant (the "Option Tradeable Warrants"), and/or [●] non-tradeable warrants at $0.01 per non-tradeable warrant (the "Option Non-tradeable Warrants" and together with the Option Tradeable Warrants, the "Option Warrants"), or any combination thereof, in each case for the purpose of covering over-allotments of such securities, if any. The Over-allotment Option is, at the Underwriters' sole discretion, for Option Shares and Option Warrants together, solely Option Shares, solely Option Tradeable Warrants, solely Option Non-tradeable Warrants, or any combination thereof (each, an "Option Security" and collectively, the "Option Securities"). The Firm Securities and the Option Securities are collectively referred to as the "Securities." The Securities shall be issued directly by the Company and shall have the rights and privileges described in the Registration Statement, the Pricing Prospectus and the Prospectus (as defined below). The offering and sale of the Securities is herein referred to as the "Offering." The Units have no stand-alone rights or obligations and will not be certificated or issued as stand-alone securities. The shares of Common Stock, the tradeable warrant and non-tradeable warrant comprising the Units are immediately separable and will be issued separately at the closing.

The Company and the several Underwriters hereby confirm their agreement as follows:

***1. Registration Statement and Prospectus***.

The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") a registration statement covering the Securities (as defined in Section 4(f) hereof) on Form S-1 (File No. 333-269483) under the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations (the "Rules and Regulations") of the Commission thereunder, including a preliminary prospectus relating to the Securities and such amendments to such registration statement (including post effective amendments) as may have been required to be filed prior to or after the date of this Agreement. Such registration statement, as amended (including any post effective amendments), has been declared effective by the Commission. Such registration statement, including amendments thereto (including post effective amendments thereto) and all documents and information deemed to be a part of the Registration Statement through incorporation by reference or otherwise at the time of effectiveness thereof (the "Effective Time"), the exhibits and any schedules thereto at the Effective Time or thereafter during the period of effectiveness and the documents and information otherwise deemed to be a part thereof or included therein by the Securities Act or otherwise pursuant to the Rules and Regulations at the Effective Time or thereafter during the period of effectiveness, is herein called the "Registration Statement." If the Company has filed or files an abbreviated registration statement pursuant to Rule 462(b) under the Securities Act (the "Rule 462 Registration Statement"), then any reference herein to the term Registration Statement shall include such Rule 462 Registration Statement. Any preliminary prospectus included in the Registration Statement or filed with the Commission pursuant to Rule 424(a) under the Securities Act is hereinafter called a "Preliminary Prospectus." The Preliminary Prospectus relating to the Securities that was included in the Registration Statement immediately prior to the pricing of the offering contemplated hereby is hereinafter called the "Pricing Prospectus."

The Company is filing with the Commission pursuant to Rule 424 under the Securities Act a final prospectus covering the Securities, which includes the information permitted to be omitted therefrom at the Effective Time by Rule 430A under the Securities Act. Such final prospectus, as so filed, is hereinafter called the "Final Prospectus." The Final Prospectus, the Pricing Prospectus and any preliminary prospectus in the form in which they were included in the Registration Statement or filed with the Commission pursuant to Rule 424 under the Securities Act is hereinafter called a "Prospectus." Reference made herein to any Preliminary Prospectus, the Pricing Prospectus or to the Prospectus shall be deemed to refer to and include any documents incorporated by reference therein.

***2. Representations and Warranties of the Company Regarding the Offering***.

(a) The Company represents and warrants to, and agrees with, the several Underwriters, as of the date hereof and as of the Closing Date (as defined in Section 4(d) below) and as of each Option Closing Date (as defined in Section 4(b) below), as follows:

(i) **No Material Misstatements or Omissions**. At each time of effectiveness, at the date hereof, at the Closing Date, and at each Option Closing Date, if any, the Registration Statement and any post-effective amendment thereto complied or will comply in all material respects with the requirements of the Securities Act and the Rules and Regulations and did not, does not, and will not, as the case may be, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. The Time of Sale Disclosure Package (as defined below) as of the date hereof and at the Closing Date and on each Option Closing Date, any roadshow or investor presentations delivered to and approved by the Underwriter for use in connection with the marketing of the offering of the Securities (the "Marketing Materials"), if any, and the Final Prospectus, as amended or supplemented, as of its date, at the time of filing pursuant to Rule 424(b) under the Securities Act, at the Closing Date, and at each Option Closing Date, if any, did not, does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The representations and warranties set forth in the two immediately preceding sentences shall not apply to statements in or omissions from the Registration Statement, the Time of Sale Disclosure Package or any Prospectus in reliance upon, and in conformity with, written information furnished to the Company by the Underwriter specifically for use in the preparation thereof, which written information is described in Section 7(f). The Registration Statement contains all exhibits and schedules required to be filed by the Securities Act or the Rules and Regulations. No order preventing or suspending the effectiveness or use of the Registration Statement or any Prospectus is in effect and no proceedings for such purpose have been instituted or are pending, or, to the knowledge of the Company, are contemplated or threatened by the Commission.

(ii) **Marketing Materials**. The Company has not distributed any prospectus or other offering material in connection with the offering and sale of the Securities other than the Time of Sale Disclosure Package and the roadshow or investor presentations delivered to and approved by the Representative for use in connection with the marketing of the offering of the Securities.

(iii) **Accurate Disclosure**. (A) The Company has provided a copy to the Underwriters of each Issuer Free Writing Prospectus (as defined below) used in the sale of Securities. The Company has filed all Issuer Free Writing Prospectuses required to be so filed with the Commission, and no order preventing or suspending the effectiveness or use of any Issuer Free Writing Prospectus is in effect and no proceedings for such purpose have been instituted or are pending, or, to the knowledge of the Company, are contemplated or threatened by the Commission. When taken together with the rest of the Time of Sale Disclosure Package or the Final Prospectus, no Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Securities, has, does or will include (1) any untrue statement of a material fact or omission to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, or (2) information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Final Prospectus. The representations and warranties set forth in the immediately preceding sentence shall not apply to statements in or omissions from the Time of Sale Disclosure Package, the Final Prospectus or any Issuer Free Writing Prospectus in reliance upon, and in conformity with, written information furnished to the Company by any Underwriter specifically for use in the preparation thereof, which written information is described in Section 7(f). As used in this paragraph and elsewhere in this Agreement:

(1) "Time of Sale Disclosure Package" means the Prospectus most recently filed with the Commission before the time of this Agreement, including any preliminary prospectus supplement deemed to be a part thereof, each Issuer Free Writing Prospectus, and the description of the transaction provided by the Underwriters included on **Schedule II**.

(2) "Issuer Free Writing Prospectus" means any "issuer free writing prospectus," as defined in Rule 433 under the Securities Act, relating to the Securities that (A) is required to be filed with the Commission by the Company, or (B) is exempt from filing pursuant to Rule 433(d)(5)(i) or (d)(8) under the Securities Act, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g) under the Securities Act.

(B) At the time of filing of the Registration Statement and at the date hereof, the Company is an "ineligible issuer," as defined in Rule 405 under the Securities Act.

(C) Each Issuer Free Writing Prospectus listed on **Schedule III** satisfied, as of its issue date and at all subsequent times through the Prospectus Delivery Period (as defined in Section 5(a) hereof), all other conditions as may be applicable to its use as set forth in Rules 164 and 433 under the Securities Act, including any legend, record-keeping or other requirements.

(iv) **Financial Statements**. The financial statements of the Company, together with the related notes and schedules, included in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations of the Commission thereunder, and fairly present in all material respects the financial condition of the Company as of the dates indicated and the results of operations and changes in cash flows for the periods therein specified in conformity with U.S. generally accepted accounting principles ("GAAP") consistently applied throughout the periods involved (provided that unaudited interim financial statements are subject to year-end audit adjustments that are not expected to be material in the aggregate and do not contain all footnotes required by GAAP). No other financial statements, pro forma financial information or schedules are required under the Securities Act, the Exchange Act, or the Rules and Regulations to be included in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus.

(v) **Pro Forma Financial Information**. The pro forma financial statements included in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus include assumptions that provide a reasonable basis for presenting the significant effects directly attributable to the transactions and events described therein, the related pro forma adjustments give appropriate effect to those assumptions, and the pro forma adjustments reflect the proper application of those adjustments to the historical financial statements amounts in the pro forma financial statements included in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus. The pro forma financial statements included in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus comply as to form in all material respects with the application requirements of Regulation S-X under the Exchange Act.

(vi) **Independent Accountants**. To the Company's knowledge, RBSM LLP, which has expressed its opinion with respect to the audited financial statements and schedules included as a part of the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, is an independent public accounting firm with respect to the Company within the meaning of the Securities Act and the Rules and Regulations.

(vii) **Accounting Controls**. The Company will maintain a system of "internal control over financial reporting" (as defined under Rules 13a-15 and 15d-15 under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by, or under the supervision of, its principal executive and principal financial officer, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, but not limited to, internal accounting controls sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(viii) **Forward-Looking Statements**. The Company had a reasonable basis for, and made in good faith, each "forward-looking statement" (within the meaning of Section 27A of the Securities Act or Section 21E of the Exchange Act) contained or incorporated by reference in the Registration Statement, the Time of Sale Disclosure Package, the Final Prospectus or the Marketing Materials.

(ix) **Statistical and Marketing-Related Data**. All statistical or market-related data included or incorporated by reference in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, or included in the Marketing Materials, are based on or derived from sources that the Company reasonably believes to be reliable and accurate, and the Company has obtained the written consent to the use of such data from such sources, to the extent required.

(x) **Stock Exchange Listing**. The shares of Common Stock and tradeable warrants have been approved for listing on The Nasdaq Capital Market, and the Company has taken no action designed to, or likely to have the effect of, delisting the shares of Common Stock from The Nasdaq Capital Market, nor has the Company received any written notification that The Nasdaq Stock Market LLC ("Nasdaq") is contemplating terminating such listing.

(xi) **Absence of Manipulation**. The Company has not taken, directly or indirectly, any action that is designed to or that has constituted or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(xii) **Investment Company Act**. The Company is not and, after giving effect to the offering and sale of the Securities and the application of the net proceeds thereof, will not be an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

(b) Any certificate signed by any officer of the Company and delivered to the Underwriters or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to the Underwriters as to the matters covered thereby.

***3. Representations and Warranties Regarding the Company***.

(a) The Company represents and warrants to, and agrees with, the several Underwriters, as of the date hereof and as of the Closing Date and as of each Option Closing Date, if any, as follows:

(i) **Good Standing**. The Company has been duly organized and is validly existing as a corporation or other entity in good standing under the laws of its jurisdiction of incorporation or organization. The Company has the power and authority (corporate or otherwise) to own its properties and conduct its business as currently being carried on and as described in the Registration Statement, the Time of Sale Disclosure Package and the Prospectus, and is duly qualified to do business as a foreign corporation or other entity in good standing in each jurisdiction in which it owns or leases real property or in which the conduct of its business makes such qualification necessary, except where the failure to so qualify would not have or be reasonably likely to result in a material adverse effect upon the business, prospects, properties, operations, condition (financial or otherwise) or results of operations of the Company, or in its ability to perform its obligations under this Agreement, the Warrants and the Warrant Agreement ("Material Adverse Effect").

(ii) **Validity and Binding Effect of Agreements**. This Agreement, the Warrant Agreement and the Warrants have been duly and validly authorized by the Company, and, when executed and delivered, will constitute, the valid and binding agreements of the Company, enforceable against the Company in accordance with their respective terms, except: (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally; (ii) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws; and (iii) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(iii) **Contracts**. The execution, delivery and performance of this Agreement, the Warrant Agreement, the Warrants and the consummation of the transactions herein and therein contemplated will not (A) result in a breach or violation of any of the terms and provisions of, or constitute a default under, any law, order, rule or regulation to which the Company is subject, or by which any property or asset of the Company is bound or affected, except to the extent that such conflict, breach or default is not reasonably likely to result in a Material Adverse Effect, (B) conflict with, result in any violation or breach of, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any right of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) (a "Default Acceleration Event") of, any agreement, lease, credit facility, debt, note, bond, mortgage, indenture or other instrument (the "Contracts") or obligation or other understanding to which the Company is a party or by which any property or asset of the Company is bound or affected, except to the extent that such conflict, default, or Default Acceleration Event is not reasonably likely to result in a Material Adverse Effect, or (C) result in a breach or violation of any of the terms and provisions of, or constitute a default under, the Company's Certificate of Incorporation, as corrected ("Certificate of Incorporation"), or Bylaws ("Bylaws").

(iv) **No Violations of Governing Documents**. The Company is not in violation, breach or default under its Certificate of Incorporation, Bylaws or other equivalent organizational or governing documents.

(v) **Consents**. No consents, approvals, orders, authorizations or filings are required on the part of the Company in connection with the execution, delivery or performance of this Agreement, the Warrant Agreement, the Warrants and the issue and sale of the Securities, except (A) the registration under the Securities Act of the Securities and the warrants issued to the Representative (the "Representative Warrants," and together with the Firm Warrants and Option Warrants, the "Warrants"), which has been effected, (B) the necessary filings and approvals from Nasdaq to list the shares of Common Stock and tradeable warrants underlying the Units and the shares of Common Stock underlying the Warrants, (C) such consents, approvals, authorizations, registrations or qualifications as may be required under state or foreign securities or Blue Sky laws and the rules of the Financial Industry Regulatory Authority, Inc. ("FINRA") in connection with the purchase and distribution of the Securities by the several Underwriters, (D) such consents and approvals as have been obtained and are in full force and effect, and (E) such consents, approvals, orders, authorizations and filings the failure of which to make or obtain is not reasonably likely to result in a Material Adverse Effect.

(vi) **Capitalization**. The Company has an authorized capitalization as set forth in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus. All of the issued and outstanding shares of capital stock of the Company are duly authorized and validly issued, fully paid and nonassessable, and have been issued in compliance with all applicable securities laws, and conform to the description thereof in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus. Since the respective dates as of which information is provided in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, the Company has not entered into or granted any convertible or exchangeable securities, options, warrants, agreements, contracts or other rights in existence to purchase or acquire from the Company any shares of the capital stock of the Company. The Firm Securities and the Option Securities have been duly authorized for issuance and sale and, when issued and paid for, will be validly issued, fully paid and non-assessable, free and clear of all liens imposed by the Company; the holders thereof are not and will not be subject to personal liability by reason of being such holders; the Securities are not and will not be subject to the preemptive rights of any holders of any security of the Company or similar contractual rights granted by the Company; and all corporate action required to be taken for the authorization, issuance and sale of the Securities has been duly and validly taken; the shares of Common Stock issuable upon exercise of the Warrants have been duly authorized and reserved for issuance by all necessary corporate action on the part of the Company and when paid for and issued in accordance with the applicable instrument, such shares of Common Stock will be validly issued, fully paid and non-assessable; and the Securities and the Warrant Agreement conform in all material respects to all statements with respect thereto contained in the Registration Statement, the Time of Sale Disclosure Package and the Prospectus.

(vii) **Taxes**. The Company has (A) filed all foreign, federal, state and local tax returns (as hereinafter defined) required to be filed with taxing authorities prior to the date hereof or has duly obtained extensions of time for the filing thereof (except where the failure to file would not, individually or in the aggregate, have a Material Adverse Effect) and (B) paid all taxes (as hereinafter defined) shown as due and payable on such returns that were filed and has paid all taxes imposed on or assessed against the Company (except where the failure to pay would not, individually or in the aggregate, have a Material Adverse Effect). The provisions for taxes payable, if any, shown on the financial statements included in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus are sufficient for all accrued and unpaid taxes, whether or not disputed, and for all periods to and including the dates of such consolidated financial statements. To the knowledge of the Company, no issues have been raised (and are currently pending) by any taxing authority in connection with any of the returns or taxes asserted as due from the Company, and no waivers of statutes of limitation with respect to the returns or collection of taxes have been given by or requested from the Company. The term "taxes" mean all federal, state, local, foreign, and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties or other taxes, fees, assessments, or charges of any kind whatever, together with any interest and any penalties, additions to tax, or additional amounts with respect thereto. The term "returns" means all returns, declarations, reports, statements, and other documents required to be filed in respect to taxes.

(viii) **Material Change**. Since the respective dates as of which information is given in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, and except as disclosed in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, (A) the Company has not incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions other than in the ordinary course of business, (B) the Company has not declared or paid any dividends or made any distribution of any kind with respect to its capital stock; (C) there has not been any change in the capital stock of the Company (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants, upon the conversion of outstanding shares of preferred stock or other convertible securities, due to the vesting of outstanding stock grants or the issuance of restricted stock awards or restricted stock units under the Company's existing stock awards plan, or any new grants thereof in the ordinary course of business), (D) there has not been any material change in the Company's long-term or short-term debt, other than periodic accruals in the ordinary course pursuant to the terms of the Company's outstanding debt, and (E) there has not been the occurrence of any Material Adverse Effect.

(ix) **Absence of Proceedings**. There is no action, suit, proceeding, inquiry, arbitration, investigation, litigation or governmental proceeding pending or, to the Company's knowledge, threatened against, or involving the Company or, to the Company's knowledge, any executive officer or director which has not been disclosed in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus.

(x) **Regulatory**. Except as described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus: (A) the Company has not received notice from any Governmental Entity (as defined below) alleging or asserting noncompliance with any Applicable Regulations (as defined below) or Authorizations (as defined below); (B) the Company is and has been in material compliance with federal, state or foreign statutes, laws, ordinances, rules and regulations applicable to the Company (collectively, "Applicable Regulations"); (C) the Company possesses all licenses, certificates, approvals, clearances, consents, authorizations, qualifications, registrations, permits, and supplements or amendments thereto required by any such Applicable Regulations and/or to carry on its businesses as now conducted ("Authorizations") and such Authorizations are valid and in full force and effect and the Company is not in violation of any term of any such Authorizations; (iv) the Company has not received notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any Governmental Entity or third party alleging that any product, operation or activity is in violation of any Applicable Regulations or Authorizations or has any knowledge that any such Governmental Entity or third party is considering any such claim, litigation, arbitration, action, suit, investigation or proceeding, nor, has there been any material noncompliance with or violation of any Applicable Regulations by the Company that could reasonably be expected to require the issuance of any such communication or result in an investigation, corrective action, or enforcement action by any Governmental Entity; and (v) the Company has not received notice that any Governmental Entity has taken, is taking or intends to take action to limit, suspend, modify or revoke any Authorizations or has any knowledge that any such Governmental Entity has threatened or is considering such action. Neither the Company nor, to the Company's knowledge, any of its directors, officers, employees or agents has been convicted of any crime under any Applicable Regulations. "Governmental Entity" shall be defined as any arbitrator, court, governmental body, regulatory body, administrative agency or other authority, body or agency (whether foreign or domestic) having jurisdiction over the Company or any of its properties, assets or operations.

(xi) **Good Title**. The Company has good and marketable title to all property (whether real or personal) described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus as being owned by it that are material to the business of the Company, in each case free and clear of all liens, claims, security interests, other encumbrances or defects, except those that are disclosed in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus and those that are not reasonably likely to result in a Material Adverse Effect. The property held under lease by the Company is held by it under valid, subsisting and enforceable leases with only such exceptions with respect to any particular lease as do not interfere in any material respect with the conduct of the business of the Company.

(xii) **Intellectual Property**. The Company owns or possesses or has valid rights to use all patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, inventions, trade secrets and similar rights ("Intellectual Property Rights") necessary for the conduct of the business of the Company as currently carried on and as described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus. To the knowledge of the Company, no action or use by the Company necessary for the conduct of its business as currently carried on and as described in the Registration Statement and the Final Prospectus will involve or give rise to any infringement of, or license or similar fees for, any Intellectual Property Rights of others. The Company has not received any notice alleging any such infringement, fee or conflict with asserted Intellectual Property Rights of others. Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect (A) to the knowledge of the Company, there is no infringement, misappropriation or violation by third parties of any of the Intellectual Property Rights owned by the Company; (B) there is no pending or, to the knowledge of the Company, threatened action, suit, proceeding or claim by others challenging the rights of the Company in or to any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim, that would, individually or in the aggregate, together with any other claims in this Section 3(a)(xii), reasonably be expected to result in a Material Adverse Effect; (C) the Intellectual Property Rights owned by the Company and, to the knowledge of the Company, the Intellectual Property Rights licensed to the Company have not been adjudged by a court of competent jurisdiction invalid or unenforceable, in whole or in part, and there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 3(a)(xii) reasonably be expected to result in a Material Adverse Effect; (D) there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others that the Company infringes, misappropriates or otherwise violates any Intellectual Property Rights or other proprietary rights of others, the Company has not received any written notice of such claim and the Company is unaware of any other facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 3(a)(xii), reasonably be expected to result in a Material Adverse Effect; and (E) to the Company's knowledge, no employee of the Company is in or has ever been in violation in any material respect of any term of any employment contract, patent disclosure agreement, invention assignment agreement, non-competition agreement, non-solicitation agreement, nondisclosure agreement or any restrictive covenant to or with a former employer where the basis of such violation relates to such employee's employment with the Company, or actions undertaken by the employee while employed with the Company and could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect. To the Company's knowledge, all material technical information developed by and belonging to the Company which has not been patented has been kept confidential. The Company is not a party to or bound by any options, licenses or agreements with respect to the Intellectual Property Rights of any other person or entity that are required to be set forth in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus and are not described therein. The Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus contain in all material respects the same description of the matters set forth in the preceding sentence. None of the technology employed by the Company has been obtained or is being used by the Company in violation of any contractual obligation binding on the Company or, to the Company's knowledge, any of its officers, directors or employees, or otherwise in violation of the rights of any persons. To the Company's knowledge, there is no prior art or public or commercial activity that may render any patent included in the Intellectual Property Rights invalid or that would preclude the issuance of any patent on any patent application included in the Intellectual Property which has not been disclosed to the U.S. Patent and Trademark Office or the relevant foreign patent authority, as the case may be. The Company has not, and to the Company's knowledge, no third party has, committed any act or omitted to undertake any act the effect of such commission or omission would reasonably be expected to result in a legal determination that any item of Intellectual Property Rights thereby was rendered invalid or unenforceable in whole or in part. The manufacture, use and sale of the products or product candidates described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus as under development by the Company fall within the scope of one or more claims of the patents or patent applications included in the Intellectual Property Rights. Other than information disclosed in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, no government funding, facilities or resources of a university, college, other educational institution or research center was used in the development of any Intellectual Property Rights that are owned or purported to be owned by the Company that would confer upon any governmental agency or body, university, college, other educational institution or research center any claim or right in or to any such Intellectual Property Rights.

(xiii) **Employment Matters**. There is (A) no unfair labor practice complaint pending against the Company, nor to the Company's knowledge, threatened against it, before the National Labor Relations Board, any state or local labor relation board or any foreign labor relations board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company, or, to the Company's knowledge, threatened against it and (B) no labor disturbance by the employees of the Company exists or, to the Company's knowledge, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers, customers or contractors, that could reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company plans to terminate employment with the Company.

(xiv) **ERISA Compliance**. No "prohibited transaction" (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"), or Section 4975 of the Internal Revenue Code of 1986, as amended from time to time (the "Code")) or "accumulated funding deficiency" (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(b) of ERISA (other than events with respect to which the thirty (30)-day notice requirement under Section 4043 of ERISA has been waived) has occurred or could reasonably be expected to occur with respect to any employee benefit plan of the Company which would reasonably be expected to, singularly or in the aggregate, have a Material Adverse Effect. Each employee benefit plan of the Company is in compliance in all material respects with applicable law, including ERISA and the Code. The Company has not incurred and could not reasonably be expected to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any pension plan (as defined in ERISA). Each pension plan for which the Company would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified, and, to the Company's knowledge, nothing has occurred, whether by action or by failure to act, which could, singularly or in the aggregate, cause the loss of such qualification.

(xv) **Environmental Matters**. The Company is in compliance with all foreign, federal, state and local rules, laws and regulations relating to the use, treatment, storage and disposal of hazardous or toxic substances or waste and protection of health and safety or the environment which are applicable to their businesses, except where the failure to comply has not had and would not reasonably be expected to have, singularly or in the aggregate, a Material Adverse Effect. There has been no storage, generation, transportation, handling, treatment, disposal, discharge, emission, or other release of any kind of toxic or other wastes or other hazardous substances by, due to, or caused by the Company (or, to the Company's knowledge, any other entity for whose acts or omissions the Company is or may otherwise be liable) upon any of the property now or previously owned or leased by the Company, or upon any other property, in violation of any law, statute, ordinance, rule, regulation, order, judgment, decree or permit or which would, under any law, statute, ordinance, rule (including rule of common law), regulation, order, judgment, decree or permit, give rise to any liability, except for any violation or liability which has not had and would not reasonably be expected to have, singularly or in the aggregate, a Material Adverse Effect; and there has been no disposal, discharge, emission or other release of any kind onto such property or into the environment surrounding such property of any toxic or other wastes or other hazardous substances with respect to which the Company has knowledge.

(xvi) **SOX Compliance**. The Company has taken all actions it deems reasonably necessary or advisable to take on or prior to the date of this Agreement to assure that, upon and at all times after the Effective Date, it will be in compliance in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder or implementing the provisions thereof (the "Sarbanes-Oxley Act") that are then in effect and will take all action it deems reasonably necessary or advisable to assure that it will be in compliance in all material respects with other applicable provisions of the Sarbanes-Oxley Act not currently in effect upon it and at all times after the effectiveness of such provisions.

(xvii) **Money Laundering Laws**. The operations of the Company are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "Money Laundering Laws"); and no action, suit or proceeding by or before any Governmental Entity involving the Company with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(xviii) **Foreign Corrupt Practices Act**. Neither the Company nor, to the knowledge of the Company, any director, officer, employee, representative, agent, affiliate of the Company or any other person acting on behalf of the Company, is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA and the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xix) **OFAC**. Neither the Company nor, to the knowledge of the Company, any director, officer, employee, representative, agent or affiliate of the Company or any other person acting on behalf of the Company is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities contemplated hereby, or lend, contribute or otherwise make available such proceeds to any person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(xx) **Insurance**. Following the consummation of the offering contemplated hereby, the Company will carry insurance in such amounts and covering such risks as is adequate for the conduct of its business and the value of its properties and as is customary for companies engaged in similar businesses in similar industries.

(xxi) **Books and Records**. The minute books of the Company have been made available to the Underwriters and counsel for the Underwriters, and such books (A) contain a complete summary of all meetings and actions of the board of directors (including each board committee) and stockholders of the Company (or analogous governing bodies and interest holders, as applicable), since the time of its incorporation or organization through the date of the latest meeting and action, and (B) accurately in all material respects reflect all transactions referred to in such minutes.

(xxii) **No Violation**. Neither the Company nor, to its knowledge, any other party is in violation, breach or default of any Contract that has resulted in or could reasonably be expected to result in a Material Adverse Effect.

(xxiii) **Continued Business**. No supplier, customer, distributor or sales agent of the Company has notified the Company that it intends to discontinue or decrease the rate of business done with the Company, except where such discontinuation or decrease has not resulted in and could not reasonably be expected to result in a Material Adverse Effect.

(xxiv) **No Finder's Fee**. There are no claims, payments, issuances, arrangements or understandings for services in the nature of a finder's, consulting or origination fee with respect to the introduction of the Company to any Underwriter or the sale of the Securities hereunder or any other arrangements, agreements, understandings, payments or issuances with respect to the Company that may affect the Underwriters' compensation, as determined by FINRA.

(xxv) **No Fees**. Except as disclosed to the Representative in writing, the Company has not made any direct or indirect payments (in cash, securities or otherwise) to (A) any person, as a finder's fee, investing fee or otherwise, in consideration of such person raising capital for the Company or introducing to the Company persons who provided capital to the Company, (B) any FINRA member, or (C) any person or entity that has any direct or indirect affiliation or association with any FINRA member within the twelve (12) month period prior to the date on which the Registration Statement was filed with the Commission ("Filing Date") or thereafter.

(xxvi) **Proceeds**. None of the net proceeds of the offering will be paid by the Company to any participating FINRA member or any affiliate or associate of any participating FINRA member, except as specifically authorized herein.

(xxvii) **No FINRA Affiliations**. To the Company's knowledge and except as disclosed to the Representative in writing, no (A) officer or director of the Company or (B) owner of 5% or more of any class of the Company's securities or (C) owner of any amount of the Company's unregistered securities acquired within the 180-day period prior to the Filing Date, has any direct or indirect affiliation or association with any FINRA member. The Company will advise the Representative and counsel to the Underwriter if it becomes aware that any officer, director of the Company or any owner of 5% or more of any class of the Company's securities is or becomes an affiliate or associated person of a FINRA member participating in the offering.

(xxviii) **No Financial Advisor**. Other than the Underwriters, no person has the right to act as an underwriter or as a financial advisor to the Company in connection with the transactions contemplated hereby.

(xxix) **Data Privacy and Security Laws**. The Company is, and at all prior times was, in material compliance with all applicable state and federal data privacy and security laws and regulations in the United States, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as amended by the Health Information Technology for Economic and Clinical Health Act, and all applicable provincial and federal data privacy and security laws and regulations in Canada, including without limitation the Personal Information Protection and Electronic Documents Act (S.C. 2000, c. 5) ("PIPEDA"); and the Company has taken commercially reasonable actions to prepare to comply with, and have been and currently are in compliance with, the European Union General Data Protection Regulation ("GDPR") (EU 2016/679) (collectively, the "Privacy Laws"). To ensure compliance with the Privacy Laws, the Company has in place, comply with, and take appropriate steps reasonably designed to ensure compliance in all material respects with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling, and analysis of Personal Data. "Personal Data" means (A) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (B) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (C) Protected Health Information as defined by HIPAA; (D) "personal information," "personal health information" and "business contact information" as defined by PIPEDA; (E) "personal data" as defined by GDPR; and (F) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person's health or sexual orientation. The Company has at all times made all disclosures to users or customers required by applicable laws and regulatory rules or requirements, and none of such disclosures made or contained in any Policy have, to the knowledge of the Company, been inaccurate or in violation of any applicable laws and regulatory rules or requirements in any material respect. The Company further certifies it has not received notice of any actual or potential liability under or relating to, or actual or potential violation of, any of the Privacy Laws, and has no knowledge of any event or condition that would reasonably be expected to result in any such notice.

(xxx) **No Registration Rights**. Except as described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right (other than rights which have been waived in writing or otherwise satisfied) to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act.

(xxxi) **Prior Sales of Securities**. Except as set forth in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, the Company has not sold or issued any shares of Common Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulations D or S of, the Securities Act, other than shares issued pursuant to employee benefit plans, stock option plans or other employee compensation plans, pursuant to outstanding preferred stock, options, rights or warrants or other outstanding convertible securities or in connection with the vesting of any outstanding stock grants.

(xxxii) **Compliance with Laws**. The Company: (A) is and at all times has been in compliance with all statutes, rules, or regulations applicable to the Company, including, without limitation, all statutes, rules, or regulations relating to the ownership, testing, development, manufacture, packaging, processing, use, distribution, marketing, labeling, promotion, sale, offer for sale, storage, import, export or disposal of any product manufactured or distributed by the Company and, without limiting the foregoing, include (I) the Federal Food, Drug, and Cosmetic Act, (II) the Occupational Safety and Health Act, the Environmental Protection Act, the Toxic Substances Control Act and Laws applicable to hazardous or regulated substances and radioactive or biologic materials, (III) the federal Anti-Kickback Statute, (IV) the False Claims Act, (V) the Civil Monetary Penalties Law, (VI) the Physician Payments Sunshine Act, (VII) the criminal False Claims Law, (VIII) HIPAA as amended by the Health Information Technology for Economic and Clinical Health Act and (IX) licensing and certification laws covering any aspect of the business of the Company ("Applicable Laws"), except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (B) has not received any warning letter, untitled letter or other correspondence or notice from any other governmental authority alleging or asserting noncompliance with any Applicable Laws or any licenses, certificates, approvals, clearances, authorizations, permits and supplements or amendments thereto required by any such Applicable Laws and/or to carry on its business as now conducted ("Applicable Authorizations"); (C) possesses all material Application Authorizations and such Applicable Authorizations are valid and in full force and effect and are not in material violation of any term of any such Applicable Authorizations; (D) has not received notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any Governmental Entity or third party alleging that any product operation or activity is in violation of any Applicable Laws or Applicable Authorizations and has no knowledge that any such Governmental Entity or third party is considering any such claim, litigation, arbitration, action, suit, investigation or proceeding nor, to the Company's knowledge, has there been any material noncompliance with or violation of any Applicable Laws by the Company that could reasonably be expected to require the issuance of any such communication or result in an investigation, corrective action, or enforcement action by any Governmental Entity; (E) has not received notice that any Governmental Entity has taken, is taking or intends to take action to limit, suspend, modify or revoke any Applicable Authorizations and has no knowledge that any such Governmental Entity has threatened or is considering such action; (F) has filed, obtained, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Applicable Laws or Applicable Authorizations and that all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were complete and correct on the date filed (or were corrected or supplemented by a subsequent submission); and (G) has not, either voluntarily or involuntarily, initiated, conducted, or issued or caused to be initiated, conducted or issued, any recall, market withdrawal or replacement, safety alert, post-sale warning, "dear doctor" letter, or other notice or action relating to the alleged lack of safety or efficacy of any product or any alleged product defect or violation and, to the Company's knowledge, no third party has initiated, conducted or intends to initiate any such notice or action.

(xxxiii) **Clinical and Preclinical Studies**. The studies, tests and preclinical and clinical trials conducted by or, to the Company's knowledge, on behalf of the Company were and, if still ongoing, are being conducted in all material respects in accordance with experimental protocols, procedures and controls pursuant to accepted professional scientific standards and all authorizations and applicable laws and the rules and regulations promulgated thereunder and any applicable rules, regulations and policies of the jurisdiction in which such trials and studies are being conducted; the descriptions of the results of such studies, tests and trials contained in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus are, to the Company's knowledge, accurate and complete in all material respects and fairly present the data derived from such studies, tests and trials; except to the extent disclosed in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, the Company is not aware of any studies, tests or trials, the results of which the Company believes reasonably call into question the study, test, or trial results described or referred to in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus when viewed in the context in which such results are described and the clinical state of development; and, except to the extent disclosed in the Registration Statement, the Time of Sale Disclosure Package or the Prospectus, the Company has not received any notices or correspondence from the U.S. Food and Drug Administration or any governmental entity requiring the termination or suspension of any studies, tests or preclinical or clinical trials conducted by or on behalf of the Company.

***4. Purchase, Sale and Delivery of Shares***.

(a) On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell the Firm Units to the several Underwriters, and the several Underwriters agree, severally and not jointly, to purchase the Firm Units set forth opposite the names of the Underwriters in **Schedule I** hereto. The purchase price for each Firm Unit shall be $[●] per Firm Unit (92% of the public offering price for each Firm Unit) which purchase price will be allocated as $[●] per Firm Share, $0.15 per Firm Tradeable Warrant and $0.15 per Firm Non-tradeable Warrant.

(b) The Company hereby grants to the Underwriters the option to purchase some or all of the Option Securities and, upon the basis of the warranties and representations and subject to the terms and conditions herein set forth, the Underwriter shall have the right, severally and not jointly, to purchase all or any portion of the Option Shares and/or the Option Warrants as may be necessary to cover over-allotments made in connection with the transactions contemplated hereby. The purchase price to be paid per Option Share shall be equal to $[●]. The purchase price to be paid per Option Tradeable Warrant shall be equal to $0.01. The purchase price to be paid per Option Non-tradeable Warrant shall be equal to $0.01. The Underwriters shall not be under any obligation to purchase any of the Option Securities prior to the exercise of the Over-allotment Option. This Over-Allotment Option may be exercised by the Underwriters at any time and from time to time on or before the forty-fifth ($45^{th}$) day following the date hereof, by written notice to the Company (the "Option Notice"). The Option Notice shall set forth the aggregate number of Option Shares and/or Option Warrants as to which the option is being exercised, and the date and time when the Option Shares and/or the Option Warrants are to be delivered (such date and time being herein referred to as the "Option Closing Date"); *provided*, *however*, that the Option Closing Date shall not be earlier than the Closing Date (as defined below) nor earlier than the first ($1^{st}$) business day after the date on which the option shall have been exercised nor later than the fifth ($5^{th}$) business day after the date on which the option shall have been exercised unless the Company and the Representative otherwise agree. Upon exercise of the Over-allotment Option with respect to all or any portion of the Option Securities subject to the terms and conditions set forth herein, (i) the Company shall become obligated to sell to the Underwriters the number of Option Securities specified in such notice; (ii) each of the Underwriters, acting severally and not jointly, shall purchase that portion of the total number of Option Securities then being purchased as set forth in **Schedule I** opposite the name of such Underwriter, subject to such adjustments as the Representative, in their sole discretion, shall determine and (iii) each of the Underwriters, acting severally and not jointly, shall purchase that portion of the total number of Option Warrants then being purchased that the number of Option Warrants as set forth in **Schedule I** opposite the name of such Underwriter bears to the total number of Option Warrants, subject, in each case, to such adjustments as the Representative, in their sole discretion, shall determine. The Representative may cancel the Over-Allotment Option at any time prior to the expiration of the Over-Allotment Option by written notice to the Company (except to the extent the Representative has exercised the Over-Allotment Option in accordance herewith).

(c) Payment of the purchase price for and delivery of the Option Shares and/or the Option Warrants shall be made on an Option Closing Date in the same manner and at the same office as the payment for the Firm Securities as set forth in subparagraph (d) below.

(d) The Firm Securities will be delivered by the Company to the Representative, for the respective accounts of the several Underwriters against payment of the purchase price therefor by wire transfer of same day funds payable to the order of the Company at the offices of WallachBeth Capital LLC, Harborside Financial Center Plaza 5, 185 Hudson Street, Suite 1410, Jersey City, NJ 07311, or such other location as may be mutually acceptable, at 9:00 a.m. Eastern Time, on the second ($2^{nd}$) (or if the Firm Securities are priced, as contemplated by Rule 15c6-1(c) under the Exchange Act, after 4:30 p.m. Eastern time, the third ($3^{rd}$)) full business day following the date hereof, or at such other time and date as the Representative and the Company determine pursuant to Rule 15c6-1(a) under the Exchange Act, or, in the case of the Option Securities, at such date and time set forth in the Option Notice. The time and date of delivery of the Firm Shares is referred to herein as the "Closing Date." On the Closing Date, the Company shall deliver the Firm Securities which shall be registered in the name or names and shall be in such denominations as the Representative may request on behalf of the Underwriters at least one (1) business day before the Closing Date, to the respective accounts of the several Underwriters, which delivery shall with respect to the Firm Securities, be made through the facilities of the Depository Trust Company's Deposit or Withdrawal at Custodian system.

(e) It is understood that WallachBeth Capital LLC, has been authorized, for its own account and the accounts of the several Underwriters, to accept delivery of and receipt for, and make payment of the purchase price for, the Firm Securities and any Option Securities the Underwriters have agreed to purchase. WallachBeth Capital LLC, individually and not as the Representative of the Underwriters, may (but shall not be obligated to) make payment for any Securities to be purchased by any Underwriter whose funds shall not have been received by the Representative by the Closing Date or any Option Closing Date, as the case may be, for the account of such Underwriter, but any such payment shall not relieve such Underwriter from any of its obligations under this Agreement.

***5. Covenants***.

(a) The Company covenants and agrees with the Underwriters as follows:

(i) The Company shall prepare the Final Prospectus in a form approved by the Representative and file such Final Prospectus pursuant to Rule 424(b) under the Securities Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement, or, if applicable, such earlier time as may be required by the Rules and Regulations.

(ii) During the period beginning on the date hereof and ending on the later of the Closing Date or such date as determined by the Representative the Final Prospectus is no longer required by law to be delivered in connection with sales by an underwriter or dealer (the "Prospectus Delivery Period"), prior to amending or supplementing the Registration Statement, including any Rule 462 Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, the Company shall furnish to the Representative for review and comment a copy of each such proposed amendment or supplement, and the Company shall not file any such proposed amendment or supplement to which the Representative reasonably objects.

(iii) From the date of this Agreement until the end of the Prospectus Delivery Period, the Company shall promptly advise the Representative in writing (A) of the receipt of any comments of, or requests for additional or supplemental information from, the Commission, (B) of the time and date of any filing of any post-effective amendment to the Registration Statement or any amendment or supplement to the Time of Sale Disclosure Package, the Final Prospectus or any Issuer Free Writing Prospectus, (C) of the time and date that any post-effective amendment to the Registration Statement becomes effective and (D) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any order preventing or suspending its use or the use of the Time of Sale Disclosure Package, the Final Prospectus or any Issuer Free Writing Prospectus, or of any proceedings to remove, suspend or terminate from listing or quotation the Common Stock from any securities exchange upon which it is listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes. If the Commission shall enter any such stop order at any time during the Prospectus Delivery Period, the Company will use its reasonable efforts to obtain the lifting of such order at the earliest possible moment. Additionally, the Company agrees that it shall comply with the provisions of Rules 424(b), 430A, 430B or 430C as applicable, under the Securities Act and will use its reasonable efforts to confirm that any filings made by the Company under Rule 424(b) or Rule 433 were received in a timely manner by the Commission (without reliance on Rule 424(b)(8) or 164(b) of the Securities Act).

(iv) (A) During the Prospectus Delivery Period, the Company will comply with all requirements imposed upon it by the Securities Act, as now and hereafter amended, and by the Rules and Regulations, as from time to time in force, and by the Exchange Act, as now and hereafter amended, so far as necessary to permit the continuance of sales of or dealings in the Securities as contemplated by the provisions hereof, the Time of Sale Disclosure Package, the Registration Statement and the Final Prospectus. If during the Prospectus Delivery Period any event occurs the result of which would cause the Final Prospectus (or if the Final Prospectus is not yet available to prospective purchasers, the Time of Sale Disclosure Package ) to include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances then existing, not misleading, or if during such period it is necessary or appropriate in the opinion of the Company or its counsel or the Representative or counsel to the Underwriters to amend the Registration Statement or supplement the Final Prospectus (or if the Final Prospectus is not yet available to prospective purchasers, the Time of Sale Disclosure Package) to comply with the Securities Act, the Company will promptly notify the Representative, allow the Representative the opportunity to provide reasonable comments on such amendment, prospectus supplement or document, and will amend the Registration Statement or supplement the Final Prospectus (or if the Final Prospectus is not yet available to prospective purchasers, the Time of Sale Disclosure Package) or file such document (at the expense of the Company) so as to correct such statement or omission or effect such compliance. (B) If at any time during the Prospectus Delivery Period there occurred or occurs an event or development the result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement or any Prospectus or included or would include, when taken together with the Time of Sale Disclosure Package, an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify the Representative and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(v) The Company shall take or cause to be taken all necessary action to qualify the Securities for sale under the securities laws of such jurisdictions as the Representative reasonably designate and to continue such qualifications in effect so long as required, except that the Company shall not be required in connection therewith to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified, to execute a general consent to service of process in any state or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise subject.

(vi) The Company will furnish to the Underwriters and counsel to the Underwriters copies of the Registration Statement, each Prospectus, any Issuer Free Writing Prospectus, and all amendments and supplements to such documents, in each case as soon as available and in such quantities as the Underwriters may from time to time reasonably request.

(vii) The Company will make generally available to its security holders as soon as practicable, but in any event not later than fifteen (15) months after the end of the Company's current fiscal quarter, an earnings statement (which need not be audited) covering a twelve (12)-month period that shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 of the Rules and Regulations.

(viii) The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, will pay or cause to be paid all expenses relating to the Offering, including, without limitation, (A) all filing fees and communication expenses relating to the registration of the Securities with the Commission; (B) all filing fees associated with the review of the public offering of the Securities by FINRA; (C) all fees and expenses relating to the listing of such Offered Securities on Nasdaq; (D) fees relating to background checks by the Representative; (E) all fees, expenses and disbursements relating to the registration, qualification or exemption of such Securities under the securities laws of such foreign jurisdictions as the Representative may reasonably designate; (F) the costs of all mailing and printing of the underwriting documents (including, without limitation, the Underwriting Agreement, any Blue Sky Surveys and, if appropriate, any Agreement Among Underwriters, Selected Dealers' Agreement, Underwriters' Questionnaire and Power of Attorney), Registration Statements, Prospectuses and all amendments, supplements and exhibits thereto and as many preliminary and final Prospectuses as the Representative may reasonably deem necessary; (G) the costs and expenses of a public relations firm for the Company mutually agreed upon by the Representative and the Company; (H) the costs of preparing, printing and delivering certificates representing the Securities; (I) fees and expenses of the transfer agent for the Securities of the Company; (J) the fees and expenses of the Company's legal counsel and other agents and Representative; (K) fees and expenses of legal counsel for the Underwriters not to exceed $145,000 and (l) all reasonable road show expenses for the Offering.

(ix) The Company intends to apply the net proceeds from the sale of the Securities to be sold by it hereunder for the purposes set forth in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus under the heading "Use of Proceeds."

(x) The Company has not taken and will not take, directly or indirectly, during the Prospectus Delivery Period, any action designed to, or which might reasonably be expected to cause or result in, or that has constituted, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(xi) The Company represents and agrees that, unless it obtains the prior written consent of the Representative, and each Underwriter, severally, and not jointly, represents and agrees that, unless it obtains the prior written consent of the Company, it has not made and will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus; *provided* that the prior written consent of the parties hereto shall be deemed to have been given in respect of the free writing prospectuses included in **Schedule III**, if any. Any such free writing prospectus consented to by the Company and the Representative is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433, and has complied or will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely Commission filing where required, legending and record-keeping.

(xii) The Company hereby agrees that, without the prior written consent of the Representative, it and any successors will not, during the period ending six (6) months after the date hereof, (A) 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 capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock or the Company, (B) file or caused to be filed any registration statement with the Commission relating to the offering or resale of any shares of capital stock or any securities convertible into or exercisable or exchangeable for shares of capital stock or (C) enter into any swap or other arrangement that transfers to another in whole or in part, any of the economic consequences of ownership of capital stock of the Company, whether any such transaction described in clause (A), (B) or (C) above is to be settled by delivery of shares of capital stock of the Company or any successors or such other securities, in cash or otherwise, other than in the case of a Variable Rate Transaction (as defined below). The restrictions contained in the preceding sentence shall not apply to (I) the Securities to be sold hereunder, (II) the issuance by the Company of shares of Common Stock upon the exercise of a stock option or warrant or the conversion of a security outstanding on the date hereof, which is disclosed in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, the terms of which option, warrant or other outstanding convertible security are not thereafter amended, (III) the issuance by the Company of shares of Common Stock upon the vesting of outstanding stock grants, (IV) grants of stock options, stock awards, restricted stock, restricted stock units or other equity awards and the issuance of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock (whether upon the exercise of stock options or otherwise) to the Company's employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the Closing Date and described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus *provided* the grantee of any such equity award set forth in this Section enters into a Lock-Up Agreement (as defined below) in the form attached hereto as **Exhibit A** in connection with any such grant *provided further* that any such grant to advisors or consultants are issued as "restricted securities" (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith within one hundred eighty (180) days following the date hereof; and (V) the filing by the Company of any registration statement on Form S-8 or a successor form thereto relating to an equity compensation plan described in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus.

(xiii) From the date hereof until six (6) months after the Closing Date, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its subsidiaries of Common Stock or any securities of the Company or any subsidiary which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock (or a combination of units thereof) involving a Variable Rate Transaction. "Variable Rate Transaction" means a transaction in which the Company (A) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive, additional shares of Common Stock either (I) at a conversion price, exercise price or exchange rate or other price that is based upon, and/or varies with, the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities or (II) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (B) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit, whereby the Company may issue securities at a future determined price. Any Underwriter shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(xiv) To engage and maintain, at its expense, a registrar and transfer agent for the Common Stock (if other than the Company).

(xv) To use its reasonable best efforts to maintain the listing of the Common Stock on Nasdaq.

(xvi) To not take, directly or indirectly, any action designed to cause or result in, or that has constituted or might reasonably be expected to constitute, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any securities of the Company to facilitate the sale or resale of the Securities.

(xvii) The Company further agrees that, in addition to the expenses payable pursuant to Section 5(a)(viii), on the Closing Date it shall pay to the Representative, by deduction from the net proceeds of the Offering contemplated herein, a non-accountable expense allowance equal to one and one-half percent (1.5%) of the gross proceeds received by the Company from the sale of the Securities; *provided, however*, that in the event that the Offering is terminated, the Company agrees to reimburse the Underwriters pursuant to Section 7 hereof. Notwithstanding the foregoing, any advance previously paid by the Company to WallachBeth Capital LLC against the Representative's non-accountable expense allowance actually anticipated to be incurred, shall be applied towards the accountable expenses set forth herein; *provided* that the Representative will reimburse the Company for any remaining portion of the Advance to the extent amount of the Advance was not used for accountable expenses actually incurred by the Representative in the offering.

(xviii) As of the Closing Date, the Company shall have retained an investor relations advisory firm reasonably acceptable to the Representative and the Company and shall retain such firm or another firm reasonably acceptable to the Representative for a period of not less than six (6) months after the Closing Date.

(xix) On or prior to the Closing Date, the Company will have appropriate Directors' & Officers' and Errors & Omissions insurance with appropriate liability levels as reasonably determined by the Company.

***6. Conditions of the Underwriter's Obligations***. The respective obligations of the several Underwriters hereunder to purchase the Shares are subject to the accuracy, as of the date hereof and at all times through the Closing Date, and on each Option Closing Date (as if made on the Closing Date or such Option Closing Date, as applicable), of and compliance with all representations, warranties and agreements of the Company contained herein, the performance by the Company of its obligations hereunder and the following additional conditions:

(a) If filing of the Final Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, is required under the Securities Act or the Rules and Regulations, the Company shall have filed the Final Prospectus (or such amendment or supplement) or such Issuer Free Writing Prospectus with the Commission in the manner and within the time period so required (without reliance on Rule 424(b)(8) or 164(b) under the Securities Act); the Registration Statement shall remain effective; no stop order suspending the effectiveness of the Registration Statement or any part thereof, any Rule 462 Registration Statement, or any amendment thereof, nor suspending or preventing the use of the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus or any Issuer Free Writing Prospectus shall have been issued; no proceedings for the issuance of such an order shall have been initiated or threatened by the Commission; any request of the Commission or the Representative for additional information (to be included in the Registration Statement, the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus, any Issuer Free Writing Prospectus or otherwise) shall have been complied with to the satisfaction of the Representative.

(b) The Common Stock and tradeable warrants shall be approved for listing on The Nasdaq Capital Market, and satisfactory evidence thereof shall have been provided to the Representative and its counsel.

(c) FINRA shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

(d) The Representative shall not have reasonably determined, and advised the Company, that the Registration Statement, the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus, or any amendment thereof or supplement thereto, or any Issuer Free Writing Prospectus, contains an untrue statement of fact which, in the reasonable opinion of the Representative, is material, or omits to state a fact which, in the reasonable opinion of the Representative, is material and is required to be stated therein or necessary to make the statements therein not misleading.

(e) Intentionally Omitted.

(f) On the Closing Date and on each Option Closing Date, there shall have been furnished to the Representative on behalf of the Underwriters the opinion and negative assurance letters of Carmel, Milazzo & Feil LLP, corporate counsel to the Company, dated the Closing Date or the Option Closing Date, as applicable, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representative.

(g) Intentionally Omitted.

(h) The Underwriters shall have received a letter of RBSM LLP, on the date hereof and on the Closing Date and on each Option Closing Date, addressed to the Underwriters, confirming that they are independent public accountants within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualifications of accountants under Rule 2-01 of Regulation S-X of the Commission, and confirming, as of the date of each such letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Registration Statement, the Time of Sale Disclosure Package and the Final Prospectus, as of a date not prior to the date hereof or more than five (5) days prior to the date of such letter), the conclusions and findings of said firm with respect to the financial information and other matters required by the Underwriters.

(i) Intentionally Omitted.

(j) On the Closing Date and on each Option Closing Date, there shall have been furnished to the Underwriters a certificate, dated the Closing Date and on each Option Closing Date and addressed to the Underwriters, signed by the Chief Executive Officer and the Chief Financial Officer of the Company, in their capacity as officers of the Company, to the effect that:

(i) The representations and warranties of the Company in this Agreement that are qualified by materiality or by reference to any Material Adverse Effect are true and correct in all respects, and all other representations and warranties of the Company in this Agreement are true and correct, in all material respects, as if made at and as of the Closing Date and on the Option Closing Date, and the Company has complied in all material respects with all the agreements and satisfied all the conditions on its part required to be performed or satisfied at or prior to the Closing Date or on the Option Closing Date, as applicable;

(ii) No stop order or other order (A) suspending the effectiveness of the Registration Statement or any part thereof or any amendment thereof, (B) suspending the qualification of the Securities for offering or sale, or (C) suspending or preventing the use of the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus or any Issuer Free Writing Prospectus, has been issued, and no proceeding for that purpose has been instituted or, to their knowledge, is contemplated by the Commission or any state or regulatory body; and

(iii) There has been no occurrence of any event resulting or reasonably likely to result in a Material Adverse Effect during the period from and after the date of this Agreement and prior to the Closing Date or on the Option Closing Date, as applicable.

(k) On or before the date hereof, the Representative shall have received duly executed lock-up agreement, substantially in the form of **Exhibit A** attached hereto (each a "Lock-Up Agreement"), by and between the Representative and each of the parties specified in **Schedule IV** hereto.

(l) On the Closing Date, the Company shall have delivered to the Representative executed copies of the Warrant Agreement.

(m) The Company shall have furnished to the Representative and its counsel such additional documents, certificates and evidence as the Representative and its counsel may have reasonably requested.

If any condition specified in this Section 6 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Representative by notice to the Company at any time at or prior to the Closing Date or on the Option Closing Date, as applicable, and such termination shall be without liability of any party to any other party, except that Section 5(a)(viii), Section 7 and Section 8 shall survive any such termination and remain in full force and effect.

***7. Indemnification and Contribution***.

(a) The Company agrees to indemnify, defend and hold harmless each Underwriter, its affiliates, directors and officers and employees, and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any losses, claims, damages or liabilities to which such Underwriter or such person may become subject, under the Securities Act or otherwise (including in settlement of any litigation if such settlement is effected with the written consent of the Company), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, including the information deemed to be a part of the Registration Statement at the time of effectiveness and at any subsequent time pursuant to Rules 430A and 430B of the Rules and Regulations, or arise out of or are based upon the omission from the Registration Statement, or alleged omission to state therein, a material fact required to be stated therein or necessary to make the statements therein not misleading (ii) an untrue statement or alleged untrue statement of a material fact contained in the Time of Sale Disclosure Package, any oral or written communication with potential investors undertaken in reliance on Section 5(d) of the Securities Act ("Written Testing-the-Waters Communications"), any Prospectus, the Final Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, or the Marketing Materials or in any other materials used in connection with the offering of the Securities, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, (iii) in whole or in part, any inaccuracy in the representations and warranties of the Company contained herein, or (iv) in whole or in part, any failure of the Company to perform its obligations hereunder or under law, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by it in connection with evaluating, investigating or defending against such loss, claim, damage, liability or action; *provided*, *however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Time of Sale Disclosure Package, any Written Testing-the-Waters Communications, any Prospectus, the Final Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus, in reliance upon and in conformity with written information furnished to the Company by such Underwriter specifically for use in the preparation thereof, which written information is described in Section 7(f).

(b) Each Underwriter, severally and not jointly, will indemnify, defend and hold harmless the Company, its affiliates, directors, officers and employees, and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any losses, claims, damages or liabilities to which the Company may become subject, under the Securities Act or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter), insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus, or any amendment or supplement thereto or any Issuer Free Writing Prospectus in reliance upon and in conformity with written information furnished to the Company by such Underwriter specifically for use in the preparation thereof, which written information is described in Section 7(f), and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with evaluating, investigating, and defending against any such loss, claim, damage, liability or action. The obligation of each Underwriter to indemnify the Company (including any controlling person, director or officer thereof) shall be limited to the amount of the underwriting discount applicable to the Shares to be purchased by such Underwriter hereunder actually received by such Underwriter.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof, but the failure to notify the indemnifying party shall not relieve the indemnifying party from any liability that it may have to any indemnified party except to the extent such indemnifying party has been materially prejudiced by such failure. In case any such action shall be brought against any indemnified party, and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in, and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of the indemnifying party's election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof; *provided*, *however*, that if (i) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (ii) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party), or (iii) the indemnifying party has not in fact employed counsel reasonably satisfactory to the indemnified party to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, the indemnified party shall have the right to employ a single counsel to represent it in any claim in respect of which indemnity may be sought under subsection (a) or (b) of this Section 7, in which event the reasonable fees and expenses of such separate counsel shall be borne by the indemnifying party or parties and reimbursed to the indemnified party as incurred.

The indemnifying party under this Section 7 shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is a party or could be named and indemnity was or would be sought hereunder by such indemnified party, unless such settlement, compromise or consent (A) includes an unconditional release of such indemnified party from all liability for claims that are the subject matter of such action, suit or proceeding and (B) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 7 is unavailable or insufficient to hold harmless an indemnified party under subsection (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a) or (b) above, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering and sale of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discount received by the Underwriters, in each case as set forth in the table on the cover page of the Final Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relevant intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this subsection (d) were to be determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in the first sentence of this subsection (d). The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending against any action or claim that is the subject of this subsection (d). Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount of the underwriting discount applicable to the Shares to be purchased by such Underwriter hereunder actually received by such Underwriter. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' respective obligations to contribute as provided in this Section 7 are several in proportion to their respective underwriting commitments and not joint.

(e) The obligations of the Company under this Section 7 shall be in addition to any liability that the Company may otherwise have and the benefits of such obligations shall extend, upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; and the obligations of each Underwriter under this Section 7 shall be in addition to any liability that each Underwriter may otherwise have and the benefits of such obligations shall extend, upon the same terms and conditions, to the Company and its officers, directors and each person who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act.

(f) For purposes of this Agreement, each Underwriter severally confirms, and the Company acknowledges, that there is no information concerning such Underwriter furnished in writing to the Company by such Underwriter specifically for preparation of or inclusion in the Registration Statement, the Time of Sale Disclosure Package, any Prospectus, the Final Prospectus or any Issuer Free Writing Prospectus, other than the statement set forth in the last paragraph on the cover page of the Prospectus, the marketing and legal names of each Underwriter, and the statements set forth in the "Underwriting" section of the Registration Statement, the Time of Sale Disclosure Package, and the Final Prospectus only insofar as such statements relate to the amount of selling concession and re-allowance, if any, or to over-allotment, stabilization and related activities that may be undertaken by such Underwriter.

***8. Representations and Agreements to Survive Delivery***. All representations, warranties, and agreements of the Company contained herein or in certificates delivered pursuant hereto, including, but not limited to, the agreements of the several Underwriters and the Company contained in Section 5(a)(viii) and Section 7 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the several Underwriters or any controlling person thereof, or the Company or any of its officers, directors, or controlling persons, and shall survive delivery of, and payment for, the Shares to and by the Underwriters hereunder.

***9. Termination of this Agreement***.

(a) The Representative shall have the right to terminate this Agreement by giving notice to the Company as hereinafter specified at any time at or prior to the Closing Date or any Option Closing Date (as to the Option Shares to be purchased on such Option Closing Date only), if in the discretion of the Representative, (i) there has occurred any material adverse change in the securities markets or any event, act or occurrence that has materially disrupted, or in the opinion of the Representative, will in the future materially disrupt, the securities markets or there shall be such a material adverse change in general financial, political or economic conditions or the effect of international conditions on the financial markets in the United States is such as to make it, in the judgment of the Representative, inadvisable or impracticable to market the Shares or enforce contracts for the sale of the Shares (ii) trading in the Company's Common Stock shall have been suspended by the Commission or Nasdaq or trading in securities generally on Nasdaq, the NYSE or the NYSE American shall have been suspended, (iii) minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required, on Nasdaq, the NYSE or NYSE American, by such exchange or by order of the Commission or any other governmental authority having jurisdiction, (iv) a banking moratorium shall have been declared by federal or state authorities, (v) there shall have occurred any attack on, outbreak or escalation of hostilities or act of terrorism involving the United States any declaration by the United States of a national emergency or war, any substantial change or development involving a prospective substantial change in United States or other international political, financial or economic conditions or any other calamity or crisis, or (vi) the Company suffers any loss by strike, fire, flood, earthquake, accident or other calamity, whether or not covered by insurance, or (vii) in the judgment of the Representative, there has been, since the time of execution of this Agreement or since the respective dates as of which information is given in the Registration Statement, the Time of Sale Disclosure Package or the Final Prospectus, any material adverse change in the assets, properties, condition, financial or otherwise, or in the results of operations, business affairs or business prospects of the Company, whether or not arising in the ordinary course of business. Any such termination shall be without liability of any party to any other party except that the provisions of Section 5(a)(viii) and Section 7 hereof shall at all times be effective and shall survive such termination.

(b) If the Representative elect to terminate this Agreement as provided in this Section 9, the Company and the other Underwriters shall be notified promptly by the Representative by telephone, confirmed by letter.

(c) If this Agreement is terminated pursuant to any of its provisions, the Company shall not be under any liability to any Underwriter, and no Underwriter shall be under any liability to the Company, except that (y) subject to a maximum reimbursement of $145,000, the Company will reimburse the Representative only for all actual, accountable out-of-pocket expenses (including the reasonable fees and disbursements of its counsel) reasonably incurred by the Representative in connection with the proposed purchase and sale of the Securities or in contemplation of performing their obligations hereunder and (z) no Underwriter who shall have failed or refused to purchase the Securities agreed to be purchased by it under this Agreement, without some reason sufficient hereunder to justify cancellation or termination of its obligations under this Agreement, shall be relieved of liability to the Company, or to the other Underwriters for damages occasioned by its failure or refusal.

***10. Substitution of Underwriters***. If any Underwriter or Underwriters shall default in its or their obligations to purchase Securities hereunder on the Closing Date or any Option Closing Date and the aggregate number of Securities which such defaulting Underwriter or Underwriters agreed but failed to purchase does not exceed five percent (5%) of the total number of Securities to be purchased by all Underwriters on such Closing Date or Option Closing Date, the other Underwriters shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the Securities which such defaulting Underwriter or Underwriters agreed but failed to purchase on such Closing Date or Option Closing Date. If any Underwriter or Underwriters shall so default and the aggregate number of Securities with respect to which such default or defaults occur is more than ten percent (10%) of the total number of Securities to be purchased by all Underwriters on such Closing Date or Option Closing Date and arrangements satisfactory to the remaining Underwriters and the Company for the purchase of such Securities by other persons are not made within forty-eight (48) hours after such default, this Agreement shall terminate.

If the remaining Underwriters or substituted Underwriters are required hereby or agree to take up all or part of the Securities of a defaulting Underwriter or Underwriters on such Closing Date or Option Closing Date as provided in this Section 10, (i) the Company shall have the right to postpone such Closing Date or Option Closing Date for a period of not more than five (5) full business days in order to permit the Company to effect whatever changes in the Registration Statement, the Final Prospectus, or in any other documents or arrangements, which may thereby be made necessary, and the Company agrees to promptly file any amendments to the Registration Statement or the Final Prospectus which may thereby be made necessary, and (ii) the respective numbers of Securities to be purchased by the remaining Underwriters or substituted Underwriters shall be taken as the basis of their underwriting obligation for all purposes of this Agreement. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or any other Underwriter for damages occasioned by its default hereunder. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of any non-defaulting Underwriters or the Company, except that the obligations with respect to expenses to be paid or reimbursed pursuant to Section 5(a)(viii) and Section 7 and Sections 9 through 17, inclusive, shall not terminate and shall remain in full force and effect.

***11.*** **[Intentionally Omitted]**.

***12. Notices***. All notices and communications hereunder shall be in writing and mailed or delivered or by telephone, electronic mail or telegraph if subsequently confirmed in writing, (a) if to the Representative, WallachBeth Capital LLC, Harborside Financial Center Plaza 5, 185 Hudson Street, Ste 1410, Jersey City, NJ 07311, with a copy (which shall not constitute notice) to David Ficksman, Esq., TroyGould PC, 1801 Century Park East, Suite 1600, Los Angeles, CA 90067 and (b) if to the Company, to the Company's agent for service as such agent's address appears on the cover page of the Registration Statement with a copy (which shall not constitute notice) to Carmel, Milazzo & Feil LLP, 55 West 39th Street, 4th Floor, New York, NY 10018, Attention: Ross Carmel, Esq.

***13. Persons Entitled to Benefit of Agreement***. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns and the controlling persons, officers and directors referred to in Section 7. Nothing in this Agreement is intended or shall be construed to give to any other person, firm or corporation any legal or equitable remedy or claim under or in respect of this Agreement or any provision herein contained. The term "successors and assigns" as herein used shall not include any purchaser, as such purchaser, of any of the Shares from any Underwriters.

***14. Absence of Fiduciary Relationship***. The Company acknowledges and agrees that: (a) each Underwriter has been retained solely to act as underwriter in connection with the sale of the Securities and that no fiduciary, advisory or agency relationship between the Company and any Underwriter has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether the Underwriter has advised or is advising the Company on other matters; (b) the price and other terms of the Securities set forth in this Agreement were established by the Company following discussions and arms-length negotiations with the Underwriters and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement; (c) it has been advised that the Underwriters and their affiliates are engaged in a broad range of transactions that may involve interests that differ from those of the Company and that no Underwriter has any obligation to disclose such interest and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and (d) it has been advised that each Underwriter is acting, in respect of the transactions contemplated by this Agreement, solely for the benefit of such Underwriter, and not on behalf of the Company.

***15. Amendments and Waivers***. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. The failure of a party to exercise any right or remedy shall not be deemed or constitute a waiver of such right or remedy in the future. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (regardless of whether similar), nor shall any such waiver be deemed or constitute a continuing waiver unless otherwise expressly provided.

***16. Partial Unenforceability***. The invalidity or unenforceability of any section, paragraph, clause or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph, clause or provision.

***17. Governing Law***. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

***18. Submission to Jurisdiction***. The Company hereby agrees that any action, proceeding or claim against it arising out of, or relating in any way to this Agreement shall be brought and enforced in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum. EACH OF THE COMPANY (ON BEHALF OF ITSELF AND, TO THE FULLEST EXTENT PERMITTED BY LAW, ON BEHALF OF ITS RESPECTIVE EQUITY HOLDERS AND CREDITORS) AND THE UNDERWRITER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED UPON, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE REGISTRATION STATEMENT, THE TIME OF SALE DISCLOSURE PACKAGE, ANY PROSPECTUS AND THE FINAL PROSPECTUS.

***19. Counterparts***. This Agreement may be executed and delivered (including by facsimile transmission or electronic mail) in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original and all such counterparts shall together constitute one and the same instrument.

[*Signature Page Follows*]

Please sign and return to the Company the enclosed duplicates of this letter whereupon this letter will become a binding agreement between the Company and the several Underwriters in accordance with its terms.

Very truly yours,

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Name: _____
Title: _____

Confirmed as of the date first above-mentioned by the Representative of the several Underwriters.

**WALLACHBETH CAPITAL LLC**

By: _____
Name: _____
Title: _____

[Signature page to Underwriting Agreement]

**SCHEDULE I**

**Schedule of Underwriters**

| *Underwriter* | *Number of Firm Securities to be Purchased* | *Total Number of Option Securities to be Purchased* | |
|---|---|---|---|
| | Number of Firm Units | Number of Option Shares | Number of Option Warrants |
| WallachBeth Capital LLC | | | |
| **Total** | | | |

**SCHEDULE II**

**Pricing Information**

Number of Firm Units:

Number of Option Shares:

Number of Option Tradeable Warrants:

Number of Option Non-tradeable Warrants:

Public Offering Price per Firm Unit: $[●]

Public Offering Price per Option Share: $[●]

Public Offering Price per Option Tradeable Warrant: $0.15

Public Offering Price per Option Non-tradeable Warrant: $0.15

Underwriting Discount per Firm Unit: (8% per Firm Unit)

Underwriting non-accountable expense allowance per Firm Unit: (1.5% per Firm Unit)

**SCHEDULE III**

**Free Writing Prospectus**

None.

**SCHEDULE IV**

**Lock-Up Parties**

- Geoffrey Dow
- Tyrone Miller
- Bryan Smith
- Charles Allen
- Cheryl Xu
- Stephen Toovey
- Paul Field

**EXHIBIT A**
**Form of Lock-Up Agreement**
(*See attached*.)

**Exhibit 3.1**

# Delaware

The First State



***I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "60 DEGREES PHARMACEUTICALS, INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF JUNE, A.D. 2022, AT 8 O'CLOCK A.M.***

/s/ Jeffrey W. Bullock
Jeffrey W. Bullock, Secretary Of State

Authentication: 203562558
Date: 06-01-22

6829222 8100
SR# 20222549773

You may verify this certificate online at corp.delaware.gov/authver.shtml

**CERTIFICATE OF INCORPORATION OF 60 DEGREES PHARMACEUTICALS, INC.**

I, the undersigned, for the purpose of creating and organizing a corporation under the provisions of and subject to the requirements of the General Corporation Law of the State of Delaware (the "**DGCL"),** certify as follows:

1. The name of the corporation is 60 Degrees Pharmaceuticals, Inc. (the **"Corporation").**

2. The address of the registered office of the Corporation in the State of Delaware is 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808. The name of the registered agent of the Corporation at such address is Corporation Service Company.

3. The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

4. The total number of shares of common stock which the Corporation is authorized to issue is 150,000,000, at a par value of $.0001 per share, and the total number of shares of preferred stock which the Corporation is authorized to issue is 1,000,000, at a par value of $.0001 per share.

5. The board of directors is hereby expressly authorized to provide, out of the unissued shares of preferred stock, for one or more series of preferred stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers, if any, of the shares of such series, and the preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series. The powers, preferences and relative, participating, optional and other special rights of each series of preferred stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

6. The name and mailing address of the incorporator of the Corporation are:

| Name | Mailing Address |
|---|---|
| GEOFFREYS, DOW | 1025 Connecticut Avenue, NW<br>Suite 1000<br>Washington, District of Columbia 20036 |

7. Unless and except to the extent that the by-laws of the Corporation (the **"By-laws")** shall so require, the election of directors of the Corporation need not be by written ballot.

**State of Delaware**
**Secretary of State**
**Division of Corporations**
**Delivered 07:56 AM 06/01/2022**
**FILED 08:00 AM 06/01/2022**
**SR 20222549773 - File Number 6829222**

8. To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or to its stockholders for monetary damages for any breach of fiduciary duty as a director. No amendment to, modification of or repeal of this paragraph 8 shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

9. The Corporation shall indemnify, advance expenses, 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 for claims for indemnification (following the final disposition of such Proceeding) or advancement of expenses not paid in full, 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. Any amendment, repeal or modification of this paragraph 9 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.

10. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to adopt, amend or repeal the By-laws or adopt new By-laws without any action on the part of the stockholders; provided that any By-law adopted or amended by the board of directors, and any powers thereby conferred, may be amended, altered or repealed by the stockholders.

11. The Corporation shall have the right, subject to any express provisions or restrictions contained in this Certificate of Incorporation of the Corporation (the **"Certificate of Incorporation")** or the By-laws, from time to time, to amend, alter or repeal any provision of the Certificate of Incorporation in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the Corporation by this Certificate of Incorporation or any amendment thereof are conferred subject to such right.

12. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL, this Certificate of Incorporation or the By-laws or (iv) any action asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein.

I, THE UNDERSIGNED, being the incorporator, for the purpose of forming a corporation pursuant to the DGCL, do make this Certificate of Incorporation, hereby acknowledging, declaring, and certifying that the foregoing Certificate of Incorporation is my act and deed and that the facts herein stated are true, and have accordingly hereunto set my hand this 1st day of June, 2022.

Incorporator
By /s/ GEOFFREY S. DOW
GEOFFREY S. DOW

# Delaware

The First State

***I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DESIGNATION OF "60 DEGREES PHARMACEUTICALS, INC.", FILED IN THIS OFFICE ON THE ELEVENTH DAY OF APRIL, A.D. 2023, AT 4:26 O'CLOCK P.M.***


6829222 8100
SR# 20231393697

Authentication: 203121689
Date: 04-12-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

**CERTIFICATE OF DESIGNATION OF SERIES A NON-VOTING CONVERTIBLE PREFERRED STOCK OF 60 DEGREES PHARMACEUTICALS, INC.**

Pursuant to Section 151 of the General Corporation Law of the State of Delaware, 60 Degrees Pharmaceuticals, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), in accordance with the provisions of Section 103 thereof, does hereby submit the following:

WHEREAS, the Certificate of Incorporation of the Corporation (the **"Certificate of Incorporation"**) authorizes the issuance of up to 1,000,000 shares of preferred stock, par value $0.0001 per share, of the Corporation (**"Preferred Stock"**) in one or more series, and expressly authorizes the Board of Directors of the Corporation (the **"Board"**), subject to limitations prescribed by law, to provide, out of the unissued shares of Preferred Stock, for series of Preferred Stock, and, with respect to each such series, to establish and fix the number of shares to be included in any series of Preferred Stock and the designation, rights, preferences, powers, restrictions and limitations of the shares of such series; and

WHEREAS, it is the desire of the Board to establish and fix the number of shares to be included in a new series of Preferred Stock and the designation, rights, preferences and limitations of the shares of such new series.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby provide for the issue of a series of Preferred Stock and does hereby in this Certificate of Designation (the **"Certificate of Designation"**) establish and fix and herein state and express the designation, rights, preferences, powers, restrictions and limitations of such series of Preferred Stock as follows:

1. Designation. There shall be a series of Preferred Stock that shall be designated as "Series A Non-Voting Convertible Preferred Stock" (the "**Series A Preferred Stock**") and the number of Shares constituting such series shall be 80,965. The rights, preferences, powers, restrictions and limitations of the Series A Preferred Stock shall be as set forth herein.

2. Defined Terms. For purposes hereof, the following terms shall have the following meanings:

**"Board"** has the meaning set forth in the Recitals.

**"Certificate of Designation"** has the meaning set forth in the Recitals,

**"Certificate of Incorporation"** has the meaning set forth in the Recitals.

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:26 PM 04/11/2023
FILED 04:26 PM 04/11/2023
SR 20231393697 - File Number 6829222

**"Conversion Price"** has the meaning set forth in **Section 6.1.**

**"Common Stock"** means the Common Stock, par value $0,0001 per share, of the Corporation.

**"Corporation"** has the meaning set forth in the Preamble.

**"Date of Issuance"** means, for any Share of Series A Preferred Stock, the date of closing of a Qualified IPO by the Company.

**"Dividend Payment Date"** has the meaning set forth in **Section 4.1.**

**"Junior Securities"** means, collectively, the Common Stock and any other class of securities that is specifically designated as junior to the Series A Preferred Stock.

**"Liquidation Value"** means, with respect to any Share on any given date, $100.00 (as adjusted for any stock splits, stock dividends, recapitalizations or similar transaction with respect to the Series A Preferred Stock).

**"Qualified IPO"** means any public listing occurring prior to December 31st 2023, which results in gross proceeds for the Company of more than $7 million.

**"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

**"Preferred Stock"** has the meaning set forth in the Recitals.

**"Series A Preferred Stock"** has the meaning set forth in **Section 1.**

**"Share"** means a share of Series A Preferred Stock.

**"Subsidiary"** means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors or comparable managers are owned, directly or indirectly, by the first Person.

3. Rank; No Voting Rights. With respect to payment of dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, all Shares of the Series A Preferred Stock shall rank senior to all Junior Securities. The Series A Preferred Stock shall not have any voting rights.

4. Dividends.

4.1 Accrual and Payment of Dividends. From and after the Date of Issuance of any Share, cumulative dividends on such Share shall accrue, whether or not declared by the Board and whether or not there are funds legally available for the payment of dividends, on a daily basis in arrears at the rate of 6.0% *per annum* on the sum of the Liquidation Value thereof plus all unpaid accrued and accumulated dividends thereon. All accrued dividends on any Share shall be paid in cash only when, as and if declared by the Board out of funds legally available therefor or upon a liquidation or redemption of the Series A Preferred Stock in accordance with the provisions of **Section 5;** *provided*, that to the extent not paid on March 31 of each calendar year (a **"Dividend Payment Date"),** all accrued dividends on any share shall accumulate and compound on the applicable Dividend Payment Date whether or not declared by the Board and shall remain accumulated, compounding dividends until paid pursuant hereto or converted pursuant to **Section 6.** All accrued and accumulated dividends on the Shares shall be prior and in preference to any dividend on any Junior Securities and shall be fully declared and paid before any dividends are declared and paid, or any other distributions or redemptions are made, on any Junior Securities.

4.2 Partial Dividend Payments. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued and accumulated with respect to the Series A Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the aggregate accrued and accumulated but unpaid dividends on the Shares held by each such holder.

5. Liquidation.

5.1 Liquidation. Subject to **Section** 6, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of Shares of Series A Preferred Stock then outstanding shall share ratably in any distribution of the remaining assets and funds of the Corporation with all other stockholders of the Corporation as if each Share of Series A Preferred Stock had been converted by the Company as described in **Section 6.**

5.2 Notice. In the event of any liquidation, the Corporation shall, within ten (10) days of the date the Board approves such action, or no later than twenty (20) days of any stockholders' meeting called to approve such action, or within twenty (20) days of the commencement of any involuntary proceeding, whichever is earlier, give each holder of Shares of Series A Preferred Stock written notice of the proposed action.

6. Conversion.

6.1 Conversion by the Corporation. Subject to the provisions of this **Section 6** the Corporation shall have the right, exercisable in its sole discretion, to convert all or any portion of the outstanding Shares of Series A Preferred Stock (including any fraction of a Share) held by the holders thereof along with the aggregate accrued or accumulated and unpaid dividends thereon into an aggregate number of shares of Common Stock (including any fraction of a share) as is determined by (i) multiplying the number of Shares (including any fraction of a Share) to be converted by the Liquidation Value thereof, (ii) adding to the result all accrued and accumulated and unpaid dividends on such Shares to be converted, and then (ii) dividing the result by the Conversion Price in effect immediately prior to such conversion, provided that such conversion would not result in the holders of shares of Series A Preferred Stock owning more than 19.9% of the shares of the Corporation's Common Stock on an as-converted basis. The **"Conversion Price"** shall be the *lesser of* (a) the Liquidation Value of such Share, (b) the price per share of Common Stock determined in any initial public offering of the Corporation's Common Stock, or (c) the 10-day volume weighted average price per share of Common Stock as reasonably determined by the Corporation.

6.2 Procedures for Conversion; Effect of Conversion.

(a) Procedures for Holder Conversion. Upon a conversion of Shares of Series A Preferred Stock pursuant to **Section 6.1,** each holder shall surrender to the Corporation the certificate or certificates representing the Shares being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto) or, in the event the certificate or certificates are lost, stolen or missing, accompanied by an affidavit of loss executed by the holder. The conversion of such Shares hereunder shall be deemed effective as of the date of surrender of such Series A Preferred Stock certificate or certificates or delivery of such affidavit of loss. Upon the receipt by the Corporation of the surrender of such certificate(s) and accompanying materials, the Corporation shall as promptly as practicable (but in any event within ten (10) days thereafter) deliver to the relevant holder (a) a certificate in such holder's name (or the name of such holder's designee as stated in the written election) for the number of shares of Common Stock (including any fractional share) to which such holder shall be entitled upon conversion of the applicable Shares as calculated pursuant to **Section 6.1** and, if applicable (b) a certificate in such holder's (or the name of such holder's designee as stated in the written election) for the number of Shares of Series A Preferred Stock (including any fractional share) represented by the certificate or certificates delivered to the Corporation for conversion.

(b) Effect of Conversion. All Shares of Series A Preferred Stock converted as provided in this **Section 6.1** shall no longer be deemed outstanding as of the effective time of the applicable conversion and all rights with respect to such Shares shall immediately cease and terminate as of such time, other than the right of the holder to receive shares of Common Stock and payment in lieu of any fraction of a Share in exchange therefor.

7. Reissuance of Series A Preferred Stock. Any Shares of Series A Preferred Stock redeemed, converted or otherwise acquired by the Corporation or any Subsidiary shall be cancelled and retired as authorized and issued shares of capital stock of the Corporation and no such Shares shall thereafter be reissued, sold or transferred.

8. Notices. Except as otherwise provided herein, all notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent (a) to the Corporation, at its principal executive offices and (b) to any stockholder, at such holder's address at it appears in the stock records of the Corporation (or at such other address for a stockholder as shall be specified in a notice given in accordance with this **Section 8**).

9. Amendment and Waiver. No provision of this Certificate of Designation may be amended, modified or waived except by an instrument in writing executed by the Corporation and Geoffrey S. Dow or his designee, and any such written amendment, modification or waiver will be binding upon the Corporation and each holder of Series A Preferred Stock; *provided, further*, that no amendment, modification or waiver of the terms or relative priorities of the Series A Preferred Stock may be accomplished by the merger, consolidation or other transaction of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders in accordance with this **Section 99.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Certificate of Designation is executed on behalf of the Corporation by its President and Chief Executive Officer this 7th day of April, 2023.

60 Degrees Pharmaceuticals, Inc.

By: /s/ *Geoffrey S. Dow*
Name: Geoffrey S. Dow
Title: CEO

# Delaware

The First State

***I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CORRECTED CERTIFICATE OF "60 DEGREES PHARMACEUTICALS, INC.", FILED IN THIS OFFICE ON NINETEENTH DAY OF APRIL, A.D. 2023, AT 12:24 O`CLOCK P.M.***


6829222 8100
SR# 20231519698
You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 203172061
Date: 04-19-23

**CERTIFICATE OF CORRECTION TO**
**CERTIFICATE OF INCORPORATION OF**
**60 DEGREES PHARMACEUTICALS, INC.**

60 Degrees Pharmaceuticals, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is 60 Degrees Pharmaceuticals, Inc. The Corporation's Certificate of Incorporation (the "Certificate of Incorporation") was filed with the Secretary of State of the State of Delaware on June 1,2022.

2. The Certificate of Incorporation requires correction as permitted by Section 103(f) of the General Corporation Law of the State of Delaware.

3. The inaccuracy or defect of the Certificate of Incorporation is the inadvertent exclusion of the last sentence in paragraph 12.

4. The Certificate of Incorporation is corrected to read in its entirety as attached hereto as Exhibit A.

IN WITNESS WHEREOF, 60 Degrees Pharmaceuticals, Inc. has caused this Certificate of Correction to Certificate of Incorporation to be signed by Geoffrey Dow, a duly authorized officer of the Corporation, on April 17, 2023.

*/s/ Geoffrey Dow*
Geoffrey Dow
President and Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:24 PM 04/19/2023
FILED 12:24 PM 04/19/2023
SR 20231519698 - File Number 6829222

**EXHIBIT A**

**CERTIFICATE OF INCORPORATION OF 60 DEGREES PHARMACEUTICALS, INC.**

I, the undersigned, for the purpose of creating and organizing a corporation under the provisions of and subject to the requirements of the General Corporation Law of the State of Delaware (the **"DGCL"),** certify as follows:

1. The name of the corporation is 60 Degrees Pharmaceuticals, Inc. (the **"Corporation").**

2. The address of the registered office of the Corporation in the State of Delaware is 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808. The name of the registered agent of the Corporation at such address is Corporation Service Company.

3. The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

4. The total number of shares of common stock which the Corporation is authorized to issue is 150,000,000, at a par value of $.0001 per share, and the total number of shares of preferred stock which the Corporation is authorized to issue is 1,000,000, at a par value of $.0001 per share.

5. The board of directors is hereby expressly authorized to provide, out of the unissued shares of preferred stock, for one or more series of preferred stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers, if any, of the shares of such series, and the preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series. The powers, preferences and relative, participating, optional and other special rights of each series of preferred stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

6. The name and mailing address of the incorporator of the Corporation are:

| Name | Mailing Address |
|---|---|
| GEOFFREY S. DOW | 1025 Connecticut Avenue, NW<br>Suite 1000<br>Washington, District of Columbia 20036 |

7. Unless and except to the extent that the by-laws of the Corporation (the **"By-laws")** shall so require, the election of directors of the Corporation need not be by written ballot.

8. To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or to its stockholders for monetary damages for any breach of fiduciary duty as a director. No amendment to, modification of or repeal of this paragraph 8 shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

9. The Corporation shall indemnify, advance expenses, 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 for claims for indemnification (following the final disposition of such Proceeding) or advancement of expenses not paid in full, 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. Any amendment, repeal or modification of this paragraph 9 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.

10. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to adopt, amend or repeal the By-laws or adopt new By-laws without any action on the part of the stockholders; provided that any By-law adopted or amended by the board of directors, and any powers thereby conferred, may be amended, altered or repealed by the stockholders.

11. The Corporation shall have the right, subject to any express provisions or restrictions contained in this Certificate of Incorporation of the Corporation (the **"Certificate of Incorporation")** or the By-laws, from time to time, to amend, alter or repeal any provision of the Certificate of Incorporation in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the Corporation by this Certificate of Incorporation or any amendment thereof are conferred subject to such right.

12. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL, this Certificate of Incorporation or the By-laws or (iv) any action asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. This paragraph 12 does not apply to claims arising under United States federal securities laws.

I, THE UNDERSIGNED, being the incorporator, for the purpose of forming a corporation pursuant to the DGCL, do make this Certificate of Incorporation, hereby acknowledging, declaring, and certifying that the foregoing Certificate of Incorporation is my act and deed and that the facts herein stated are true, and have accordingly hereunto set my hand this 1st day of June, 2022.

Incorporator

By /s/ GEOFFREY S. DOW
GEOFFREY S. DOW

# AMENDED AND RESTATED BYLAWS
# OF
# 60 DEGREES PHARMACEUTICALS, INC.

**(A DELAWARE CORPORATION)**

## ARTICLE I
## OFFICES

Section 1.1 Registered Office. The registered office of the corporation in the State of Delaware is 251 Little Falls Drive, Wilmington, Delaware 19808 or in such other location as the Board of Directors of the corporation (the "Board of Directors") may from time to time determine or the business of the corporation may require.

Section 1.2 Other Offices. The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the corporation may require.

## ARTICLE II
## CORPORATE SEAL

Section 2.1 Corporate Seal. The Board of Directors may adopt a corporate seal. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

## ARTICLE III
## STOCKHOLDERS' MEETINGS

Section 3.1 Place of Meetings. Meetings of the stockholders of the corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law ("DGCL").

Section 3.2 Annual Meeting.

(a) The annual meeting of the stockholders of the corporation, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the corporation's notice of meeting of stockholders, (ii) by or at the direction of the Board of Directors, or (iii) by any stockholder of the corporation who was a stockholder of record at the time of giving of notice provided for in the following paragraph, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a) of this Section,

(i) the stockholder must have given timely notice thereof in writing to the Secretary of the corporation,

(ii) such other business must be a proper matter for stockholder action under the DGCL and applicable law,

(iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the corporation with a Solicitation Notice (as defined in this paragraph), such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the corporation's voting shares reasonably believed by such stockholder or beneficial owner to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice, and

(iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposed to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and Rule 14a-4(d) thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (ii) the class and number of shares of the corporation that are owned beneficially and of record by such stockholder and such beneficial owner, and (iii) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of the proposal, at least the percentage of the corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent, a "Solicitation Notice").

(c) Notwithstanding anything in the second sentence of paragraph (b) of this Section to the contrary, in the event that the number of directors to be elected to the Board of Directors of the corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the corporation at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the corporation.

(d) Only such persons who are nominated in accordance with the procedures set forth in this Section (or elected or appointed pursuant to Article IV of these Bylaws) shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section. Except as otherwise provided by law, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(e) Notwithstanding the foregoing provisions of this Section, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation proxy statement pursuant to Rule 14a-8 under the 1934 Act.

(f) For purposes of this Section, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service, or in a document publicly filed by the corporation with the Securities and Exchange Commission (the "SEC") pursuant to Section 13, 14, or 15(d) of the 1934 Act.

Section 3.3 Special Meetings.

(a) Special meetings of the stockholders of the corporation may be called, for any purpose or purposes, by (i) the Chairman of the Board of Directors, (ii) the Chief Executive Officer, (iii) the Board of Directors pursuant to a resolution adopted by directors representing a quorum of the Board of Directors, or (iv) by the holders of shares entitled to cast not less than 50% of the votes at the meeting, and shall be held at such place, on such date, and at such time as the Board of Directors shall fix.

(b) If a special meeting is properly called by any person or persons other than the Board of Directors, the request shall be in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by certified or registered mail, return receipt requested, or by telegraphic or other facsimile transmission to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The Board of Directors shall determine the time and place of such special meeting, which shall be held not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt of the request. Upon determination of the time and place of the meeting, the officer receiving the request shall cause notice to be given to the stockholders entitled to vote, in accordance with the provisions of these Bylaws. Nothing contained in this paragraph (b) shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

Section 3.4 Notice of Meetings. Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders 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 such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at any such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his or her attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder 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. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

Section 3.5 Quorum. At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of one-third (1/3) of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

Section 3.6 Adjournment and Notice of Adjourned Meetings. Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairman of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, 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 pursuant to the Certificate of Incorporation, these Bylaws or applicable law. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 3.7 Voting Rights. For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote or execute consents shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

Section 3.8 Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his or her act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest.

Section 3.9 List of Stockholders. The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, 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, on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

Section 3.10 Action Without Meeting.

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of the stockholders, or any action which may 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 in writing, or by electronic transmission 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.

(b) Every written consent or electronic transmission shall bear the date of signature of each stockholder who signs the consent, and no written consent or electronic transmission shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered to the corporation in the manner herein required, written consents or electronic transmissions signed by a sufficient number of stockholders to take action are delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing or by electronic transmission and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take action were delivered to the corporation as provided in Section 228(c) of the DGCL. If the action to which the stockholders' consent is such as would have required the filing of a certificate under any section of the DGCL if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

(d) An electronic mail, facsimile or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section, provided that any such electronic mail, facsimile or other electronic transmission sets forth or is delivered with information from which the corporation can determine

(e) that the electronic mail, facsimile or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder and the date on which such stockholder or proxyholder or authorized person or persons transmitted such electronic mail, facsimile or electronic transmission. The date on which such electronic mail, facsimile or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic mail, facsimile or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the state of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by electronic mail, facsimile or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the board of directors of the corporation. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Section 3.11 Organization.

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer, or, if the Chief Executive Officer is absent, a chairman of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairman. The Secretary, or, in his or her absence, an Assistant Secretary directed to do so by the Chief Executive Officer, shall act as secretary of the meeting.

(b) The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

## ARTICLE IV
## DIRECTORS

Section 4.1 Number and Term of Office. The authorized number of directors of the corporation shall be fixed by the Board of Directors from time to time. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient.

Section 4.2 Powers. The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

Section 4.3 Term of Directors.

(a) Directors shall be elected at each annual meeting of stockholders to serve until the next annual meeting of stockholders and his or her successor is duly elected and qualified or until his or her death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(b) No person entitled to vote at an election for directors may cumulate votes to which such person is entitled.

Section 4.4 Vacancies. Unless otherwise provided in the Certificate of Incorporation, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director; provided, however, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director’s successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

Section 4.5 Resignation. Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made, it shall be deemed effective at the pleasure of the Board of Directors. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office for the unexpired portion of the term of the Director whose place shall be vacated and until his successor shall have been duly elected and qualified.

Section 4.6 Removal. Subject to any limitations imposed by applicable law, the Board of Directors or any director may be removed from office at any time (i) with cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors or (ii) without cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the corporation, entitled to elect such director.

Section 4.7 Meetings.

(a) *Regular Meetings*. Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, including a voice-messaging system or other system designated to record and communicate messages, facsimile, or by electronic mail or other electronic means. No further notice shall be required for a regular meeting of the Board of Directors.

(b) *Special Meetings*. Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board, the Chief Executive Officer (if a director), or any director.

(c) *Meetings by Electronic Communications Equipment*. Any member of the Board of Directors, or of any committee thereof, may participate in a meeting 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 by such means shall constitute presence in person at such meeting.

(d) *Notice of Special Meetings*. Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, postage prepaid at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

(e) *Waiver of Notice*. The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 4.8 Quorum and Voting.

(a) Unless the Certificate of Incorporation requires a greater number, a quorum of the Board of Directors shall consist of a majority of the total number of directors then serving; provided, however, that such number shall never be less than one-third (1/3) of the total number of directors except that when one director is authorized, then one director shall constitute a quorum. At any meeting, whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting. If the Certificate of Incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in this Section to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these Bylaws.

Section 4.9 Action Without Meeting. 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 committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.10 Fees and Compensation. Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

Section 4.11 Committees.

(a) *Executive Committee*. The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and 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; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any bylaw of the corporation.

(b) *Other Committees*. The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) *Term*. The Board of Directors, subject to the provisions of paragraphs (a) or (b) of this Section may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his or her death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. 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, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) *Meetings*. Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special 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. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

Section 4.12 Organization. At every meeting of the Board of Directors, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer (if a director), or if the Chief Executive Officer is not a director or is absent, the President (if a director), or if the President is not a director or is absent, the most senior Vice President (if a director) or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his or her absence, any Assistant Secretary directed to do so by the Chief Executive Officer or President, shall act as secretary of the meeting.

## ARTICLE V
## OFFICERS

Section 5.1 Officers Designated. The officers of the corporation shall include, if and when designated by the Board of Directors, the President and the Secretary, all of whom shall be elected at the annual organizational meeting of the Board of Directors. If there is no Chief Executive Officer appointed, then the President shall also serve as the Chief Executive Officer of the corporation and shall have the powers and duties prescribed in Section 5.2(c). The Board of Directors may also appoint one or more Assistant Secretaries, Assistant Treasurers, Assistant Controllers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 5.2 Tenure and Duties of Officers.

(a) *General*. All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors, or by the Chief Executive Officer or other officer if so authorized by the Board of Directors.

(b) *Duties of Chairman of the Board of Directors*. The Chairman of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors. The Chairman of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. If there is no Chief Executive Officer and no President, then the Chairman of the Board of Directors shall also serve as the Chief Executive Officer of the corporation and shall have the powers and duties prescribed in paragraph (c) of this Section.

(c) *Duties of Chief Executive Officer*. The Chief Executive Officer shall preside at all meetings of the stockholders and (if a director) at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. The Chief Executive Officer shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The Chief Executive Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(d) *Duties of President*. In the absence or disability of the Chief Executive Officer or if the office of Chief Executive Officer is vacant, the President shall preside at all meetings of the stockholders and (if a director) at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. If the office of Chief Executive Officer is vacant, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(e) *Duties of Vice Presidents*. The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(f) *Duties of Secretary*. The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The Chief Executive Officer may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time.

(g) *Duties of Chief Financial Officer*. The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the Chief Executive Officer. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to his or her office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time. The Chief Executive Officer may direct the Treasurer or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time.

Section 5.3 Delegation of Authority. The Board of Directors may from time-to-time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

Section 5.4 Resignations. Any officer may resign at any time by giving notice in writing or by electronic transmission notice to the Board of Directors or to the Chief Executive Officer or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer.

Section 5.5 Removal. Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written or electronic consent of the directors in office at the time, or by any committee or superior officers upon whom such power of removal may have been conferred by the Board of Directors.

## ARTICLE VI
## EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

Section 6.1 Execution of Corporate Instruments. The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation. All checks and drafts drawn on banks or other depositaries of funds to the credit of the corporation or on special accounts of the corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do. Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 6.2 Voting of Securities Owned by the Corporation. All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairman of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

## ARTICLE VII
## SHARES OF STOCK

Section 7.1 Form and Execution of Certificates. The shares of the corporation shall be represented by certificates or shall be uncertificated. Certificates for the shares of stock, if any, of the corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of shares of stock in the corporation represented by certificate shall be entitled to have a certificate signed by or in the name of the corporation by any two authorized officers, including but not limited to the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him or her in the corporation. Any or all of the signatures on the certificate may be facsimiles. 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 with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue.

Section 7.2 Lost Certificates. A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

Section 7.3 Restrictions on Transfer.

(a) The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the sale, transfer, assignment, pledge, or other disposal of or encumbering of any of the shares of stock of the corporation or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise (each, a "Transfer") of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

(b) Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(c) If the stockholder desires to sell or otherwise Transfer any of his or her shares of stock, then the stockholder shall first give written notice thereof to the corporation. The notice shall name the proposed transferee and state the number of shares to be transferred, the proposed consideration, and all other terms and conditions of the proposed Transfer.

Section 7.4 Fixing Record Dates.

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix, in advance, 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, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. 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 immediately preceding the day on which notice is given, or if notice is waived, at the close of business on the day immediately 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 the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to 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 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. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, 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 by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) 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 the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no 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.

Section 7.5 Registered Stockholders. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

## ARTICLE VIII
## FISCAL YEAR

Section 8.1 Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

## ARTICLE IX
## INDEMNIFICATION

Section 9.1 Indemnification of Directors, Executive Officers, Employees and Other Agreements.

(a) *Directors and Executive Officers*. The corporation shall indemnify its directors and executive officers (for the purposes of this Article, "executive officers" shall have the meaning defined in Rule 3b-7 promulgated under the 1934 Act) to the fullest extent not prohibited by the DGCL or any other applicable law; provided, however, that the corporation may modify the extent of such indemnification by individual contracts with its directors and executive officers; and, provided, further, that the corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the corporation, (iii) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under paragraph (d) of this Section.

(b) *Other Officers, Employees and Other Agents*. The corporation shall have power to indemnify its other officers, employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person except executive officers to such officers or other persons as the Board of Directors shall determine.

(c) *Expenses*. The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or executive officer of the corporation, or is or was serving at the request of the corporation as a director or executive officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding; provided, however, that, if the DGCL requires, an advancement of expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Section, no advance shall be made by the corporation to an executive officer of the corporation (except by reason of the fact that such executive officer is or was a director of the corporation, in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of a quorum consisting of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

(d) *Enforcement*. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Section shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director or executive officer. Any right to indemnification or advances granted by this Section to a director or executive officer or officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the corporation) for advances, the corporation shall be entitled to raise as a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his or her conduct was lawful. Neither the failure of the corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct.

(e) *Non-Exclusivity of Rights*. The rights conferred on any person by this Section shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL or any other applicable law.

(f) *Survival of Rights*. The rights conferred on any person by this Section shall continue as to a person who has ceased to be a director or executive officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) *Insurance*. To the fullest extent permitted by the DGCL, or any other applicable law, the corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Section.

(h) *Amendments*. Any repeal or modification of this Section shall only be prospective and shall not affect the rights under this Bylaws in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the corporation.

(i) *Saving Clause*. If this Section or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of this Bylaw that shall not have been invalidated, or by any other applicable law. If this Section shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the corporation shall indemnify each director and executive officer to the full extent under applicable law.

(j) *Certain Definitions*. For the purposes of this Section, the following definitions shall apply:

(i) The term “proceeding” shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(ii) The term “expenses” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(iii) The term the “corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(iv) References to a “director,” “executive officer,” “officer,” “employee,” or “agent” of the corporation shall include, without limitation, situations where such person is serving at the request of the corporation as, respectively, a director, executive officer, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(v) References to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation 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 reasonably believed to be in the interest 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 corporation" as referred to in this Section.

## ARTICLE X
## NOTICES

Section 10.1 Notices.

(a) *Notice to Stockholders*. Written notice to stockholders of stockholder meetings shall be given as provided in these Bylaws. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by United States mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

(b) *Notice to Directors*. Any notice required to be given to any director may be given by the method stated in paragraph (a) of this Section, or as otherwise provided for in these Bylaws. If such notice is not delivered personally, it shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) *Affidavit of Mailing*. An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) *Methods of Notice*. It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) *Notice to Person with Whom Communication Is Unlawful*. Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) *Notice to Stockholders Sharing an Address*. Except as otherwise prohibited under DGCL, any notice given under the provisions of DGCL, the Certificate of Incorporation or the 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. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the corporation within 60 days of having been given notice by the corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the corporation.

## ARTICLE XI
## AMENDMENTS

Section 11.1 Amendments. The Board of Directors is expressly empowered to adopt, amend or repeal Bylaws of the corporation. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the corporation; provided, however, that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class.

## ARTICLE XII
## EMERGENCY BYLAWS

Section 12.1 Emergency Bylaws. This Article XII shall be operative during any emergency, disaster or catastrophe, as referred to in Section 110 of the DGCL, or other similar emergency condition (including, without limitation, a pandemic), as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action (each, an "Emergency"), notwithstanding any different or conflicting provision of the preceding Sections of these Bylaws or in the Certificate of Incorporation. To the extent not inconsistent with the provisions of this Article XII, the preceding Sections of these Bylaws and the provisions of the Certificate of Incorporation shall remain in effect during such Emergency, and upon termination of such Emergency, the provisions of this Article XII shall cease to be operative unless and until another Emergency shall occur.

Section 12.2 Meetings; Notice. During any Emergency, a meeting of the Board or any committee thereof may be called by any member of the Board or such committee or the Chair of the Board, the Chief Executive Officer, the President or the Secretary of the Corporation. Notice of the place, date and time of the meeting shall be given by any available means of communication by the person calling the meeting to such of the directors or committee members and Designated Officers (as defined below) as, in the judgment of the person calling the meeting, it may be feasible to reach. Such notice shall be given at such time in advance of the meeting as, in the judgment of the person calling the meeting, circumstances permit.

Section 12.3 Quorum. At any meeting of the Board called in accordance with Section 12.2 above, the presence or participation of one director shall constitute a quorum for the transaction of business, and at any meeting of any committee of the Board called in accordance with Section 12.2 above, the presence or participation of one committee member shall constitute a quorum for the transaction of business. In the event that no directors are able to attend a meeting of the Board, or any committee thereof, then the Designated Officers in attendance shall serve as directors, or committee members, as the case may be, for the meeting, without any additional quorum requirement and will have full powers to act as directors, or committee members, as the case may be, of the Corporation.

Section 12.4 Liability. No officer, director or employee of the Corporation acting in accordance with the provisions of this Article XII shall be liable except for willful misconduct.

Section 12.5 Amendments. At any meeting called in accordance with Section 12.2 above, the Board, or any committee thereof, as the case may be, may modify, amend or add to the provisions of this Article XII as it deems it to be in the best interests of the Corporation so as to make any provision that may be practical or necessary for the circumstances of the Emergency.

Section 12.6 Repeal or Change. The provisions of this Article XII shall be subject to repeal or change by further action of the Board or by action of the stockholders, but no such repeal or change shall modify the provisions of Section 12.4 above with regard to action taken prior to the time of such repeal or change.

Section 12.7 Definitions. For purposes of this Article XII, the term "Designated Officer" means an officer identified on a numbered list of officers of the Corporation who shall be deemed to be, in the order in which they appear on the list up until a quorum is obtained, directors of the Corporation, or members of a committee of the Board, as the case may be, for purposes of obtaining a quorum during an Emergency, if a quorum of directors or committee members, as the case may be, cannot otherwise be obtained during such Emergency, which officers have been designated by the Board from time to time but in any event prior to such time or times as an Emergency may have occurred.

**Exhibit 4.1**

**60 DEGREES PHARMACEUTICALS, INC.**
**COMMON STOCK PURCHASE WARRANT**

Warrant Shares:_____

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to 5:00 p.m. (New York City time) on [●] (the "Termination Date") but not thereafter, to subscribe for and purchase from 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Company"), up to _____ shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant shall initially be issued and maintained in the form of a security held in book-entry form and the Depository Trust Company or its nominee ("DTC") shall initially be the sole registered holder of this Warrant, subject to a Holder's right to elect to receive a Warrant in certificated form pursuant to the terms of the Warrant Agency Agreement, in which case this sentence shall not apply.

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Registration Statement" means the Company's registration statement on Form S-1 (File No. 333-269483).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Subsidiary" means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

"Trading Day" means a day on which the Common Stock is traded on a Trading Market.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTCQB or OTCQX (or any successors to any of the foregoing).

"Transfer Agent" means Equity Stock Transfer, LLC, the current transfer agent of the Company, and any successor transfer agent of the Company.

"Underwriting Agreement" means the underwriting agreement, dated as of [●], 2023, among the Company and WallachBeth Capital, LLC as representative of the underwriters named therein, as amended, modified or supplemented from time to time in accordance with its terms.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Common Stock Purchase Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"Warrant Agency Agreement" means that certain warrant agent agreement, dated on or about the Initial Exercise Date, between the Company and the Warrant Agent.

"Warrant Agent" means the Transfer Agent and any successor warrant agent of the Company.

"Warrants" means this Warrant and other Common Stock purchase warrants issued by the Company pursuant to the Registration Statement.

Section 2. Exercise.

a) Notwithstanding the foregoing in this Section 2(a), a holder whose interest in this Warrant is a beneficial interest in certificate(s) representing this Warrant held in book-entry form through DTC (or another established clearing corporation performing similar functions), shall effect exercises made pursuant to this Section 2(a) by delivering to DTC (or such other clearing corporation, as applicable) the appropriate instruction form for exercise, complying with the procedures to effect exercise that are required by DTC (or such other clearing corporation, as applicable), subject to a Holder's right to elect to receive a Warrant in certificated form pursuant to the terms of the Warrant Agency Agreement, in which case this sentence shall not apply.

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be $[●], subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares to the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), $10 per Trading Day (increasing to $20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise. Notwithstanding the foregoing, with respect to any Notice(s) of Exercise delivered on or prior to 12:00 p.m. (New York City time) on the Initial Exercise Date, which may be delivered at any time after the time of execution of the Underwriting Agreement, the Company agrees to deliver the Warrant Shares subject to such notice(s) by 4:00 p.m. (New York City time) on the Initial Exercise Date and the Initial Exercise Date shall be the Warrant Share Delivery Date for purposes hereunder, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by such Warrant Share Delivery Date.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of $10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that, in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% (or, upon election by a Holder prior to the issuance of any Warrants, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), *provided* that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61$^{st}$ day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Reserved.

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company or any Subsidiary, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding Common Stock (not including any Common Shares held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination)(each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of Common Stock (or shares of common stock, as applicable) of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, that, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black-Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting(A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the greater of (x) the last VWAP immediately prior to the public announcement of such Fundamental Transaction and (y) the last VWAP immediately prior to the consummation of such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds (or such other consideration) within five Business Days of the Holder's election (or, if later, on the date of consummation of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein.

f) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

g) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of its assets, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

h) Voluntary Adjustment By Company. Subject to the rules and regulations of the Trading Market, the Company may at any time during the term of this Warrant, subject to the prior written consent of the Holder, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. If this Warrant is not held in global form through DTC (or any successor depositary), this Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Warrant Agent shall register this Warrant, upon records to be maintained by the Warrant Agent for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company and the Warrant Agent may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a "cashless exercise" pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against a party hereto or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If either party shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding. **Notwithstanding the foregoing, this exclusive forum provision shall not apply to suits brought to enforce a duty or liability created by the Exchange Act, any other claim for which the federal courts have exclusive jurisdiction or any complaint asserting a cause of action arising under the Securities Act against us or any of our directors, officers, other employees or agents. Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder.**

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by e-mail, or sent by a nationally recognized overnight courier service, addressed to the Company, at 1025 Connecticut Avenue NW, Suite 1000, Washington DC 20036, Chief Executive Officer, Geoffrey Dow, email address: [●], or such other email address or address as the Company may specify for such purposes by notice to the Holders. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by e-mail, or sent by a nationally recognized overnight courier service addressed to each Holder at the e-mail address or address of such Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via e-mail at the e-mail address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via e-mail at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of the beneficial owner of this Warrant, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

o) Warrant Agency Agreement. If this Warrant is held in global form through DTC (or any successor depositary), this Warrant is issued subject to the Warrant Agency Agreement. To the extent any provision of this Warrant conflicts with the express provisions of the Warrant Agency Agreement, the provisions of this Warrant shall govern and be controlling.

**********

*(Signature Page Follows)*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Name:
Title:

**NOTICE OF EXERCISE**

**TO: 60 DEGREES PHARMACEUTICALS, INC.**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

[ ] in lawful money of the United States; or

[ ] if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please register and issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____

_____

_____

(4) Accredited Investor. If the Warrant is being exercised via cash exercise, the undersigned is an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended

[SIGNATURE OF HOLDER]

Name of Investing Entity:

_____

*Signature of Authorized Signatory of Investing Entity*:

_____

Name of Authorized Signatory:

_____

Title of Authorized Signatory:

_____

Date:

_____

**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant.)*

FOR VALUE RECEIVED, [ ] all of or [ ] shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name:

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated:_____ ___, _____

Holder's Signature: _____

Holder's Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

**Exhibit 4.2**

**[FORM OF NON-TRADEABLE WARRANT]**

**THE NUMBER OF SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE LESS THAN THE AMOUNTS SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 1(d) OF THIS WARRANT.**

**60 DEGREES PHARMACEUTICALS, INC.**

**NON-TRADEABLE WARRANT TO PURCHASE COMMON STOCK**

Warrant No.:
Date of Issuance: [●], 2023 ("Issuance Date")

60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Company"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, _____, the registered holder hereof or its permitted assigns (the "Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon exercise of this Warrant to Purchase shares of Common Stock (including any Warrants to Purchase shares of Common Stock issued in exchange, transfer or replacement hereof, the "Warrant"), at any time or times on or after the Issuance Date, but not after 11:59 p.m., New York time, on the Expiration Date (as defined below), [●] (subject to adjustment as provided herein) fully paid and non-assessable shares of Common Stock (as defined below) (the "Warrant Shares", and such number of Warrant Shares, the "Warrant Number"). Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 17. This Warrant is one of the Non-tradeable Warrants to Purchase Common Stock (the "Unregistered Warrants") issued pursuant to (i) the first paragraph of that certain Underwriting Agreement, dated as of [●], 2023 (the "Offering Date"), by and among the Company and the underwriter(s) referred to therein, as amended from time to time (the "Underwriting Agreement") and (ii) the Company's Registration Statement on Form S-1 (File No. 333-269483) (the "Registration Statement").

1. EXERCISE OF WARRANT.

(a) Mechanics of Exercise. Subject to the terms and conditions hereof (including, without limitation, the limitations set forth in Section 1(f)), this Warrant may be exercised by the Holder on any day on or after the Issuance Date (an "Exercise Date"), in whole or in part, by delivery (whether via facsimile, electronic mail or otherwise) of a written notice, in the form attached hereto as Exhibit A (the "Exercise Notice"), of the Holder's election to exercise this Warrant. Within one (1) Trading Day following an exercise of this Warrant as aforesaid, the Holder shall deliver payment to the Company of an amount equal to the Exercise Price in effect on the date of such exercise multiplied by the number of Warrant Shares as to which this Warrant was so exercised (the "Aggregate Exercise Price") in cash or via wire transfer of immediately available funds to the account specified by the Company in the wire instructions attached hereto as Exhibit B if the Holder did not notify the Company in such Exercise Notice that such exercise was made pursuant to a Cashless Exercise (as defined in Section 1(d)). The Holder shall not be required to deliver the original of this Warrant in order to effect an exercise hereunder. Execution and delivery of an Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original of this Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. Execution and delivery of an Exercise Notice for all of the then-remaining Warrant Shares shall have the same effect as cancellation of the original of this Warrant after delivery of the Warrant Shares in accordance with the terms hereof. On or before the first (1st) Trading Day following the date on which the Company has received an Exercise Notice, the Company shall transmit by facsimile or electronic mail an acknowledgment of confirmation of receipt of such Exercise Notice, in the form attached hereto as Exhibit C, to the Holder and the Company's Warrant Agent (the "Warrant Agent"), which confirmation shall constitute an instruction to the Warrant Agent to process such Exercise Notice in accordance with the terms herein. On or before the second (2nd) Trading Day following the date on which the Company has received such Exercise Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade of such Warrant Shares initiated on the applicable Exercise Date), the Company shall (i) provided that the Warrant Agent is participating in The Depository Trust Company ("DTC") Fast Automated Securities Transfer Program ("FAST Program"), upon the request of the Holder, credit such aggregate number of shares of Common Stock to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit/Withdrawal at Custodian system, or (ii) if the Warrant Agent is not participating in the DTC FAST Program, upon the request of the Holder, issue and deliver (via reputable overnight courier) to the address as specified in the Exercise Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled pursuant to such exercise, which shares of Common Stock shall be freely tradeable pursuant to all applicable securities laws. Upon delivery of an Exercise Notice, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date such Warrant Shares are credited to the Holder's DTC account or the date of delivery of the certificates evidencing such Warrant Shares (as the case may be). If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise and upon surrender of this Warrant to the Company by the Holder, then, at the request of the Holder, the Company shall as soon as practicable and in no event later than two (2) Business Days after any exercise and at its own expense, issue and deliver to the Holder (or its designee) a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional shares of Common Stock are to be issued upon the exercise of this Warrant, but rather the number of shares of Common Stock to be issued shall be rounded up to the nearest whole number. The Company shall pay any and all transfer, stamp, issuance and similar taxes, costs and expenses (including, without limitation, fees and expenses of the Warrant Agent) that may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. Notwithstanding the foregoing, except in the case where an exercise of this Warrant is validly made pursuant to a Cashless Exercise, the Company's failure to deliver Warrant Shares to the Holder on or prior to the later of (A) two (2) Trading Days after receipt of the applicable Exercise Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade of such Warrant Shares initiated on the applicable Exercise Date) and (B) one (1) Trading Day after the Company's receipt of the Aggregate Exercise Price (or valid notice of a Cashless Exercise) (such later date, the "Share Delivery Date") shall not be deemed to be a breach of this Warrant. From the Issuance Date through and including the Expiration Date, the Company shall maintain a Warrant Agent that participates in the DTC FAST Program. Notwithstanding any other provision in this Agreement, the Holder may elect, at its sole discretion, to receive unregistered Warrant Shares issued in response to an Exercise Notice instead of Warrant Shares (i) registered pursuant to the Registration Statement or any other registration statement or (ii) issued pursuant to Section 1(c).

(b) Exercise Price. For purposes of this Warrant, "Exercise Price" means $[●] subject to adjustment as provided herein.

(c) Company's Failure to Timely Deliver Securities. If the Company shall fail, for any reason or for no reason, on or prior to the Share Delivery Date, either (i) if the Warrant Agent is not participating in the DTC FAST Program, to issue and deliver to the Holder (or its designee) a certificate for the number of Warrant Shares to which the Holder is entitled and register such Warrant Shares on the Company's share register or, if the Warrant Agent is participating in the DTC FAST Program, to credit the balance account of the Holder or the Holder's designee with DTC for such number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant (as the case may be) or (ii) if the Registration Statement (or prospectus contained therein) covering the issuance of the Warrant Shares that are the subject of the Exercise Notice (the "Unavailable Warrant Shares") is not available for the issuance of such Unavailable Warrant Shares and the Company fails to promptly (x) so notify the Holder and (y) deliver the Warrant Shares electronically without any restrictive legend by crediting such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit/Withdrawal At Custodian system (the event described in the immediately foregoing clause (ii) is hereinafter referred as a "Notice Failure" and together with the event described in clause (i) above, a "Delivery Failure"), the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Exercise Notice), $10 per Trading Day (increasing to $20 per Trading Day on the fifth ($5^{th}$) Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise, and if on or after such Share Delivery Date the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of all or any portion of the number of shares of Common Stock issuable upon such exercise that the Holder is entitled to receive from the Company (a "Buy-In"), then, in addition to all other remedies available to the Holder, the Company shall, within two (2) Business Days after the Holder's request and in the Holder's discretion, either (i) as an indemnity for loss hereunder, pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other Person in respect, or on behalf, of the Holder) (the "Buy-In Price"), at which point the Company's obligation to so issue and deliver such certificate (and to issue such shares of Common Stock) or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise hereunder (as the case may be) (and to issue such Warrant Shares) shall terminate, or (ii) promptly honor its obligation to so issue and deliver to the Holder a certificate or certificates representing such Warrant Shares or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise hereunder (as the case may be) and, as an indemnity for loss hereunder, pay cash to the Holder in an amount equal to the excess (if any) of the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other Person in respect, or on behalf, of the Holder) (the "Buy-In Price") over the product of (A) such number of Warrant Shares multiplied by (B) the lowest Closing Sale Price of the shares of Common Stock on any Trading Day during the period commencing on the date of the applicable Exercise Notice and ending on the date of such issuance and payment under this clause (ii) (the "Buy-In Payment Amount"). Nothing shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock (or to electronically deliver such shares of Common Stock) upon the exercise of this Warrant as required pursuant to the terms hereof. While this Warrant is outstanding, the Company shall cause its Warrant Agent to participate in the DTC FAST Program. In addition to the foregoing rights, (I) if the Company fails to deliver the applicable number of Warrant Shares upon an exercise pursuant to Section 1 by the applicable Share Delivery Date, then the Holder shall have the right to rescind such exercise in whole or in part and retain and/or have the Company return, as the case may be, any portion of this Warrant that has not been exercised pursuant to such Exercise Notice; provided that the rescission of an exercise shall not affect the Company's obligation to make any payments that have accrued prior to the date of such notice pursuant to this Section 1(c) or otherwise except with respect to any returned portion of an exercise under this subclause (I), and (II) if a registration statement (which may be the Registration Statement) covering the issuance or resale of the Warrant Shares that are subject to an Exercise Notice is not available for the issuance or resale, as applicable, of such Exercise Notice Warrant Shares and the Holder has submitted an Exercise Notice prior to receiving notice of the non-availability of such registration statement and the Company has not already delivered the Warrant Shares underlying such Exercise Notice electronically without any restrictive legend by crediting such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit / Withdrawal At Custodian system, the Holder shall have the option, by delivery of notice to the Company, to (x) rescind such Exercise Notice in whole or in part and retain or have returned, as the case may be, any portion of this Warrant that has not been exercised pursuant to such Exercise Notice; *provided* that the rescission of an Exercise Notice shall not affect the Company's obligation to make any payments that have accrued prior to the date of such notice pursuant to this Section 1(c) or otherwise, and/or (y) switch some or all of such Exercise Notice from a cash exercise to a Cashless Exercise.

(d) Cashless Exercise. Notwithstanding anything contained herein to the contrary (other than Section 1(f) below), if at the time of exercise hereof the Registration Statement or other registration statement is not effective (or the prospectus contained therein is not available for use), for the issuance of all of the Warrant Shares, then the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise in payment of the Aggregate Exercise Price, elect instead to receive upon such exercise the "Net Number" of Warrant Shares determined according to the following formula (a "Cashless Exercise"):

$$\text{Net Number} = \frac{[(A-B) \times (X)]}{A}$$

For purposes of the foregoing formula:

A= As applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Exercise Notice if such Exercise Notice is (1) both executed and delivered pursuant to Section 1 hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 1 hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(68) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Exercise Notice or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. as of the time of the Holder's execution of the applicable Exercise Notice if such Exercise Notice is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 1 hereof, or (iii) the VWAP on the date of the applicable Exercise Notice if the date of such Exercise Notice is a Trading Day and such Exercise Notice is both executed and delivered pursuant to Section 1 hereof after the close of "regular trading hours" on such Trading Day.

B= The Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

X= The number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

For purposes of Rule 144(d) promulgated under the 1933 Act, as in effect on the Initial Exercise Date, it is intended that the Warrant Shares issued in a Cashless Exercise shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued pursuant to the Underwriting Agreement. Notwithstanding anything herein to the contrary, on the Expiration Date, this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 1(d).

(e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the number of Warrant Shares to be issued pursuant to the terms hereof, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 13.

(f) Limitations on Exercises. The Company shall not effect the exercise of any portion of this Warrant, and the Holder shall not have the right to exercise any portion of this Warrant, pursuant to the terms and conditions of this Warrant and any such exercise shall be null and void and treated as if never made, to the extent that after giving effect to such exercise, the Holder together with the other Attribution Parties collectively would beneficially own in excess of 4.99% (the "Maximum Percentage") of the shares of Common Stock outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and the other Attribution Parties shall include the number of shares of Common Stock held by the Holder and all other Attribution Parties plus the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred shares or warrants, including other Unregistered Warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 1(f). For purposes of this Section 1(f), beneficial ownership shall be calculated in accordance with Section 13(d) of the 1934 Act. For purposes of determining the number of outstanding shares of Common Stock the Holder may acquire upon the exercise of this Warrant without exceeding the Maximum Percentage, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company or the Warrant Agent, if any, setting forth the number of shares of Common Stock outstanding (the "Reported Outstanding Share Number"). If the Company receives an Exercise Notice from the Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall (i) notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Exercise Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 1(f), to exceed the Maximum Percentage, the Holder must notify the Company of a reduced number of Warrant Shares to be acquired pursuant to such Exercise Notice (the number of shares by which such purchase is reduced, the "Reduction Shares") and (ii) as soon as reasonably practicable, the Company shall return to the Holder any exercise price paid by the Holder for the Reduction Shares. For any reason at any time, upon the written or oral request of the Holder, the Company shall within one (1) Business Day confirm orally and in writing or by electronic mail to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon exercise of this Warrant results in the Holder and the other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock (as determined under Section 13(d) of the 1934 Act), the number of shares so issued by which the Holder's and the other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "Excess Shares") shall be deemed null and void and shall be cancelled ab initio, and the Holder shall not have the power to vote or to transfer the Excess Shares. As soon as reasonably practicable after the issuance of the Excess Shares has been deemed null and void, the Company shall return to the Holder the exercise price paid by the Holder for the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase (with such increase not effective until the sixty-first ($61^{st}$) day after delivery of such notice) or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first ($61^{st}$) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and the other Attribution Parties and not to any other holder of Unregistered Warrants that is not an Attribution Party of the Holder. For purposes of clarity, the shares of Common Stock issuable pursuant to the terms of this Warrant in excess of the Maximum Percentage shall not be deemed to be beneficially owned by the Holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the 1934 Act. No prior inability to exercise this Warrant pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect to any subsequent determination of exercisability. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1(f) to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 1(f) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Warrant.

(g) Reservation of Shares.

(i) Required Reserve Amount. So long as this Warrant remains outstanding, the Company shall at all times keep reserved for issuance under this Warrant a number of shares of Common Stock at least equal to 100% of the maximum number of shares of Common Stock as shall be necessary to satisfy the Company's obligation to issue shares of Common Stock under the Unregistered Warrants then outstanding (without regard to any limitations on exercise) (the "Required Reserve Amount"); provided that at no time shall the number of shares of Common Stock reserved pursuant to this Section 1(g)(i) be reduced other than proportionally in connection with any exercise of Unregistered Warrants or such other event covered by Section 2(a) below. The Required Reserve Amount (including, without limitation, each increase in the number of shares so reserved) shall be allocated pro rata among the holders of the Unregistered Warrants based on number of shares of Common Stock issuable upon exercise of Unregistered Warrants held by each holder on the Issuance Date (without regard to any limitations on exercise) or increase in the number of reserved shares, as the case may be (the "Authorized Share Allocation"). In the event that a holder shall sell or otherwise transfer any of such holder's Unregistered Warrants, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to any Person which ceases to hold any Unregistered Warrants shall be allocated to the remaining holders of Unregistered Warrants, pro rata based on the number of shares of Common Stock issuable upon exercise of the Unregistered Warrants then held by such holders (without regard to any limitations on exercise).

(ii) Insufficient Authorized Shares. If, notwithstanding Section 1(g)(i) above, and not in limitation thereof, at any time while any of the Unregistered Warrants remain outstanding, the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to reserve the Required Reserve Amount (an "Authorized Share Failure"), then the Company shall immediately take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for all the Unregistered Warrants then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall hold a meeting of its shareholders for the approval of an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each shareholder with a proxy statement and shall use its best efforts to solicit its shareholders' approval of such increase in authorized shares of Common Stock and to cause its board of directors to recommend to the shareholders that they approve such proposal. In the event that the Company is prohibited from issuing shares of Common Stock upon an exercise of this Warrant due to the failure by the Company to have sufficient shares of Common Stock available out of the authorized but unissued shares of Common Stock (such unavailable number of Common Shares, the "Authorization Failure Shares"), in lieu of delivering such Authorization Failure Shares to the Holder, the Company shall pay cash in exchange for the cancellation of such portion of this Warrant exercisable into such Authorization Failure Shares at a price equal to the sum of (i) the product of (x) such number of Authorization Failure Shares and (y) the greatest Closing Sale Price of the Common Stock on any Trading Day during the period commencing on the date the Holder delivers the applicable Exercise Notice with respect to such Authorization Failure Shares to the Company and ending on the date of such issuance and payment under this Section 1(f); and (ii) to the extent the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of Authorization Failure Shares, any Buy-In Payment Amount, brokerage commissions and other out-of-pocket expenses, if any, of the Holder incurred in connection therewith.

(h) Warrant Agent Agreement. If this Warrant is held in global form through DTC (or any successor depositary), this Warrant is issued subject to the Warrant Agent Agreement, dated [●], 2023 by and between the Company and Equity Stock Transfer, LLC (the "Warrant Agent Agreement"). To the extent any provision of this Warrant conflicts with the express provisions of the Warrant Agent Agreement, the provisions of this Warrant shall govern and be controlling.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 2.

(a) Share Dividends and Splits. Without limiting any provision of Section 4, if the Company, at any time on or after the Offering Date, (i) pays a share dividend on one or more classes of its then outstanding shares of Common Stock or otherwise makes a distribution on any class of capital shares that is payable in shares of Common Stock, (ii) subdivides (by any share split, share dividend, recapitalization or otherwise) one or more classes of its then outstanding shares of Common Stock into a larger number of shares or (iii) combines (by combination, reverse share split or otherwise) one or more classes of its then outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to this Section 2, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment (without regard to any limitations on exercise contained herein).

(c) Other Events. In the event that the Company, or any subsidiary of the Company (a "Subsidiary"), shall take any action to which the provisions hereof are not strictly applicable, or, if applicable, would not operate to protect the Holder from dilution or if any event occurs of the type contemplated by the provisions of this Section 2 but not expressly provided for by such provisions (including, without limitation, the granting of share appreciation rights, phantom share rights or other rights with equity features), then the Company's board of directors shall in good faith determine and implement an appropriate adjustment in the Exercise Price and the number of Warrant Shares (if applicable) so as to protect the rights of the Holder, provided that no such adjustment pursuant to this Section 2(c) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 2, *provided further* that if the Holder does not accept such adjustments as appropriately protecting its interests hereunder against such dilution, then the Company's board of directors and the Holder shall agree, in good faith, upon an independent investment bank of nationally recognized standing to make such appropriate adjustments, whose determination shall be final and binding absent manifest error and whose fees and expenses shall be borne by the Company.

(d) Calculations. All calculations under this Section 2 shall be made by rounding to the nearest cent or the nearest 1/100th of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issuance or sale of shares of Common Stock.

3. RIGHTS UPON DISTRIBUTION OF ASSETS. In addition to any adjustments pursuant to Section 2 above, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, shares or other securities, property, options, evidence of indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, plan of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations or restrictions on exercise of this Warrant, including without limitation, the Maximum Percentage) immediately before the date on which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the participation in such Distribution (*provided*, *however*, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Distribution to the extent of the Maximum Percentage (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Distribution (and beneficial ownership) to the extent of any such excess) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time or times, if ever, as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such Distribution (and any Distributions declared or made on such initial Distribution or on any subsequent Distribution held similarly in abeyance) to the same extent as if there had been no such limitation).

4. PURCHASE RIGHTS; FUNDAMENTAL TRANSACTIONS.

(a) Purchase Rights. In addition to any adjustments pursuant to Section 2 above, if at any time the Company grants, issues or sells any Options, Convertible Securities or rights to purchase shares, warrants, securities or other property pro rata to the record holders of any class of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations or restrictions on exercise of this Warrant, including without limitation, the Maximum Percentage) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issuance or sale of such Purchase Rights (*provided*, *however*, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Purchase Right to the extent of the Maximum Percentage (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Purchase Right (and beneficial ownership) to the extent of any such excess) and such Purchase Right to such extent shall be held in abeyance for the benefit of the Holder until such time or times, if ever, as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such right (and any Purchase Right granted, issued or sold on such initial Purchase Right or on any subsequent Purchase Right held similarly in abeyance) to the same extent as if there had been no such limitation).

(b) Fundamental Transactions. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company or any Subsidiary, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the shares of Common Stock are effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 1(f) on the exercise of this Warrant), the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 1(f) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within thirty (30) days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; *provided*, *however*, that, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; *provided*, *further*, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Expiration Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the highest VWAP during the period beginning on the Trading Day immediately preceding the announcement of the applicable Fundamental Transaction (or the consummation of the applicable Fundamental Transaction, if earlier) and ending on the Trading Day of the Holder's request pursuant to this Section 4(b) and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Expiration Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five Business Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other transaction documents in accordance with the provisions of this Section 4(b) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other transaction documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other transaction documents with the same effect as if such Successor Entity had been named as the Company herein.

(c) [RESERVED.]

(d) Application. The provisions of this Section 4 shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied as if this Warrant (and any such subsequent warrants) were fully exercisable and without regard to any limitations on the exercise of this Warrant (provided that the Holder shall continue to be entitled to the benefit of the Maximum Percentage, applied however with respect to capital shares registered under the 1934 Act and thereafter receivable upon exercise of this Warrant (or any such other warrant)).

5. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its certificate of incorporation or other organizational documents or through any reorganization, transfer of assets, consolidation, merger, amalgamation, plan of arrangement, dissolution, issuance or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the Exercise Price then in effect, and (b) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable shares of Common Stock upon the exercise of this Warrant, which shares of Common Stock shall be freely tradeable pursuant to all applicable securities laws. Notwithstanding anything herein to the contrary, if after the sixty (60) calendar day anniversary of the Issuance Date, the Holder is not permitted to exercise this Warrant in full for any reason (other than pursuant to restrictions set forth in Section 1(f) hereof), the Company shall use its best efforts to promptly remedy such failure, including, without limitation, obtaining such consents or approvals as necessary to permit such exercise into shares of Common Stock.

6. WARRANT HOLDER NOT DEEMED A SHAREHOLDER. Except as otherwise specifically provided herein, the Holder, solely in its capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in its capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of shares, reclassification of shares, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which it is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 6, the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company generally, contemporaneously with the giving thereof to the shareholders.

7. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, together with a properly completed and duly executed written assignment of this Warrant substantially in the form attached hereto as Exhibit D, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 7(d)), representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 7(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant (as to which a written certification and the indemnification contemplated below shall suffice as such evidence), and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary and reasonable form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 7(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 7(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, no warrants for fractional shares of Common Stock shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of shares of Common Stock underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant.

8. NOTICES. (a) General. Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in writing, (i) if delivered (a) from within the domestic United States, by first-class registered or certified airmail, or nationally recognized overnight express courier, postage prepaid, electronic mail or by facsimile or (b) from outside the United States, by International Federal Express, electronic mail or facsimile, and (ii) will be deemed given (A) if delivered by first-class registered or certified mail domestic, three (3) Business Days after so mailed, (B) if delivered by nationally recognized overnight carrier, one (1) Business Day after so mailed, (C) if delivered by International Federal Express, two (2) Business Days after so mailed and (D) if delivered by electronic mail, when sent (provided that such sent email is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's email server that such e-mail could not be delivered to such recipient) and (E) if delivered by facsimile, upon electronic confirmation of receipt of such facsimile, and will be delivered and addressed as follows:

(i) if to the Company, to:

60 Degrees Pharmaceuticals, Inc.
1025 Connecticut Avenue NW Suite 1000
Washington, D.C. 20036

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

Carmel, Milazzo & Feil LLP
55 West 39th Street, 4th Floor
New York, New York 10018

(ii) if to the Holder, at such address or other contact information delivered by the Holder to Company or as is on the books and records of the Company.

(b) Required Notices. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant (other than the issuance of shares of Common Stock upon exercise in accordance with the terms hereof), including in reasonable detail a description of such action and the reason therefor. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon each adjustment of the Exercise Price and the number of Warrant Shares, setting forth in reasonable detail, and certifying, the calculation of such adjustment(s), (ii) at least ten (10) Trading Days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase shares, warrants, securities or other property to holders of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder, and (iii) at least ten (10) Trading Days prior to the consummation of any Fundamental Transaction. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of its Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. It is expressly understood and agreed that the time of execution specified by the Holder in each Exercise Notice shall be definitive and may not be disputed or challenged by the Company.

9. AMENDMENT AND WAIVER. Except as otherwise provided herein, the provisions of this Warrant (other than Section 1(f)) may be amended and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Holder. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

10. SEVERABILITY. If any provision of this Warrant is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Warrant so long as this Warrant as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

11. GOVERNING LAW. This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company at its principal executive office and agrees that such service shall constitute good and sufficient service of process and notice thereof. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS WARRANT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

12. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and the Holder and shall not be construed against any Person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

13. DISPUTE RESOLUTION.

(a) Submission to Dispute Resolution.

(i) In the case of a dispute relating to the Exercise Price, the Closing Sale Price, the Bid Price, Black Scholes Value or fair market value or the arithmetic calculation of the number of Warrant Shares (as the case may be) (including, without limitation, a dispute relating to the determination of any of the foregoing), the Company or the Holder (as the case may be) shall submit the dispute to the other party via facsimile or electronic mail (A) if by the Company, within two (2) Business Days after the occurrence of the circumstances giving rise to such dispute or (B) if by the Holder, at any time after the Holder learned of the circumstances giving rise to such dispute. If the Holder and the Company are unable to promptly resolve such dispute relating to such Exercise Price, such Closing Sale Price, such Bid Price, Black Scholes Value or such fair market value or such arithmetic calculation of the number of Warrant Shares (as the case may be), at any time after the second ($2^{nd}$) Business Day following such initial notice by the Company or the Holder (as the case may be) of such dispute to the Company or the Holder (as the case may be), then the Holder may, at its sole option, select an independent, reputable investment bank to resolve such dispute.

(ii) The Holder and the Company shall each deliver to such investment bank (A) a copy of the initial dispute submission so delivered in accordance with the first sentence of this Section 13 and (B) written documentation supporting its position with respect to such dispute, in each case, no later than 5:00 p.m. (New York time) by the fifth ($5^{th}$) Business Day immediately following the date on which the Holder selected such investment bank (the "Dispute Submission Deadline") (the documents referred to in the immediately preceding clauses (A) and (B) are collectively referred to herein as the "Required Dispute Documentation") (it being understood and agreed that if either the Holder or the Company fails to so deliver all of the Required Dispute Documentation by the Dispute Submission Deadline, then the party who fails to so submit all of the Required Dispute Documentation shall no longer be entitled to (and hereby waives its right to) deliver or submit any written documentation or other support to such investment bank with respect to such dispute and such investment bank shall resolve such dispute based solely on the Required Dispute Documentation that was delivered to such investment bank prior to the Dispute Submission Deadline). Unless otherwise agreed to in writing by both the Company and the Holder or otherwise requested by such investment bank, neither the Company nor the Holder shall be entitled to deliver or submit any written documentation or other support to such investment bank in connection with such dispute (other than the Required Dispute Documentation).

(iii) The Company and the Holder shall cause such investment bank to determine the resolution of such dispute and notify the Company and the Holder of such resolution no later than ten (10) Business Days immediately following the Dispute Submission Deadline. The fees and expenses of such investment bank shall be borne solely by the Company, and such investment bank's resolution of such dispute shall be final and binding upon all parties absent manifest error.

(b) Miscellaneous. The Company expressly acknowledges and agrees that (i) this Section 13 constitutes an agreement to arbitrate between the Company and the Holder (and constitutes an arbitration agreement) under the rules then in effect under § 7501, et seq. of the New York Civil Practice Law and Rules ("CPLR") and that the Holder is authorized to apply for an order to compel arbitration pursuant to CPLR § 7503(a) in order to compel compliance with this Section 13, (ii) the terms of this Warrant shall serve as the basis for the selected investment bank's resolution of the applicable dispute, such investment bank shall be entitled (and is hereby expressly authorized) to make all findings, determinations and the like that such investment bank determines are required to be made by such investment bank in connection with its resolution of such dispute and in resolving such dispute such investment bank shall apply such findings, determinations and the like to the terms of this Warrant, (iii) the Holder (and only the Holder), in its sole discretion, shall have the right to submit any dispute described in this Section 13 to any state or federal court sitting in The City of New York, Borough of Manhattan in lieu of utilizing the procedures set forth in this Section 13 and (iv) nothing in this Section 13 shall limit the Holder from obtaining any injunctive relief or other equitable remedies (including, without limitation, with respect to any matters described in this Section 13).

14. REMEDIES, CHARACTERIZATION, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Warrant. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, exercises and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Warrant (including, without limitation, compliance with Section 2 hereof). The issuance of shares and certificates for shares as contemplated hereby upon the exercise of this Warrant shall be made without charge to the Holder or such shares for any issuance tax or other costs in respect thereof, provided that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than the Holder or its agent on its behalf.

15. PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Warrant is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the holder otherwise takes action to collect amounts due under this Warrant or to enforce the provisions of this Warrant or (b) there occurs any bankruptcy, reorganization, receivership of the company or other proceedings affecting company creditors' rights and involving a claim under this Warrant, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, without limitation, attorneys' fees and disbursements.

16. TRANSFER. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company.

17. CERTAIN DEFINITIONS. For purposes of this Warrant, the following terms shall have the following meanings:

(a) "1933 Act" means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

(b) "1934 Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

(c) "Affiliate" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the shares having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(d) "Attribution Parties" means, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Persons whose beneficial ownership of the Company's Common Stock would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) of the 1934 Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Maximum Percentage.

(e) "Bid Price" means, for any security as of the particular time of determination, the bid price for such security on the Principal Market as reported by Bloomberg as of such time of determination, or, if the Principal Market is not the principal securities exchange or trading market for such security, the bid price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg as of such time of determination, or if the foregoing does not apply, the bid price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg as of such time of determination, or, if no bid price is reported for such security by Bloomberg as of such time of determination, the average of the bid prices of any market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC) as of such time of determination. If the Bid Price cannot be calculated for a security as of the particular time of determination on any of the foregoing bases, the Bid Price of such security as of such time of determination shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any shares dividend, share split, share combination or other similar transaction during such period.

(g) "Bloomberg" means Bloomberg, L.P.

(h) "Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

(i) "Closing Sale Price" means, for any security as of any date, the last closing trade price for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing trade price, then the last trade price of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last trade price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing does not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no last trade price is reported for such security by Bloomberg, the average of the ask prices of any market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any share dividend, share split, share combination or other similar transaction during such period.

(j) "Common Stock" means (i) the Company's common stock, par value $0.0001 per share, and (ii) any capital shares into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock.

(k) "Convertible Securities" means any shares or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any Common Stock.

(l) "Eligible Market" means the New York Stock Exchange, the NYSE American, The Nasdaq Global Select Market, The Nasdaq Global Market, The Nasdaq Capital Market or the Principal Market.

(m) "Expiration Date" means the date that is the fifth (5th) anniversary of the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a "Holiday"), the next date that is not a Holiday.

(n) Intentionally Omitted.

(o) "Group" means a "group" as that term is used in Section 13(d) of the 1934 Act and as defined in Rule 13d-5 thereunder.

(p) "Options" means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

(q) "Parent Entity" of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(r) "Person" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

(s) "Principal Market" means the Nasdaq Capital Market.

(t) "SEC" means the United States Securities and Exchange Commission or the successor thereto.

(u) "Spot Price" means, as applicable: (i) the Closing Sale Price of the Common Stock on the Trading Day immediately preceding the date of the applicable Exercise Notice if such Exercise Notice is (1) both executed and delivered pursuant to Section 1(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 1(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(64) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) the Bid Price of the Common Stock as of the time of the Holder's execution of the applicable Exercise Notice if such Exercise Notice is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter pursuant to Section 1(a) hereof, or (iii) the Closing Sale Price of the Common Stock on the date of the applicable Exercise Notice if the date of such Exercise Notice is a Trading Day and such Exercise Notice is both executed and delivered pursuant to Section 1(a) hereof after the close of "regular trading hours" on such Trading Day.

(v) "Subject Entity" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(w) "Trading Day" means, as applicable, (x) with respect to all price or trading volume determinations relating to the Common Stock, any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time) unless such day is otherwise designated as a Trading Day in writing by the Holder or (y) with respect to all determinations other than price determinations relating to the Common Stock, any day on which The New York Stock Exchange (or any successor thereto) is open for trading of securities.

(x) "VWAP" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market (or, if the Principal Market is not the principal trading market for such security, then on the principal securities exchange or securities market on which such security is then traded) during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg through its "HP" function (set to weighted average) or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the VWAP cannot be calculated for such security on such date on any of the foregoing bases, the VWAP of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any share dividend, share split, share combination, recapitalization or other similar transaction during such period.

*(Signature Page Follows)*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____

Geoffrey Dow
Chief Executive Officer

**EXHIBIT A**

**NOTICE OF EXERCISE**

TO: 60 DEGREES PHARMACEUTICALS, INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 1(d), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 1(d).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

The Warrant Shares shall be delivered to the following DWAC Account Number:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

*Signature of Authorized Signatory of Investing Entity*: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

**NOTICE OF EXERCISE**

**TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS WARRANT TO PURCHASE COMMON STOCK**

Date: _____, 20__

TO: 60 DEGREES PHARMACEUTICALS, INC.

The undersigned holder hereby exercises the right to purchase _____ shares of Common Stock ("Warrant Shares") of 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Company"), evidenced by Warrant to Purchase Common Stock No. _____ (the "Warrant"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Form of Exercise Price. The Holder intends that payment of the Aggregate Exercise Price shall be made as:

_____ a "Cash Exercise" with respect to _____ Warrant Shares; and/or

_____ a "Cashless Exercise" with respect to _____ Warrant Shares.

In the event that the Holder has elected a Cashless Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the Holder hereby represents and warrants that (i) this Exercise Notice was executed by the Holder at _____ [a.m.][p.m.] on the date set forth below and (ii) if applicable, the Bid Price as of such time of execution of this Exercise Notice was $_____.

2. Payment of Exercise Price. In the event that the Holder has elected a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver to Holder, or its designee or agent as specified below, _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to Holder, or for its benefit, as follows:

[ ] Check here if requesting delivery as a certificate to the following name and to the following address:

Issue to: _____

_____

[ ] Check here if requesting delivery by Deposit/Withdrawal at Custodian as follows:

DTC Participant: _____

DTC Number: _____

Account Number: _____

_____

Name of Registered Holder

By: _____

Name: _____

Title: _____

Tax ID: _____

Email: _____

Telephone: _____

Facsimile: _____

_____

**EXHIBIT B**

**WIRE INSTRUCTIONS**

Bank Name:
Account Name:
Account Number:
Routing Number:
Bank Address:
Account Address:

**EXHIBIT C**

**ACKNOWLEDGMENT**

The Company hereby acknowledges this Exercise Notice and hereby directs _____to issue the above indicated number of shares of Common Stock in accordance with the Warrant Agent Instructions dated _____, 20__, from the Company and acknowledged and agreed to by_____.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Name:
Title:

**EXHIBIT D**

**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)*

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
_____
(Please Print)

Phone Number: _____
Email Address: _____
Dated: _____
Holder's Signature: _____
Holder's Address: _____
_____
_____

**Exhibit 4.3**

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

## COMMON STOCK PURCHASE WARRANT

Warrant Shares: [●]

Initial Exercise Date: [●], 2023

THIS CERTIFIES THAT, pursuant to that certain Underwriting Agreement by and between 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Company") and WallachBeth Capital LLC dated **[*]**, 2023 (the "Underwriting Agreement"), WallachBeth Capital LLC ("Holder") and its assignees, as registered holders of this purchase warrant (this "Warrant"), is entitled, at any time or from time to time from **[*]**, 2023 (the "Initial Exercise Date"), the date that is one hundred and eighty (180) days after the date of the commencement of the sales of the Company's Common Stock, $0.0001 par value per share (the "Common Stock"), and at or before 5:00 p.m., Eastern time, on **[*]**, 2028 (five (5) years from the Effective Date) (the "Termination Date"), but not thereafter, to subscribe for, purchase and receive, in whole or in part, up to **[*]** shares of Common Stock of the Company (equal to six (6.0%) percent of the Common Stock sold in the Offering including any exercise of the overallotment option) (subject to adjustment hereunder, the "Warrant Shares"). If the Expiration Date is a day on which banking institutions are authorized by law to close, then this Warrant may be exercised on the next succeeding day which is not such a day in accordance with the terms herein. During the period ending on the Termination Date, the Company agrees not to take any action that would terminate this Warrant. This Warrant is initially exercisable at $[*] per share of Common Stock (110% of the price of the Common Stock sold in the Offering); *provided, however,* that upon the occurrence of any of the events specified in Section 3 hereof, the rights granted by this Warrant, including the exercise price per share and the number of shares of Common Stock to be received upon such exercise, shall be adjusted as therein specified. The term "Exercise Price" shall mean the initial exercise price as set forth above or the adjusted exercise price as a result of the events set forth in Section 3 below, depending on the context.

Section 1. Definitions. Capitalized terms not defined herein shall have the meaning ascribed to them in the Underwriting Agreement.

Section 2. Exercise.

Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two (2) Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two (2) Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one (1) Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(a) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the initial public offering price, subject to adjustment under Section 3 (the "Exercise Price").

(b) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six (6) month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five (5) consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(c) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two (2) Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth ($5^{th}$) Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first ten (10) Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), in an amount equal to the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other Person in respect, or on behalf, of the Holder). Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(d) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(d) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than sixty-one (61) days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(d) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(d) shall continue to apply. Any such increase will not be effective until the sixty-first ($61^{st}$) day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(d) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Share Dividends and Splits. Without limiting any provision of Section 3(d), if the Company, at any time on or after the Offering Date, (i) pays a share dividend on one or more classes of its then outstanding shares of Common Stock or otherwise makes a distribution on any class of capital shares that is payable in shares of Common Stock, (ii) subdivides (by any share split, share dividend, recapitalization or otherwise) one or more classes of its then outstanding shares of Common Stock into a larger number of shares or (iii) combines (by combination, reverse share split or otherwise) one or more classes of its then outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to this Section 2, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment (without regard to any limitations on exercise contained herein).

(c) Other Events. In the event that the Company, or any subsidiary of the Company (a "Subsidiary"), shall take any action to which the provisions hereof are not strictly applicable, or, if applicable, would not operate to protect the Holder from dilution or if any event occurs of the type contemplated by the provisions of this Section 3 but not expressly provided for by such provisions (including, without limitation, the granting of share appreciation rights, phantom share rights or other rights with equity features), then the Company's board of directors shall in good faith determine and implement an appropriate adjustment in the Exercise Price and the number of Warrant Shares (if applicable) so as to protect the rights of the Holder, *provided* that no such adjustment pursuant to this Section 3(c) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 3, *provided further* that if the Holder does not accept such adjustments as appropriately protecting its interests hereunder against such dilution, then the Company's board of directors and the Holder shall agree, in good faith, upon an independent investment bank of nationally recognized standing to make such appropriate adjustments, whose determination shall be final and binding absent manifest error and whose fees and expenses shall be borne by the Company.

(d) Fundamental Transactions. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company or any Subsidiary, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the shares of Common Stock are effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction. For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within thirty (30) days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; *provided*, *however*, that, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; *provided*, *further*, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the highest VWAP during the period beginning on the Trading Day immediately preceding the announcement of the applicable Fundamental Transaction (or the consummation of the applicable Fundamental Transaction, if earlier) and ending on the Trading Day of the Holder's request pursuant to this Section 4(b) and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five Business Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor

Entity") to assume in writing all of the obligations of the Company under this Warrant and the other transaction documents in accordance with the provisions of this Section 4(b) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other transaction documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other transaction documents with the same effect as if such Successor Entity had been named as the Company herein.

(e) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(e)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(e)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(e), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(e)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(e) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five (5) Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five (5) Trading Days after the tenth ($10^{th}$) day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than five percent (5%) from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than five percent (5%) from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(e) shall not apply to any Exempt Issuances. "Exempt Issuance" means the issuance of (A) shares of Common Stock, Convertible Securities, restricted stock units, options or common stock equivalents to employees, consultants officers or directors of the Company pursuant to any existing or future stock option, restricted stock, stock purchase or other equity compensation plan or pursuant to employee inducement awards duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose, and the issuance of Common Stock in respect of such Convertible Securities,, restricted stock units, Options or common stock equivalents, (B) securities (including Common Stock and common stock equivalents) upon the exercise, conversion or exchange of securities (including Convertible Securities and Options) issued and outstanding on the date hereof, including the Warrants, *provided* that such securities have not been amended since date hereof to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, (C) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company and (D) the issuance of securities in a transaction described in Section 3(a) for which any adjustments shall be to the provisions of such section.

(f) Full Ratchet Increase in Warrant Shares. Whenever the Exercise Price is adjusted under Section 3(e), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(f) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least five (5) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Underwriting Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Underwriting Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Underwriting Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Underwriting Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Underwriting Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Geoffrey Dow
Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60 Degrees Pharmaceuticals, Inc.**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or
☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____

_____

_____

SIGNATURE OF HOLDER

Name of Investing Entity:

_____
*Signature of Authorized Signatory of Investing Entity*:

_____
Name of Authorized Signatory:

_____
Title of Authorized Signatory:

_____
Date:

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

**60 Degrees Pharmaceuticals, Inc.**

FOR VALUE RECEIVED, _____ all of or _____shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____whose address is

_____

_____

Dated: _____, _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

**Exhibit 4.4**

**FORM OF WARRANT AGENT AGREEMENT**

This Warrant Agent Agreement (this "Warrant Agreement"), dated as of [●], 2023 (the "Issuance Date") is between 60 Degrees Pharmaceuticals, Inc., a company incorporated under the laws of the State of Delaware (the "Company"), and Equity Stock Transfer, LLC, a California limited liability company (the "Warrant Agent").

WHEREAS, pursuant to the terms of that certain Underwriting Agreement ("Underwriting Agreement"), dated [●], 2023, by and among the Company and WallachBeth Capital LLC, as representative of the underwriters set forth therein (the "Representative"), the Company is engaged in a public offering (the "Offering") of up to [●] units (each, a "Unit," collectively, the "Units," each Unit consisting of: (i) one share (the "Shares") of common stock, par value $0.0001 per share (the "Common Stock") of the Company, a (ii) one five (5)-year tradeable warrant (each, a "Tradeable Warrant") to purchase one share of Common Stock ("Tradeable Warrant Shares"), and a (iii) one five (5)-year non-tradeable to purchase one share of Common Stock (a "Non-tradeable Warrant"; together with each Tradeable Warrant, the "Warrants") to purchase one share of Common Stock ("Non-tradeable Warrant Shares; together with the Tradeable Warrant Shares, the "Warrant Shares"), which includes Shares and Warrants issuable pursuant to the underwriters' over-allotment option and the warrant;

WHEREAS, the Company has filed with the Securities and Exchange Commission (the "Commission") a Registration Statement on Form S-1 (File No. 333-269483) (as the same may be amended from time to time, the "Registration Statement"), for the registration under the Securities Act of 1933, as amended (the "Securities Act"), of the Units, Shares, Warrants, the Representative's Warrant and the Warrant Shares, and such Registration Statement was declared effective on [●], 2023;

WHEREAS the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing to so act, in accordance with the terms set forth in this Warrant Agreement in connection with the issuance, registration, transfer, exchange and exercise of the Warrants;

WHEREAS, the Company desires to provide for the provisions of the Warrants, the terms upon which they shall be issued and exercised, and the respective rights, limitation of rights, and immunities of the Company, the Warrant Agent, and the holders of the Warrants; and

WHEREAS, all acts and things have been done and performed which are necessary to make the Warrants the valid, binding and legal obligations of the Company, and to authorize the execution and delivery of this Warrant Agreement.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Appointment of Warrant Agent. The Company hereby appoints the Warrant Agent to act as agent for the Company with respect to the Warrants, and the Warrant Agent hereby accepts such appointment and agrees to perform the same in accordance with the express terms and conditions set forth in this Warrant Agreement (and no implied terms or conditions).

2. Warrants.

2.1. Form of Warrants. The Tradeable Warrants shall be registered securities and shall be evidenced by a global certificate ("Tradeable Global Certificate") in the form of Exhibit A to this Warrant Agreement, which shall be deposited on behalf of the Company with a custodian for The Depository Trust Company ("DTC") and registered in the name of Cede & Co., a nominee of DTC. If DTC subsequently ceases to make its book-entry settlement system available for the Tradeable Warrants, the Company may instruct the Warrant Agent regarding making other arrangements for book-entry settlement. In the event that the Tradeable Warrants are not eligible for, or it is no longer necessary to have the Tradeable Warrants available in, book-entry form, the Company may instruct the Warrant Agent to provide written instructions to DTC to deliver to the Warrant Agent for cancellation of the Tradeable Global Certificate, and the Company shall instruct the Warrant Agent to deliver to DTC separate certificates evidencing the Tradeable Warrants ("Tradeable Definitive Certificates") registered as requested through the DTC system. The Non-tradeable Warrants will be unregistered securities and will be evidenced by a global certificate ("Non-tradeable Global Certificate"; together with the Tradeable Global Certificate, the "Global Certificates") in the form of Exhibit B to this Warrant Agreement, which shall be deposited on behalf of the Company with the Warrant Agent. If the Warrant Agent subsequently ceases to make its book-entry settlement system available for the Non-tradeable Warrants, the Company may instruct the Warrant Agent regarding making other arrangements for book-entry settlement. In the event that the Non-tradeable Warrants are not eligible for, or it is no longer necessary to have the Non-tradeable Warrants available in, book-entry form, the Company may instruct the Warrant Agent to cancel the Non-tradeable Global Certificate and to deliver separate certificates evidencing the Non-tradeable Warrants ("Non-tradeable Definitive Certificates" and, together with the Global Certificates and the Tradeable Definitive Certificates, the "Warrant Certificates").

2.2. Issuance and Registration of Warrants.

2.2.1. Warrant Register. The Warrant Agent shall maintain books ("Warrant Register") for the registration of original issuance and the registration of transfer of the Warrants. Any person in whose name ownership of a beneficial interest in the Warrants evidenced by a Global Certificate is recorded in the records maintained by DTC or its nominee shall be deemed the "beneficial owner" thereof, provided that all such beneficial interests shall be held through a Participant (as defined below), which shall be the registered holder of such Warrants.

2.2.2. Issuance of Warrants. Upon the initial issuance of the Tradeable Warrants, the Warrant Agent shall issue the Tradeable Global Certificate and deliver the Tradeable Warrants in the DTC book-entry settlement system in accordance with written instructions delivered to the Warrant Agent by the Company. Upon the initial issuance of the Non-tradeable Warrants, the Warrant Agent shall issue the Non-tradeable Global Certificate and deliver the Non-tradeable Warrants in the Warrant Agent's book-entry settlement system in accordance with the Company's written instructions delivered to the Warrant Agent. Ownership of security entitlements in the Warrants shall be shown on, and the transfer of such ownership shall be effected through, records maintained, (i) in the case of Tradeable Warrants (A) by DTC and (B) by institutions that have accounts with DTC (each, a "Participant"), and (ii) in the case of Non-tradeable Warrants, by the Warrant Agent.

2.2.3. Beneficial Owner; Holder. Prior to due presentment for registration of transfer of any Warrant, the Company and the Warrant Agent may deem and treat the Person in whose name that Warrant shall be registered on the Warrant Register (the "Holder") as the absolute owner of such Warrant for purposes of any exercise thereof, and for all other purposes, and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Warrant Agent or any agent of the Company or the Warrant Agent from giving effect to any written certification, proxy or other authorization furnished by DTC governing the exercise of the rights of a Holder of a beneficial interest in any Tradeable Warrant. The rights of beneficial owners in a Warrant evidenced by the Global Certificates shall be exercised by the Holder or a Participant through (i) in the case of a Tradeable Warrant, the DTC system, or (ii) in the case of a Non-tradeable Warrant, the Warrant Agent's system, except to the extent set forth herein or in the Global Certificates.

2.2.4. Execution. The Warrant Certificates shall be executed on behalf of the Company by any authorized officer of the Company (an "Authorized Officer"), which need not be the same authorized signatory for all of the Warrant Certificates, either manually or by facsimile signature. The Warrant Certificates shall be countersigned by an authorized signatory of the Warrant Agent, which need not be the same signatory for all of the Warrant Certificates, and no Warrant Certificate shall be valid for any purpose unless so countersigned. In case any Authorized Officer of the Company that signed any of the Warrant Certificates ceases to be an Authorized Officer of the Company before countersignature by the Warrant Agent and issuance and delivery by the Company, such Warrant Certificates, nevertheless, may be countersigned by the Warrant Agent, issued and delivered with the same force and effect as though the Person who signed such Warrant Certificates had not ceased to be such officer of the Company; and any Warrant Certificate may be signed on behalf of the Company by any Person who, at the actual date of the execution of such Warrant Certificate, shall be an Authorized Officer of the Company authorized to sign such Warrant Certificate, although at the date of the execution of this Warrant Agreement any such Person was not such an Authorized Officer.

2.2.5. Registration of Transfer. At any time at or prior to the Expiration Date (as defined below), a transfer of any Warrants may be registered and any Warrant Certificate or Warrant Certificates may be split up, combined or exchanged for another Warrant Certificate or Warrant Certificates evidencing the same number of Warrants as the Warrant Certificate or Warrant Certificates surrendered. Any Holder desiring to register the transfer of Warrants or to split up, combine or exchange any Warrant Certificate shall make such request in writing delivered to the Warrant Agent, and shall surrender to the Warrant Agent the Warrant Certificate or Warrant Certificates evidencing the Warrants the transfer of which is to be registered or that is or are to be split up, combined or exchanged and, in the case of registration of transfer, shall provide a signature guarantee. Thereupon, the Warrant Agent shall countersign and deliver to the Person entitled thereto a Warrant Certificate or Warrant Certificates, as the case may be, as so requested. The Company and the Warrant Agent may require payment, by the Holder requesting a registration of transfer of Warrants or a split-up, combination or exchange of a Warrant Certificate (but, for purposes of clarity, not upon the exercise of the Warrants and issuance of Warrant Shares to the Holder), of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with such registration of transfer, split-up, combination or exchange, together with reimbursement to the Company and the Warrant Agent of all reasonable expenses incidental thereto.

2.2.6. Loss, Theft and Mutilation of Warrant Certificates. Upon receipt by the Company and the Warrant Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security in customary form and amount, and reimbursement to the Company and the Warrant Agent of all reasonable expenses incidental thereto, and upon surrender to the Warrant Agent and cancellation of the Warrant Certificate if mutilated, the Warrant Agent shall, on behalf of the Company, countersign and deliver a new Warrant Certificate of like tenor to the Holder in lieu of the Warrant Certificate so lost, stolen, destroyed or mutilated. The Warrant Agent may charge the Holder an administrative fee for processing the replacement of lost Warrant Certificates, which shall be charged only once in instances where a single surety bond obtained covers multiple certificates. The Warrant Agent may receive compensation from the surety companies or surety agents for administrative services provided to them.

2.2.7. Proxies. The Holder of a Warrant may grant proxies or otherwise authorize any Person, including the Participants and beneficial holders that may own interests through the Participants in the case of Tradeable Warrants, to take any action that a Holder is entitled to take under this Agreement or the Warrants; *provided*, *however*, that at all times that Tradeable Warrants are evidenced by a Tradeable Global Certificate, exercise of those Tradeable Warrants shall be effected on their behalf by Participants through DTC in accordance the procedures administered by DTC.

3. Terms and Exercise of Warrants.

3.1. Exercise Price. Each Warrant shall entitle the Holder, subject to the provisions of the applicable Warrant Certificate and of this Warrant Agreement, to purchase from the Company the number of Shares of Common Stock stated therein, at the price of (i) $[●] per whole Share upon exercise of a Tradeable Warrant, and (ii) $[●] per whole Share upon exercise of a Non-tradeable Warrant, subject in both cases to the subsequent adjustments provided in Section 4 hereof. The term "Exercise Price" as used in this Warrant Agreement refers to the price per Share at which Shares of Common Stock may be purchased at the time a Warrant is exercised.

3.2. Duration of Warrants. Warrants may be exercised only during the period ("Exercise Period") commencing on the Issuance Date and terminating at 11:59 P.M., New York City Time (the "close of business") on the fifth anniversary of the Issuance Date, [●] ("Expiration Date"). Each Warrant not exercised on or before the Expiration Date shall become void, and all rights thereunder and all rights in respect thereof under this Warrant Agreement shall cease at the close of business on the Expiration Date.

3.3. Exercise of Warrants.

3.3.1. Exercise and Payment. (a) Subject to the provisions of this Warrant Agreement, a Holder (or a Participant or a designee of a Participant acting on behalf of a Holder) may exercise Warrants by delivering to the Warrant Agent, not later than 5:00 P.M., New York City Time, on any Business Day during the Exercise Period an election to purchase the Warrant Shares underlying the Warrants to be exercised (i) in the form included in Exhibit C to this Warrant Agreement or (ii) in the case of a Tradeable Warrant, via an electronic warrant exercise through the DTC system (each, an "Election to Purchase"). No later than one (1) Trading Day following delivery of an Election to Purchase, the Holder (or a Participant acting on behalf of a Holder in accordance with DTC procedures) shall: (i) (A) surrender the Warrant Certificate evidencing the Warrants to the Warrant Agent at its office designated for such purpose or (B) deliver the Warrants to an account of the Warrant Agent at DTC designated for such purpose in writing by the Warrant Agent to DTC from time to time, and (ii) unless the cashless exercise procedure specified in Section 3.3.7(b) or (c) below is permitted and specified in the applicable Notice of Exercise, deliver to the Company the Exercise Price for each Warrant to be exercised, in lawful money of the United States of America in cash, by certified or official bank check payable to the Company or bank wire transfer in immediately available funds to:

**60 DEGREES PHARMACEUTICALS, INC.**
Bank Name: [____]

Routing (ABA)#: [____]
Beneficiary Account Name: 60 Degrees Pharmaceuticals, Inc.
Beneficiary Account Number:[_____]

No ink-original Election to Purchase shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Election to Purchase form be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender the Warrants to the Company until the Holder has purchased all of the Warrant Shares available thereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender such Warrant to the Company for cancellation within three (3) Trading Days of the date the final Election to Purchase is delivered to the Company. Partial exercises of a Warrant resulting in purchases of a portion of the total number of Warrant Shares available thereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Election to Purchase within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of a Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face thereof.**

Any Person so designated by the Holder (or a Participant or designee of a Participant on behalf of a Holder) to receive Warrant Shares shall be deemed to have become holder of record of such Warrant Shares as of the time that an appropriately completed and duly signed Election to Purchase has been delivered to the Warrant Agent, *provided* that the Holder (or Participant on behalf of the Holder) makes delivery of the deliverables referenced in the immediately preceding sentence by the date that is one (1) Trading Day after the delivery of the Election to Purchase. If the Holder (or Participant on behalf of the Holder) fails to make delivery of such deliverables on or prior to the Trading Day following delivery of the Election to Purchase, such Election to Purchase shall be void *ab initio*.

(b) If any of (i) the Warrants, (ii) the Election to Purchase, or (iii) the Exercise Price therefor, is received by the Warrant Agent on any date after 5:00 P.M., New York City Time, or on a date that is not a Trading Day, the Warrants with respect thereto will be deemed to have been received and exercised on the Trading Day next succeeding such date. "Business Day" means a day other than a Saturday, Sunday, or other day on which commercial Banks in New York City are authorized or required by law to remain closed; *provided*, *however*, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home," "shelter-in-place," "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day. The "Exercise Date" will be the date on which the materials in the foregoing sentence are received by the Warrant Agent (if by 5:00 P.M., New York City time), or the following Trading Day (if after 5:00 P.M., New York City time), regardless of any earlier date written on the materials. If the Warrants are received or deemed to be received after the Expiration Date, the exercise thereof will be null and void and any funds delivered to the Company will be returned to the Holder or Participant, as the case may be, as soon as practicable. In no event will interest accrue on any funds deposited with the Company in respect of an exercise or attempted exercise of Warrants.

(c) If less than all the Warrants evidenced by a surrendered Warrant Certificate are exercised, the Warrant Agent shall split up the surrendered Warrant Certificate and return to the Holder a Warrant Certificate evidencing the Warrants that were not exercised.

Notwithstanding the foregoing in this Section 3.3.1, a holder whose interest in a Warrant is a beneficial interest in certificate(s) representing such Warrant held in registered form through DTC (or another established clearing corporation performing similar functions), shall effect exercises made pursuant to this Section 3.3.1 by delivering to DTC (or such other clearing corporation, as applicable) the appropriate instruction form for exercise, complying with the procedures to effect exercise that are required by DTC (or such other clearing corporation, as applicable), subject to a holder's right to elect to receive a Definitive Warrant pursuant to the terms of this Warrant Agreement, in which case this sentence shall not apply. Upon giving irrevocable instructions to its Participant to exercise Warrants, solely for purposes of Regulation SHO, the holder whose interest in the Warrant is a beneficial interest shall be deemed to have exercised such Warrant, regardless of when the applicable Warrant Shares are delivered to such holder.

3.3.2. Issuance of Warrant Shares. (a) The Warrant Agent shall, by 11:00 a.m., New York City time, on the Trading Day following the Exercise Date of any Warrant, advise the Company, the transfer agent and registrar for the Company's Common Stock, in respect of (i) the number of Warrant Shares indicated on the Election to Purchase as issuable upon such exercise with respect to such exercised Warrants, (ii) the instructions of the Holder or Participant, as the case may be, provided to the Warrant Agent with respect to the delivery of the Warrant Shares and the number of Warrants that remain outstanding after such exercise, and (iii) such other information as the Company or such transfer agent and registrar shall reasonably request.

(b) The Company shall, by no later than 5:00 P.M., New York City Time, on the second ($2^{nd}$) Trading Day, or such other lesser time as mandated by the Commission or the Trading Market on which the Company's securities are traded, following the Exercise Date of any Tradeable Warrant and the clearance of the funds in payment of the Exercise Price (such date and time, the "Delivery Time"), cause its registrar to electronically transmit the Warrant Shares issuable upon that exercise to DTC by crediting the account of DTC or of the Participant, as the case may be, through its Deposit Withdrawal Agent Commission system.

3.3.3. Valid Issuance. All Warrant Shares issued by the Company upon the proper exercise of a Warrant in conformity with this Warrant Agreement shall be duly authorized, validly issued, fully paid and non-assessable.

3.3.4. No Fractional Exercise. No fractional Warrant Shares will be issued upon the exercise of the Warrant. If, by reason of any adjustment made pursuant to Section 4, a Holder would be entitled, upon the exercise of such Warrant, to receive a fractional interest in a share, the Company shall, upon such exercise, round up to the next whole share.

3.3.5. No Transfer Taxes. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; *provided*, *however*, that, in the event that Warrant Shares are to be issued in a name other than the name of the Holder, the Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached to the Warrant duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Election to Purchase and all fees to DTC (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

3.3.6. Date of Issuance. The Company will treat an exercising Holder as a beneficial owner of the Warrant Shares as of the Exercise Date, except that, if the Exercise Date is a date when the stock transfer books of the Company are closed, such Person shall be deemed to have become the holder of such shares at the open of business on the next succeeding date on which the stock transfer books are open.

3.3.7. Restrictive Legend Events; Cashless Exercise Under Certain Circumstances. (a) The Company shall use it reasonable best efforts to maintain the effectiveness of the Registration Statement and the current status of the prospectus included therein or to file and maintain the effectiveness of another registration statement and another current prospectus covering the Tradeable Warrants and the Tradeable Warrant Shares at any time that the Tradeable Warrants are exercisable. The Company shall provide to the Warrant Agent and each Holder prompt written notice of any time that the Company is unable to deliver the Warrant Shares via DTC transfer or otherwise without restrictive legend because: (i) the Commission has issued a stop order with respect to the Registration Statement, (ii) the Commission otherwise has suspended or withdrawn the effectiveness of the Registration Statement, either temporarily or permanently, (iii) the Company has suspended or withdrawn the effectiveness of the Registration Statement, either temporarily or permanently, (iv) in the case of a Tradeable Warrant, the prospectus contained in the Registration Statement is not available for the issuance of the Tradeable Warrant Shares to the Holder, or (v) otherwise (each a "Restrictive Legend Event"). To the extent that the Warrants cannot be exercised as a result of a Restrictive Legend Event or a Restrictive Legend Event occurs after a Holder has exercised Warrants in accordance with the terms of the Warrants but prior to the delivery of the Warrant Shares, the Company shall, at the election of the Holder, which shall be given within five (5) days of receipt of such notice of the Restrictive Legend Event, either (i) rescind the previously submitted Election to Purchase and return all consideration paid by registered Holder for such shares upon such rescission, or (ii) treat the attempted exercise as a cashless exercise as described in paragraph (b) below and refund the cash portion of the exercise price to the Holder. Notwithstanding anything herein to the contrary, the Company shall not be required to make any cash payments or net cash settlement to the Holder in lieu of delivery of the Warrant Shares.

(b) If a Restrictive Legend Event has occurred, the Warrant shall only be exercisable on a cashless basis. Upon a "cashless exercise," the Holder shall be entitled to receive the number of Warrant Shares equal to the quotient obtained by dividing (A-B) (X) by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the Exercise Date if the Holder's Election to Purchase is (1) both executed and delivered pursuant to Section 3.3.7(a) hereof on a day that is not a Trading Day, or (2) both executed and delivered pursuant to Section 3.3.7(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(68) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Election to Purchase, or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. as of the time of the Holder's execution of the applicable Election to Purchase if such Election to Purchase is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 3.3.7(a) hereof, or (iii) the VWAP on the date of the applicable Election to Purchase if the date of such Election to Purchase is a Trading Day and such Election to Purchase is both executed and delivered pursuant to Section 3.3.7(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price then in effect for the applicable Warrant Shares at the time of the exercise of the Warrant, as adjusted as set forth herein; and

(X) = the number of Warrant Shares that would be issuable upon exercise of the Warrant in accordance with the terms of the Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

Notwithstanding anything to the contrary herein, a “cashless exercise” may occur after the earlier of (i) 1 Trading Day from the Initial Exercise Date of a Warrant or (ii) the time when $10.0 million of volume is traded in the Common Shares, if the VWAP of the Common Shares on any Trading Day on or after the closing date fails to exceed the Exercise Price in effect as of the Initial Exercise Date (subject to adjustment for any stock splits, stock dividends, stock combinations, recapitalizations and similar events). In such event, the aggregate number of Warrant Shares issuable in such cashless exercise pursuant to any given Notice of Exercise electing to effect a cashless exercise shall equal the product of (x) the aggregate number of Warrant Shares that would be issuable upon exercise of a Warrant in accordance with the terms of a Warrant if such exercise were by means of a cash exercise rather than a cashless exercise and (y) 1.00.

If Tradeable Warrant Shares are issued in such a cashless exercise, the Company acknowledges and agrees that, in accordance with Section 3(a)(9) of the Securities Act, the Tradeable Warrant Shares shall take on the registered characteristics of the Tradeable Warrants being exercised and the Company agrees not to take any position contrary thereto. Upon receipt of an Election to Purchase for a cashless exercise, the Warrant Agent will promptly deliver a copy of the Election to Purchase to the Company to confirm the number of Warrant Shares issuable in connection with the cashless exercise. The Company shall calculate and transmit to the Warrant Agent in a written notice, and the Warrant Agent shall have no duty, responsibility or obligation under this section to calculate, the number of Warrant Shares issuable in connection with any cashless exercise. The Warrant Agent shall be entitled to rely conclusively on any such written notice provided by the Company, and the Warrant Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with such written instructions or pursuant to this Warrant Agreement.

3.3.8. Restrictive Legend of Non-tradeable Warrants. No registration is required for the offer and sale of the Non-tradeable Warrants by the Company to the Holders. The Non-tradeable Warrants may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Non-tradeable Warrants other than pursuant to an effective registration statement or Rule 144 promulgated under the Securities Act, the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Non-tradeable Warrant under the Securities Act. Certificates evidencing the Non-tradeable Warrants shall not contain any legend: (i) while a registration statement covering the resale of such security is effective under the Securities Act; (ii) following any sale of such Non-tradeable Warrants pursuant to Rule 144 (assuming cashless exercise of the Non-tradeable Warrants); (iii) if such Non-tradeable Warrants are eligible for sale under Rule 144 (assuming cashless exercise of the Non-tradeable Warrants); or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall cause its counsel to issue a legal opinion to the Warrant Agent or the Holder promptly if required by the Warrant Agent to effect the removal of the legend hereunder, or if requested by a Holder, respectively. If all or any portion of a Non-tradeable Warrant is exercised at a time when a legend is not required pursuant to clauses (i)-(iv) above, then such Non-tradeable Warrants shall be issued free of all legends.

3.3.9. Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the number of Warrant Shares issuable in connection with any exercise, the Company shall promptly deliver to the Holder the number of Warrant Shares that are not disputed.

3.3.9 Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 3.3.2 above pursuant to an exercise on or before the Delivery Time, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of $10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

3.3.10 Beneficial Ownership Limitation. The Company shall not affect any exercise of a Warrant, and a Holder shall not have the right to exercise any portion of a Warrant, pursuant to Section 3 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Election to Purchase, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of the Warrants with respect to which such determination is being made, but shall exclude the number of shares of Common Stock (a) which would be issuable upon exercise of the remaining, non-exercised Warrants beneficially owned by that Holder or any of its Affiliates or Attribution Parties and (b) which would be issuable upon exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 3.3.10, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended, and the rule and regulations promulgated thereunder (the "Exchange Act"), it being acknowledged by the Holder that neither the Warrant Agent nor the Company is representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder or beneficial owner is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 3.3.10 applies, the determination of whether a Warrant is exercisable and of which portion of the Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of an Election to Purchase shall be deemed to be the Holder's determination of whether such Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and which portion of the Warrant is exercisable, and neither the Warrant Agent nor the Company shall have any obligation to verify or confirm the accuracy of such determination and neither of them shall have any liability for any error made by the Holder or any other Person. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 3.3.10, in determining the number of outstanding shares of Common Stock, a Holder or other Person may rely on the number of outstanding shares of Common Stock as reflected in (a) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (b) a more recent public announcement by the Company or (c) a more recent written notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding (the "Reported Outstanding Share Number"). If the Company receives an Election to Purchase from a Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall (i) notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Election to Purchase would otherwise cause the Holder's beneficial ownership to exceed the Beneficial Ownership Limitation, the Holder must notify the Company of a reduced number of Warrant Shares to be acquired pursuant to such Election to Purchase (the number of shares by which such purchase is reduced, the "Reduction Shares") and (ii) as soon as reasonably practicable, the Company shall return to the Holder any exercise price paid by the Holder for the Reduction Shares. For any reason at any time, upon the written or oral request of a Person that represents that it is or is acting on behalf of a Holder, the Company shall, within one (1) Trading Day, confirm orally or in writing or by e-mail to that Person the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% (or, upon election by a Holder prior to the issuance of any Warrants, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of a Warrant. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Beneficial Ownership Limitation to any other percentage not in excess of 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of a Warrant held by the Holder and the provisions of

this Section 3.3.10 shall continue to apply. as specified in such notice, provided that any increase in the Beneficial Ownership Limitation will not be effective until the sixty-first ($61^{st}$) day after such notice is delivered to the Company and any such increase or decrease will apply only to the Holder and its Affiliates and Attribution Parties and not to any other holder of Warrants. The provisions of this Section 3.3.10 shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3.3.10 to correct this subsection (or any portion hereof) which may be defective or inconsistent with the intended beneficial ownership limitation herein contained. The limitations contained in this paragraph shall apply to a successor holder of the Warrant.

4. Adjustments.

4.1. Adjustment upon Subdivisions or Combinations. If the Company at any time after the Issuance Date subdivides (by any stock split, stock dividend, recapitalization, reorganization, scheme, arrangement or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares will be proportionately increased. If the Company at any time after the Issuance Date combines (by any stock split, stock dividend, recapitalization, reorganization, scheme, arrangement or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares will be proportionately decreased. Any adjustment under this Section 4.1 shall become effective at the close of business on the date the subdivision or combination becomes effective. The Company shall promptly notify Warrant Agent of any such adjustment and give specific instructions to Warrant Agent with respect to any adjustments to the warrant register.

4.2. Adjustment for Other Distributions. In the event the Company shall fix a record date for the making of a dividend or distribution to all holders of Common Stock of any evidences of indebtedness or assets or subscription rights, options or warrants (excluding those referred to in Section 4.1 or other dividends paid out of retained earnings), then in each such case the Holder will, upon the exercise of Warrants, be entitled to receive, in addition to the number of Warrant Shares issuable thereupon, and without payment of any additional consideration therefor, the amount of such dividend or distribution, as applicable, which such Holder would have held on the date of such exercise had such Holder been the holder of record of such Warrant Shares as of the date on which holders of Common Stock became entitled to receive such dividend or distribution. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

4.3. Fundamental Transaction. If, at any time while a Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company or any Subsidiary, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock or 50% or more of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires 50% or more of the outstanding shares of Common Stock or 50% or more of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of a Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of a Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which each Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of the Warrants). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of a Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase a Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of a Warrant on the date of the consummation of such Fundamental Transaction; *provided*, *however*, that, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of a Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of a Warrant based on the Black-Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable contemplated Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the public announcement of the applicable contemplated Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the highest VWAP during the period beginning on the Trading Day immediately preceding the public announcement of the applicable contemplated Fundamental Transaction (or the consummation of the applicable Fundamental Transaction, if earlier) and ending on the Trading Day of the Holder's request pursuant to this Section and (D) a remaining option time equal to the time between the date of the public announcement of the applicable contemplated Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds (or such other consideration) within five Business Days of the Holder's election (or, if later, on the date of consummation of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under a Warrant Agreement in accordance with the provisions of this Section 4.3 pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for a Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to a Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of a Warrant (without regard to any limitations on the exercise of the Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of the Warrant

immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall be added to the term "Company" under a Warrant (so that from and after the occurrence or consummation of such Fundamental Transaction, each and every provision of a Warrant and the other Transaction Documents referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under a Warrant and the other Transaction Documents with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section regardless of (i) whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares and/or (ii) whether a Fundamental Transaction occurs prior to the Initial Exercise Date.

4.4. Other Events. If any event occurs of the type contemplated by the provisions of Section 4.1 or 4.2 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, Adjustment Rights, phantom stock rights or other rights with equity features to all holders of Common Stock for no consideration), then the Company's Board of Directors will, at its discretion and in good faith, make an adjustment in the Exercise Price and the number of Warrant Shares or designate such additional consideration to be deemed issuable upon exercise of a Warrant, so as to protect the rights of the registered Holder. No adjustment to the Exercise Price will be made pursuant to more than one sub-section of this Section in connection with a single issuance.

4.5. Notices of Changes in Warrant. Upon every adjustment of the Exercise Price or the number of Warrant Shares issuable upon exercise of a Warrant, the Company shall give prompt written notice thereof to the Warrant Agent, which notice shall state the Exercise Price resulting from such adjustment and the increase or decrease, if any, in the number of Warrant Shares purchasable at such price upon the exercise of a Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based. Upon the occurrence of any event specified in Sections 4.1 or 4.2, then, in any such event, the Company shall give written notice to each Holder, at the last address set forth for such holder in the Warrant Register, as of the record date or the effective date of the event. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such event. The Warrant Agent shall be entitled to rely conclusively on, and shall be fully protected in relying on, any certificate, notice or instructions provided by the Company with respect to any adjustment of the Exercise Price or the number of shares issuable upon exercise of a Warrant, or any related matter, and the Warrant Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with any such certificate, notice or instructions or pursuant to this Warrant Agreement. The Warrant Agent shall not be deemed to have knowledge of any such adjustment unless and until it shall have received written notice thereof from the Company.

5. Restrictive Legends; Fractional Warrants. In the event that a Warrant Certificate surrendered for transfer bears a restrictive legend, the Warrant Agent shall not register that transfer until the Warrant Agent has received an opinion of counsel for the Company stating that such transfer may be made and indicating whether the Warrants must also bear a restrictive legend upon that transfer. The Warrant Agent shall not be required to effect any registration of transfer or exchange which will result in the transfer of or delivery of a Warrant Certificate for a fraction of a Warrant.

6. Other Provisions Relating to Rights of Holders of Warrants.

6.1. No Rights as Stockholder. Except as otherwise specifically provided herein, a Holder, solely in its capacity as a holder of Warrants, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant Agreement be construed to confer upon a Holder, solely in its capacity as the registered holder of Warrants, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of share capital, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights or rights to participate in new issues of shares, or otherwise, prior to the issuance to the Holder of the Warrant Shares which it is then entitled to receive upon the due exercise of Warrants.

6.2. Reservation of Common Stock. The Company shall at all times reserve and keep available a number of its authorized but unissued shares of Common Stock that will be sufficient to permit the exercise in full of all outstanding Warrants issued pursuant to this Warrant Agreement.

7. Concerning the Warrant Agent and Other Matters.

7.1. Any instructions given to the Warrant Agent orally, as permitted by any provision of this Warrant Agreement, shall be confirmed in writing by the Company as soon as practicable. The Warrant Agent shall not be liable or responsible and shall be fully authorized and protected for acting, or failing to act, in accordance with any oral instructions which do not conform with the written confirmation received in accordance with this Section 7.1.

7.2. (a) Whether or not any Warrants are exercised, for the Warrant Agent's services as agent for the Company hereunder, the Company shall pay to the Warrant Agent such fees as may be separately agreed between the Company and Warrant Agent and the Warrant Agent's out of pocket expenses in connection with this Warrant Agreement, including, without limitation, the fees and expenses of the Warrant Agent's counsel. While the Warrant Agent endeavors to maintain out-of-pocket charges (both internal and external) at competitive rates, these charges may not reflect actual out-of-pocket costs, and may include handling charges to cover internal processing and use of the Warrant Agent's billing systems.

(b) All amounts owed by the Company to the Warrant Agent under this Warrant Agreement are due within 30 days of the invoice date. Delinquent payments are subject to a late payment charge of one and one-half percent (1.5%) per month commencing 30 days from the invoice date. The Company agrees to reimburse the Warrant Agent for any attorney's fees and any other costs associated with collecting delinquent payments.

(c) No provision of this Warrant Agreement shall require Warrant Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under this Warrant Agreement or in the exercise of its rights.

7.3. As agent for the Company hereunder the Warrant Agent: (a) shall have no duties or obligations other than those specifically set forth herein or as may subsequently be agreed to in writing by the Warrant Agent and the Company; (b) shall be regarded as making no representations and having no responsibilities as to the validity, sufficiency, value, or genuineness of the Warrants or any Warrant Shares; (c) shall not be obligated to take any legal action hereunder; if, however, the Warrant Agent determines to take any legal action hereunder, and where the taking of such action might, in its judgment, subject or expose it to any expense or liability it shall not be required to act unless it has been furnished with an indemnity reasonably satisfactory to it; (e) may rely on and shall be fully authorized and protected in acting or failing to act upon any certificate, instrument, opinion, notice, letter, telegram, telex, facsimile transmission or other document or security delivered to the Warrant Agent and believed by it to be genuine and to have been signed by the proper party or parties; (f) shall not be liable or responsible for any recital or statement contained in the Registration Statement or any other documents relating thereto; (g) shall not be liable or responsible for any failure on the part of the Company to comply with any of its covenants and obligations relating to the Warrants, including without limitation obligations under applicable securities laws; (h) may rely on and shall be fully authorized and protected in acting or failing to act upon the written, telephonic or oral instructions with respect to any matter relating to its duties as Warrant Agent covered by this Warrant Agreement (or supplementing or qualifying any such actions) of officers of the Company, and is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Company or counsel to the Company, and may apply to the Company, for advice or instructions in connection with the Warrant Agent's duties hereunder, and the Warrant Agent shall not be liable for any delay in acting while waiting for those instructions; any applications by the Warrant Agent for written instructions from the Company may, at the option of the Agent, set forth in writing any action proposed to be taken or omitted by the Warrant Agent under this Warrant Agreement and the date on or after which such action shall be taken or such omission shall be effective; the Warrant Agent shall not be liable for any action taken by, or omission of, the Warrant Agent in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than five business days after the date such application is sent to the Company, unless the Company shall have consented in writing to any earlier date) unless prior to taking any such action, the Warrant Agent shall have received written instructions in response to such application specifying the action to be taken or omitted; (i) may consult with counsel satisfactory to the Warrant Agent, including its in-house counsel, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered, or omitted by it hereunder in good faith and in accordance with the advice of such counsel; (j) may perform any of its duties hereunder either directly or by or through nominees, correspondents, designees, or subagents, and it shall not be liable or responsible for any misconduct or negligence on the part of any nominee, correspondent, designee, or subagent appointed with reasonable care by it in connection with this Warrant Agreement; (k) is not authorized, and shall have no obligation, to pay any brokers, dealers, or soliciting fees to any person; and (l) shall not be required hereunder to comply with the laws or regulations of any country other than the United States of America or any political subdivision thereof.

7.4. (a) In the absence of gross negligence or willful misconduct on its part (which gross negligence or willful misconduct must be determined by a final, non-appealable court of competent jurisdiction), the Warrant Agent shall not be liable for any action taken, suffered, or omitted by it or for any error of judgment made by it in the performance of its duties under this Warrant Agreement. Anything in this Warrant Agreement to the contrary notwithstanding, in no event shall Warrant Agent be liable for special, indirect, incidental, consequential or punitive losses or damages of any kind whatsoever (including but not limited to lost profits), even if the Warrant Agent has been advised of the possibility of such losses or damages and regardless of the form of action. Any liability of the Warrant Agent will be limited in the aggregate to the amount of fees paid by the Company hereunder. The Warrant Agent shall not be liable for any failures, delays or losses, arising directly or indirectly out of conditions beyond its reasonable control including, but not limited to, acts of government, exchange or market ruling, suspension of trading, work stoppages or labor disputes, fires, civil disobedience, riots, rebellions, storms, electrical or mechanical failure, computer hardware or software failure, communications facilities failures including telephone failure, war, terrorism, insurrection, earthquakes, floods, acts of God or similar occurrences. (b) In the event any question or dispute arises with respect to the proper interpretation of the Warrants or the Warrant Agent's duties under this Warrant Agreement or the rights of the Company or of any Holder, the Warrant Agent shall not be required to act and shall not be held liable or responsible for its refusal to act until the question or dispute has been judicially settled (and, if appropriate, it may file a suit in interpleader or for a declaratory judgment for such purpose) by final judgment rendered by a court of competent jurisdiction, binding on all Persons interested in the matter which is no longer subject to review or appeal, or settled by a written document in form and substance satisfactory to Warrant Agent and executed by the Company and each such Holder. In addition, the Warrant Agent may require for such purpose, but shall not be obligated to require, the execution of such written settlement by all the Holders and all other Persons that may have an interest in the settlement.

7.5. The Company covenants to indemnify the Warrant Agent and hold it harmless from and against any loss, liability, claim or expense ("Loss") arising out of or in connection with the Warrant Agent's duties under this Warrant Agreement, including the costs and expenses of defending itself against any Loss, unless such Loss shall have been determined by a court of competent jurisdiction to be a result of the Warrant Agent's gross negligence or willful misconduct (which gross negligence or willful misconduct must be determined by a final, non-appealable court of competent jurisdiction).

7.6. Unless terminated earlier by the parties hereto, this Agreement shall terminate 90 days after the earlier of the Expiration Date and the date on which no Warrants remain outstanding (the "Termination Date"). On the Business Day following the Termination Date, the Agent shall deliver to the Company any entitlements, if any, held by the Warrant Agent under this Warrant Agreement. The Agent's right to be reimbursed for fees, charges and out-of-pocket expenses as provided in this Section 7 shall survive the termination of this Warrant Agreement.

7.7. If any provision of this Warrant Agreement shall be held illegal, invalid, or unenforceable by any court, this Warrant Agreement shall be construed and enforced as if such provision had not been contained herein and shall be deemed an Agreement among the parties to it to the full extent permitted by applicable law.

7.8. The Company represents and warrants that: (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation; (b) the offer and sale of the Warrants and the execution, delivery and performance of all transactions contemplated thereby (including this Warrant Agreement) have been duly authorized by all necessary corporate action and will not result in a breach of or constitute a default under the articles of association, bylaws or any similar document of the Company or any indenture, agreement or instrument to which it is a party or is bound; (c) this Warrant Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, binding and enforceable obligation of the Company; (d) the Warrants will comply in all material respects with all applicable requirements of law; and (e) to the best of its knowledge, there is no litigation pending or threatened as of the date hereof in connection with the offering of the Warrants.

7.9. In the event of inconsistency between this Warrant Agreement and the descriptions in the Registration Statement, as they may from time to time be amended, the terms of this Warrant Agreement shall control.

7.10. Set forth in Exhibit C hereto is a list of the names and specimen signatures of the Persons authorized to act for the Company under this Warrant Agreement (the "Authorized Representatives"). The Company shall, from time to time, certify to you the names and signatures of any other Persons authorized to act for the Company under this Warrant Agreement.

7.11. Except as expressly set forth elsewhere in this Warrant Agreement, all notices, instructions and communications under this Agreement shall be in writing, shall be effective upon receipt and shall be addressed, if to the Company, to its address set forth beneath its signature to this Agreement, or, if to the Warrant Agent, to Equity Stock Transfer, LLC, 237 W 37th St #602, New York, NY 10018, or to such other address of which a party hereto has notified the other party.

7.12. (a) This Warrant Agreement shall be governed by and construed in accordance with the laws of the State of New York. All actions and proceedings relating to or arising from, directly or indirectly, this Warrant Agreement may be litigated in courts located within the Borough of Manhattan in the City and State of New York. The Company hereby submits to the personal jurisdiction of such courts and consents that any service of process may be made by certified or registered mail, return receipt requested, directed to the Company at its address last specified for notices hereunder. Each of the parties hereto hereby waives the right to a trial by jury in any action or proceeding arising out of or relating to this Warrant Agreement.

(b) This Warrant Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. This Warrant Agreement may not be assigned, or otherwise transferred, in whole or in part, by either party without the prior written consent of the other party, which the other party will not unreasonably withhold, condition or delay; except that (i) consent is not required for an assignment or delegation of duties by Warrant Agent to any affiliate of Warrant Agent and (ii) any reorganization, merger, consolidation, sale of assets or other form of business combination by Warrant Agent or the Company shall not be deemed to constitute an assignment of this Warrant Agreement.

(c) No provision of this Warrant Agreement may be amended, modified or waived, except in a written document signed by both parties. The Company and the Warrant Agent may amend or supplement this Warrant Agreement without the consent of any Holder for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained herein or adding or changing any other provisions with respect to matters or questions arising under this Agreement as the parties may deem necessary or desirable and that the parties determine, in good faith, shall not adversely affect the interest of the Holders. All other amendments and supplements shall require the vote or written consent of Holders of at least 67% of the then outstanding Warrants, provided that adjustments may be made to the Warrant terms and rights in accordance with Section 4 without the consent of the Holders.

7.13. Payment of Taxes. The Company will from time to time promptly pay all taxes and charges that may be imposed upon the Company or the Warrant Agent in respect of the issuance or delivery of Warrant Shares upon the exercise of Warrants, but the Company may require the Holders to pay any transfer taxes in respect of the Warrants or such shares. The Warrant Agent may refrain from registering any transfer of Warrants or any delivery of any Warrant Shares unless or until the Persons requesting the registration or issuance shall have paid to the Warrant Agent for the account of the Company the amount of such tax or charge, if any, or shall have established to the reasonable satisfaction of the Company and the Warrant Agent that such tax or charge, if any, has been paid.

7.14. Resignation of Warrant Agent.

7.14.1. Appointment of Successor Warrant Agent. The Warrant Agent, or any successor to it hereafter appointed, may resign its duties and be discharged from all further duties and liabilities hereunder after giving thirty (30) days' notice in writing to the Company, or such shorter period of time agreed to by the Company. The Company may terminate the services of the Warrant Agent, or any successor Warrant Agent, after giving thirty (30) days' notice in writing to the Warrant Agent or successor Warrant Agent, or such shorter period of time as agreed. If the office of the Warrant Agent becomes vacant by resignation, termination or incapacity to act or otherwise, the Company shall appoint in writing a successor Warrant Agent in place of the Warrant Agent. If the Company shall fail to make such appointment within a period of 30 days after it has been notified in writing of such resignation or incapacity by the Warrant Agent, then the Warrant Agent or any Holder may apply to any court of competent jurisdiction for the appointment of a successor Warrant Agent at the Company's cost. Pending appointment of a successor to such Warrant Agent, either by the Company or by such a court, the duties of the Warrant Agent shall be carried out by the Company. Any successor Warrant Agent (but not including the initial Warrant Agent), whether appointed by the Company or by such court, shall be a Person organized and existing under the laws of any state of the United States of America, in good standing, and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal or state authority. After appointment, any successor Warrant Agent shall be vested with all the authority, powers, rights, immunities, duties, and obligations of its predecessor Warrant Agent with like effect as if originally named as Warrant Agent hereunder, without any further act or deed, and except for executing and delivering documents as provided in the sentence that follows, the predecessor Warrant Agent shall have no further duties, obligations, responsibilities or liabilities hereunder, but shall be entitled to all rights that survive the termination of this Warrant Agreement and the resignation or removal of the Warrant Agent, including but not limited to its right to indemnity hereunder. If for any reason it becomes necessary or appropriate or at the request of the Company, the predecessor Warrant Agent shall execute and deliver, at the expense of the Company, an instrument transferring to such successor Warrant Agent all the authority, powers, and rights of such predecessor Warrant Agent hereunder; and upon request of any successor Warrant Agent the Company shall make, execute, acknowledge, and deliver any and all instruments in writing for more fully and effectually vesting in and confirming to such successor Warrant Agent all such authority, powers, rights, immunities, duties, and obligations.

7.14.2. Notice of Successor Warrant Agent. In the event a successor Warrant Agent shall be appointed, the Company shall give notice thereof to the predecessor Warrant Agent and the transfer agent for the Common Stock not later than the effective date of any such appointment.

7.14.3. Merger or Consolidation of Warrant Agent. Any Person into which the Warrant Agent may be merged or converted or with which it may be consolidated or any Person resulting from any merger, conversion or consolidation to which the Warrant Agent shall be a party or any Person succeeding to the shareowner services business of the Warrant Agent or any successor Warrant Agent shall be the successor Warrant Agent under this Warrant Agreement, without any further act or deed. For purposes of this Warrant Agreement, "person" shall mean any individual, firm, corporation, partnership, limited liability company, joint venture, association, trust or other entity, and shall include any successor (by merger or otherwise) thereof or thereto.

8. Miscellaneous Provisions.

8.1. Persons Having Rights under this Warrant Agreement. Nothing in this Warrant Agreement expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or give to, any Person or corporation other than the parties hereto and the Holders any right, remedy, or claim under or by reason of this Warrant Agreement or of any covenant, condition, stipulation, promise, or agreement hereof.

8.2. Examination of the Warrant Agreement. A copy of this Warrant Agreement shall be available at all reasonable times at the office of the Warrant Agent designated for such purpose for inspection by any Holder. Prior to such inspection, the Warrant Agent may require any such holder to provide reasonable evidence of its interest in the Warrants.

8.3. Counterparts. This Warrant Agreement may be executed in any number of original, facsimile or electronic counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

8.4. Effect of Headings. The Section headings herein are for convenience only and are not part of this Warrant Agreement and shall not affect the interpretation thereof.

9. Certain Definitions. As used herein, the following terms shall have the following meanings:

(a) "Adjustment Right" means any right granted with respect to any securities issued in connection with, or with respect to, any issuance, sale or delivery (or deemed issuance, sale or delivery in accordance with Section 4) of Common Stock (other than rights of the type described in Section 4.2 and 4.3 hereof) that could result in a decrease in the net consideration received by the Company in connection with, or with respect to, such securities (including, without limitation, any cash settlement rights, cash adjustment or other similar rights) but excluding anti-dilution and other similar rights (including pursuant to Section 4.4 of this Agreement).

(b) "Trading Day" means any day on which the Common Stock is traded on the Trading Market, or, if the Trading Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market in the United States on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is are scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00 P.M., Eastern Standard Time).

(c) "Trading Market" means NYSE American, The Nasdaq Capital Market, The Nasdaq Global Market, The Nasdaq Global Select Market or the New York Stock Exchange.

(d) "VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the "Pink Sheets" published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

[*Signature Page to Follow*]

IN WITNESS WHEREOF, this Warrant Agent Agreement has been duly executed by the parties hereto as of the day and year first above written.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Name: _____
Title: _____

**EQUITY STOCK TRANSFER LLC**

By: _____
Name: _____
Title: _____

**EXHIBIT A**

**FORM OF TRADEABLE WARRANT**

(*See attached*.)

**EXHIBIT B**

**FORM OF NON-TRADEABLE WARRANT**

(*See attached*.)

**EXHIBIT C**

[Form of Election to Purchase]

(To Be Executed Upon Exercise of Warrants not evidenced by a Global Certificate)

The undersigned hereby irrevocably elects to exercise the right, represented by Warrants evidenced by this Warrant Certificate, to receive _____ Warrant Shares and herewith (i) tenders payment for such Warrant Shares to the order of 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, in the amount of $ _____ in accordance with the terms hereof, or (ii) if permitted, makes the payment by the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 3.3.7(b), to exercise this Warrant with respect to the above number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 3.3.7(b).

The undersigned requests that a certificate for such Warrant Shares be registered in the name of _____, whose address is _____ and that such certificate be delivered to _____, whose address is _____. If the number of Warrants being exercised hereby is less than all the Warrants evidenced by this Warrant Certificate, the undersigned requests that a new Warrant Certificate representing the remaining unexercised Warrants be registered in the name of _____, whose address is _____ and that such Warrant Certificate be delivered to _____ whose address is _____.

Signature, _____

Date:

[Signature Guarantee]

**EXHIBIT C**

**AUTHORIZED REPRESENTATIVES**

| Name | Title | Signature |
|---|---|---|
| Geoffrey Dow | Chief Executive Officer and President | |
| Tyrone Miller | Chief Financial Officer | |

**Exhibit 5.1**


April 28, 2023

60 Degrees Pharmaceuticals, Inc.
1025 Connecticut Avenue NW
Suite 1000
Washington, DC 20036

Attn: Board of Directors

RE: 60 Degrees Pharmaceuticals, Inc.
Registration Statement on Form S-1 (File No.: 333-269483)

Ladies and Gentlemen:

We have acted as counsel to **60 Degrees Pharmaceuticals, Inc.**, a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission (the "Commission") of the above-caption registration under the Securities Act of 1933, as amended (the "Securities Act"), initially filed with the Commission on January 31, 2023, and as amended on April 3, 2023 and April 28, 2023 (the "Registration Statement"). The Company filed the Registration Statement in connection with the proposed registration of up to an aggregate of: (i) 1,415,095 units (the "Units"), with each Unit consisting of (A) one share of common stock, par value $0.0001 per share ("Common Stock"), (B) one tradeable warrant to purchase one share of Common Stock ("Tradeable Warrant") and (C) one non-tradeable warrant to purchase one share of Common Stock ("Non-tradeable Warrant"), to be issued and sold by the Company in its initial public offering (the 1,415,095 shares of Common Stock underlying the Units, the "Unit Shares," the 1,415,095 shares of Common Stock issuable upon the exercise of the Tradeable Warrants underlying the Units, the "Unit Tradeable Warrant Shares" and the 1,415,095 shares of Common Stock issuable upon the exercise of the Non-tradeable Warrants underlying the Units, the "Unit Non-tradeable Warrant Shares"); (ii) 1,856,580 shares of Common Stock on behalf of the selling stockholders of the Company named in the Registration Statement (the "Selling Stockholders"), consisting of (A) 10,482 shares of common stock to be issued upon conversion of a convertible note immediately prior to the consummation of the initial public offering (the "Note Shares"), (B) 237,159 shares of common stock to be issued upon exercise of warrants issued after the date of the effectiveness of the Registration Statement and prior to the closing of the initial public offering (together with the Note Shares, the "Selling Stockholders' Shares") and (C) 1,608,938 shares of common stock held by certain of the Selling Stockholders (the "Selling Stockholders' Outstanding Shares"); (iii) (A) 212,265 shares of Common Stock (the "Over-Allotment Option Shares") issuable upon the exercise of an over-allotment option granted by the Company to the underwriters (the "Over-Allotment Option"), (B) 212,265 Tradeable Warrants issuable upon the exercise of the Over-Allotment Option (the "Over-Allotment Option Tradeable Warrants"), including 212,265 shares of Common Stock issuable upon the exercise of the Over-Allotment Option Tradeable Warrants (the "Over-Allotment Option Tradeable Warrant Shares") and (C) 212,265 Non-tradeable Warrants issuable upon the exercise of the Over-Allotment Option (the "Over-Allotment Option Non-tradeable Warrants"), including 212,265 shares of Common Stock issuable upon the exercise of the Over-Allotment Option Non-tradeable Warrants (the "Over-Allotment Option Non-tradeable Warrant Shares"); and (iv) 84,906 warrants to be issued to the representative of the underwriters as compensation for their services pursuant to the underwriting agreement to be entered into by and between the Company and the underwriters (the "Representative Warrants"), including the 84,906 shares of Common Stock issuable upon the exercise of the Representative Warrants (the "Representative Warrant Shares"). This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

In rendering these opinions, we have examined the Company's certificate of incorporation, as corrected, and amended and restated bylaws, both as currently in effect, the Registration Statement, and the exhibits thereto, and such other records, instruments and documents as we have deemed advisable in order to render these opinions. In such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photostatic copies and the authenticity of the originals of such latter documents. In providing these opinions, we have further relied as to certain matters on information obtained from officers of the Company.

Based upon the foregoing and in reliance thereon, and subject to the qualifications, limitations, exceptions and assumptions set forth herein, we are of the opinion that, having been issued and sold in exchange for payment in full to the Company of all consideration required therefor as applicable, including with regard to the Tradeable Warrants underlying the Units, the Unit Tradeable Warrant Shares, the Non-tradeable Warrants underlying the Units, the Unit Non-tradeable Warrant Shares, the Over-Allotment Option Tradeable Warrants, the Over-Allotment Option Tradeable Warrant Shares, the Over-Allotment Option Non-tradeable Warrants, the Over-Allotment Option Non-tradeable Warrant Shares, the Representative Warrants, and the Representative Warrant Shares, and as described in the Registration Statement:

(i) The Unit Shares, when issued against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company;

(ii) The Tradeable Warrants underlying the Units, when issued against payment therefor, will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except that (a) such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general and (b) the remedies of specific performance and injunctive and other forms of injunctive relief may be subject to equitable defenses;

(iii) The Unit Tradeable Warrant Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued, sold and delivered by the Company pursuant to the exercise of the Tradeable Warrants underlying the Units against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company;

(iv) The Non-tradeable Warrants underlying the Units, when issued against payment therefor, will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except that (a) such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general and (b) the remedies of specific performance and injunctive and other forms of injunctive relief may be subject to equitable defenses;

(v) The Unit Non-tradeable Warrant Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued, sold and delivered by the Company pursuant to the exercise of the Non-tradeable Warrants underlying the Units against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company;

(vi) The Selling Stockholders' Shares, when issued to certain of the Selling Stockholders, will be deemed to be validly issued, fully paid and non-assessable shares of Common Stock of the Company;

(vii) The Selling Stockholders' Outstanding Shares are validly issued, fully paid and nonassessable shares of Common Stock;

(viii) The Over-Allotment Option Shares, when issued pursuant to the exercise of the Over-Allotment Option, will be validly issued, fully paid, and non-assessable;

(ix) The Over-Allotment Option Tradeable Warrants, when issued against payment therefor, will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except that (a) such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general and (b) the remedies of specific performance and injunctive and other forms of injunctive relief may be subject to equitable defenses;

(x) The Over-Allotment Option Tradeable Warrant Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued, sold and delivered by the Company pursuant to the exercise of the Over-Allotment Option Tradeable Warrants against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company.

(xi) The Over-Allotment Option Non-tradeable Warrants, when issued against payment therefor, will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except that (a) such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general and (b) the remedies of specific performance and injunctive and other forms of injunctive relief may be subject to equitable defenses;

(xii) The Over-Allotment Option Non-tradeable Warrant Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued, sold and delivered by the Company pursuant to the exercise of the Over-Allotment Option Non-tradeable Warrants against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company;

(xiii) The Representative Warrants, when issued against payment therefor, will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except that (a) such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general and (b) the remedies of specific performance and injunctive and other forms of injunctive relief may be subject to equitable defenses; and

(xiv) The Representative's Warrant Shares have been duly authorized by all necessary corporate action on the part of the Company and, when issued, sold and delivered by the Company pursuant to the Representative'sWarrants against payment therefor, will be validly issued, fully paid and non-assessable shares of Common Stock of the Company.

Our opinion is limited to the federal laws of the United States and the Delaware General Corporation Law and, with respect to the opinions set forth in paragraphs (iii), (v), (x), (xii) and (xiv) above, the internal laws of the State of New York. We express no opinion as to the effect of the law of any other jurisdiction. Our opinion is rendered as of the date hereof, and we assume no obligation to advise you of changes in law or fact (or the effect thereof on the opinions expressed herein) that hereafter may come to our attention. This opinion letter is limited to the laws in effect as of the date the Registration Statement is declared effective by the Commission and is provided exclusively in connection with the public offering and resale offering contemplated by the Registration Statement.

This opinion letter speaks only as of the date hereof and we assume no obligation to update or supplement this opinion letter if any applicable laws change after the date of this opinion letter or if we become aware after the date of this opinion letter of any facts, whether existing before or arising after the date hereof, that might change the opinions expressed above.

This opinion letter is furnished in connection with the filing of the Registration Statement and may not be relied upon for any other purpose without our prior written consent in each instance. Further, no portion of this letter may be quoted, circulated or referred to in any other document for any other purpose without our prior written consent.

We consent to the use of this opinion as Exhibit 5.1 to the Registration Statement and further consent to all references to us, if any, in the Registration Statement, and in the prospectus forming a part thereof. We do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder. This opinion is rendered on, and speaks only as of, the date of this letter first written above, and does not address any potential change in facts or law that may occur after the date of this opinion letter. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention, whether or not such occurrence would affect or modify any of the opinions expressed herein

Very truly yours,

*/s/ Carmel, Milazzo & Feil LLP*

Carmel, Milazzo & Feil LLP

**Exhibit 10.1**

***Please be advised that certain identified information has been excluded in Exhibit 10.1 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of May 19, 2022, by and between 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), and each lender party that executes the signature page hereto as a purchaser (each, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act, as defined, contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

**ARTICLE I.**
**DEFINITIONS**

1.1 Definitions. In addition to the words and terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 5.5. "Action" shall have the meaning ascribed to such term in Section 3.10.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Notes pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.19.

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock, restricted stock units or options, and the underlying shares of Common Stock to consultants, employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non- employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities issued upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant, acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and which shall reasonably be expected to provide to the Company additional benefits, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to any purchase money equipment loan or capital leasing arrangement, purchasing agent or debt financing from a commercial bank or similar financial institution, (e) securities issued pursuant to any presently outstanding warrants or this Agreement; and (f) securities upon a stock split, stock dividend or subdivision of the Common Stock and shares of common stock in a public offering;
(g) non-convertible loans from traditional commercials banks with interest per annum not to exceed 12% which will rank ***pari passu*** with the Notes issued to investors by the Company.

"Face Value" means the Subscription Amount plus original issue discount as described in the Notes.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"GAAP" shall have the meaning ascribed to such term in Section 3.8.

"Indebtedness" shall have the meaning ascribed to such term in Section 3.27.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"IPO" shall mean an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange.

"Licensed Intellectual Property Agreement" means all licenses, sublicenses, agreements and permissions (each as amended to date) that any third party owns and that the Company uses, including off- the-shelf software purchased or licensed by the Company.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1.

"Notes" means the Original Issue Discount Convertible Promissory Notes issued to the Purchaser, in the form of Exhibit A attached hereto.

"Note Conversion Price" means the Note Conversion Price provided in the Note.

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Purchaser Party" shall have the meaning ascribed to such term in Section 5.8. "Registrable Securities" shall mean, collectively, the Shares and the Warrant Shares.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation

"Required Approvals" shall have the meaning ascribed to such term in Section 3.4.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission. "Securities" means the Notes, the Warrants and the Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means the Common Stock issuable upon conversion of the Notes.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Note purchased hereunder as specified below the Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, the Warrants, and any other documents or agreements executed in connection with the transactions contemplated hereunder, including, but not limited to, the documents referenced in Section 2.2(a).

"Transfer Agent" means Equity Transfer, LLC with a mailing address of 18 Lafayette Place, Woodmere, NY 11598, and a facsimile number of (646) 536-3179, and any successor transfer agent of the Company.

"Variable Rate Transaction" means any Equity Line of Credit or similar agreement, nor issue nor agree to issue any Common Stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes of this Agreement, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit B attached hereto.

"Warrant Exercise Price" means the exercise price provided in the Warrant.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

## ARTICLE II.
## PURCHASE AND SALE

2.1 Closing. On the Closing Dates, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase an aggregate of (i) Notes with a Face Value listed on the Purchaser's signature page and (ii) Warrants to purchase shares equal to 100% of the Shares issuable upon conversion of the Note at a price equal to 110% of the IPO price or, if the Company fails to complete the IPO before May 31, 2023, 90% of the IPO price. On the Closing Date, the Purchaser shall deliver to the Company a signed copy of the Transaction Documents and, via wire transfer, immediately available funds equal to the Purchaser's Subscription Amount. After receipt of the Subscription Amount, the Company shall deliver to the Purchaser countersigned copies of the Transaction Documents. Upon satisfaction of the closing conditions set forth in Section 2.3, the Closing shall occur at the Company's offices or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note in the principal amount of $44,444, convertible at the Note Conversion Price, registered in the name of the Purchaser;

(iii) an original Warrant to purchase <WARRANT SHARES> shares of Common Stock, exercisable at the Warrant Exercise Price, registered in the name of such Purchaser;

(iv) a Board Consent approving the issuance of the Notes and the execution of the Transaction Documents listed above on behalf of the Company.

(b) On or prior to the Closing Date each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser; and

(ii) the Purchaser's Subscription Amount by wire transfer to the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement; and

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

## ARTICLE III.
## REPRESENTATIONS AND WARRANTIES OF COMPANY

The Company hereby makes the following representations and warranties to each Purchaser as of the date hereof:

3.1 Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or Articles of Incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

3.2 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

3.3 No Conflicts. Except as set forth in Schedule 3.3, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Certificate or Articles of Incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

3.4 Filings, Consents and Approvals. Except as set forth on Schedule 3.4, the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) blue sky filings or a Form D filing and (ii) such filings as are required to be made under applicable state securities laws (the "Required Approvals").

3.5 Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued upon conversion of the Notes will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Notes and Warrants.

3.6 Capitalization. The capitalization of the Company is as set forth on Schedule 3.6. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.6, as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders' agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

3.7 Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in Schedule 3.7. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

3.8 Financial Statements. The consolidated financial statements of the Company, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and any of its Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved.

3.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. Other than as disclosed on Schedule 3.9, except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state government unit pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future except as disclosed on Schedule 3.10. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim for fraud or breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation or inquiry by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Securities Act, and the Company has no reason to believe it will do so in the future.

3.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.12 Compliance. Except as set forth on Schedule 3.12, neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

3.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Regulatory Permits. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

3.15 Title to Assets. Subject to the Liens of the outstanding secured senior debt, the Company and the Subsidiaries have good and marketable title in fee simple to all personal property owned by them that is material to the business of the Company and the Subsidiaries. The Company owns no real property. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

3.16 Intellectual Property.

(i) Subject to the Liens of the outstanding secured senior debt, to the Company's knowledge, the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted.

(ii) To the Company's knowledge, the Intellectual Property does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company.

(iii) With respect to each Licensed Intellectual Property Agreement:

(A) The Licensed Intellectual Property Agreement is legal, valid, binding, enforceable, and in full force and effect;

(B) To the Company's knowledge, no party to the Licensed Intellectual Property Agreement is in breach or default, and no event has occurred that with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder, which as to any such breach, default or event could have a Material Adverse Effect on the Company;

(C) No party to such Licensed Intellectual Property Agreement has repudiated any provision thereof;

(D) Except as set forth in such Licensed Intellectual Property Agreement, the Company has not received written or verbal notice or otherwise has knowledge that the underlying item of Intellectual Property is subject to any outstanding injunction, judgment, order, decree, ruling, or charge; and

(E) Except as set forth on Schedule 3.16, the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(iv) The Company has complied with and is presently in compliance with all foreign, federal, state, local, governmental (including, but not limited to, the Federal Trade Commission and State Attorneys General), administrative, or regulatory laws, regulations, guidelines, and rules applicable to any personal identifiable information.

(v) Each Person who participated in the creation, conception, invention or development of the Intellectual Property currently used in the business of the Company (each, a "Developer") which is not licensed from third parties has executed one or more agreements containing industry standard confidentiality, work for hire and assignment provisions, whereby the Developer has assigned to the Company all copyrights, patent rights, Intellectual Property rights and other rights in the Intellectual Property, including all rights in the Intellectual Property that existed prior to the assignment of rights by such Person to the Company.

(vi) Each Developer has signed a perpetual non-disclosure agreement with the Company.

3.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

3.18 Transactions With Affiliates and Employees. Except as disclosed in Schedule 3.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

3.19 Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in the Schedule 3.19, the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

3.20 Certain Fees. Except as set forth on Schedule 3.20, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due by the Company in connection with the transactions contemplated by the Transaction Documents.

3.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

3.22 Registration Rights. Except as disclosed on Schedule 3.22, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

3.23 Listing and Maintenance Requirements; Shell Company. The Company's Common Stock is not quoted or listed on any Trading Market. The Company is not and has never been a shell company as such term is defined in Rule 12(b)(2) under the Securities Exchange Act of 1934, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

3.24 Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

3.25 Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agent or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed on Schedule 3.25. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchaser regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Article IV hereof.

3.26 No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Article IV, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

3.27 Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (ii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.27 sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.27, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

3.28 Tax Status. The Company and each of its Subsidiaries have filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith, except where the failure to so file or pay would not have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.28, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries which has had, or would have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which would have a Material Adverse Effect

3.29 Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated any provision of FCPA.

3.30 Acknowledgment Regarding Purchaser's Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

3.31 Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 4.7 and 5.12 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

3.32 Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

3.33 Private Placement. Assuming the accuracy of each Purchaser's representations and warranties set forth in Article IV, no registration under the Securities Act is required for the offer and sale of the Notes or the Shares issuable upon conversion thereof by the Company to the Purchasers as contemplated hereby.

3.34 No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

3.35 No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder.

3.36 Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

3.37 Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

3.38 U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

3.39 Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

3.40 Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

## ARTICLE IV.
## REPRESENTATIONS AND WARRANTIES OF PURCHASERS

4.1 Representations and Warranties of the Purchaser. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

4.2 Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

4.3 Understandings or Arrangements. The Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

4.4 Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. The Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

4.5 Experience of the Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

4.6 Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment; provided, however, that the Purchaser has not requested nor been provided by the Company with any non-public information regarding the Company, its financial condition, results of operations, business, properties, management and prospects. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

4.7 Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Article 4 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

## ARTICLE V.
## OTHER AGREEMENTS OF THE PARTIES

5.1 Removal of Legends.

The Shares, the Warrants and Warrant Shares may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Shares, Warrants or Warrant Shares other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 5.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares, Warrants or Warrant Shares under the Securities Act.

(a) Each Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Shares, the Warrants or Warrant Shares in the following form:

> NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

(b) The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares or Warrant Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Shares or Warrant Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares and Warrant Shares may reasonably request in connection with a pledge or transfer of the Shares or Warrant Shares.

(c) Certificates evidencing the Shares and the Warrant Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 5.1(a) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares or Warrant Shares pursuant to Rule 144, (iii) if such Shares or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares or Warrant Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, if any of the provisions in clause (i) –(iv) above are applicable, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Note is converted or a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Shares or the Warrant Shares, or if such Shares or Warrant Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares or Warrant Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares or Warrant Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares or Warrant Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 5.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares or Warrant Shares, as applicable, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such Shares or Warrant Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 5.1. Certificates for Shares or Warrant Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each $1,000 of the principal amount of the Notes being converted or the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $20 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of- pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares or Warrant Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares or Warrant Shares (as the case may be) and ending on the date of such delivery and payment under this Section 5.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 5.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Shares (based on amount of principal and/or interest of the Note which was converted) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

5.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Shares and Warrant Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Note Conversion Price of such Purchaser's Note(s) and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

5.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

5.4 Securities Laws Disclosure; Publicity. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

5.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

5.6 Non-Public Information. When the Company's Common Stock is quoted or listed on a Trading Market, to the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company knowingly provides any material, non- public information to the Purchasers without their prior written consent, and it fails to immediately (no later than that Trading Day) file a Form 8-K, once it is required to do so, disclosing this material, non-public information, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to
$1,000 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

5.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes, and shall not use such proceeds: (a) for the satisfaction of any Indebtedness as defined in the Note, (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) in violation of FCPA or OFAC regulations, or (d) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company.

5.8 Indemnification of Purchaser.

Subject to the provisions of this Section 5.8, the Company will indemnify and hold each Purchaser and its directors, officers, stockholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which constitutes fraud, gross negligence, willful misconduct or malfeasance) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 5.8 shall be made by periodic payments of the amount thereof during the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

5.9 Settlement Without Consent if Failure to Reimburse. If an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5.8 effected without its written consent if (1) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (2) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (3) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.10 Listing of Common Stock. The Company agrees, if the Company applies to have the Common Stock traded on any Trading Market, it will then include in such application all of the Shares, and will take such other action as is necessary to cause all of the Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

5.11 Senior Debt. The Company shall not issue any new indebtedness which is senior in rank to the Notes while the Notes are outstanding.

5.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

5.13 Conversion Procedures. The forms of Conversion Notice included in the Notes set forth the totality of the procedures required of the Purchaser to exercise the Notes. No additional legal opinion, other information or instructions shall be required of the Purchaser to convert their Note. Without limiting the preceding sentences, no ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required to convert the Notes. The Company shall honor conversions of the Notes and shall deliver Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

5.14 DTC Program. For so long as any of the Notes are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Shares a participant in the Depository Trust Company Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

5.15 Maintenance of Property. The Company shall keep all of its property necessary for the operations of its business, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

5.16 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

5.17 No Registration of Securities on Form S-1. Other than the registration rights provided hereunder, for the initial six months the Notes are outstanding, the Company will not file any registration statements on Form S-1. For the avoidance of doubt, the foregoing shall not prevent the Company from filing a Registration Statement on Form S-8 with respect to equity compensation plans.

5.18 Variable Rate Transactions. While any of the Notes are outstanding, the Company shall be prohibited from entering a Variable Rate Transaction without the prior consent of the holders of more than 50% in principal amount of the then outstanding Notes.

5.19 Registration Rights and Lock-Up Agreement.

(a) With respect to the Shares and Warrant Shares, the Company shall:

(1) With the next Registration Statement on Form S-1 filed by the Company, include the Registrable Securities in such Registration Statement and use its best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(2) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities until such time as all of the Registerable Securities have been sold by the Holder or he is eligible to otherwise remove the restrictive legend and effect a sale other than through the Registration Statement.

(3) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction, at the earliest practicable moment.

(4) Furnish to the Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits to the extent requested by the Holder (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC.

(b) The Purchaser agrees that, without the prior written consent of the Company, the Purchaser shall not, during the period ending 90 days after the date of the prospectus filed with the SEC in connection with the Registration Statement on Form S-1 described in Section 5.19(a): (1) offer, pledge, announce the intention to sell, 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 Registrable Securities or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Registrable Securities.

## ARTICLE IV.
## MISCELLANEOUS

6.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the other parties, if the Closing has not been consummated on or before June 30, 2022; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

6.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

6.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered by email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. ( Eastern Standard or Daylight Savings Time, as applicable) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of transmission, if sent by U.S. nationally recognized overnight delivery service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall, if the Company's Common Stock is quoted or listed on a Trading Market, simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K, or which failure to do so will subject the Company to the liquidated damages provided for in Article 5.

6.5 Amendments; Waivers. Except as provided in the last sentence of this Section 6.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and a majority in interest of the outstanding balance of the Note or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with accordance with this Section 6.5 shall be binding upon the Purchaser and holder of Securities and the Company.

6.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Each Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchaser.

6.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 6.7 and this Section 6.8.

6.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

6.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

6.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf' format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf' signature page were an original thereof.

6.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

6.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then that Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an conversion of a Note, the Purchaser shall be required to return any Shares subject to any such rescinded Conversion Notice concurrently with the restoration of such Purchaser's right to acquire such shares pursuant to the Purchaser's Note.

6.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

6.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

6.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

6.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

6.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

6.21 Waiver of jury trial. In any action, suit, or proceeding in any jurisdiction brought by any party against any other party, the parties each knowingly and intentionally, to the greatest extent permitted by applicable law, hereby absolutely, unconditionally, irrevocably and expressly waive forever trial by jury.

6.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any Shares issuable upon conversion of the Notes above the Note Conversion Price then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares upon the conversion of the Notes. Notwithstanding anything herein to the contrary, if after 180 days from the original issuance date, the Purchasers are not permitted to convert the Note, in full, for any reason, subject to the Purchaser's compliance with Rule 144 the Company shall use its best efforts to promptly remedy such failure, including, without limitation, obtaining such consent or approvals as necessary to permit such conversion or exercise.

(Signature Pages Follow)

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

Address for Notice:

By: [redacted]
Name: Tyrone Miller
Title: Chief Financial Officer

[redacted]

[redacted]

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SIGNATURE PAGE FOR PURCHASER FOLLOWS]

PURCHASER SIGNATURE PAGE TO
SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Geoffrey Dow [redacted]
[redacted]
*Signature of Authorized Signatory of Purchaser*: [redacted]

Name of Authorized Signatory: Geoffrey Dow

Title of Authorized Signatory: Dr.

Email Address of Authorized Signatory [redacted]

Facsimile Number of Authorized Signatory:NA

Address for Notice to Purchaser: [redacted]

Address for Delivery of Securities to Purchaser (if not same as address for notice):

_____

_____

Face Value_$44,444

Subscription Amount: _____

SS Number: [redacted]

**Exhibit 10.2**

***Please be advised that certain identified information has been excluded in Exhibit 10.2 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

## COMMON STOCK PURCHASE WARRANT

Warrant Shares: <WARRANT SHARES>

Initial Exercise Date: May 19, 2022

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, Geoffrey Dow., or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the fifth year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), up to <WARRANT SHARES> shares of Common Stock (subject to adjustment hereunder, the "Warrant Shares"). The purchase price of one Warrant Share under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant issued pursuant to a Securities Purchase Agreement (the "Purchase Agreement") entered into as of the Initial Exercise Date between the Company and the initial Holder.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated May 19th, 2022 among the Company and the Purchasers.

Section 2. Exercise.

(a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the IPO (as defined in the Purchase Agreement) price or, if the Company fails to complete the IPO before May 31, 2023, 90% of the IPO price , subject to adjustment under Section 3 (the "Exercise Price").

(c) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first 10 Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall pay in cash to the Holder the amount as provided under Section 4.1(e) of the Purchase Agreement. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant or pursuant to any of the other Transaction Documents), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(b), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(b) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five Trading Days after the 10th day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(b) shall not apply to any Exempt Issuances.

(c) Full Ratchet Increase in Warrant Shares. Until the Notes are no longer outstanding, whenever the Exercise Price is adjusted under Section 3(b), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(c) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(d) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, no Purchase Rights will be made under this Section 3(d) in respect of an Exempt Issuance.

(e) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security other than the Common Stock (which shall be subject to Section 3(d)), then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(f) Fundamental Transaction.

(i) If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions engages in any Fundamental Transaction, as defined in the Purchase Agreement, then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), at the option of the Holder the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(ii) Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, provided that the Warrant Shares are not registered under an effective registration statement, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction or (ii) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Exercise Price. "Black Scholes Value" means the value of the unexercised portion of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg L.P. as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date.

(iii) If Section 3(f)(i) and (ii) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(f)(iii) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Purchase Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 Deg** [redacted]
[redacted]
By: [redacted]
Name:
Title: Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60 Degrees Pharmaceuticals, LLC**

(1) The undersigned hereby elects to purchase_____Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____

_____

_____

SIGNATURE OF HOLDER

Name of Investing Entity:

_____

*Signature of Authorized Signatory of Investing Entity*:

_____

Name of Authorized Signatory:

_____

Title of Authorized Signatory:

_____

Date:

_____

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

**60 Degrees Pharmaceuticals, LLC**

FOR VALUE RECEIVED, ____ all of or _____ shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____ whose address is

_____

_____

Dated: _____, _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

**Exhibit 10.3**

***Please be advised that certain identified information has been excluded in Exhibit 10.3 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

Original Issue Date: May 19, 2022

$44,444 Principal and Face Value
$40,000 Purchase Price and Subscription Amount
$4,444 Original Issue Discount

**ORIGINAL ISSUE DISCOUNT**
**CONVERTIBLE PROMISSORY NOTE**

THIS ORIGINAL ISSUE DISCOUNT CONVERTIBLE PROMISSORY NOTE is duly authorized and validly issued at a 10% original issue discount by 60 Degrees Pharmaceuticals, LLC, a Washington DC limited liability corporation (the "Company") (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to Geoffrey Dow, or its permitted assigns (the "Holder"), the principal sum of $44,444 on May 31, 2023 (the "Maturity Date") or such earlier date as this Note is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate unconverted and then outstanding principal amount of this Note in accordance with the provisions hereof. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following words and phrases shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Subsidiary thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Subsidiary thereof, (b) there is commenced against the Company or any Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement, (c) the Company or any Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Company or any Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts or (g) the Company or any Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Base Conversion Price" shall have the meaning set forth in Section 5(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(f).

"Black Scholes Value" means the value of the outstanding principal amount of this Note, plus all accrued and unpaid interest hereon based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date.

"Buy-In" shall have the meaning set forth in Section 4(d)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 50% of the voting securities of the Company (other than by means of conversion, exercise or exchange of this Note or the Warrants issued together with this Note), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the shareholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person, (d) a replacement at one time or within a three year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the date hereof), or (d) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Conversion" shall have the meaning ascribed to such term in Section 4.

"Conversion Date" shall have the meaning set forth in Section 4(a).

"Conversion Price" shall have the meaning set forth in Section 4(c).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of this Note in accordance with the terms hereof.

"Default Interest Rate" shall have the meaning set forth in Section 2(a).

"Dilutive Issuance" shall have the meaning set forth in Section 5(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 5(b)(5).

"DWAC" means the Deposit or Withdrawal at Custodian system at The Depository Trust Company.

"Event of Default" shall have the meaning set forth in Section 7(a).

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"IPO" shall have the meaning set forth in Section 4(b).

"Liens" shall have the meaning set forth in the Purchase Agreement.

"Note Register" shall have the meaning set forth in Section 3(c).

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Mandatory Default Amount" shall have the meaning set forth in Section 7(b).

"Option Value" means the value of a Common Stock Equivalent based on the Black Scholes Option Pricing model obtained from the "OV" function on Bloomberg determined as of (A) the Trading Day prior to the public announcement of the issuance of the applicable Common Stock Equivalent, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of the applicable Common Stock Equivalent as of the applicable date of determination, (ii) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of (A) the Trading Day immediately following the public announcement of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iii) the underlying price per share used in such calculation shall be the highest VWAP of the Common Stock during the period beginning on the Trading Day prior to the execution of definitive documentation relating to the issuance of the applicable Common Stock Equivalent and ending on (A) the Trading Day immediately following the public announcement of such issuance, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

"Original Issue Date" means the date of the first issuance of this Note, regardless of any transfers of this Note and regardless of the number of instruments which may be issued to evidence this Note.

"Permitted Indebtedness" means (a) the indebtedness evidenced by this Note, (b) senior secured non-convertible loans from traditional commercials banks with interest per annum not to exceed 12%, (c) capital lease obligations and purchase money indebtedness incurred in connection with the acquisition of machinery and equipment as long as such capital leases and indebtedness are approved in advance by the Holder and (d) the Indebtedness set forth on Schedule 3.27 to the Purchase Agreement).

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (x) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company and its consolidated Subsidiaries or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) Liens incurred in connection with Permitted Indebtedness under clauses (a) through (d) thereunder, and Liens set forth on Schedule 3.1(aa) to the Purchase Agreement.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May [*], 2022, among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Share Delivery Date" shall have the meaning set forth in Section 4(d)(ii).

"Successor Entity" shall have the meaning set forth in Section 5(e)(2).

"Transaction Documents" means the Note, the Purchase Agreement and the Warrant.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent bid price per share of the Common Stock so reported, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Interest.

Interest shall accrue to the Holder on the aggregate unconverted and then outstanding principal amount of this Note at the rate of 6% per annum, calculated on the basis of a 360-day year and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal (or conversion to the extent applicable), together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. During the existence of an Event of Default, interest shall accrue at the lesser of (i) the rate of 15% per annum, or (ii) the maximum amount permitted by law (the lesser of clause (i) or (ii), the "Default Interest Rate"). Once an Event of Default is cured, the interest rate shall return to 6%.

Section 3. Registration of Transfers and Exchanges.

(a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge or other fees will be payable for such registration of transfer or exchange.

(b) Investor Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

(c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

**(a)** Voluntary Conversion. After the Original Issue Date until this Note is no longer outstanding, this Note shall be convertible, in whole or in part, at any time, and from time to time, into Conversion Shares at the option of the Holder. The Holder shall effect conversions by delivering to the Company a Notice of Conversion, the form of which is attached hereto as Annex A (each, a "Notice of Conversion"), specifying therein the principal amount of this Note to be converted and the date on which such conversion shall be effected (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. To effect conversions hereunder, the Holder shall not be required to physically surrender this Note to the Company unless the entire principal amount of this Note, plus all accrued and unpaid interest thereon, has been so converted. Conversions hereunder shall have the effect of lowering the outstanding principal amount of this Note in an amount equal to the applicable conversion. The Holder and the Company shall maintain records showing the principal amount(s) converted in each conversion, the date of each conversion, and the Conversion Price in effect at the time of each conversion. The Company may deliver an objection to any Notice of Conversion within two Trading Days of delivery of such Notice of Conversion. In the event of any dispute or discrepancy, the records of the Holder shall be controlling and determinative in the absence of manifest error. **The Holder, and any assignee by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted principal amount of this Note may be less than the amount stated on the face hereof.**

(b) Mandatory Conversion. This Note shall convert into Conversion Shares upon the completion of an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange (the "IPO").

(c) Conversion Price. The "Conversion Price" shall be at the lesser of a 20% discount to the IPO price or a $27 million pre-money valuation. All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

(d) Mechanics of Conversion or Prepayment.

(i) Conversion Shares Issuable Upon Conversion of Principal Amount. The number of Conversion Shares issuable upon a conversion hereunder shall be determined by the quotient obtained by dividing (x) the outstanding principal amount of this Note to be converted by (y) the Conversion Price in effect at the time of such conversion.

(ii) Delivery of Certificate Upon Conversion. Not later than two Trading Days after each Conversion Date (the "Share Delivery Date"), the Company shall deliver, or cause to be delivered, to the Holder any certificate or certificates required to be delivered by the Company under this Section 4(d) which shall be free of restrictive legends and trading restrictions except as provided by the Securities Act (other than those which may then be required by the Purchase Agreement) and such shares shall be delivered electronically through the Depository Trust Company or another established clearing corporation performing similar functions.

(iii) Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Company at any time on or before its receipt of such Conversion Shares, to rescind such conversion, in which event the Company shall promptly return to the Holder any original Note delivered to the Company.

(iv) Obligation Absolute; Partial Liquidated Damages. The Company's obligations to issue and deliver the Conversion Shares upon conversion of this Note in accordance with the terms hereof, are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of such Conversion Shares. In the event the Holder of this Note shall elect to convert any or all of the outstanding principal amount hereof, the Company may not refuse conversion based on any claim that the Holder or anyone associated or affiliated with the Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and or enjoining conversion of all or part of this Note shall have been sought and obtained, and the Company posts a surety bond for the benefit of the Holder in accordance with Section 5.1(d) of the Purchase Agreement. The exercise of any such rights shall not prohibit the Holder from seeking to collect damages under this Note, the Purchase Agreement or under applicable law.

(v) Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Company fails for any reason to deliver to the Holder such Conversion Shares by the Share Delivery Date pursuant to Section 4(d)(ii), and if after such Share Delivery Date the Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Conversion Shares which the Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Company shall have the remedies provided for in accordance with Section 5.1(d) of the Purchase Agreement. Nothing herein or therein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver Conversion Shares upon conversion of this Note as required pursuant to the terms hereof.

(vi) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of this Note. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Company shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

(vii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Note shall be made without charge to the Holder hereof for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such certificates. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

(viii) Attorneys' Fees etc. The Company shall (A) pay the reasonable fees of the law firm of the Holder's choice (in an amount not to exceed $500 per opinion) in connection with the conversion of the Note, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 4(d)(iv).

(e) Holder's Conversion Limitations. The Company shall not effect any conversion of this Note, and a Holder shall not have the right to convert any portion of this Note, to the extent that after giving effect to the conversion set forth on the applicable Notice of Conversion, the Holder (together with the Holder's Affiliates, and any Persons acting as a group together with the Holder or any of the Holder's Affiliates) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon conversion of this Note with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted principal amount of this Note beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, any other Notes or the Warrants) beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 4(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 4(e) applies, the determination of whether this Note is convertible (in relation to other securities owned by the Holder together with any Affiliates) and of which principal amount of this Note is convertible shall be in the sole discretion of the Holder, and the submission of a Notice of Conversion shall be deemed to be the Holder's determination of whether this Note may be converted (in relation to other securities owned by the Holder together with any Affiliates) and which principal amount of this Note is convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, the Holder will be deemed to represent to the Company each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this Section 4(e) and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 4(e), in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the SEC, as the case may be, (ii) a more recent public announcement by the Company, or (iii) a more recent written notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of this Note held by the Holder. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 4(e) to 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder. In all events, the provisions of this Section 4(e) shall continue to apply. Any such increase or decrease will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 4(e) solely with respect to the Holder's Note at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The Beneficial Ownership Limitation provisions of this Section 4(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 4(e) to correct any portion which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 4(d) shall apply to a successor holder of this Note.

Section 5. Certain Adjustments.

(a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 5(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. (1) At any time, for so long as the Note or any amounts accrued and payable thereunder remain outstanding, the Company or any Subsidiary, as applicable, sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect (such lower price, the "Base Conversion Price" and each such issuance or announcement a "Dilutive Issuance"), then the Conversion Price shall be immediately reduced to equal the Base Conversion Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued.

(2) If any Common Stock Equivalent is amended or adjusted, and such price as so amended shall be less than the Conversion Price in effect at the time of such amendment or adjustment, then the Conversion Price shall be adjusted upon each such issuance or amendment as provided in this Section 5(b). In case any Common Stock Equivalent is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, (x) the Common Stock Equivalents will be deemed to have been issued for the Option Value of such Common Stock Equivalents and (y) the other securities issued or sold in such integrated transaction shall be deemed to have been issued or sold for the difference of (I) the aggregate consideration received by the Company less any consideration paid or payable by the Company pursuant to the terms of such other securities of the Company, less (II) the Option Value. If any shares of Common Stock or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the amount of such consideration received by the Company will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the average VWAP of such public traded securities for the ten days prior to the date of receipt. If any shares of Common Stock or Common Stock Equivalents are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock or Common Stock Equivalents, as the case may be.

(3) If the holder of Common Stock or Common Stock Equivalents outstanding on the Original Issue Date or issued after the Original Issuance Date shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect, such issuance shall be deemed to have occurred for less than the Conversion Price on such date and such issuance shall be deemed to be a Dilutive Issuance.

(4) If the Company enters into a Variable Rate Transaction despite the prohibition set forth in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion price at which such securities may be converted or exercised under the terms of such Variable Rate Transaction.

(5) The Company shall notify the Holder in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 5(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice"). For purposes of clarification, whether or not the Company provides a Dilutive Issuance Notice pursuant to this Section 5(b), upon the occurrence of any Dilutive Issuance, the Holder is entitled to receive a number of Conversion Shares based upon the Base Conversion Price on or after the date of such Dilutive Issuance, regardless of whether the Holder accurately refers to the Base Conversion Price in the Notice of Conversion.

(6) The provisions of this Section 5(b) shall apply each time a Dilutive Issuance occurs after the Original Issue Date for so long as the Note or any amounts accrued and payable thereunder remain outstanding, but any adjustment of the Conversion Price pursuant to this Section 5(b) shall be downward only.

(7) The provisions of this Section 5(b) shall not apply to Exempt Issuances.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, if at any time the Company grants, issues or sells any Common Stock, Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(d) Pro Rata Distributions. During such time as this Note is outstanding, if the Company shall declare or make any dividend or other distribution of its assets or rights or warrants to acquire its assets, or subscribe for or purchase any security other than Common Stock, to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act).

(e) Fundamental Transaction. (1) If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(2) Notwithstanding anything to the contrary, provided that the Warrant Shares are not registered under an effective registration statement, in the event of a Fundamental Transaction that is (x) an all cash transaction, (y) a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Exchange Act, or (z) a Fundamental Transaction involving a person or entity not traded on a national securities exchange or trading market (with such exchange or market including, without limitation, the Nasdaq Global Select Trading Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the New York Stock Exchange, Inc., the NYSE American or any market operated by the OTC Markets, Inc.), the Company or any Successor Entity (as defined below) shall, at the Holder's option, concurrently with the consummation of the Fundamental Transaction, purchase this Note from the Holder by paying to the Holder the higher of (i) an amount of cash equal to the Black Scholes Value of the outstanding principal of this Note on the date of the consummation of such Fundamental Transaction, or (ii) the product of (a) the number of Conversion Shares issuable upon full conversion of this Note (without regard to any limitation on conversion of this Note) and (b) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Conversion Price. (3)

(3) If Section 5(e)(1) and (2) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Note (without regard to any limitations on the conversion of this Note) prior to such Fundamental Transaction, and with a conversion price which applies the Conversion Price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Note immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything in this Section 5(e), an Exempt Issuance (as defined in the Purchase Agreement) shall not be deemed a Fundamental Transaction.

(f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

(g) Notice to the Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on its Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock, (C) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of its Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby its Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of this Note, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of its Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of its Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company or its successor shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. If the Company does not simultaneously file the required Form 8-K, the Holder shall be entitled penalties in accordance with Section 5.6 of the Purchase Agreement The Holder shall remain entitled to convert this Note during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 6. Negative Covenants. As long as any portion of this Note remains outstanding, unless the holders of at least 50% in principal amount of the then outstanding Notes shall have otherwise given prior written consent, the Company shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

(a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any indebtedness for borrowed money of any kind, including, but not limited to, a guarantee, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder, increases in authorized shares and stock splits shall not be deemed to materially and adversely affects any rights of the Holder;

(d) purchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents;

(e) repay, or offer to repay, any Indebtedness, other than Permitted Indebtedness, as such terms Indebtedness and Permitted Indebtedness are in effect as of the Original Issue Date;

(f) pay cash dividends or distributions on any equity securities of the Company;

(g) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the SEC assuming that the Company is subject to the Securities Act or the Exchange Act, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for board approval);

(h) issue any equity securities of the Company other than pursuant to the provisions of the Purchase Agreement or an Exempt Issuance; or

(i) enter into any agreement with respect to any of the foregoing.

Section 7. Events of Default.

(a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(i) any default in the payment of (A) principal and interest payment under this Note or any other Indebtedness, or (B) late fees, liquidated damages and other amounts owing to the Holder of this Note, as and when the same shall become due and payable (whether on a Conversion Date, or the Maturity Date, or by acceleration or otherwise), which default, solely in the case of a default under clause (B) above, is not cured within five Trading Days;

(ii) the Company shall fail to observe or perform any other covenant or agreement contained in this Note (other than a breach by the Company of its obligations to deliver Conversion Shares, which breach is addressed in clause (x) below) or any Transaction Document which failure is not cured, if possible to cure, within the earlier to occur of 15 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company and (B) 10 Trading Days after the Company has become aware of such failure;

(iii) except for payment defaults covered under Section 7(a)(i), the Company shall breach, or a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under, (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by any other clause of this Section 7) which default or event of default if not cured, if possible to cure, within the earlier to occur of (i) 10 Trading Days after notice of such default sent by Holder or by any other holder to the Company and (ii) five Trading Days after the Company has become aware of such default;

(iv) any representation or warranty made in this Note, any other Transaction Document, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made, which failure is not cured, if possible to cure, within the earlier to occur of 10 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company;

(v) the Company or any Subsidiary shall be subject to a Bankruptcy Event;

(vi) the Company or any Subsidiary shall: (A) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties; (B) admit in writing its inability to pay its debts as they mature; (C) make a general assignment for the benefit of creditors; (D) be adjudicated as bankrupt or insolvent or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country; or (E) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(vii) if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days;

(viii) the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within 45 days after the date thereof;

(ix) any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $100,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 days;

(x) any Material Adverse Effect occurs;

(xi) any provision of any Transaction Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document;

(xii) the Company fails to use the proceeds in the manner as described in Section 5.7 of the Purchase Agreement;

(xiii) the Company shall be a party to any Change of Control Transaction or shall agree to sell or dispose of all or in excess of 50% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

(xiv) from and after 90 days after the Original Issue Date, the Company fails to have authorized and reserved the amount of shares designated in Section 3.5 of the Purchase Agreement (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation);

(xv) the Company shall fail for any reason, except if caused by the action or inaction of the Holder to deliver Conversion Shares to the Holder prior to the third Trading Day after a Conversion Date pursuant to Section 4 or the Company shall provide at any time notice to the Holder, including by way of public announcement, of the Company's intention to not honor requests for conversions of this Note in accordance with the terms hereof; or

(xvi) the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the Exchange Act within the time required (including any applicable extension period) by the rules and regulations thereunder.

(b) Remedies Upon Event of Default. If any Event of Default occurs, the outstanding principal amount of this Note, plus liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash (the "Mandatory Default Amount"). Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 7(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

(c) Interest Rate Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall accrue interest at an interest rate equal to the Default Interest Rate.

(d) Conversion Price Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall be convertible at the Default Conversion Price.

Section 8. Miscellaneous.

(a) No Rights as Stockholder Until Conversion. This Note does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the conversion hereof other than as explicitly set forth in Section 5.

(b) Notices. All notices, offers, acceptance and any other acts under this Agreement (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by FedEx or similar receipted next day delivery, or at the Company's registered address or such other address as any of them, by notice to the other may designate from time to time. Time shall be counted to, or from, as the case may be, the date of delivery.

(c) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest and late fees, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

(d) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of this Note, and of the ownership hereof, reasonably satisfactory to the Company.

(e) Exclusive Jurisdiction; Governing Law; Prevailing Party Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of this Note and venue shall be governed by and construed and enforced in accordance with Section 6.9 of the Purchase Agreement. If any party shall commence an Action or Proceeding to enforce or otherwise relating to this Note, then, in addition to the other obligations of the Company elsewhere in this Note, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

(f) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

(g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

(h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach would be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

(i) Next Trading Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Trading Day, such payment shall be made on the next succeeding Trading Day.

(j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**60 De** [redacted]
[redacted]
By: [redacted]
Name: Tyrone Miller
Title: Chief Financial Officer

**ANNEX A**
**NOTICE OF CONVERSION**

The undersigned hereby elects to convert principal under the Original Issue Discount Convertible Note due May 31, 2023 of 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), into shares of common stock (the "Common Stock"), of the Company according to the conditions hereof, as of the date written below.

By the delivery of this Notice of Conversion the undersigned represents and warrants to the Company that its ownership of the Common Stock does not exceed the amounts specified under Section 4 of this Note, as determined in accordance with Section 13(d) of the Exchange Act.

The undersigned agrees to comply with the prospectus delivery requirements under the applicable securities laws in connection with any transfer of the aforesaid shares of Common Stock.

Conversion calculations:

Date to Effect Conversion:

Principal Amount of Note to be Converted:

Number of shares of Common Stock to be issued:

Signature:

Name:

DWAC Instructions:

Broker No: _____

Account No: _____

**Exhibit 10.4**

***Please be advised that certain identified information has been excluded in Exhibit 10.4 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of May 19, 2022, by and between 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), and each lender party that executes the signature page hereto as a purchaser (each, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act, as defined, contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

**ARTICLE I. DEFINITIONS**

1.1 Definitions. In addition to the words and terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 5.5. "Action" shall have the meaning ascribed to such term in Section 3.10.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Notes pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.19.

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock, restricted stock units or options, and the underlying shares of Common Stock to consultants, employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non- employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities issued upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant, acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and which shall reasonably be expected to provide to the Company additional benefits, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to any purchase money equipment loan or capital leasing arrangement, purchasing agent or debt financing from a commercial bank or similar financial institution, (e) securities issued pursuant to any presently outstanding warrants or this Agreement; and (f) securities upon a stock split, stock dividend or subdivision of the Common Stock and shares of common stock in a public offering; (g) non-convertible loans from traditional commercials banks with interest per annum not to exceed 12% which will rank ***pari passu*** with the Notes issued to investors by the Company.

"Face Value" means the Subscription Amount plus original issue discount as described in the Notes.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended. "GAAP" shall have the meaning ascribed to such term in Section 3.8. "Indebtedness" shall have the meaning ascribed to such term in Section 3.27.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"IPO" shall mean an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange.

"Licensed Intellectual Property Agreement" means all licenses, sublicenses, agreements and permissions (each as amended to date) that any third party owns and that the Company uses, including off- the-shelf software purchased or licensed by the Company.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1.

"Notes" means the Original Issue Discount Convertible Promissory Notes issued to the Purchaser, in the form of Exhibit A attached hereto.

"Note Conversion Price" means the Note Conversion Price provided in the Note.

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Purchaser Party" shall have the meaning ascribed to such term in Section 5.8. "Registrable Securities" shall mean, collectively, the Shares and the Warrant Shares.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation

"Required Approvals" shall have the meaning ascribed to such term in Section 3.4.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission. "Securities" means the Notes, the Warrants and the Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means the Common Stock issuable upon conversion of the Notes.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Note purchased hereunder as specified below the Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, the Warrants, and any other documents or agreements executed in connection with the transactions contemplated hereunder, including, but not limited to, the documents referenced in Section 2.2(a).

"Transfer Agent" means Equity Stock Transfer, LLC with a mailing address of, and any successor transfer agent of the Company.

"Variable Rate Transaction" means any Equity Line of Credit or similar agreement, nor issue nor agree to issue any Common Stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes of this Agreement, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit B attached hereto.

"Warrant Exercise Price" means the exercise price provided in the Warrant.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

**ARTICLE II. PURCHASE AND SALE**

2.1 Closing. On the Closing Dates, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase an aggregate of (i) Notes with a Face Value listed on the Purchaser's signature page and (ii) Warrants to purchase shares equal to 100% of the Shares issuable upon conversion of the Note at a price equal to 110% of the IPO price or, if the Company fails to complete the IPO before May 31, 2023, 90% of the IPO price. On the Closing Date, the Purchaser shall deliver to the Company a signed copy of the Transaction Documents and, via wire transfer, immediately available funds equal to the Purchaser's Subscription Amount. After receipt of the Subscription Amount, the Company shall deliver to the Purchaser countersigned copies of the Transaction Documents. Upon satisfaction of the closing conditions set forth in Section 2.3, the Closing shall occur at the Company's offices or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note in the principal amount of $294,444, convertible at the Note Conversion Price, registered in the name of the Purchaser;

(iii) an original Warrant to purchase <WARRANT SHARES> shares of Common Stock, exercisable at the Warrant Exercise Price, registered in the name of such Purchaser;

(iv) a Board Consent approving the issuance of the Notes and the execution of the Transaction Documents listed above on behalf of the Company.

(b) On or prior to the Closing Date each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser; and

(ii) the Purchaser's Subscription Amount by wire transfer to the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement; and

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

## ARTICLE III.
## REPRESENTATIONS AND WARRANTIES OF COMPANY

The Company hereby makes the following representations and warranties to each Purchaser as of the date hereof:

3.1 Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or Articles of Incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

3.2 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

3.3 No Conflicts. Except as set forth in Schedule 3.3, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Certificate or Articles of Incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

3.4 Filings, Consents and Approvals. Except as set forth on Schedule 3.4, the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) blue sky filings or a Form D filing and (ii) such filings as are required to be made under applicable state securities laws (the "Required Approvals").

3.5 Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued upon conversion of the Notes will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Notes and Warrants.

3.6 Capitalization. The capitalization of the Company is as set forth on Schedule 3.6. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.6, as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders' agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

3.7 Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in Schedule 3.7. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

3.8 Financial Statements. The consolidated financial statements of the Company, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and any of its Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved.

3.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. Other than as disclosed on Schedule 3.9, except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state government unit pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future except as disclosed on Schedule 3.10. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim for fraud or breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation or inquiry by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Securities Act, and the Company has no reason to believe it will do so in the future.

3.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.12 Compliance. Except as set forth on Schedule 3.12, neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

3.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Regulatory Permits. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

3.15 Title to Assets. Subject to the Liens of the outstanding secured senior debt, the Company and the Subsidiaries have good and marketable title in fee simple to all personal property owned by them that is material to the business of the Company and the Subsidiaries. The Company owns no real property. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

3.16 Intellectual Property.

(i) Subject to the Liens of the outstanding secured senior debt, to the Company's knowledge, the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted.

(ii) To the Company's knowledge, the Intellectual Property does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company.

(iii) With respect to each Licensed Intellectual Property Agreement:

(A) The Licensed Intellectual Property Agreement is legal, valid, binding, enforceable, and in full force and effect;

(B) To the Company's knowledge, no party to the Licensed Intellectual Property Agreement is in breach or default, and no event has occurred that with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder, which as to any such breach, default or event could have a Material Adverse Effect on the Company;

(C) No party to such Licensed Intellectual Property Agreement has repudiated any provision thereof;

(D) Except as set forth in such Licensed Intellectual Property Agreement, the Company has not received written or verbal notice or otherwise has knowledge that the underlying item of Intellectual Property is subject to any outstanding injunction, judgment, order, decree, ruling, or charge; and

(E) Except as set forth on Schedule 3.16, the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(iv) The Company has complied with and is presently in compliance with all foreign, federal, state, local, governmental (including, but not limited to, the Federal Trade Commission and State Attorneys General), administrative, or regulatory laws, regulations, guidelines, and rules applicable to any personal identifiable information.

(v) Each Person who participated in the creation, conception, invention or development of the Intellectual Property currently used in the business of the Company (each, a "Developer") which is not licensed from third parties has executed one or more agreements containing industry standard confidentiality, work for hire and assignment provisions, whereby the Developer has assigned to the Company all copyrights, patent rights, Intellectual Property rights and other rights in the Intellectual Property, including all rights in the Intellectual Property that existed prior to the assignment of rights by such Person to the Company.

(vi) Each Developer has signed a perpetual non-disclosure agreement with the Company.

3.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

3.18 Transactions With Affiliates and Employees. Except as disclosed in Schedule 3.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

3.19 Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in the Schedule 3.19, the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

3.20 Certain Fees. Except as set forth on Schedule 3.20, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due by the Company in connection with the transactions contemplated by the Transaction Documents.

3.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

3.22 Registration Rights. Except as disclosed on Schedule 3.22, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

3.23 Listing and Maintenance Requirements; Shell Company. The Company's Common Stock is not quoted or listed on any Trading Market. The Company is not and has never been a shell company as such term is defined in Rule 12(b)(2) under the Securities Exchange Act of 1934, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

3.24 Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

3.25 Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agent or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed on Schedule 3.25. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchaser regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Article IV hereof.

3.26 No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Article IV, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

3.27 Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (ii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.27 sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.27, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

3.28 Tax Status. The Company and each of its Subsidiaries have filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith, except where the failure to so file or pay would not have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.28, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries which has had, or would have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which would have a Material Adverse Effect

3.29 Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated any provision of FCPA.

3.30 Acknowledgment Regarding Purchaser's Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

3.31 Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 4.7 and 5.12 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

3.32 Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

3.33 Private Placement. Assuming the accuracy of each Purchaser's representations and warranties set forth in Article IV, no registration under the Securities Act is required for the offer and sale of the Notes or the Shares issuable upon conversion thereof by the Company to the Purchasers as contemplated hereby.

3.34 No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

3.35 No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder.

3.36 Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

3.37 Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

3.38 U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

3.39 Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

3.40 Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

## ARTICLE IV.
## REPRESENTATIONS AND WARRANTIES OF PURCHASERS

4.1 Representations and Warranties of the Purchaser. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

4.2 Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

4.3 Understandings or Arrangements. The Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

4.4 Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. The Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

4.5 Experience of the Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

4.6 Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment; provided, however, that the Purchaser has not requested nor been provided by the Company with any non-public information regarding the Company, its financial condition, results of operations, business, properties, management and prospects. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

4.7 Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Article 4 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

## ARTICLE V.
## OTHER AGREEMENTS OF THE PARTIES

5.1 Removal of Legends.

The Shares, the Warrants and Warrant Shares may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Shares, Warrants or Warrant Shares other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 5.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares, Warrants or Warrant Shares under the Securities Act.

(a) Each Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Shares, the Warrants or Warrant Shares in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

(b) The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares or Warrant Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Shares or Warrant Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares and Warrant Shares may reasonably request in connection with a pledge or transfer of the Shares or Warrant Shares.

(c) Certificates evidencing the Shares and the Warrant Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 5.1(a) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares or Warrant Shares pursuant to Rule 144, (iii) if such Shares or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares or Warrant Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, if any of the provisions in clause (i) –(iv) above are applicable, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Note is converted or a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Shares or the Warrant Shares, or if such Shares or Warrant Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares or Warrant Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares or Warrant Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares or Warrant Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 5.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares or Warrant Shares, as applicable, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such Shares or Warrant Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 5.1. Certificates for Shares or Warrant Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each $1,000 of the principal amount of the Notes being converted or the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $20 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of- pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares or Warrant Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares or Warrant Shares (as the case may be) and ending on the date of such delivery and payment under this Section 5.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 5.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Shares (based on amount of principal and/or interest of the Note which was converted) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

5.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Shares and Warrant Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Note Conversion Price of such Purchaser's Note(s) and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

5.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

5.4 Securities Laws Disclosure; Publicity. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

5.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

5.6 Non-Public Information. When the Company's Common Stock is quoted or listed on a Trading Market, to the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company knowingly provides any material, non- public information to the Purchasers without their prior written consent, and it fails to immediately (no later than that Trading Day) file a Form 8-K, once it is required to do so, disclosing this material, non-public information, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to $1,000 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

5.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes, and shall not use such proceeds: (a) for the satisfaction of any Indebtedness as defined in the Note, (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) in violation of FCPA or OFAC regulations, or (d) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company.

5.8 Indemnification of Purchaser.

Subject to the provisions of this Section 5.8, the Company will indemnify and hold each Purchaser and its directors, officers, stockholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which constitutes fraud, gross negligence, willful misconduct or malfeasance) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 5.8 shall be made by periodic payments of the amount thereof during the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

5.9 Settlement Without Consent if Failure to Reimburse. If an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5.8 effected without its written consent if (1) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (2) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (3) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.10 Listing of Common Stock. The Company agrees, if the Company applies to have the Common Stock traded on any Trading Market, it will then include in such application all of the Shares, and will take such other action as is necessary to cause all of the Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

5.11 Senior Debt. The Company shall not issue any new indebtedness which is senior in rank to the Notes while the Notes are outstanding.

5.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

5.13 Conversion Procedures. The forms of Conversion Notice included in the Notes set forth the totality of the procedures required of the Purchaser to exercise the Notes. No additional legal opinion, other information or instructions shall be required of the Purchaser to convert their Note. Without limiting the preceding sentences, no ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required to convert the Notes. The Company shall honor conversions of the Notes and shall deliver Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

5.14 DTC Program. For so long as any of the Notes are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Shares a participant in the Depository Trust Company Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

5.15 Maintenance of Property. The Company shall keep all of its property necessary for the operations of its business, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

5.16 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

5.17 No Registration of Securities on Form S-1. Other than the registration rights provided hereunder, for the initial six months the Notes are outstanding, the Company will not file any registration statements on Form S-1. For the avoidance of doubt, the foregoing shall not prevent the Company from filing a Registration Statement on Form S-8 with respect to equity compensation plans.

5.18 Variable Rate Transactions. While any of the Notes are outstanding, the Company shall be prohibited from entering a Variable Rate Transaction without the prior consent of the holders of more than 50% in principal amount of the then outstanding Notes.

5.19 Registration Rights and Lock-Up Agreement.

(a) With respect to the Shares and Warrant Shares, the Company shall:

(1) With the next Registration Statement on Form S-1 filed by the Company, include the Registrable Securities in such Registration Statement and use its best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(2) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities until such time as all of the Registerable Securities have been sold by the Holder or he is eligible to otherwise remove the restrictive legend and effect a sale other than through the Registration Statement.

(3) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction, at the earliest practicable moment.

(4) Furnish to the Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits to the extent requested by the Holder (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC.

(b) The Purchaser agrees that, without the prior written consent of the Company, the Purchaser shall not, during the period ending 90 days after the date of the prospectus filed with the SEC in connection with the Registration Statement on Form S-1 described in Section 5.19(a):

(1) offer, pledge, announce the intention to sell, 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 Registrable Securities or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Registrable Securities.

**ARTICLE IV. MISCELLANEOUS**

6.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the other parties, if the Closing has not been consummated on or before June 30, 2022; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

6.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

6.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered by email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. ( Eastern Standard or Daylight Savings Time, as applicable) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of transmission, if sent by U.S. nationally recognized overnight delivery service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall, if the Company's Common Stock is quoted or listed on a Trading Market, simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K, or which failure to do so will subject the Company to the liquidated damages provided for in Article 5.

6.5 Amendments; Waivers. Except as provided in the last sentence of this Section 6.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and a majority in interest of the outstanding balance of the Note or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with accordance with this Section 6.5 shall be binding upon the Purchaser and holder of Securities and the Company.

6.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Each Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchaser.

6.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 6.7 and this Section 6.8.

6.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

6.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

6.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf' format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf' signature page were an original thereof.

6.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

6.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then that Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an conversion of a Note, the Purchaser shall be required to return any Shares subject to any such rescinded Conversion Notice concurrently with the restoration of such Purchaser's right to acquire such shares pursuant to the Purchaser's Note.

6.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

6.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

6.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

6.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

6.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

6.21 Waiver of jury trial. In any action, suit, or proceeding in any jurisdiction brought by any party against any other party, the parties each knowingly and intentionally, to the greatest extent permitted by applicable law, hereby absolutely, unconditionally, irrevocably and expressly waive forever trial by jury.

6.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any Shares issuable upon conversion of the Notes above the Note Conversion Price then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares upon the conversion of the Notes. Notwithstanding anything herein to the contrary, if after 180 days from the original issuance date, the Purchasers are not permitted to convert the Note, in full, for any reason, subject to the Purchaser's compliance with Rule 144 the Company shall use its best efforts to promptly remedy such failure, including, without limitation, obtaining such consent or approvals as necessary to permit such conversion or exercise.

(Signature Pages Follow)

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

60 Degree Pharmaceuticals, LLC
By: [redacted]
Name: Geoffrey Dow
Title: Chief Executive Officer

Address for Notice:

[redacted]
[redacted]

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SIGNATURE PAGE FOR PURCHASER FOLLOWS]

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**Exhibit 10.5**

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

## COMMON STOCK PURCHASE WARRANT

Warrant Shares: <WARRANT SHARES>

Initial Exercise Date: May 19, 2022

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, Geoffrey Dow., or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the fifth year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), up to <WARRANT SHARES> shares of Common Stock (subject to adjustment hereunder, the "Warrant Shares"). The purchase price of one Warrant Share under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant issued pursuant to a Securities Purchase Agreement (the "Purchase Agreement") entered into as of the Initial Exercise Date between the Company and the initial Holder.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated May 19, 2022 among the Company and the Purchasers.

Section 2. Exercise.

(a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the IPO (as defined in the Purchase Agreement) price or, if the Company fails to complete the IPO before May 31, 2023, 90% of the IPO price , subject to adjustment under Section 3 (the "Exercise Price").

(c) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first 10 Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall pay in cash to the Holder the amount as provided under Section 4.1(e) of the Purchase Agreement. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant or pursuant to any of the other Transaction Documents), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(b), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(b) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five Trading Days after the 10th day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(b) shall not apply to any Exempt Issuances.

(c) Full Ratchet Increase in Warrant Shares. Until the Notes are no longer outstanding, whenever the Exercise Price is adjusted under Section 3(b), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(c) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(d) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, no Purchase Rights will be made under this Section 3(d) in respect of an Exempt Issuance.

(e) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security other than the Common Stock (which shall be subject to Section 3(d)), then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(f) Fundamental Transaction.

(i) If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions engages in any Fundamental Transaction, as defined in the Purchase Agreement, then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), at the option of the Holder the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(ii) Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, provided that the Warrant Shares are not registered under an effective registration statement, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction or (ii) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Exercise Price. "Black Scholes Value" means the value of the unexercised portion of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg L.P. as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date.

(iii) If Section 3(f)(i) and (ii) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(f)(iii) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Purchase Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 Degrees Pharmaceuticals, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60 Degrees Pharmaceuticals, LLC**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____

_____

_____

SIGNATURE OF HOLDER

Name of Investing Entity:

_____

*Signature of Authorized Signatory of Investing Entity*:

_____

Name of Authorized Signatory:

_____

Title of Authorized Signatory:

_____

Date:

_____

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

**60 Degrees Pharmaceuticals, LLC**

FOR VALUE RECEIVED,_____all of or _____ shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____whose address is

_____

_____

Dated:_____, _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

**Exhibit 10.6**

**NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

Original Issue Date: May 19, 2022

$294,444 Principal and Face Value
$265,000 Purchase Price and Subscription Amount
$29,444 Original Issue Discount

**ORIGINAL ISSUE DISCOUNT**
**CONVERTIBLE PROMISSORY NOTE**

THIS ORIGINAL ISSUE DISCOUNT CONVERTIBLE PROMISSORY NOTE is duly authorized and validly issued at a 10% original issue discount by 60 Degrees Pharmaceuticals, LLC, a Washington DC limited liability corporation (the "Company") (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to Geoffrey Dow, or its permitted assigns (the "Holder"), the principal sum of $294,444 on May 31, 2023 (the "Maturity Date") or such earlier date as this Note is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate unconverted and then outstanding principal amount of this Note in accordance with the provisions hereof. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following words and phrases shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Subsidiary thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Subsidiary thereof, (b) there is commenced against the Company or any Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement, (c) the Company or any Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Company or any Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts or (g) the Company or any Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Base Conversion Price" shall have the meaning set forth in Section 5(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(f).

"Black Scholes Value" means the value of the outstanding principal amount of this Note, plus all accrued and unpaid interest hereon based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date.

"Buy-In" shall have the meaning set forth in Section 4(d)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 50% of the voting securities of the Company (other than by means of conversion, exercise or exchange of this Note or the Warrants issued together with this Note), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the shareholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person, (d) a replacement at one time or within a three year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the date hereof), or (d) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Conversion" shall have the meaning ascribed to such term in Section 4.

"Conversion Date" shall have the meaning set forth in Section 4(a).

"Conversion Price" shall have the meaning set forth in Section 4(c).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of this Note in accordance with the terms hereof.

"Default Interest Rate" shall have the meaning set forth in Section 2(a).

"Dilutive Issuance" shall have the meaning set forth in Section 5(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 5(b)(5).

"DWAC" means the Deposit or Withdrawal at Custodian system at The Depository Trust Company.

"Event of Default" shall have the meaning set forth in Section 7(a).

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"IPO" shall have the meaning set forth in Section 4(b).

"Liens" shall have the meaning set forth in the Purchase Agreement.

"Note Register" shall have the meaning set forth in Section 3(c).

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Mandatory Default Amount" shall have the meaning set forth in Section 7(b).

"Option Value" means the value of a Common Stock Equivalent based on the Black Scholes Option Pricing model obtained from the "OV" function on Bloomberg determined as of (A) the Trading Day prior to the public announcement of the issuance of the applicable Common Stock Equivalent, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of the applicable Common Stock Equivalent as of the applicable date of determination, (ii) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of (A) the Trading Day immediately following the public announcement of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iii) the underlying price per share used in such calculation shall be the highest VWAP of the Common Stock during the period beginning on the Trading Day prior to the execution of definitive documentation relating to the issuance of the applicable Common Stock Equivalent and ending on (A) the Trading Day immediately following the public announcement of such issuance, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

"Original Issue Date" means the date of the first issuance of this Note, regardless of any transfers of this Note and regardless of the number of instruments which may be issued to evidence this Note.

"Permitted Indebtedness" means (a) the indebtedness evidenced by this Note, (b) senior secured non-convertible loans from traditional commercials banks with interest per annum not to exceed 12%, (c) capital lease obligations and purchase money indebtedness incurred in connection with the acquisition of machinery and equipment as long as such capital leases and indebtedness are approved in advance by the Holder and (d) the Indebtedness set forth on Schedule 3.27 to the Purchase Agreement).

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (x) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company and its consolidated Subsidiaries or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) Liens incurred in connection with Permitted Indebtedness under clauses (a) through (d) thereunder, and Liens set forth on Schedule 3.1(aa) to the Purchase Agreement.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May [*], 2022, among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Share Delivery Date" shall have the meaning set forth in Section 4(d)(ii).

"Successor Entity" shall have the meaning set forth in Section 5(e)(2).

"Transaction Documents" means the Note, the Purchase Agreement and the Warrant.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent bid price per share of the Common Stock so reported, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Interest.

Interest shall accrue to the Holder on the aggregate unconverted and then outstanding principal amount of this Note at the rate of 6% per annum, calculated on the basis of a 360-day year and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal (or conversion to the extent applicable), together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. During the existence of an Event of Default, interest shall accrue at the lesser of (i) the rate of 15% per annum, or (ii) the maximum amount permitted by law (the lesser of clause (i) or (ii), the "Default Interest Rate"). Once an Event of Default is cured, the interest rate shall return to 6%.

Section 3. Registration of Transfers and Exchanges.

(a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge or other fees will be payable for such registration of transfer or exchange.

(b) Investor Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

(c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

(a) Voluntary Conversion. After the Original Issue Date until this Note is no longer outstanding, this Note shall be convertible, in whole or in part, at any time, and from time to time, into Conversion Shares at the option of the Holder. The Holder shall effect conversions by delivering to the Company a Notice of Conversion, the form of which is attached hereto as Annex A (each, a "Notice of Conversion"), specifying therein the principal amount of this Note to be converted and the date on which such conversion shall be effected (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. To effect conversions hereunder, the Holder shall not be required to physically surrender this Note to the Company unless the entire principal amount of this Note, plus all accrued and unpaid interest thereon, has been so converted. Conversions hereunder shall have the effect of lowering the outstanding principal amount of this Note in an amount equal to the applicable conversion. The Holder and the Company shall maintain records showing the principal amount(s) converted in each conversion, the date of each conversion, and the Conversion Price in effect at the time of each conversion. The Company may deliver an objection to any Notice of Conversion within two Trading Days of delivery of such Notice of Conversion. In the event of any dispute or discrepancy, the records of the Holder shall be controlling and determinative in the absence of manifest error. **The Holder, and any assignee by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted principal amount of this Note may be less than the amount stated on the face hereof.**

(b) Mandatory Conversion. This Note shall convert into Conversion Shares upon the completion of an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange (the "IPO").

(c) Conversion Price. The "Conversion Price" shall be at the lesser of a 20% discount to the IPO price or a $27 million pre-money valuation. All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

(d) Mechanics of Conversion or Prepayment.

(i) Conversion Shares Issuable Upon Conversion of Principal Amount. The number of Conversion Shares issuable upon a conversion hereunder shall be determined by the quotient obtained by dividing (x) the outstanding principal amount of this Note to be converted by (y) the Conversion Price in effect at the time of such conversion.

(ii) Delivery of Certificate Upon Conversion. Not later than two Trading Days after each Conversion Date (the "Share Delivery Date"), the Company shall deliver, or cause to be delivered, to the Holder any certificate or certificates required to be delivered by the Company under this Section 4(d) which shall be free of restrictive legends and trading restrictions except as provided by the Securities Act (other than those which may then be required by the Purchase Agreement) and such shares shall be delivered electronically through the Depository Trust Company or another established clearing corporation performing similar functions.

(iii) Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Company at any time on or before its receipt of such Conversion Shares, to rescind such conversion, in which event the Company shall promptly return to the Holder any original Note delivered to the Company.

(iv) Obligation Absolute; Partial Liquidated Damages. The Company's obligations to issue and deliver the Conversion Shares upon conversion of this Note in accordance with the terms hereof, are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of such Conversion Shares. In the event the Holder of this Note shall elect to convert any or all of the outstanding principal amount hereof, the Company may not refuse conversion based on any claim that the Holder or anyone associated or affiliated with the Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and or enjoining conversion of all or part of this Note shall have been sought and obtained, and the Company posts a surety bond for the benefit of the Holder in accordance with Section 5.1(d) of the Purchase Agreement. The exercise of any such rights shall not prohibit the Holder from seeking to collect damages under this Note, the Purchase Agreement or under applicable law.

(v) Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Company fails for any reason to deliver to the Holder such Conversion Shares by the Share Delivery Date pursuant to Section 4(d)(ii), and if after such Share Delivery Date the Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Conversion Shares which the Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Company shall have the remedies provided for in accordance with Section 5.1(d) of the Purchase Agreement. Nothing herein or therein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver Conversion Shares upon conversion of this Note as required pursuant to the terms hereof.

(vi) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of this Note. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Company shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

(vii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Note shall be made without charge to the Holder hereof for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such certificates. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

(viii) Attorneys' Fees etc. The Company shall (A) pay the reasonable fees of the law firm of the Holder's choice (in an amount not to exceed $500 per opinion) in connection with the conversion of the Note, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 4(d)(iv).

(e) Holder's Conversion Limitations. The Company shall not effect any conversion of this Note, and a Holder shall not have the right to convert any portion of this Note, to the extent that after giving effect to the conversion set forth on the applicable Notice of Conversion, the Holder (together with the Holder's Affiliates, and any Persons acting as a group together with the Holder or any of the Holder's Affiliates) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon conversion of this Note with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted principal amount of this Note beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, any other Notes or the Warrants) beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 4(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 4(e) applies, the determination of whether this Note is convertible (in relation to other securities owned by the Holder together with any Affiliates) and of which principal amount of this Note is convertible shall be in the sole discretion of the Holder, and the submission of a Notice of Conversion shall be deemed to be the Holder's determination of whether this Note may be converted (in relation to other securities owned by the Holder together with any Affiliates) and which principal amount of this Note is convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, the Holder will be deemed to represent to the Company each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this Section 4(e) and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 4(e), in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the SEC, as the case may be, (ii) a more recent public announcement by the Company, or (iii) a more recent written notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of this Note held by the Holder. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 4(e) to 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder. In all events, the provisions of this Section 4(e) shall continue to apply. Any such increase or decrease will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 4(e) solely with respect to the Holder's Note at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The Beneficial Ownership Limitation provisions of this Section 4(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 4(e) to correct any portion which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 4(d) shall apply to a successor holder of this Note.

Section 5. Certain Adjustments.

(a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 5(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. (1) At any time, for so long as the Note or any amounts accrued and payable thereunder remain outstanding, the Company or any Subsidiary, as applicable, sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect (such lower price, the "Base Conversion Price" and each such issuance or announcement a "Dilutive Issuance"), then the Conversion Price shall be immediately reduced to equal the Base Conversion Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued.

(2) If any Common Stock Equivalent is amended or adjusted, and such price as so amended shall be less than the Conversion Price in effect at the time of such amendment or adjustment, then the Conversion Price shall be adjusted upon each such issuance or amendment as provided in this Section 5(b). In case any Common Stock Equivalent is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, (x) the Common Stock Equivalents will be deemed to have been issued for the Option Value of such Common Stock Equivalents and (y) the other securities issued or sold in such integrated transaction shall be deemed to have been issued or sold for the difference of (I) the aggregate consideration received by the Company less any consideration paid or payable by the Company pursuant to the terms of such other securities of the Company, less (II) the Option Value. If any shares of Common Stock or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the amount of such consideration received by the Company will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the average VWAP of such public traded securities for the ten days prior to the date of receipt. If any shares of Common Stock or Common Stock Equivalents are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock or Common Stock Equivalents, as the case may be.

(3) If the holder of Common Stock or Common Stock Equivalents outstanding on the Original Issue Date or issued after the Original Issuance Date shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect, such issuance shall be deemed to have occurred for less than the Conversion Price on such date and such issuance shall be deemed to be a Dilutive Issuance.

(4) If the Company enters into a Variable Rate Transaction despite the prohibition set forth in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion price at which such securities may be converted or exercised under the terms of such Variable Rate Transaction.

(5) The Company shall notify the Holder in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 5(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice"). For purposes of clarification, whether or not the Company provides a Dilutive Issuance Notice pursuant to this Section 5(b), upon the occurrence of any Dilutive Issuance, the Holder is entitled to receive a number of Conversion Shares based upon the Base Conversion Price on or after the date of such Dilutive Issuance, regardless of whether the Holder accurately refers to the Base Conversion Price in the Notice of Conversion.

(6) The provisions of this Section 5(b) shall apply each time a Dilutive Issuance occurs after the Original Issue Date for so long as the Note or any amounts accrued and payable thereunder remain outstanding, but any adjustment of the Conversion Price pursuant to this Section 5(b) shall be downward only.

(7) The provisions of this Section 5(b) shall not apply to Exempt Issuances.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, if at any time the Company grants, issues or sells any Common Stock, Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(d) Pro Rata Distributions. During such time as this Note is outstanding, if the Company shall declare or make any dividend or other distribution of its assets or rights or warrants to acquire its assets, or subscribe for or purchase any security other than Common Stock, to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act).

(e) Fundamental Transaction. (1) If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(2) Notwithstanding anything to the contrary, provided that the Warrant Shares are not registered under an effective registration statement, in the event of a Fundamental Transaction that is (x) an all cash transaction, (y) a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Exchange Act, or (z) a Fundamental Transaction involving a person or entity not traded on a national securities exchange or trading market (with such exchange or market including, without limitation, the Nasdaq Global Select Trading Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the New York Stock Exchange, Inc., the NYSE American or any market operated by the OTC Markets, Inc.), the Company or any Successor Entity (as defined below) shall, at the Holder's option, concurrently with the consummation of the Fundamental Transaction, purchase this Note from the Holder by paying to the Holder the higher of (i) an amount of cash equal to the Black Scholes Value of the outstanding principal of this Note on the date of the consummation of such Fundamental Transaction, or (ii) the product of (a) the number of Conversion Shares issuable upon full conversion of this Note (without regard to any limitation on conversion of this Note) and (b) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Conversion Price. (3)

(3) If Section 5(e)(1) and (2) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Note (without regard to any limitations on the conversion of this Note) prior to such Fundamental Transaction, and with a conversion price which applies the Conversion Price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Note immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything in this Section 5(e), an Exempt Issuance (as defined in the Purchase Agreement) shall not be deemed a Fundamental Transaction.

(f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

(g) Notice to the Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on its Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock, (C) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of its Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby its Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of this Note, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of its Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of its Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company or its successor shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. If the Company does not simultaneously file the required Form 8-K, the Holder shall be entitled penalties in accordance with Section 5.6 of the Purchase Agreement The Holder shall remain entitled to convert this Note during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 6. Negative Covenants. As long as any portion of this Note remains outstanding, unless the holders of at least 50% in principal amount of the then outstanding Notes shall have otherwise given prior written consent, the Company shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

(a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any indebtedness for borrowed money of any kind, including, but not limited to, a guarantee, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder, increases in authorized shares and stock splits shall not be deemed to materially and adversely affects any rights of the Holder;

(d) purchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents;

(e) repay, or offer to repay, any Indebtedness, other than Permitted Indebtedness, as such terms Indebtedness and Permitted Indebtedness are in effect as of the Original Issue Date;

(f) pay cash dividends or distributions on any equity securities of the Company;

(g) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the SEC assuming that the Company is subject to the Securities Act or the Exchange Act, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for board approval);

(h) issue any equity securities of the Company other than pursuant to the provisions of the Purchase Agreement or an Exempt Issuance; or

(i) enter into any agreement with respect to any of the foregoing.

Section 7. Events of Default.

(a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(i) any default in the payment of (A) principal and interest payment under this Note or any other Indebtedness, or (B) late fees, liquidated damages and other amounts owing to the Holder of this Note, as and when the same shall become due and payable (whether on a Conversion Date, or the Maturity Date, or by acceleration or otherwise), which default, solely in the case of a default under clause (B) above, is not cured within five Trading Days;

(ii) the Company shall fail to observe or perform any other covenant or agreement contained in this Note (other than a breach by the Company of its obligations to deliver Conversion Shares, which breach is addressed in clause (x) below) or any Transaction Document which failure is not cured, if possible to cure, within the earlier to occur of 15 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company and (B) 10 Trading Days after the Company has become aware of such failure;

(iii) except for payment defaults covered under Section 7(a)(i), the Company shall breach, or a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under, (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by any other clause of this Section 7) which default or event of default if not cured, if possible to cure, within the earlier to occur of (i) 10 Trading Days after notice of such default sent by Holder or by any other holder to the Company and (ii) five Trading Days after the Company has become aware of such default;

(iv) any representation or warranty made in this Note, any other Transaction Document, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made, which failure is not cured, if possible to cure, within the earlier to occur of 10 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company;

(v) the Company or any Subsidiary shall be subject to a Bankruptcy Event;

(vi) the Company or any Subsidiary shall: (A) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties; (B) admit in writing its inability to pay its debts as they mature; (C) make a general assignment for the benefit of creditors; (D) be adjudicated as bankrupt or insolvent or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country; or (E) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(vii) if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days;

(viii) the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within 45 days after the date thereof;

(ix) any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $100,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 days;

(x) any Material Adverse Effect occurs;

(xi) any provision of any Transaction Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document;

(xii) the Company fails to use the proceeds in the manner as described in Section 5.7 of the Purchase Agreement;

(xiii) the Company shall be a party to any Change of Control Transaction or shall agree to sell or dispose of all or in excess of 50% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

(xiv) from and after 90 days after the Original Issue Date, the Company fails to have authorized and reserved the amount of shares designated in Section 3.5 of the Purchase Agreement (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation);

(xv) the Company shall fail for any reason, except if caused by the action or inaction of the Holder to deliver Conversion Shares to the Holder prior to the third Trading Day after a Conversion Date pursuant to Section 4 or the Company shall provide at any time notice to the Holder, including by way of public announcement, of the Company's intention to not honor requests for conversions of this Note in accordance with the terms hereof; or

(xvi) the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the Exchange Act within the time required (including any applicable extension period) by the rules and regulations thereunder.

(b) Remedies Upon Event of Default. If any Event of Default occurs, the outstanding principal amount of this Note, plus liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash (the "Mandatory Default Amount"). Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 7(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

(c) Interest Rate Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall accrue interest at an interest rate equal to the Default Interest Rate.

(d) Conversion Price Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall be convertible at the Default Conversion Price.

Section 8. Miscellaneous.

(a) No Rights as Stockholder Until Conversion. This Note does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the conversion hereof other than as explicitly set forth in Section 5.

(b) Notices. All notices, offers, acceptance and any other acts under this Agreement (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by FedEx or similar receipted next day delivery, or at the Company's registered address or such other address as any of them, by notice to the other may designate from time to time. Time shall be counted to, or from, as the case may be, the date of delivery.

(c) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest and late fees, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

(d) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of this Note, and of the ownership hereof, reasonably satisfactory to the Company.

(e) Exclusive Jurisdiction; Governing Law; Prevailing Party Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of this Note and venue shall be governed by and construed and enforced in accordance with Section 6.9 of the Purchase Agreement. If any party shall commence an Action or Proceeding to enforce or otherwise relating to this Note, then, in addition to the other obligations of the Company elsewhere in this Note, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

(f) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

(g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

(h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach would be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

(i) Next Trading Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Trading Day, such payment shall be made on the next succeeding Trading Day.

(j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**60 Degrees Pharmaceuticals, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**ANNEX A NOTICE OF CONVERSION**

The undersigned hereby elects to convert principal under the Original Issue Discount Convertible Note due May 31, 2023 of 60 Degrees Pharmaceuticals, LLC, a limited liability company (the "Company"), into shares of common stock (the "Common Stock"), of the Company according to the conditions hereof, as of the date written below.

By the delivery of this Notice of Conversion the undersigned represents and warrants to the Company that its ownership of the Common Stock does not exceed the amounts specified under Section 4 of this Note, as determined in accordance with Section 13(d) of the Exchange Act.

The undersigned agrees to comply with the prospectus delivery requirements under the applicable securities laws in connection with any transfer of the aforesaid shares of Common Stock.

Conversion calculations:

Date to Effect Conversion:

Principal Amount of Note to be Converted:

Number of shares of Common Stock to be issued:

Signature:
Name:

DWAC Instructions:

Broker No:
Account No:

**Exhibit 10.7**

***Please be advised that certain identified information has been excluded in Exhibit 10.7 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of May 24, 2022, by and between 60° Pharmaceuticals, LLC, a limited liability company, and each investor that executes the signature page hereto as a purchaser (each, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act, as defined, contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

**ARTICLE I. DEFINITIONS**

1.1 Definitions. In addition to the words and terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 5.5. "Action" shall have the meaning ascribed to such term in Section 3.10.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Bridge Shares" means shares of the Company's Common Stock issued to each Purchaser equal to and based on (A) 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon the pricing of the Company's IPO or (B) if the Company fails to complete the IPO before the Maturity Date, the number of shares calculated using a $27 million pre-money valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Notes pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Company" means 60° Pharmaceuticals, LLC and any successor company after conversion from a limited liability company to a corporation.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.19.

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock, restricted stock units or options, and the underlying shares of Common Stock to consultants, employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non- employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities issued upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant, acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and which shall reasonably be expected to provide to the Company additional benefits, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to any purchase money equipment loan or capital leasing arrangement, purchasing agent or debt financing from a commercial bank or similar financial institution, (e) securities issued pursuant to any presently outstanding warrants or this Agreement; and (f) securities upon a stock split, stock dividend or subdivision of the Common Stock and shares of common stock in a public offering; (g) non-convertible loans from traditional commercials banks with interest per annum not to exceed 12% which will rank ***pari passu*** with the Notes issued to investors by the Company.

"Face Value" means the Subscription Amount plus original issue discount as described in the Notes.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended. "GAAP" shall have the meaning ascribed to such term in Section 3.8. "Indebtedness" shall have the meaning ascribed to such term in Section 3.27.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"IPO" shall mean an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange.

"Licensed Intellectual Property Agreement" means all licenses, sublicenses, agreements and permissions (each as amended to date) that any third party owns and that the Company uses, including off- the-shelf software purchased or licensed by the Company.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1. "Maturity Date" shall have the meaning assigned to such term in the Note.

"Notes" means the Original Issue Discount Promissory Notes issued to the Purchaser, in the form of Exhibit A attached hereto.

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Purchaser Party" shall have the meaning ascribed to such term in Section 5.8.

"Registrable Securities" shall mean, collectively, the Bridge Shares and the Warrant Shares. "Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation

"Required Approvals" shall have the meaning ascribed to such term in Section 3.4.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission. "Securities" means the Notes, the Warrants and the Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means the Bridge Shares and the Warrant Shares.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Note purchased hereunder as specified below the Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, the Warrants, and any other documents or agreements executed in connection with the transactions contemplated hereunder, including, but not limited to, the documents referenced in Section 2.2(a).

"Transfer Agent" means [*], and any successor transfer agent of the Company.

"Variable Rate Transaction" means any Equity Line of Credit or similar agreement, nor issue nor agree to issue any Common Stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes of this Agreement, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit B attached hereto.

"Warrant Exercise Price" means the exercise price provided in the Warrant.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

**ARTICLE II. PURCHASE AND SALE**

2.1 Closing. On the Closing Dates, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase an aggregate of (i) Notes with a Face Value listed on the Purchaser's signature page and (ii) Warrants to purchase shares equal to 50% of the Bridge Shares. On the Closing Date, the Purchaser shall deliver to the Company a signed copy of the Transaction Documents and, via wire transfer, immediately available funds equal to the Purchaser's Subscription Amount. After receipt of the Subscription Amount, the Company shall deliver to the Purchaser countersigned copies of the Transaction Documents. Upon satisfaction of the closing conditions set forth in Section 2.3, the Closing shall occur at the Company's offices or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note with a Face Value of $330,000 registered in the name of the Purchaser;

(iii) an original Warrant to purchase shares of Common Stock, exercisable at the Warrant

Exercise Price, registered in the name of such Purchaser;

(iv) a Board Consent approving the issuance of the Notes and the execution of the Transaction Documents listed above on behalf of the Company.

(b) On or prior to the Closing Date each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser; and

(ii) the Purchaser's Subscription Amount by wire transfer to the Company.

(c) On the (i) date of the pricing of the Company's IPO, the Company shall deliver to each Purchaser shares of the Company's common stock equal to 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon or (ii) if the Company fails to complete the IPO before the Maturity Date, the number of shares of the Company's common stock calculated using a $27 million pre- money valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement; and

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

## ARTICLE III.
## REPRESENTATIONS AND WARRANTIES OF COMPANY

The Company hereby makes the following representations and warranties to each Purchaser as of the date hereof:

3.1 Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or Articles of Incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

3.2 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

3.3 No Conflicts. Except as set forth in Schedule 3.3, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Certificate or Articles of Incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

3.4 Filings, Consents and Approvals. Except as set forth on Schedule 3.4, the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) blue sky filings or a Form D filing and (ii) such filings as are required to be made under applicable state securities laws (the "Required Approvals").

3.5 Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Notes and Warrants.

3.6 Capitalization. The capitalization of the Company is as set forth on Schedule 3.6. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.6, as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders' agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

3.7 Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in Schedule 3.7. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

3.8 Financial Statements. The consolidated financial statements of the Company, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and any of its Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved.

3.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. Other than as disclosed on Schedule 3.9, except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state government unit pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future except as disclosed on Schedule 3.10. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim for fraud or breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation or inquiry by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Securities Act, and the Company has no reason to believe it will do so in the future.

3.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.12 Compliance. Except as set forth on Schedule 3.12, neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

3.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Regulatory Permits. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

3.15 Title to Assets. Subject to the Liens of the outstanding secured senior debt, the Company and the Subsidiaries have good and marketable title in fee simple to all personal property owned by them that is material to the business of the Company and the Subsidiaries. The Company owns no real property. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

3.16 Intellectual Property.

(i) Subject to the Liens of the outstanding secured senior debt, to the Company's knowledge, the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted.

(ii) To the Company's knowledge, the Intellectual Property does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company.

(iii) With respect to each Licensed Intellectual Property Agreement:

(A) The Licensed Intellectual Property Agreement is legal, valid, binding, enforceable, and in full force and effect;

(B) To the Company's knowledge, no party to the Licensed Intellectual Property Agreement is in breach or default, and no event has occurred that with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder, which as to any such breach, default or event could have a Material Adverse Effect on the Company;

(C) No party to such Licensed Intellectual Property Agreement has repudiated any provision thereof;

(D) Except as set forth in such Licensed Intellectual Property Agreement, the Company has not received written or verbal notice or otherwise has knowledge that the underlying item of Intellectual Property is subject to any outstanding injunction, judgment, order, decree, ruling, or charge; and

(E) Except as set forth on Schedule 3.16, the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(iv) The Company has complied with and is presently in compliance with all foreign, federal, state, local, governmental (including, but not limited to, the Federal Trade Commission and State Attorneys General), administrative, or regulatory laws, regulations, guidelines, and rules applicable to any personal identifiable information.

(v) Each Person who participated in the creation, conception, invention or development of the Intellectual Property currently used in the business of the Company (each, a "Developer") which is not licensed from third parties has executed one or more agreements containing industry standard confidentiality, work for hire and assignment provisions, whereby the Developer has assigned to the Company all copyrights, patent rights, Intellectual Property rights and other rights in the Intellectual Property, including all rights in the Intellectual Property that existed prior to the assignment of rights by such Person to the Company.

(vi) Each Developer has signed a perpetual non-disclosure agreement with the Company.

3.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

3.18 Transactions With Affiliates and Employees. Except as disclosed in Schedule 3.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

3.19 Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in the Schedule 3.19, the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

3.20 Certain Fees. Except as set forth on Schedule 3.20, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due by the Company in connection with the transactions contemplated by the Transaction Documents.

3.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

3.22 Registration Rights. Except as disclosed on Schedule 3.22, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

3.23 Listing and Maintenance Requirements; Shell Company. The Company's Common Stock is not quoted or listed on any Trading Market. The Company is not and has never been a shell company as such term is defined in Rule 12(b)(2) under the Securities Exchange Act of 1934, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

3.24 Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

3.25 Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agent or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed on Schedule 3.25. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchaser regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Article IV hereof.

3.26 No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Article IV, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

3.27 Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (ii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.27 sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.27, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

3.28 Tax Status. The Company and each of its Subsidiaries have filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith, except where the failure to so file or pay would not have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.28, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries which has had, or would have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which would have a Material Adverse Effect

3.29 Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated any provision of FCPA.

3.30 Acknowledgment Regarding Purchaser's Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

3.31 Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 4.7 and 5.12 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

3.32 Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

3.33 Private Placement. Assuming the accuracy of each Purchaser's representations and warranties set forth in Article IV, no registration under the Securities Act is required for the offer and sale of the Notes or the Shares issuable upon conversion thereof by the Company to the Purchasers as contemplated hereby.

3.34 No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

3.35 No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder.

3.36 Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

3.37 Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

3.38 U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

3.39 Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

3.40 Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

## ARTICLE IV.
## REPRESENTATIONS AND WARRANTIES OF PURCHASERS

4.1 Representations and Warranties of the Purchaser. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

4.2 Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

4.3 Understandings or Arrangements. The Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

4.4 Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. The Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

4.5 Experience of the Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

4.6 Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment; provided, however, that the Purchaser has not requested nor been provided by the Company with any non-public information regarding the Company, its financial condition, results of operations, business, properties, management and prospects. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

4.7 Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Article 4 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

## ARTICLE V.
## OTHER AGREEMENTS OF THE PARTIES

5.1 Removal of Legends.

The Shares and the Warrants may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Shares or Warrants other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 5.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares or Warrants under the Securities Act.

(a) Each Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Shares or the Warrants in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

(b) The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c) Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 5.1(a) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, if any of the provisions in clause (i) –(iv) above are applicable, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Shares, or if such Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 5.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, as applicable, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 5.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $20 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares (as the case may be) and ending on the date of such delivery and payment under this Section 5.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 5.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Bridge Shares (based on the market price of the Bridge Shares) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

5.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Note Conversion Price of such Purchaser's Note(s) and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

5.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

5.4 Securities Laws Disclosure; Publicity. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

5.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

5.6 Non-Public Information. When the Company's Common Stock is quoted or listed on a Trading Market, to the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company knowingly provides any material, non- public information to the Purchasers without their prior written consent, and it fails to immediately (no later than that Trading Day) file a Form 8-K, once it is required to do so, disclosing this material, non-public information, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to $1,000 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

5.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes, and shall not use such proceeds: (a) for the satisfaction of any Indebtedness as defined in the Note, (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) in violation of FCPA or OFAC regulations, or (d) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company.

5.8 Indemnification of Purchaser.

Subject to the provisions of this Section 5.8, the Company will indemnify and hold each Purchaser and its directors, officers, stockholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which constitutes fraud, gross negligence, willful misconduct or malfeasance) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 5.8 shall be made by periodic payments of the amount thereof during the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

5.9 Settlement Without Consent if Failure to Reimburse. If an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5.8 effected without its written consent if (1) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (2) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (3) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.10 Listing of Common Stock. The Company agrees, if the Company applies to have the Common Stock traded on any Trading Market, it will then include in such application all of the Shares, and will take such other action as is necessary to cause all of the Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

5.11 Senior Debt. The Company shall not issue any new indebtedness which is senior in rank to the Notes while the Notes are outstanding.

5.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

5.13 DTC Program. For so long as any of the Notes are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Shares a participant in the Depository Trust Company Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

5.14 Maintenance of Property. The Company shall keep all of its property necessary for the operations of its business, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

5.15 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

5.16 No Registration of Securities on Form S-1. Other than the registration rights provided hereunder, for the initial six months the Notes are outstanding, the Company will not file any registration statements on Form S-1. For the avoidance of doubt, the foregoing shall not prevent the Company from filing a Registration Statement on Form S-8 with respect to equity compensation plans.

5.17 Variable Rate Transactions. While any of the Notes are outstanding, the Company shall be prohibited from entering a Variable Rate Transaction without the prior consent of the holders of more than 50% in principal amount of the then outstanding Notes.

5.18 Registration Rights and Lock-Up Agreement.

(a) With respect to the Shares, the Company shall:

(1) With the next Registration Statement on Form S-1 filed by the Company, include the Registrable Securities in such Registration Statement and use its best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(2) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities until such time as all of the Registerable Securities have been sold by the Holder or he is eligible to otherwise remove the restrictive legend and effect a sale other than through the Registration Statement.

(3) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction, at the earliest practicable moment.

(4) Furnish to the Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits to the extent requested by the Holder (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC.

(b) The Purchaser agrees that, without the prior written consent of the Company, the Purchaser shall not, during the period ending 90 days after the date of the prospectus filed with the SEC in connection with the Registration Statement on Form S-1 described in Section 5.18(a): (1) offer, pledge, announce the intention to sell, 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 Registrable Securities or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Registrable Securities.

5.19 Conversion to a Corporation. The Company shall convert from a limited liability company to a corporation on or before June 30, 2022.

5.20 Right of Participation. For so long as Notes are outstanding, the Purchasers shall be given the right to purchase 20% of the shares issued in the Company's IPO on a pro rata basis.

## ARTICLE IV. MISCELLANEOUS

6.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the other parties, if the Closing has not been consummated on or before June 15, 2022; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

6.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

6.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered by email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. ( Eastern Standard or Daylight Savings Time, as applicable) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of transmission, if sent by U.S. nationally recognized overnight delivery service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall, if the Company's Common Stock is quoted or listed on a Trading Market, simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K, or which failure to do so will subject the Company to the liquidated damages provided for in Article 5.

6.5 Amendments; Waivers. Except as provided in the last sentence of this Section 6.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and a majority in interest of the outstanding balance of the Note or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with accordance with this Section 6.5 shall be binding upon the Purchaser and holder of Securities and the Company.

6.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Each Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchaser.

6.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 6.7 and this Section 6.8.

6.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

6.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

6.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf' format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf' signature page were an original thereof.

6.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

6.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then that Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an conversion of a Note, the Purchaser shall be required to return any Shares subject to any such rescinded Conversion Notice concurrently with the restoration of such Purchaser's right to acquire such shares pursuant to the Purchaser's Note.

6.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

6.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

6.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

6.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

6.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

6.21 Waiver of jury trial. In any action, suit, or proceeding in any jurisdiction brought by any party against any other party, the parties each knowingly and intentionally, to the greatest extent permitted by applicable law, hereby absolutely, unconditionally, irrevocably and expressly waive forever trial by jury.

6.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any Shares and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares.

(Signature Pages Follow)

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

**60 Degrees Pharmaceuticals, LLC**

By: [redacted]
Name: Geoffrey Dow
Title: Chief Executive Office

Address for Notice:

[redacted]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

PURCHASER SIGNATURE PAGE TO
SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Bigger Capital Fund, LP [redacted]

*Signature of Authorized Signatory of Purchaser*: [redacted]

Name of Authorized Signatory: Michael Bigger [redacted]

Title of Authorized Signatory: Managing Member of the GP [redacted]

Email Address of Authorized Signatory: [redacted]

Facsimile Number of Authorized Signatory: _____

Address for Notice to Purchaser: [redacted]

Address for Delivery of Securities to Purchaser (if not same as address for notice):

_____

_____

Face Value $330,000

Subscription Amount: $300,000

EIN Number: [redacted]

**Exhibit 10.8**

EXHIBIT B

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

**COMMON STOCK PURCHASE WARRANT**

Warrant Shares: <WARRANT SHARES>

Initial Exercise Date: [*], 2022

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, Bigger Capital Fund LP, or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the fifth year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from 60° Pharmaceuticals, LLC, a limited liability company (the "Company"), up to

<WARRANT SHARES> shares of Common Stock (subject to adjustment hereunder, the "Warrant Shares"). The purchase price of one Warrant Share under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant issued pursuant to a Securities Purchase Agreement (the "Purchase Agreement") entered into as of the Initial Exercise Date between the Company and the initial Holder.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated May 24, 2022 among the Company and the Purchasers.

Section 2. Exercise.

(a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the IPO (as defined in the Purchase Agreement) price (the "Exercise Price").

(c) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first 10 Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall pay in cash to the Holder the amount as provided under Section 4.1(e) of the Purchase Agreement. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant or pursuant to any of the other Transaction Documents), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(b), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(b) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five Trading Days after the 10th day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(b) shall not apply to any Exempt Issuances.

(c) Full Ratchet Increase in Warrant Shares. Until the Notes are no longer outstanding, whenever the Exercise Price is adjusted under Section 3(b), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(c) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(d) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, no Purchase Rights will be made under this Section 3(d) in respect of an Exempt Issuance.

(e) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security other than the Common Stock (which shall be subject to Section 3(d)), then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(f) Fundamental Transaction.

(i) If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions engages in any Fundamental Transaction, as defined in the Note, then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), at the option of the Holder the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(ii) Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, provided that the Warrant Shares are not registered under an effective registration statement, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction or (ii) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Exercise Price. "Black Scholes Value" means the value of the unexercised portion of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg L.P. as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date.

(iii) If Section 3(f)(i) and (ii) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(f)(iii) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Purchase Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60° Pharmaceuticals, LLC**

(1) The undersigned hereby elects to purchase_____Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

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(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

SIGNATURE OF HOLDER

Name of Investing Entity:

*Signature of Authorized Signatory of Investing Entity*:

Name of Authorized Signatory:

Title of Authorized Signatory:

Date:

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute
this form and supply required information.
Do not use this form to exercise the warrant.)

**60° Pharmaceuticals, LLC**

FOR VALUE RECEIVED,_____all of or_____shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____whose address is

_____

_____

Dated:_____, _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

_____

**Exhibit 10.9**

EXHIBIT A

**NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

Original Issue Date: May 24, 2022

$330,000 Principal and Face Value
$300,000 Purchase Price and Subscription Amount
$ 30,000 Original Issue Discount

**ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE**

THIS ORIGINAL ISSUE DISCOUNT CONVERTIBLE PROMISSORY NOTE is duly authorized and validly issued at a 10% original issue discount by 60° Pharmaceuticals, LLC, a limited liability company (the "Company") (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to Bigger Capital Fund, LP, or its permitted assigns (the "Holder"), the principal sum of $330,000 on the earlier of May 24, 2023, the date of the Company's IPO, or such earlier date as this Note is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate then outstanding principal amount of this Note in accordance with the provisions hereof. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following words and phrases shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Subsidiary thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Subsidiary thereof, (b) there is commenced against the Company or any Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement, (c) the Company or any Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Company or any Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts or (g) the Company or any Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Base Conversion Price" shall have the meaning set forth in Section 5(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(f).

"Black Scholes Value" means the value of the outstanding principal amount of this Note, plus all accrued and unpaid interest hereon based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date.

"Buy-In" shall have the meaning set forth in Section 4(d)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 50% of the voting securities of the Company (other than by means of conversion, exercise or exchange of this Note or the Warrants issued together with this Note), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the shareholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person, (d) a replacement at one time or within a three year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the date hereof), or (d) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Default Interest Rate" shall have the meaning set forth in Section 2(a).

"Dilutive Issuance" shall have the meaning set forth in Section 5(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 5(b)(5).

"DWAC" means the Deposit or Withdrawal at Custodian system at The Depository Trust Company.

"Event of Default" shall have the meaning set forth in Section 7(a).

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"IPO" shall have the meaning set forth in Section 4(b).

"Liens" shall have the meaning set forth in the Purchase Agreement.

"Note Register" shall have the meaning set forth in Section 3(c).

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Mandatory Default Amount" shall have the meaning set forth in Section 7(b).

"Option Value" means the value of a Common Stock Equivalent based on the Black Scholes Option Pricing model obtained from the "OV" function on Bloomberg determined as of (A) the Trading Day prior to the public announcement of the issuance of the applicable Common Stock Equivalent, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of the applicable Common Stock Equivalent as of the applicable date of determination, (ii) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of (A) the Trading Day immediately following the public announcement of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iii) the underlying price per share used in such calculation shall be the highest VWAP of the Common Stock during the period beginning on the Trading Day prior to the execution of definitive documentation relating to the issuance of the applicable Common Stock Equivalent and ending on (A) the Trading Day immediately following the public announcement of such issuance, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

"Original Issue Date" means the date of the first issuance of this Note, regardless of any transfers of this Note and regardless of the number of instruments which may be issued to evidence this Note.

"Permitted Indebtedness" means (a) the indebtedness evidenced by this Note, (b) senior secured non-convertible loans from traditional commercials banks with interest per annum not to exceed 12%, (c) capital lease obligations and purchase money indebtedness incurred in connection with the acquisition of machinery and equipment as long as such capital leases and indebtedness are approved in advance by the Holder and (d) the Indebtedness set forth on Schedule 3.27 to the Purchase Agreement).

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (x) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company and its consolidated Subsidiaries or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) Liens incurred in connection with Permitted Indebtedness under clauses (a) through (d) thereunder, and Liens set forth on Schedule 3.1(aa) to the Purchase Agreement.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May 24, 2022, among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Share Delivery Date" shall have the meaning set forth in Section 4(d)(ii).

"Successor Entity" shall have the meaning set forth in Section 5(e)(2).

"Transaction Documents" means the Note, the Purchase Agreement and the Warrant.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent bid price per share of the Common Stock so reported, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Payments of Principal and Interest.

All principal, accrued interest and other amounts due shall be paid in U.S. Dollars by wire transfer of immediately available funds. The Company may repay the Holder before the Maturity Date without penalty.

Interest shall accrue to the Holder on the aggregate then outstanding principal amount of this Note at the rate of 10% per annum, calculated on the basis of a 360-day year and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal, together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. During the existence of an Event of Default, interest shall accrue at the lesser of (i) the rate of 15% per annum, or (ii) the maximum amount permitted by law (the lesser of clause (i) or (ii), the "Default Interest Rate"). Once an Event of Default is cured, the interest rate shall return to 10%.

Section 3. Registration of Transfers and Exchanges.

(a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge or other fees will be payable for such registration of transfer or exchange.

(b) Investor Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

(c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

This Note does not have a conversion feature.

Section 5. Certain Adjustments.

(a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding:
(i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 5(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. (1) At any time, for so long as the Note or any amounts accrued and payable thereunder remain outstanding, the Company or any Subsidiary, as applicable, sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect (such lower price, the "Base Conversion Price" and each such issuance or announcement a "Dilutive Issuance"), then the Conversion Price shall be immediately reduced to equal the Base Conversion Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued.

(2) If any Common Stock Equivalent is amended or adjusted, and such price as so amended shall be less than the Conversion Price in effect at the time of such amendment or adjustment, then the Conversion Price shall be adjusted upon each such issuance or amendment as provided in this Section 5(b). In case any Common Stock Equivalent is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, (x) the Common Stock Equivalents will be deemed to have been issued for the Option Value of such Common Stock Equivalents and (y) the other securities issued or sold in such integrated transaction shall be deemed to have been issued or sold for the difference of (I) the aggregate consideration received by the Company less any consideration paid or payable by the Company pursuant to the terms of such other securities of the Company, less (II) the Option Value. If any shares of Common Stock or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the amount of such consideration received by the Company will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the average VWAP of such public traded securities for the ten days prior to the date of receipt. If any shares of Common Stock or Common Stock Equivalents are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock or Common Stock Equivalents, as the case may be.

(3) If the holder of Common Stock or Common Stock Equivalents outstanding on the Original Issue Date or issued after the Original Issuance Date shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect, such issuance shall be deemed to have occurred for less than the Conversion Price on such date and such issuance shall be deemed to be a Dilutive Issuance.

(4) If the Company enters into a Variable Rate Transaction despite the prohibition set forth in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion price at which such securities may be converted or exercised under the terms of such Variable Rate Transaction.

(5) The Company shall notify the Holder in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 5(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice").

(6) The provisions of this Section 5(b) shall apply each time a Dilutive Issuance occurs after the Original Issue Date for so long as the Note or any amounts accrued and payable thereunder remain outstanding, but any adjustment of the Conversion Price pursuant to this Section 5(b) shall be downward only.

(7) The provisions of this Section 5(b) shall not apply to Exempt Issuances.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, if at any time the Company grants, issues or sells any Common Stock, Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of Bridge Shares, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(d) Pro Rata Distributions. During such time as this Note is outstanding, if the Company shall declare or make any dividend or other distribution of its assets or rights or warrants to acquire its assets, or subscribe for or purchase any security other than Common Stock, to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of Bridge Shares (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act).

(e) Fundamental Transaction. (1) If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(2) Notwithstanding anything to the contrary, provided that the Warrant Shares are not registered under an effective registration statement, in the event of a Fundamental Transaction that is (x) an all cash transaction, (y) a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Exchange Act, or (z) a Fundamental Transaction involving a person or entity not traded on a national securities exchange or trading market (with such exchange or market including, without limitation, the Nasdaq Global Select Trading Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the New York Stock Exchange, Inc., the NYSE American or any market operated by the OTC Markets, Inc.), the Company or any Successor Entity (as defined below) shall, at the Holder's option, concurrently with the consummation of the Fundamental Transaction, purchase this Note from the Holder by paying to the Holder the higher of (i) an amount of cash equal to the Black Scholes Value of the outstanding principal of this Note on the date of the consummation of such Fundamental Transaction

(3) If Section 5(e)(1) and (2) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything in this Section 5(e), an Exempt Issuance (as defined in the Purchase Agreement) shall not be deemed a Fundamental Transaction.

(f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

(g) Notice to the Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on its Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock, (C) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of its Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby its Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of its Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of its Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company or its successor shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. If the Company does not simultaneously file the required Form 8-K, the Holder shall be entitled penalties in accordance with Section 5.6 of the Purchase Agreement.

Section 6. Negative Covenants. As long as any portion of this Note remains outstanding, unless all of the Holders of the then outstanding Notes shall have otherwise given prior written consent, the Company shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

(a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any indebtedness for borrowed money of any kind, including, but not limited to, a guarantee, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder, increases in authorized shares and stock splits shall not be deemed to materially and adversely affects any rights of the Holder;

(d) purchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents;

(e) repay, or offer to repay, any Indebtedness, other than Permitted Indebtedness, as such terms Indebtedness and Permitted Indebtedness are in effect as of the Original Issue Date;

(f) pay cash dividends or distributions on any equity securities of the Company;

(g) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the SEC assuming that the Company is subject to the Securities Act or the Exchange Act, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for board approval);

(h) issue any equity securities of the Company other than pursuant to the provisions of the Purchase Agreement or an Exempt Issuance; or

(i) enter into any agreement with respect to any of the foregoing.

Section 7. Events of Default.

(a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(i) any default in the payment of (A) principal and interest payment under this Note or any other Indebtedness, or (B) late fees, liquidated damages and other amounts owing to the Holder of this Note, as and when the same shall become due and payable (whether on a Conversion Date, or the Maturity Date, or by acceleration or otherwise), which default, solely in the case of a default under clause (B) above, is not cured within five Trading Days;

(ii) the Company shall fail to observe or perform any other covenant or agreement contained in this Note (other than a breach by the Company of its obligations to deliver Shares, which breach is addressed in clause (x) below) or any Transaction Document which failure is not cured, if possible to cure, within the earlier to occur of 15 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company and (B) 10 Trading Days after the Company has become aware of such failure;

(iii) except for payment defaults covered under Section 7(a)(i), the Company shall breach, or a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under, (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by any other clause of this Section 7) which default or event of default if not cured, if possible to cure, within the earlier to occur of (i) 10 Trading Days after notice of such default sent by Holder or by any other holder to the Company and (ii) five Trading Days after the Company has become aware of such default;

(iv) any representation or warranty made in this Note, any other Transaction Document, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made, which failure is not cured, if possible to cure, within the earlier to occur of 10 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company;

(v) the Company or any Subsidiary shall be subject to a Bankruptcy Event;

(vi) the Company or any Subsidiary shall: (A) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties; (B) admit in writing its inability to pay its debts as they mature; (C) make a general assignment for the benefit of creditors; (D) be adjudicated as bankrupt or insolvent or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country; or (E) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(vii) if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days;

(viii) the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within 45 days after the date thereof;

(ix) any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $100,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 days;

(x) any Material Adverse Effect occurs;

(xi) any provision of any Transaction Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document;

(xii) the Company fails to use the proceeds in the manner as described in Section 5.7 of the Purchase Agreement;

(xiii) the Company shall be a party to any Change of Control Transaction or shall agree to sell or dispose of all or in excess of 50% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

(xiv) from and after 90 days after the Original Issue Date, the Company fails to have authorized and reserved the amount of shares designated in Section 3.5 of the Purchase Agreement (including without limitation, the Beneficial Ownership Limitation);

(xv) the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the Exchange Act within the time required (including any applicable extension period) by the rules and regulations thereunder; or

(xvi) the Company fails to convert from a limited liability company to a corporation on or before June 30, 2022.

(b) Remedies Upon Event of Default. If any Event of Default occurs, the outstanding principal amount of this Note, plus liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash (the "Mandatory Default Amount"). Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 7(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

(c) Interest Rate Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall accrue interest at an interest rate equal to the Default Interest Rate.

Section 8. Miscellaneous.

(a) No Rights as Stockholder Until Conversion. This Note does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company.

(b) Notices. All notices, offers, acceptance and any other acts under this Agreement (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by FedEx or similar receipted next day delivery, or at the Company's registered address or such other address as any of them, by notice to the other may designate from time to time. Time shall be counted to, or from, as the case may be, the date of delivery.

(c) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest and late fees, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

(d) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of this Note, and of the ownership hereof, reasonably satisfactory to the Company.

(e) Exclusive Jurisdiction; Governing Law; Prevailing Party Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of this Note and venue shall be governed by and construed and enforced in accordance with Section 6.9 of the Purchase Agreement. If any party shall commence an Action or Proceeding to enforce or otherwise relating to this Note, then, in addition to the other obligations of the Company elsewhere in this Note, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

(f) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

(g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

(h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach would be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

(i) Next Trading Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Trading Day, such payment shall be made on the next succeeding Trading Day.

(j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**Exhibit 10.10**

***Please be advised that certain identified information has been excluded in Exhibit 10.10 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of May 24, 2022, by and between 60° Pharmaceuticals, LLC, a limited liability company, and each investor that executes the signature page hereto as a purchaser (each, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act, as defined, contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

**ARTICLE I.**
**DEFINITIONS**

1.1 Definitions. In addition to the words and terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 5.5.

"Action" shall have the meaning ascribed to such term in Section 3.10.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Bridge Shares" means shares of the Company's Common Stock issued to each Purchaser equal to and based on (A) 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon the pricing of the Company's IPO or (B) if the Company fails to complete the IPO before the Maturity Date, the number of shares calculated using a $27 million pre-money valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Notes pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Company" means 60° Pharmaceuticals, LLC and any successor company after conversion from a limited liability company to a corporation.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.19.

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock, restricted stock units or options, and the underlying shares of Common Stock to consultants, employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non- employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities issued upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant, acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and which shall reasonably be expected to provide to the Company additional benefits, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to any purchase money equipment loan or capital leasing arrangement, purchasing agent or debt financing from a commercial bank or similar financial institution, (e) securities issued pursuant to any presently outstanding warrants or this Agreement; and (f) securities upon a stock split, stock dividend or subdivision of the Common Stock and shares of common stock in a public offering; (g) non-convertible loans from traditional commercials banks with interest per annum not to exceed 12% which will rank ***pari passu*** with the Notes issued to investors by the Company.

"Face Value" means the Subscription Amount plus original issue discount as described in the Notes.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"GAAP" shall have the meaning ascribed to such term in Section 3.8.

"Indebtedness" shall have the meaning ascribed to such term in Section 3.27.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"IPO" shall mean an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange.

"Licensed Intellectual Property Agreement" means all licenses, sublicenses, agreements and permissions (each as amended to date) that any third party owns and that the Company uses, including off- the-shelf software purchased or licensed by the Company.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1.

"Maturity Date" shall have the meaning assigned to such term in the Note.

"Notes" means the Original Issue Discount Promissory Notes issued to the Purchaser, in the form of Exhibit A attached hereto.

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Purchaser Party" shall have the meaning ascribed to such term in Section 5.8.

"Registrable Securities" shall mean, collectively, the Bridge Shares and the Warrant Shares.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation

"Required Approvals" shall have the meaning ascribed to such term in Section 3.4.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission.

"Securities" means the Notes, the Warrants and the Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means the Bridge Shares and the Warrant Shares.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Note purchased hereunder as specified below the Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, the Warrants, and any other documents or agreements executed in connection with the transactions contemplated hereunder, including, but not limited to, the documents referenced in Section 2.2(a).

"Transfer Agent" means [*], and any successor transfer agent of the Company.

"Variable Rate Transaction" means any Equity Line of Credit or similar agreement, nor issue nor agree to issue any Common Stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes of this Agreement, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit B attached hereto.

"Warrant Exercise Price" means the exercise price provided in the Warrant.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

**ARTICLE II.**
**PURCHASE AND SALE**

2.1 Closing. On the Closing Dates, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase an aggregate of (i) Notes with a Face Value listed on the Purchaser's signature page and (ii) Warrants to purchase shares equal to 50% of the Bridge Shares. On the Closing Date, the Purchaser shall deliver to the Company a signed copy of the Transaction Documents and, via wire transfer, immediately available funds equal to the Purchaser's Subscription Amount. After receipt of the Subscription Amount, the Company shall deliver to the Purchaser countersigned copies of the Transaction Documents. Upon satisfaction of the closing conditions set forth in Section 2.3, the Closing shall occur at the Company's offices or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note in the principal amount of $250,000.00 registered in the name of the Purchaser;

(iii) an original Warrant to purchase shares of Common Stock, exercisable at the Warrant Exercise Price, registered in the name of such Purchaser;

(iv) a Board Consent approving the issuance of the Notes and the execution of the Transaction Documents listed above on behalf of the Company.

(b) On or prior to the Closing Date each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser; and

(ii) the Purchaser's Subscription Amount by wire transfer to the Company.

(c) On the (i) date of the pricing of the Company's IPO, the Company shall deliver to each Purchaser shares of the Company's common stock equal to 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon or (ii) if the Company fails to complete the IPO before the Maturity Date, the number of shares of the Company's common stock calculated using a $27 million pre- money valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement; and

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

## ARTICLE III.
## REPRESENTATIONS AND WARRANTIES OF COMPANY

The Company hereby makes the following representations and warranties to each Purchaser as of the date hereof:

3.1 Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or Articles of Incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

3.2 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

3.3 No Conflicts. Except as set forth in Schedule 3.3, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Certificate or Articles of Incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

3.4 Filings, Consents and Approvals. Except as set forth on Schedule 3.4, the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) blue sky filings or a Form D filing and (ii) such filings as are required to be made under applicable state securities laws (the "Required Approvals").

3.5 Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Notes and Warrants.

3.6 Capitalization. The capitalization of the Company is as set forth on Schedule 3.6. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.6, as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders' agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

3.7 Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in Schedule 3.7. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

3.8 Financial Statements. The consolidated financial statements of the Company, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and any of its Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved.

3.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. Other than as disclosed on Schedule 3.9, except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state government unit pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future except as disclosed on Schedule 3.10. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim for fraud or breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation or inquiry by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Securities Act, and the Company has no reason to believe it will do so in the future.

3.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.12 Compliance. Except as set forth on Schedule 3.12, neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

3.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Regulatory Permits. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

3.15 Title to Assets. Subject to the Liens of the outstanding secured senior debt, the Company and the Subsidiaries have good and marketable title in fee simple to all personal property owned by them that is material to the business of the Company and the Subsidiaries. The Company owns no real property. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

3.16 Intellectual Property.

(i) Subject to the Liens of the outstanding secured senior debt, to the Company's knowledge, the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted.

(ii) To the Company's knowledge, the Intellectual Property does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company.

(iii) With respect to each Licensed Intellectual Property Agreement:

(A) The Licensed Intellectual Property Agreement is legal, valid, binding, enforceable, and in full force and effect;

(B) To the Company's knowledge, no party to the Licensed Intellectual Property Agreement is in breach or default, and no event has occurred that with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder, which as to any such breach, default or event could have a Material Adverse Effect on the Company;

(C) No party to such Licensed Intellectual Property Agreement has repudiated any provision thereof;

(D) Except as set forth in such Licensed Intellectual Property Agreement, the Company has not received written or verbal notice or otherwise has knowledge that the underlying item of Intellectual Property is subject to any outstanding injunction, judgment, order, decree, ruling, or charge; and

(E) Except as set forth on Schedule 3.16, the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(iv) The Company has complied with and is presently in compliance with all foreign, federal, state, local, governmental (including, but not limited to, the Federal Trade Commission and State Attorneys General), administrative, or regulatory laws, regulations, guidelines, and rules applicable to any personal identifiable information.

(v) Each Person who participated in the creation, conception, invention or development of the Intellectual Property currently used in the business of the Company (each, a "Developer") which is not licensed from third parties has executed one or more agreements containing industry standard confidentiality, work for hire and assignment provisions, whereby the Developer has assigned to the Company all copyrights, patent rights, Intellectual Property rights and other rights in the Intellectual Property, including all rights in the Intellectual Property that existed prior to the assignment of rights by such Person to the Company.

(vi) Each Developer has signed a perpetual non-disclosure agreement with the Company.

3.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

3.18 Transactions With Affiliates and Employees. Except as disclosed in Schedule 3.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

3.19 Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in the Schedule 3.19, the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

3.20 Certain Fees. Except as set forth on Schedule 3.20, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due by the Company in connection with the transactions contemplated by the Transaction Documents.

3.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

3.22 Registration Rights. Except as disclosed on Schedule 3.22, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

3.23 Listing and Maintenance Requirements; Shell Company. The Company's Common Stock is not quoted or listed on any Trading Market. The Company is not and has never been a shell company as such term is defined in Rule 12(b)(2) under the Securities Exchange Act of 1934, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

3.24 Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

3.25 Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agent or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed on Schedule 3.25. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchaser regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Article IV hereof.

3.26 No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Article IV, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

3.27 Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (ii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.27 sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.27, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

3.28 Tax Status. The Company and each of its Subsidiaries have filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith, except where the failure to so file or pay would not have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.28, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries which has had, or would have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which would have a Material Adverse Effect

3.29 Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated any provision of FCPA.

3.30 Acknowledgment Regarding Purchaser's Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

3.31 Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 4.7 and 5.12 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

3.32 Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

3.33 Private Placement. Assuming the accuracy of each Purchaser's representations and warranties set forth in Article IV, no registration under the Securities Act is required for the offer and sale of the Notes or the Shares issuable upon conversion thereof by the Company to the Purchasers as contemplated hereby.

3.34 No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

3.35 No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder.

3.36 Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

3.37 Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

3.38 U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

3.39 Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

3.40 Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

## ARTICLE IV.
## REPRESENTATIONS AND WARRANTIES OF PURCHASERS

4.1 Representations and Warranties of the Purchaser. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

4.2 Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

4.3 Understandings or Arrangements. The Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

4.4 Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. The Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

4.5 Experience of the Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

4.6 Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment; provided, however, that the Purchaser has not requested nor been provided by the Company with any non-public information regarding the Company, its financial condition, results of operations, business, properties, management and prospects. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

4.7 Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Article 4 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

## ARTICLE V.
## OTHER AGREEMENTS OF THE PARTIES

5.1 Removal of Legends.

The Shares and the Warrants may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Shares or Warrants other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 5.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares or Warrants under the Securities Act.

(a) Each Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Shares or the Warrants in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

(b) The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c) Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 5.1(a) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, if any of the provisions in clause (i) –(iv) above are applicable, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Shares, or if such Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 5.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, as applicable, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 5.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $20 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares (as the case may be) and ending on the date of such delivery and payment under this Section 5.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 5.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Bridge Shares (based on the market price of the Bridge Shares) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

5.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Note Conversion Price of such Purchaser's Note(s) and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

5.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

5.4 Securities Laws Disclosure; Publicity. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

5.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

5.6 Non-Public Information. When the Company's Common Stock is quoted or listed on a Trading Market, to the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company knowingly provides any material, non- public information to the Purchasers without their prior written consent, and it fails to immediately (no later than that Trading Day) file a Form 8-K, once it is required to do so, disclosing this material, non-public information, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to $1,000 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

5.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes, and shall not use such proceeds: (a) for the satisfaction of any Indebtedness as defined in the Note, (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) in violation of FCPA or OFAC regulations, or (d) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company.

5.8 Indemnification of Purchaser.

Subject to the provisions of this Section 5.8, the Company will indemnify and hold each Purchaser and its directors, officers, stockholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which constitutes fraud, gross negligence, willful misconduct or malfeasance) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 5.8 shall be made by periodic payments of the amount thereof during the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

5.9 Settlement Without Consent if Failure to Reimburse. If an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5.8 effected without its written consent if (1) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (2) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (3) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.10 Listing of Common Stock. The Company agrees, if the Company applies to have the Common Stock traded on any Trading Market, it will then include in such application all of the Shares, and will take such other action as is necessary to cause all of the Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

5.11 Senior Debt. The Company shall not issue any new indebtedness which is senior in rank to the Notes while the Notes are outstanding.

5.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

5.13 DTC Program. For so long as any of the Notes are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Shares a participant in the Depository Trust Company Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

5.14 Maintenance of Property. The Company shall keep all of its property necessary for the operations of its business, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

5.15 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

5.16 No Registration of Securities on Form S-1. Other than the registration rights provided hereunder, for the initial six months the Notes are outstanding, the Company will not file any registration statements on Form S-1. For the avoidance of doubt, the foregoing shall not prevent the Company from filing a Registration Statement on Form S-8 with respect to equity compensation plans.

5.17 Variable Rate Transactions. While any of the Notes are outstanding, the Company shall be prohibited from entering a Variable Rate Transaction without the prior consent of the holders of more than 50% in principal amount of the then outstanding Notes.

5.18 Registration Rights and Lock-Up Agreement.

(a) With respect to the Shares, the Company shall:

(1) With the next Registration Statement on Form S-1 filed by the Company, include the Registrable Securities in such Registration Statement and use its best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(2) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities until such time as all of the Registerable Securities have been sold by the Holder or he is eligible to otherwise remove the restrictive legend and effect a sale other than through the Registration Statement.

(3) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction, at the earliest practicable moment.

(4) Furnish to the Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits to the extent requested by the Holder (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC.

(b) The Purchaser agrees that, without the prior written consent of the Company, the Purchaser shall not, during the period ending 90 days after the date of the prospectus filed with the SEC in connection with the Registration Statement on Form S-1 described in Section 5.18(a): (1) offer, pledge, announce the intention to sell, 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 Registrable Securities or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Registrable Securities.

5.19 Conversion to a Corporation. The Company shall convert from a limited liability company to a corporation on or before June 30, 2022.

5.20 Right of Participation. For so long as Notes are outstanding, the Purchasers shall be given the right to purchase 20% of the shares issued in the Company’s IPO on a pro rata basis.

**ARTICLE IV. MISCELLANEOUS**

6.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the other parties, if the Closing has not been consummated on or before June 15, 2022; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

6.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

6.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered by email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. ( Eastern Standard or Daylight Savings Time, as applicable) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of transmission, if sent by U.S. nationally recognized overnight delivery service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall, if the Company's Common Stock is quoted or listed on a Trading Market, simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K, or which failure to do so will subject the Company to the liquidated damages provided for in Article 5.

6.5 Amendments; Waivers. Except as provided in the last sentence of this Section 6.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and a majority in interest of the outstanding balance of the Note or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with accordance with this Section 6.5 shall be binding upon the Purchaser and holder of Securities and the Company.

6.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Each Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchaser.

6.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 6.7 and this Section 6.8.

6.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

6.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

6.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf' format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf' signature page were an original thereof.

6.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

6.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then that Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an conversion of a Note, the Purchaser shall be required to return any Shares subject to any such rescinded Conversion Notice concurrently with the restoration of such Purchaser's right to acquire such shares pursuant to the Purchaser's Note.

6.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

6.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

6.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

6.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

6.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

6.21 Waiver of jury trial. In any action, suit, or proceeding in any jurisdiction brought by any party against any other party, the parties each knowingly and intentionally, to the greatest extent permitted by applicable law, hereby absolutely, unconditionally, irrevocably and expressly waive forever trial by jury.

6.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any Shares and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares.

(Signature Pages Follow)

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

**60 Degree Pharmaceuticals, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

Address for Notice:

[redacted]

[redacted]

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SIGNATURE PAGE FOR PURCHASER FOLLOWS]

PURCHASER SIGNATURE PAGE TO
SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Cavalry Investment Fund, LP

*Signature of Authorized Signatory of Purchaser*:

Name of Authorized Signatory: Thomas Walsh

Title of Authorized Signatory: Managing Member

Email Address of Authorized Signatory: [redacted]

Facsimile Number of Authorized Signatory: [redacted]

Address for Notice to Purchaser: [redacted]

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Face Value $277,777.78

Subscription Amount: $250,000.00

EIN Number: [redacted]

**Exhibit 10.11**

EXHIBIT B

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

**COMMON STOCK PURCHASE WARRANT**

Warrant Shares: <WARRANT SHARES>

Initial Exercise Date: [*], 2022

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, Cavalry Investment Fund LP, or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the fifth year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from 60° Pharmaceuticals, LLC, a limited liability company (the "Company"), up to <WARRANT SHARES> shares of Common Stock (subject to adjustment hereunder, the "Warrant Shares"). The purchase price of one Warrant Share under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant issued pursuant to a Securities Purchase Agreement (the "Purchase Agreement") entered into as of the Initial Exercise Date between the Company and the initial Holder.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated May 24, 2022 among the Company and the Purchasers.

Section 2. Exercise.

(a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the IPO (as defined in the Purchase Agreement) price (the "Exercise Price").

(c) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies:
(a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first 10 Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall pay in cash to the Holder the amount as provided under Section 4.1(e) of the Purchase Agreement. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant or pursuant to any of the other Transaction Documents), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(b), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(b) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five Trading Days after the 10th day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(b) shall not apply to any Exempt Issuances.

(c) Full Ratchet Increase in Warrant Shares. Until the Notes are no longer outstanding, whenever the Exercise Price is adjusted under Section 3(b), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(c) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(d) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, no Purchase Rights will be made under this Section 3(d) in respect of an Exempt Issuance.

(e) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security other than the Common Stock (which shall be subject to Section 3(d)), then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(f) Fundamental Transaction.

(i) If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions engages in any Fundamental Transaction, as defined in the Note, then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), at the option of the Holder the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(ii) Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, provided that the Warrant Shares are not registered under an effective registration statement, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction or (ii) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Exercise Price. "Black Scholes Value" means the value of the unexercised portion of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg L.P. as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date.

(iii) If Section 3(f)(i) and (ii) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(f)(iii) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and
(iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Purchase Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60° Pharmaceuticals, LLC**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or
☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____
_____
_____

SIGNATURE OF HOLDER

Name of Investing Entity:

_____
*Signature of Authorized Signatory of Investing Entity*:

_____
Name of Authorized Signatory:

_____
Title of Authorized Signatory:

_____
Date:

_____

_____

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute
this form and supply required information. Do
not use this form to exercise the warrant.)

**60° Pharmaceuticals, LLC**

FOR VALUE RECEIVED,_____all of or____shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____whose address is

_____

_____

Dated:_____, ____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

_____

EXHIBIT A

**NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

Original Issue Date: May 24, 2022

$277,777.78 Principal and Face Value
$250,000.00 Purchase Price and Subscription Amount
$27,777.78 Original Issue Discount

**ORIGINAL ISSUE DISCOUNT**
**PROMISSORY NOTE**

THIS ORIGINAL ISSUE DISCOUNT CONVERTIBLE PROMISSORY NOTE is duly authorized and validly issued at a 10% original issue discount by 60° Pharmaceuticals, LLC, a limited liability company (the "Company") (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to Cavalry Investment Fund, LP, or its permitted assigns (the "Holder"), the principal sum of $277,777.78 on the earlier of May 24, 2023, the date of the Company's IPO, or such earlier date as this Note is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate then outstanding principal amount of this Note in accordance with the provisions hereof. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following words and phrases shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Subsidiary thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Subsidiary thereof, (b) there is commenced against the Company or any Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement, (c) the Company or any Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Company or any Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts or (g) the Company or any Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Base Conversion Price" shall have the meaning set forth in Section 5(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(f).

"Black Scholes Value" means the value of the outstanding principal amount of this Note, plus all accrued and unpaid interest hereon based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date.

"Buy-In" shall have the meaning set forth in Section 4(d)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 50% of the voting securities of the Company (other than by means of conversion, exercise or exchange of this Note or the Warrants issued together with this Note), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the shareholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person, (d) a replacement at one time or within a three year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the date hereof), or (d) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Default Interest Rate" shall have the meaning set forth in Section 2(a).

"Dilutive Issuance" shall have the meaning set forth in Section 5(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 5(b)(5).

"DWAC" means the Deposit or Withdrawal at Custodian system at The Depository Trust Company.

"Event of Default" shall have the meaning set forth in Section 7(a).

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"IPO" shall have the meaning set forth in Section 4(b).

"Liens" shall have the meaning set forth in the Purchase Agreement.

"Note Register" shall have the meaning set forth in Section 3(c).

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Mandatory Default Amount" shall have the meaning set forth in Section 7(b).

"Option Value" means the value of a Common Stock Equivalent based on the Black Scholes Option Pricing model obtained from the "OV" function on Bloomberg determined as of (A) the Trading Day prior to the public announcement of the issuance of the applicable Common Stock Equivalent, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of the applicable Common Stock Equivalent as of the applicable date of determination, (ii) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of (A) the Trading Day immediately following the public announcement of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iii) the underlying price per share used in such calculation shall be the highest VWAP of the Common Stock during the period beginning on the Trading Day prior to the execution of definitive documentation relating to the issuance of the applicable Common Stock Equivalent and ending on (A) the Trading Day immediately following the public announcement of such issuance, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

"Original Issue Date" means the date of the first issuance of this Note, regardless of any transfers of this Note and regardless of the number of instruments which may be issued to evidence this Note.

"Permitted Indebtedness" means (a) the indebtedness evidenced by this Note, (b) senior secured non-convertible loans from traditional commercials banks with interest per annum not to exceed 12%, (c) capital lease obligations and purchase money indebtedness incurred in connection with the acquisition of machinery and equipment as long as such capital leases and indebtedness are approved in advance by the Holder and (d) the Indebtedness set forth on Schedule 3.27 to the Purchase Agreement).

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (x) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company and its consolidated Subsidiaries or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) Liens incurred in connection with Permitted Indebtedness under clauses (a) through (d) thereunder, and Liens set forth on Schedule 3.1(aa) to the Purchase Agreement.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May 24, 2022, among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Share Delivery Date" shall have the meaning set forth in Section 4(d)(ii).

"Successor Entity" shall have the meaning set forth in Section 5(e)(2).

"Transaction Documents" means the Note, the Purchase Agreement and the Warrant.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies:
(a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent bid price per share of the Common Stock so reported, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Payments of Principal and Interest.

All principal, accrued interest and other amounts due shall be paid in U.S. Dollars by wire transfer of immediately available funds. The Company may repay the Holder before the Maturity Date without penalty.

Interest shall accrue to the Holder on the aggregate then outstanding principal amount of this Note at the rate of 10% per annum, calculated on the basis of a 360-day year and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal, together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. During the existence of an Event of Default, interest shall accrue at the lesser of (i) the rate of 15% per annum, or (ii) the maximum amount permitted by law (the lesser of clause (i) or (ii), the "Default Interest Rate"). Once an Event of Default is cured, the interest rate shall return to 10%.

Section 3. Registration of Transfers and Exchanges.

(a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge or other fees will be payable for such registration of transfer or exchange.

(b) Investor Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

(c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

This Note does not have a conversion feature.

Section 5. Certain Adjustments.

(a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 5(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. (1) At any time, for so long as the Note or any amounts accrued and payable thereunder remain outstanding, the Company or any Subsidiary, as applicable, sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect (such lower price, the "Base Conversion Price" and each such issuance or announcement a "Dilutive Issuance"), then the Conversion Price shall be immediately reduced to equal the Base Conversion Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued.

(2) If any Common Stock Equivalent is amended or adjusted, and such price as so amended shall be less than the Conversion Price in effect at the time of such amendment or adjustment, then the Conversion Price shall be adjusted upon each such issuance or amendment as provided in this Section 5(b). In case any Common Stock Equivalent is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, (x) the Common Stock Equivalents will be deemed to have been issued for the Option Value of such Common Stock Equivalents and (y) the other securities issued or sold in such integrated transaction shall be deemed to have been issued or sold for the difference of (I) the aggregate consideration received by the Company less any consideration paid or payable by the Company pursuant to the terms of such other securities of the Company, less (II) the Option Value. If any shares of Common Stock or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the amount of such consideration received by the Company will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the average VWAP of such public traded securities for the ten days prior to the date of receipt. If any shares of Common Stock or Common Stock Equivalents are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock or Common Stock Equivalents, as the case may be.

(3) If the holder of Common Stock or Common Stock Equivalents outstanding on the Original Issue Date or issued after the Original Issuance Date shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect, such issuance shall be deemed to have occurred for less than the Conversion Price on such date and such issuance shall be deemed to be a Dilutive Issuance.

(4) If the Company enters into a Variable Rate Transaction despite the prohibition set forth in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion price at which such securities may be converted or exercised under the terms of such Variable Rate Transaction.

(5) The Company shall notify the Holder in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 5(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice").

(6) The provisions of this Section 5(b) shall apply each time a Dilutive Issuance occurs after the Original Issue Date for so long as the Note or any amounts accrued and payable thereunder remain outstanding, but any adjustment of the Conversion Price pursuant to this Section 5(b) shall be downward only.

(7) The provisions of this Section 5(b) shall not apply to Exempt Issuances.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, if at any time the Company grants, issues or sells any Common Stock, Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of Bridge Shares, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(d) Pro Rata Distributions. During such time as this Note is outstanding, if the Company shall declare or make any dividend or other distribution of its assets or rights or warrants to acquire its assets, or subscribe for or purchase any security other than Common Stock, to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of Bridge Shares (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act).

(e) Fundamental Transaction. (1) If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(2) Notwithstanding anything to the contrary, provided that the Warrant Shares are not registered under an effective registration statement, in the event of a Fundamental Transaction that is (x) an all cash transaction, (y) a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Exchange Act, or (z) a Fundamental Transaction involving a person or entity not traded on a national securities exchange or trading market (with such exchange or market including, without limitation, the Nasdaq Global Select Trading Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the New York Stock Exchange, Inc., the NYSE American or any market operated by the OTC Markets, Inc.), the Company or any Successor Entity (as defined below) shall, at the Holder's option, concurrently with the consummation of the Fundamental Transaction, purchase this Note from the Holder by paying to the Holder the higher of (i) an amount of cash equal to the Black Scholes Value of the outstanding principal of this Note on the date of the consummation of such Fundamental Transaction

(3) If Section 5(e)(1) and (2) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything in this Section 5(e), an Exempt Issuance (as defined in the Purchase Agreement) shall not be deemed a Fundamental Transaction.

(f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

(g) Notice to the Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on its Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock, (C) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of its Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby its Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of its Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of its Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company or its successor shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. If the Company does not simultaneously file the required Form 8-K, the Holder shall be entitled penalties in accordance with Section 5.6 of the Purchase Agreement.

Section 6. Negative Covenants. As long as any portion of this Note remains outstanding, unless all of the Holders of the then outstanding Notes shall have otherwise given prior written consent, the Company shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

(a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any indebtedness for borrowed money of any kind, including, but not limited to, a guarantee, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder, increases in authorized shares and stock splits shall not be deemed to materially and adversely affects any rights of the Holder;

(d) purchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents;

(e) repay, or offer to repay, any Indebtedness, other than Permitted Indebtedness, as such terms Indebtedness and Permitted Indebtedness are in effect as of the Original Issue Date;

(f) pay cash dividends or distributions on any equity securities of the Company;

(g) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the SEC assuming that the Company is subject to the Securities Act or the Exchange Act, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for board approval);

(h) issue any equity securities of the Company other than pursuant to the provisions of the Purchase Agreement or an Exempt Issuance; or

(i) enter into any agreement with respect to any of the foregoing.

Section 7. Events of Default.

(a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(i) any default in the payment of (A) principal and interest payment under this Note or any other Indebtedness, or (B) late fees, liquidated damages and other amounts owing to the Holder of this Note, as and when the same shall become due and payable (whether on a Conversion Date, or the Maturity Date, or by acceleration or otherwise), which default, solely in the case of a default under clause (B) above, is not cured within five Trading Days;

(ii) the Company shall fail to observe or perform any other covenant or agreement contained in this Note (other than a breach by the Company of its obligations to deliver Shares, which breach is addressed in clause (x) below) or any Transaction Document which failure is not cured, if possible to cure, within the earlier to occur of 15 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company and (B) 10 Trading Days after the Company has become aware of such failure;

(iii) except for payment defaults covered under Section 7(a)(i), the Company shall breach, or a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under, (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by any other clause of this Section 7) which default or event of default if not cured, if possible to cure, within the earlier to occur of (i) 10 Trading Days after notice of such default sent by Holder or by any other holder to the Company and (ii) five Trading Days after the Company has become aware of such default;

(iv) any representation or warranty made in this Note, any other Transaction Document, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made, which failure is not cured, if possible to cure, within the earlier to occur of 10 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company;

(v) the Company or any Subsidiary shall be subject to a Bankruptcy Event;

(vi) the Company or any Subsidiary shall: (A) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties; (B) admit in writing its inability to pay its debts as they mature; (C) make a general assignment for the benefit of creditors; (D) be adjudicated as bankrupt or insolvent or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country; or (E) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(vii) if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days;

(viii) the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within 45 days after the date thereof;

(ix) any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $100,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 days;

(x) any Material Adverse Effect occurs;

(xi) any provision of any Transaction Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document;

(xii) the Company fails to use the proceeds in the manner as described in Section 5.7 of the Purchase Agreement;

(xiii) the Company shall be a party to any Change of Control Transaction or shall agree to sell or dispose of all or in excess of 50% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

(xiv) from and after 90 days after the Original Issue Date, the Company fails to have authorized and reserved the amount of shares designated in Section 3.5 of the Purchase Agreement (including without limitation, the Beneficial Ownership Limitation);

(xv) the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the Exchange Act within the time required (including any applicable extension period) by the rules and regulations thereunder; or

(xvi) the Company fails to convert from a limited liability company to a corporation on or before June 30, 2022.

(b) Remedies Upon Event of Default. If any Event of Default occurs, the outstanding principal amount of this Note, plus liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash (the "Mandatory Default Amount"). Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 7(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

(c) Interest Rate Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall accrue interest at an interest rate equal to the Default Interest Rate.

Section 8. Miscellaneous.

(a) No Rights as Stockholder Until Conversion. This Note does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company.

(b) Notices. All notices, offers, acceptance and any other acts under this Agreement (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by FedEx or similar receipted next day delivery, or at the Company's registered address or such other address as any of them, by notice to the other may designate from time to time. Time shall be counted to, or from, as the case may be, the date of delivery.

(c) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest and late fees, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

(d) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of this Note, and of the ownership hereof, reasonably satisfactory to the Company.

(e) Exclusive Jurisdiction; Governing Law; Prevailing Party Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of this Note and venue shall be governed by and construed and enforced in accordance with Section 6.9 of the Purchase Agreement. If any party shall commence an Action or Proceeding to enforce or otherwise relating to this Note, then, in addition to the other obligations of the Company elsewhere in this Note, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

(f) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

(g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

(h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach would be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

(i) Next Trading Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Trading Day, such payment shall be made on the next succeeding Trading Day.

(j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**Exhibit 10.13**

***Please be advised that certain identified information has been excluded in Exhibit 10.13 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of May [*], 2022, by and between 60° Pharmaceuticals, LLC, a limited liability company, and each investor that executes the signature page hereto as a purchaser (each, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act, as defined, contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

**ARTICLE I.**
**DEFINITIONS**

1.1 Definitions. In addition to the words and terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 5.5.

"Action" shall have the meaning ascribed to such term in Section 3.10.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Bridge Shares" means shares of the Company's Common Stock issued to each Purchaser equal to and based on (A) 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon the pricing of the Company's IPO or (B) if the Company fails to complete the IPO before the Maturity Date, the number of shares calculated using a $27 million pre-money valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Notes pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock. "Company" means 60° Pharmaceuticals, LLC and any successor company after conversion from a limited liability company to a corporation.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.19.

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock, restricted stock units or options, and the underlying shares of Common Stock to consultants, employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the nonemployee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities issued upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant, acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and which shall reasonably be expected to provide to the Company additional benefits, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to any purchase money equipment loan or capital leasing arrangement, purchasing agent or debt financing from a commercial bank or similar financial institution, (e) securities issued pursuant to any presently outstanding warrants or this Agreement; and (f) securities upon a stock split, stock dividend or subdivision of the Common Stock and shares of common stock in a public offering; (g) non-convertible loans from traditional commercials banks with interest per annum not to exceed 12% which will rank ***pari passu*** with the Notes issued to investors by the Company.

"Face Value" means the Subscription Amount plus original issue discount as described in the Notes.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"GAAP" shall have the meaning ascribed to such term in Section 3.8.

"Indebtedness" shall have the meaning ascribed to such term in Section 3.27.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"IPO" shall mean an initial public offering by the Company that results in a listing of the Company's Common Stock on a national securities exchange.

"Licensed Intellectual Property Agreement" means all licenses, sublicenses, agreements and permissions (each as amended to date) that any third party owns and that the Company uses, including offthe-shelf software purchased or licensed by the Company.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1.

"Maturity Date" shall have the meaning assigned to such term in the Note.

"Notes" means the Original Issue Discount Promissory Notes issued to the Purchaser, in the form of Exhibit A attached hereto.

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Purchaser Party" shall have the meaning ascribed to such term in Section 5.8.

"Registrable Securities" shall mean, collectively, the Bridge Shares and the Warrant Shares.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation

"Required Approvals" shall have the meaning ascribed to such term in Section 3.4.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission.

"Securities" means the Notes, the Warrants and the Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means the Bridge Shares and the Warrant Shares.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Note purchased hereunder as specified below the Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, the Warrants, and any other documents or agreements executed in connection with the transactions contemplated hereunder, including, but not limited to, the documents referenced in Section 2.2(a).

"Transfer Agent" means [*], and any successor transfer agent of the Company.

"Variable Rate Transaction" means any Equity Line of Credit or similar agreement, nor issue nor agree to issue any Common Stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes of this Agreement, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit B attached hereto.

"Warrant Exercise Price" means the exercise price provided in the Warrant.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

**ARTICLE II.**
**PURCHASE AND SALE**

2.1 Closing. On the Closing Dates, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase an aggregate of (i) Notes with a Face Value listed on the Purchaser's signature page and (ii) Warrants to purchase shares equal to 50% of the Bridge Shares. On the Closing Date, the Purchaser shall deliver to the Company a signed copy of the Transaction Documents and, via wire transfer, immediately available funds equal to the Purchaser's Subscription Amount. After receipt of the Subscription Amount, the Company shall deliver to the Purchaser countersigned copies of the Transaction Documents. Upon satisfaction of the closing conditions set forth in Section 2.3, the Closing shall occur at the Company's offices or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note in the principal amount of $250,000.00 registered in the name of the Purchaser;

(iii) an original Warrant to purchase shares of Common Stock, exercisable at the Warrant Exercise Price, registered in the name of such Purchaser;

(iv) a Board Consent approving the issuance of the Notes and the execution of the Transaction Documents listed above on behalf of the Company.

(b) On or prior to the Closing Date each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser; and

(ii) the Purchaser's Subscription Amount by wire transfer to the Company.

(c) On the (i) date of the pricing of the Company's IPO, the Company shall deliver to each Purchaser shares of the Company's common stock equal to 100% of the Face Value of each Purchaser's Note divided by the Company's IPO price upon or (ii) if the Company fails to complete the IPO before the Maturity Date, the number of shares of the Company's common stock calculated using a $27 million premoney valuation for the Company and the number of the Company's shares outstanding on the Maturity Date.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement; and

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

## ARTICLE III.
## REPRESENTATIONS AND WARRANTIES OF COMPANY

The Company hereby makes the following representations and warranties to each Purchaser as of the date hereof:

3.1 Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or Articles of Incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

3.2 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

3.3 No Conflicts. Except as set forth in Schedule 3.3, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Certificate or Articles of Incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

3.4 Filings, Consents and Approvals. Except as set forth on Schedule 3.4, the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) blue sky filings or a Form D filing and (ii) such filings as are required to be made under applicable state securities laws (the "Required Approvals").

3.5 Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Notes and Warrants.

3.6 Capitalization. The capitalization of the Company is as set forth on Schedule 3.6. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.6, as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders' agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

3.7 Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in Schedule 3.7. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

3.8 Financial Statements. The consolidated financial statements of the Company, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and any of its Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved.

3.9 Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. Other than as disclosed on Schedule 3.9, except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

3.10 Litigation. Except as set forth on Schedule 3.10, there is no action, suit, inquiry, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state government unit pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future except as disclosed on Schedule 3.10. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim for fraud or breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation or inquiry by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Securities Act, and the Company has no reason to believe it will do so in the future.

3.11 Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.12 Compliance. Except as set forth on Schedule 3.12, neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

3.13 Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Regulatory Permits. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

3.15 Title to Assets. Subject to the Liens of the outstanding secured senior debt, the Company and the Subsidiaries have good and marketable title in fee simple to all personal property owned by them that is material to the business of the Company and the Subsidiaries. The Company owns no real property. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

3.16 Intellectual Property.

(i) Subject to the Liens of the outstanding secured senior debt, to the Company's knowledge, the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted.

(ii) To the Company's knowledge, the Intellectual Property does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company.

(iii) With respect to each Licensed Intellectual Property Agreement:

(A) The Licensed Intellectual Property Agreement is legal, valid, binding, enforceable, and in full force and effect;

(B) To the Company's knowledge, no party to the Licensed Intellectual Property Agreement is in breach or default, and no event has occurred that with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder, which as to any such breach, default or event could have a Material Adverse Effect on the Company;

(C) No party to such Licensed Intellectual Property Agreement has repudiated any provision thereof;

(D) Except as set forth in such Licensed Intellectual Property Agreement, the Company has not received written or verbal notice or otherwise has knowledge that the underlying item of Intellectual Property is subject to any outstanding injunction, judgment, order, decree, ruling, or charge; and

(E) Except as set forth on Schedule 3.16, the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(iv) The Company has complied with and is presently in compliance with all foreign, federal, state, local, governmental (including, but not limited to, the Federal Trade Commission and State Attorneys General), administrative, or regulatory laws, regulations, guidelines, and rules applicable to any personal identifiable information.

(v) Each Person who participated in the creation, conception, invention or development of the Intellectual Property currently used in the business of the Company (each, a "Developer") which is not licensed from third parties has executed one or more agreements containing industry standard confidentiality, work for hire and assignment provisions, whereby the Developer has assigned to the Company all copyrights, patent rights, Intellectual Property rights and other rights in the Intellectual Property, including all rights in the Intellectual Property that existed prior to the assignment of rights by such Person to the Company.

(vi) Each Developer has signed a perpetual non-disclosure agreement with the Company.

3.17 Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

3.18 Transactions With Affiliates and Employees. Except as disclosed in Schedule 3.18, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

3.19 Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in the Schedule 3.19, the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

3.20 Certain Fees. Except as set forth on Schedule 3.20, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due by the Company in connection with the transactions contemplated by the Transaction Documents.

3.21 Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

3.22 Registration Rights. Except as disclosed on Schedule 3.22, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

3.23 Listing and Maintenance Requirements; Shell Company. The Company's Common Stock is not quoted or listed on any Trading Market. The Company is not and has never been a shell company as such term is defined in Rule 12(b)(2) under the Securities Exchange Act of 1934, as amended and the rules and regulations of the Securities and Exchange Commission thereunder.

3.24 Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

3.25 Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agent or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed on Schedule 3.25. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchaser regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Article IV hereof.

3.26 No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Article IV, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

3.27 Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (ii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.27 sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.27, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

3.28 Tax Status. The Company and each of its Subsidiaries have filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith, except where the failure to so file or pay would not have a Material Adverse Effect. Except as otherwise disclosed in Schedule 3.28, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries which has had, or would have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which would have a Material Adverse Effect

3.29 Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated any provision of FCPA.

3.30 Acknowledgment Regarding Purchaser's Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

3.31 Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 4.7 and 5.12 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

3.32 Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

3.33 Private Placement. Assuming the accuracy of each Purchaser's representations and warranties set forth in Article IV, no registration under the Securities Act is required for the offer and sale of the Notes or the Shares issuable upon conversion thereof by the Company to the Purchasers as contemplated hereby.

3.34 No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

3.35 No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder.

3.36 Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

3.37 Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

3.38 U.S. Real Property Holding Corporation. The Company is not and has never been a U.S.

real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

3.39 Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

3.40 Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

## ARTICLE IV.
## REPRESENTATIONS AND WARRANTIES OF PURCHASERS

4.1 Representations and Warranties of the Purchaser. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

4.2 Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

4.3 Understandings or Arrangements. The Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

4.4 Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. The Purchaser is not subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

4.5 Experience of the Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

4.6 Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment; provided, however, that the Purchaser has not requested nor been provided by the Company with any non-public information regarding the Company, its financial condition, results of operations, business, properties, management and prospects. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

4.7 Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Article 4 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

## ARTICLE V.
## OTHER AGREEMENTS OF THE PARTIES

5.1 Removal of Legends.

The Shares and the Warrants may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Shares or Warrants other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 5.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares or Warrants under the Securities Act.

(a) Each Purchaser agrees to the imprinting, so long as is required by this Section 5.1, of a legend on any of the Shares or the Warrants in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

(b) The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c) Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 5.1(a) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, if any of the provisions in clause (i) –(iv) above are applicable, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Shares, or if such Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 5.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, as applicable, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 5.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $20 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares (as the case may be) and ending on the date of such delivery and payment under this Section 5.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 5.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Bridge Shares (based on the market price of the Bridge Shares) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

5.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Note Conversion Price of such Purchaser's Note(s) and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and on every 30$^{th}$ day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

5.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

5.4 Securities Laws Disclosure; Publicity. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

5.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

5.6 Non-Public Information. When the Company's Common Stock is quoted or listed on a Trading Market, to the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company knowingly provides any material, nonpublic information to the Purchasers without their prior written consent, and it fails to immediately (no later than that Trading Day) file a Form 8-K, once it is required to do so, disclosing this material, non-public information, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to $1,000 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

5.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes, and shall not use such proceeds: (a) for the satisfaction of any Indebtedness as defined in the Note, (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) in violation of FCPA or OFAC regulations, or (d) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company.

5.8 Indemnification of Purchaser.

Subject to the provisions of this Section 5.8, the Company will indemnify and hold each Purchaser and its directors, officers, stockholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which constitutes fraud, gross negligence, willful misconduct or malfeasance) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 5.8 shall be made by periodic payments of the amount thereof during the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

5.9 Settlement Without Consent if Failure to Reimburse. If an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5.8 effected without its written consent if (1) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (2) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (3) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

5.10 Listing of Common Stock. The Company agrees, if the Company applies to have the Common Stock traded on any Trading Market, it will then include in such application all of the Shares, and will take such other action as is necessary to cause all of the Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

5.11 Senior Debt. The Company shall not issue any new indebtedness which is senior in rank to the Notes while the Notes are outstanding.

5.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

5.13 DTC Program. For so long as any of the Notes are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Shares a participant in the Depository Trust Company Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

5.14 Maintenance of Property. The Company shall keep all of its property necessary for the operations of its business, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

5.15 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

5.16 No Registration of Securities on Form S-1. Other than the registration rights provided hereunder, for the initial six months the Notes are outstanding, the Company will not file any registration statements on Form S-1. For the avoidance of doubt, the foregoing shall not prevent the Company from filing a Registration Statement on Form S-8 with respect to equity compensation plans.

5.17 Variable Rate Transactions. While any of the Notes are outstanding, the Company shall be prohibited from entering a Variable Rate Transaction without the prior consent of the holders of more than 50% in principal amount of the then outstanding Notes.

5.18 Registration Rights and Lock-Up Agreement.

(a) With respect to the Shares, the Company shall:

(1) With the next Registration Statement on Form S-1 filed by the Company, include the Registrable Securities in such Registration Statement and use its best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(2) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities until such time as all of the Registerable Securities have been sold by the Holder or he is eligible to otherwise remove the restrictive legend and effect a sale other than through the Registration Statement.

(3) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction, at the earliest practicable moment.

(4) Furnish to the Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits to the extent requested by the Holder (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC.

(b) The Purchaser agrees that, without the prior written consent of the Company, the Purchaser shall not, during the period ending 90 days after the date of the prospectus filed with the SEC in connection with the Registration Statement on Form S-1 described in Section 5.18(a): (1) offer, pledge, announce the intention to sell, 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 Registrable Securities or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Registrable Securities.

5.19 Conversion to a Corporation. The Company shall convert from a limited liability company to a corporation on or before June 30, 2022.

5.20 Right of Participation. For so long as Notes are outstanding, the Purchasers shall be given the right to purchase 20% of the shares issued in the Company's IPO on a pro rata basis.

## ARTICLE IV.
## MISCELLANEOUS

6.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the other parties, if the Closing has not been consummated on or before June 15, 2022; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

6.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

6.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered by email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. ( Eastern Standard or Daylight Savings Time, as applicable) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of transmission, if sent by U.S. nationally recognized overnight delivery service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall, if the Company's Common Stock is quoted or listed on a Trading Market, simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K, or which failure to do so will subject the Company to the liquidated damages provided for in Article 5.

6.5 Amendments; Waivers. Except as provided in the last sentence of this Section 6.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and a majority in interest of the outstanding balance of the Note or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with accordance with this Section 6.5 shall be binding upon the Purchaser and holder of Securities and the Company.

6.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Each Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchaser.

6.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 6.7 and this Section 6.8.

6.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

6.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

6.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf' format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf' signature page were an original thereof.

6.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

6.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then that Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an conversion of a Note, the Purchaser shall be required to return any Shares subject to any such rescinded Conversion Notice concurrently with the restoration of such Purchaser's right to acquire such shares pursuant to the Purchaser's Note.

6.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

6.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

6.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

6.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

6.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

6.21 Waiver of jury trial. In any action, suit, or proceeding in any jurisdiction brought by any party against any other party, the parties each knowingly and intentionally, to the greatest extent permitted by applicable law, hereby absolutely, unconditionally, irrevocably and expressly waive forever trial by jury.

6.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any Shares and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares.

(Signature Pages Follow)

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

**60 Degrees Pharmaceuticals, LLC**
[redacted]
By:
Name: Geoffrey Dow
Title: Chief Executive Officer

Address for Notice:

1025 Connecticut Avenue NW, Suite 1000
Washington, D.C. 20036

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

PURCHASER SIGNATURE PAGE TO

SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Walleye Opportunities Master Fund Ltd

*Signature of Authorized Signatory of Purchaser*: [redacted]

Name of Authorized Signatory: William England

Title of Authorized Signatory: Chief Investment Officer of the Manager

Email Address of Authorized Signatory: wengland@walleyecapital.com

Facsimile Number of Authorized Signatory: _____

Address for Notice to Purchaser: legal@walleyecapital.com

2800 Niagara Lane No.

Plymouth, MN 55447

Address for Delivery of Securities to Purchaser (if not same as address for notice):

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Face Value: $277,777.78

Subscription Amount: $250,000.00

EIN Number: [redacted]



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**Exhibit 10.14**

EXHIBIT B

**NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

**COMMON STOCK PURCHASE WARRANT**

Warrant Shares: <WARRANT SHARES>

Initial Exercise Date: May [*], 2022

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, <HOLDER>., or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the fifth year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from 60° Pharmaceuticals, LLC, a limited liability company (the "Company"), up to <WARRANT SHARES> shares of Common Stock (subject to adjustment hereunder, the "Warrant Shares"). The purchase price of one Warrant Share under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant issued pursuant to a Securities Purchase Agreement (the "Purchase Agreement") entered into as of the Initial Exercise Date between the Company and the initial Holder.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated May [*], 2022 among the Company and the Purchasers.

Section 2. Exercise.

(a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed copy of the Notice of Exercise Form annexed hereto. Within two Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary (although the Holder may surrender the Warrant to, and receive a replacement Warrant from, the Company), the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within two Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one Trading Day of delivery of such notice. The Holder by acceptance of this Warrant or any transferee, acknowledges and agrees that, by reason of the provisions of this Section 2(a), following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The initial exercise price per share of the Common Stock under this Warrant shall be equal to 110% of the IPO (as defined in the Purchase Agreement) price (the "Exercise Price").

(c) Cashless Exercise. Other than as provided for in Section 2(f), if at any time after the six month anniversary of the Initial Exercise Date, there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder (or the prospectus does not meet the requirements of Section 10 of the Securities Act), then this Warrant may also be exercised at the Holder's election, in whole or in part and in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the number obtained by dividing [(A - B) times (C)] by (A), where:

(A) = the greater of (i) the arithmetic average of the VWAPs for the five consecutive Trading Days ending on the date immediately preceding the date on which the Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise or (ii) the VWAP for the Trading Day immediately prior to the date on which the Holder makes such "cashless exercise" election;

(B) = the Exercise Price of this Warrant, as adjusted hereunder, at the time of such exercise; and

(C) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise;

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent reported bid price per share of the Common Stock, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrants being exercised may be tacked on to the holding period of the Warrant Shares. The Company agrees not to take any position contrary to this Section 2(c).

Notwithstanding anything herein to the contrary, if on the Termination Date (unless the Holder notifies the Company otherwise) if there is no effective Registration Statement covering the resale of the Warrant Shares by the Holder, then this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

(i) Delivery of Certificates Upon Exercise. Certificates for the shares of Common Stock purchased hereunder shall be transmitted to the Holder by the Transfer Agent by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise and Rule 144 is available, or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is two Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) payment of the aggregate Exercise Price as set forth above (unless by cashless exercise, if permitted) (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted). The Company understands that a delay in the delivery of the Warrant Shares after the Warrant Share Delivery Date could result in economic loss to the Holder. As compensation to the Holder for such loss, the Company agrees to pay (as liquidated damages and not as a penalty) to the Holder for late issuance of Warrant Shares upon exercise of this Warrant the proportionate amount of $10 per Trading Day (increasing to $20 per Trading Day after the fifth Trading Day) after the Warrant Share Delivery Date for each $1,000 of the value of the Warrant Shares for which this Warrant is exercised (based on the Exercise Price) which are not timely delivered. In no event shall liquidated damages for any one transaction exceed $1,000 for the first 10 Trading Days. Furthermore, in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the Warrant Shares by the Warrant Share Delivery Date, the Holder may revoke all or part of the relevant Warrant exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the exercise of the relevant portion of this Warrant, except that the liquidated damages described above shall be payable through the date notice of revocation or rescission is given to the Company or the date the Warrant Shares are delivered to the Holder, whichever date is earlier.

(ii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant. Unless the Warrant has been fully exercised, the Holders shall not be required to surrender this Warrant as a condition of exercise.

(iii) Rescission Rights. If the Company fails to deliver the Warrant Shares or cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right, at any time prior to issuance of such Warrant Shares, to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to deliver the Warrant Shares, or cause the Transfer Agent to transmit to the Holder the certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall pay in cash to the Holder the amount as provided under Section 4.1(e) of the Purchase Agreement. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vi) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate including any charges of any clearing firm, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise. The Company shall (A) pay the reasonable legal fees of the Holder's choice (in an amount not to exceed $500 per opinion, and not more often than once per week) in connection with the exercise of the Warrants, (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent, and (C) pay the Holder the sums required under Section 2(d)(iv).

(vii) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

(e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Company. The Holder may also decrease the Beneficial Ownership Limitation provisions of this Section 2(e) solely with respect to the Holder's Warrant at any time, which decrease shall be effectively immediately upon delivery of notice to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant or pursuant to any of the other Transaction Documents), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If and whenever on or after the Initial Exercise Date, the Company issues or sells, or in accordance with this Section 3 is deemed to have issued or sold, any shares of Common Stock (including the issuance or sale of shares of Common Stock owned or held by or for the account of the Company, issued or sold or deemed to have been issued or sold) for a consideration per share (the "Base Share Price") less than a price equal to the Exercise Price in effect immediately prior to such issuance or sale or deemed issuance or sale (such Exercise Price then in effect is referred to herein as the "Applicable Price") (the foregoing a "Dilutive Issuance"), then immediately after such Dilutive Issuance, the Exercise Price then in effect shall be reduced to an amount equal to the Base Share Price. For all purposes of the foregoing (including, without limitation, determining the adjusted Exercise Price and the Base Share Price under this Section 3(b)), the following shall be applicable:

(i) Issuance of Options. If the Company in any manner grants or sells any Options and the lowest price per share for which one share of Common Stock is at any time issuable upon the exercise of any such Option or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the granting or sale of such Option for such price per share. For purposes of this Section 3(b)(i), the "lowest price per share for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to any one share of Common Stock upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof and (y) the lowest exercise price set forth in such Option for which one share of Common Stock is issuable upon the exercise of any such Options or upon conversion, exercise or exchange of any Convertible Securities issuable upon exercise of any such Option or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Option (or any other Person) upon the granting or sale of such Option, upon exercise of such Option and upon conversion, exercise or exchange of any Convertible Security issuable upon exercise of such Option or otherwise pursuant to the terms thereof plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Option (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock or of such Convertible Securities upon the exercise of such Options or otherwise pursuant to the terms of or upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Company in any manner issues or sells any Convertible Securities and the lowest price per share for which one share of Common Stock is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof is less than the Applicable Price, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Company at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this Section 3(b)(ii), the "lowest price per share for which one share of Common Stock is issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof" shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one share of Common Stock upon the issuance or sale of the Convertible Security and upon conversion, exercise or exchange of such Convertible Security or otherwise pursuant to the terms thereof and (y) the lowest conversion price set forth in such Convertible Security for which one share of Common Stock is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder of such Convertible Security (or any other Person) upon the issuance or sale of such Convertible Security plus the value of any other consideration received or receivable by, or benefit conferred on, the holder of such Convertible Security (or any other Person). Except as contemplated below, no further adjustment of the Exercise Price shall be made upon the actual issuance of such shares of Common Stock upon conversion, exercise or exchange of such Convertible Securities or otherwise pursuant to the terms thereof, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustment of this Warrant has been or is to be made pursuant to other provisions of this Section 3(b), except as contemplated below, no further adjustment of the Exercise Price shall be made by reason of such issuance or sale.

(iii) Change in Option Price or Rate of Conversion. "Convertible Securities" means any stock or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any shares of Common Stock. If the purchase or exercise price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion, exercise or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time (other than proportional changes in conversion or exercise prices, as applicable, in connection with an event referred to in Section 3(a)), the Exercise Price in effect at the time of such increase or decrease shall be adjusted to the Exercise Price which would have been in effect at such time had such Options or Convertible Securities provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 3(b)(iii), if the terms of any Option or Convertible Security that was outstanding as of the Closing Date are increased or decreased in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease. No adjustment pursuant to this Section 3(b) shall be made if such adjustment would result in an increase of the Exercise Price then in effect.

(iv) Calculation of Consideration Received. If any Option is issued in connection with the issuance or sale of any other securities of the Company together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Options will be deemed to have been issued for a consideration of par value of the Company's Common Stock. If any shares of Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount of consideration received by the Company therefor. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company for such securities will be the arithmetic average of the VWAPs of such security for each of the five Trading Days immediately preceding the date of receipt. If any shares of Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options or Convertible Securities. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within five Trading Days after the 10th day following such Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holder. The determination of such appraiser shall be final and binding upon all parties absent manifest error. If such appraiser's valuation differs by less than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Holder, and if such appraiser's valuation differs by more than 5% from the Company's proposed valuation, the fees and expenses of such appraiser shall be borne by the Company.

(v) Record Date. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in shares of Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase shares of Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase (as the case may be).

(vi) Notwithstanding the foregoing, this Section 3(b) shall not apply to any Exempt Issuances.

(c) Full Ratchet Increase in Warrant Shares. Until the Notes are no longer outstanding, whenever the Exercise Price is adjusted under Section 3(b), the number of Warrant Shares shall be increased on a full ratchet basis to the number of shares of Common Stock determined by multiplying the Exercise Price then in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment. By way of example, if E is the total number of Warrant Shares in effect immediately prior to such Dilutive Issuance, F is the Exercise Price in effect immediately prior to such Dilutive Issuance, and G is the Dilutive Issuance Price, the adjustment to the number of Warrant Shares can be expressed in the following formula: Total number of Warrant Shares after such Dilutive Issuance = the number obtained from dividing [E x F] by G. Notwithstanding the foregoing, if the Exercise Price is being adjusted as a result of a sale of securities, this Section 3(c) shall NOT apply if the Holder is offered the right to participate (in an amount not to exceed $50,000 unless agreed to by the Holder and the Company) and does not participate.

(d) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, no Purchase Rights will be made under this Section 3(d) in respect of an Exempt Issuance.

(e) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security other than the Common Stock (which shall be subject to Section 3(d)), then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(f) Fundamental Transaction.

(i) If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions engages in any Fundamental Transaction, as defined in the Note, then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), at the option of the Holder the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(ii) Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, provided that the Warrant Shares are not registered under an effective registration statement, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction or (ii) the positive difference between the cash per share paid in such Fundamental Transaction minus the then in effect Exercise Price. "Black Scholes Value" means the value of the unexercised portion of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg L.P. as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date.

(iii) If Section 3(f)(i) and (ii) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(f)(iii) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant prior to such Fundamental Transaction (without regard to any limitation on the exercise of this Warrant), and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly email to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment. The Holder may supply an email address to the Company and change such address.

(ii) Notice to Allow Exercise by the Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall deliver to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to email such notice or any defect therein or in the emailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the provisions of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney. Upon such surrender, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new Holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof other than as explicitly set forth in Section 3.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate. In no event shall the Holder be required to deliver a bond or other security.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

(d) Authorized Shares.

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered or if not exercised on a cashless basis when Rule 144 (or any successor law or rule) is available, may have restrictions upon resale imposed by state and federal securities laws.

(g) Non-waiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate or that there is no irreparable harm and not to require the posting of a bond or other security.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and Holders of 75% of the outstanding Warrants issued pursuant to the Purchase Agreement.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**NOTICE OF EXERCISE**

TO: **60 Degrees Pharmaceuticals, LLC**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

(4) After giving effect to this Notice of Exercise, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

_____

_____

_____

SIGNATURE OF HOLDER

Name of Investing Entity:

_____

*Signature of Authorized Signatory of Investing Entity*:

_____

Name of Authorized Signatory:

_____

Title of Authorized Signatory:

_____

Date:

_____

**ASSIGNMENT FORM**

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

**60 Degrees Pharmaceuticals, LLC**

FOR VALUE RECEIVED,_____all of or _____ shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____whose address is

_____

_____

Dated:_____, _____

Holder's Signature: _____

Holder's Address: _____

_____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

**Exhibit 10.15**

EXHIBIT A

**NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.**

Original Issue Date: May [*], 2022

$<Amount> Principal and Face Value
$<Amount> Purchase Price and Subscription Amount
$<Amount> Original Issue Discount

**ORIGINAL ISSUE DISCOUNT**
**PROMISSORY NOTE**

THIS ORIGINAL ISSUE DISCOUNT CONVERTIBLE PROMISSORY NOTE is duly authorized and validly issued at a 10% original issue discount by 60° Pharmaceuticals, LLC, a limited liability company (the "Company") (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to <Holder Name>, or its permitted assigns (the "Holder"), the principal sum of <Amount> on the earlier of May [*], 2023, the date of the Company's IPO, or such earlier date as this Note is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate then outstanding principal amount of this Note in accordance with the provisions hereof. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following words and phrases shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Subsidiary thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Subsidiary thereof, (b) there is commenced against the Company or any Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement, (c) the Company or any Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Company or any Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts or (g) the Company or any Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Base Conversion Price" shall have the meaning set forth in Section 5(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(f).

"Black Scholes Value" means the value of the outstanding principal amount of this Note, plus all accrued and unpaid interest hereon based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Maturity Date.

"Buy-In" shall have the meaning set forth in Section 4(d)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 50% of the voting securities of the Company (other than by means of conversion, exercise or exchange of this Note or the Warrants issued together with this Note), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the shareholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person, (d) a replacement at one time or within a three year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the date hereof), or (d) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Default Interest Rate" shall have the meaning set forth in Section 2(a). "Dilutive Issuance" shall have the meaning set forth in Section 5(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 5(b)(5).

"DWAC" means the Deposit or Withdrawal at Custodian system at The Depository Trust Company.

"Event of Default" shall have the meaning set forth in Section 7(a).

"Exchange Act" means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"IPO" shall have the meaning set forth in Section 4(b).

"Liens" shall have the meaning set forth in the Purchase Agreement.

"Note Register" shall have the meaning set forth in Section 3(c).

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Mandatory Default Amount" shall have the meaning set forth in Section 7(b).

"Option Value" means the value of a Common Stock Equivalent based on the Black Scholes Option Pricing model obtained from the "OV" function on Bloomberg determined as of (A) the Trading Day prior to the public announcement of the issuance of the applicable Common Stock Equivalent, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of the applicable Common Stock Equivalent as of the applicable date of determination, (ii) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of (A) the Trading Day immediately following the public announcement of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iii) the underlying price per share used in such calculation shall be the highest VWAP of the Common Stock during the period beginning on the Trading Day prior to the execution of definitive documentation relating to the issuance of the applicable Common Stock Equivalent and ending on (A) the Trading Day immediately following the public announcement of such issuance, if the issuance of such Common Stock Equivalent is publicly announced or (B) the Trading Day immediately following the issuance of the applicable Common Stock Equivalent if the issuance of such Common Stock Equivalent is not publicly announced, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

"Original Issue Date" means the date of the first issuance of this Note, regardless of any transfers of this Note and regardless of the number of instruments which may be issued to evidence this Note.

"Permitted Indebtedness" means (a) the indebtedness evidenced by this Note, (b) senior secured non-convertible loans from traditional commercials banks with interest per annum not to exceed 12%, (c) capital lease obligations and purchase money indebtedness incurred in connection with the acquisition of machinery and equipment as long as such capital leases and indebtedness are approved in advance by the Holder and (d) the Indebtedness set forth on Schedule 3.27 to the Purchase Agreement).

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (x) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company and its consolidated Subsidiaries or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) Liens incurred in connection with Permitted Indebtedness under clauses (a) through (d) thereunder, and Liens set forth on Schedule 3.1(aa) to the Purchase Agreement.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May [*], 2022, among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Share Delivery Date" shall have the meaning set forth in Section 4(d)(ii). "Successor Entity" shall have the meaning set forth in Section 5(e)(2).

"Transaction Documents" means the Note, the Purchase Agreement and the Warrant.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies:
(a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock is reported for the Trading Market, the most recent bid price per share of the Common Stock so reported, or (c) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Payments of Principal and Interest.

All principal, accrued interest and other amounts due shall be paid in U.S. Dollars by wire transfer of immediately available funds. The Company may repay the Holder before the Maturity Date without penalty.

Interest shall accrue to the Holder on the aggregate then outstanding principal amount of this Note at the rate of 10% per annum, calculated on the basis of a 360-day year and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal, together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. During the existence of an Event of Default, interest shall accrue at the lesser of (i) the rate of 15% per annum, or
(ii) the maximum amount permitted by law (the lesser of clause (i) or (ii), the "Default Interest Rate"). Once an Event of Default is cured, the interest rate shall return to 10%.

Section 3. Registration of Transfers and Exchanges.

(a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge or other fees will be payable for such registration of transfer or exchange.

(b) Investor Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

(c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

This Note does not have a conversion feature.

Section 5. Certain Adjustments.

(a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 5(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. (1) At any time, for so long as the Note or any amounts accrued and payable thereunder remain outstanding, the Company or any Subsidiary, as applicable, sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect (such lower price, the "Base Conversion Price" and each such issuance or announcement a "Dilutive Issuance"), then the Conversion Price shall be immediately reduced to equal the Base Conversion Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued.

(2) If any Common Stock Equivalent is amended or adjusted, and such price as so amended shall be less than the Conversion Price in effect at the time of such amendment or adjustment, then the Conversion Price shall be adjusted upon each such issuance or amendment as provided in this Section 5(b). In case any Common Stock Equivalent is issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction, (x) the Common Stock Equivalents will be deemed to have been issued for the Option Value of such Common Stock Equivalents and (y) the other securities issued or sold in such integrated transaction shall be deemed to have been issued or sold for the difference of (I) the aggregate consideration received by the Company less any consideration paid or payable by the Company pursuant to the terms of such other securities of the Company, less (II) the Option Value. If any shares of Common Stock or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the amount of such consideration received by the Company will be deemed to be the net amount received by the Company therefor. If any shares of Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the average VWAP of such public traded securities for the ten days prior to the date of receipt. If any shares of Common Stock or Common Stock Equivalents are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock or Common Stock Equivalents, as the case may be.

(3) If the holder of Common Stock or Common Stock Equivalents outstanding on the Original Issue Date or issued after the Original Issuance Date shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price then in effect, such issuance shall be deemed to have occurred for less than the Conversion Price on such date and such issuance shall be deemed to be a Dilutive Issuance.

(4) If the Company enters into a Variable Rate Transaction despite the prohibition set forth in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion price at which such securities may be converted or exercised under the terms of such Variable Rate Transaction.

(5) The Company shall notify the Holder in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 5(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice").

(6) The provisions of this Section 5(b) shall apply each time a Dilutive Issuance occurs after the Original Issue Date for so long as the Note or any amounts accrued and payable thereunder remain outstanding, but any adjustment of the Conversion Price pursuant to this Section 5(b) shall be downward only.

(7) The provisions of this Section 5(b) shall not apply to Exempt Issuances.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, if at any time the Company grants, issues or sells any Common Stock, Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of Bridge Shares, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(d) Pro Rata Distributions. During such time as this Note is outstanding, if the Company shall declare or make any dividend or other distribution of its assets or rights or warrants to acquire its assets, or subscribe for or purchase any security other than Common Stock, to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of Bridge Shares (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation with respect to the Company or any other publicly-traded corporation subject to Section 13(d) of the Exchange Act).

(e) Fundamental Transaction. (1) If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall not effect a Fundamental Transaction unless it gives the Holder at least 10 Trading Days prior notice together with sufficient details so the Holder can make an informed decision as to whether it elects to accept the Alternative Consideration. If a public announcement of the Fundamental Transaction has not been made, the notice to the Holder may not be given until the Company files a Form 8-K or other report disclosing the Fundamental Transaction.

(2) Notwithstanding anything to the contrary, provided that the Warrant Shares are not registered under an effective registration statement, in the event of a Fundamental Transaction that is (x) an all cash transaction, (y) a "Rule 13e-3 transaction" as defined in Rule 13e-3 under the Exchange Act, or (z) a Fundamental Transaction involving a person or entity not traded on a national securities exchange or trading market (with such exchange or market including, without limitation, the Nasdaq Global Select Trading Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the New York Stock Exchange, Inc., the NYSE American or any market operated by the OTC Markets, Inc.), the Company or any Successor Entity (as defined below) shall, at the Holder's option, concurrently with the consummation of the Fundamental Transaction, purchase this Note from the Holder by paying to the Holder the higher of (i) an amount of cash equal to the Black Scholes Value of the outstanding principal of this Note on the date of the consummation of such Fundamental Transaction

(3) If Section 5(e)(1) and (2) are not applicable, the Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything in this Section 5(e), an Exempt Issuance (as defined in the Purchase Agreement) shall not be deemed a Fundamental Transaction.

(f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

(g) Notice to the Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on its Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock, (C) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Company shall be required in connection with any reclassification of its Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby its Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least 5 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of its Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of its Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries (as determined in good faith by the Company), the Company or its successor shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. If the Company does not simultaneously file the required Form 8-K, the Holder shall be entitled penalties in accordance with Section 5.6 of the Purchase Agreement.

Section 6. Negative Covenants. As long as any portion of this Note remains outstanding, unless all of the Holders of the then outstanding Notes shall have otherwise given prior written consent, the Company shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

(a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any indebtedness for borrowed money of any kind, including, but not limited to, a guarantee, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

(c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder, increases in authorized shares and stock splits shall not be deemed to materially and adversely affects any rights of the Holder;

(d) purchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents;

(e) repay, or offer to repay, any Indebtedness, other than Permitted Indebtedness, as such terms Indebtedness and Permitted Indebtedness are in effect as of the Original Issue Date;

(f) pay cash dividends or distributions on any equity securities of the Company;

(g) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the SEC assuming that the Company is subject to the Securities Act or the Exchange Act, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for board approval);

(h) issue any equity securities of the Company other than pursuant to the provisions of the Purchase Agreement or an Exempt Issuance; or

(i) enter into any agreement with respect to any of the foregoing.

Section 7. Events of Default.

(a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(i) any default in the payment of (A) principal and interest payment under this Note or any other Indebtedness, or (B) late fees, liquidated damages and other amounts owing to the Holder of this Note, as and when the same shall become due and payable (whether on a Conversion Date, or the Maturity Date, or by acceleration or otherwise), which default, solely in the case of a default under clause (B) above, is not cured within five Trading Days;

(ii) the Company shall fail to observe or perform any other covenant or agreement contained in this Note (other than a breach by the Company of its obligations to deliver Shares, which breach is addressed in clause (x) below) or any Transaction Document which failure is not cured, if possible to cure, within the earlier to occur of 15 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company and (B) 10 Trading Days after the Company has become aware of such failure;

(iii) except for payment defaults covered under Section 7(a)(i), the Company shall breach, or a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under, (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by any other clause of this Section 7) which default or event of default if not cured, if possible to cure, within the earlier to occur of (i) 10 Trading Days after notice of such default sent by Holder or by any other holder to the Company and (ii) five Trading Days after the Company has become aware of such default;

(iv) any representation or warranty made in this Note, any other Transaction Document, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made, which failure is not cured, if possible to cure, within the earlier to occur of 10 Trading Days after notice of such failure is sent by the Holder or by any other Holder to the Company;

(v) the Company or any Subsidiary shall be subject to a Bankruptcy Event;

(vi) the Company or any Subsidiary shall: (A) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties; (B) admit in writing its inability to pay its debts as they mature; (C) make a general assignment for the benefit of creditors; (D) be adjudicated as bankrupt or insolvent or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country; or (E) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(vii) if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days;

(viii) the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within 45 days after the date thereof;

(ix) any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $100,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 days;

(x) any Material Adverse Effect occurs;

(xi) any provision of any Transaction Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document;

(xii) the Company fails to use the proceeds in the manner as described in Section 5.7 of the Purchase Agreement;

(xiii) the Company shall be a party to any Change of Control Transaction or shall agree to sell or dispose of all or in excess of 50% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

(xiv) from and after 90 days after the Original Issue Date, the Company fails to have authorized and reserved the amount of shares designated in Section 3.5 of the Purchase Agreement (including without limitation, the Beneficial Ownership Limitation);

(xv) the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the Exchange Act within the time required (including any applicable extension period) by the rules and regulations thereunder; or

(xvi) the Company fails to convert from a limited liability company to a corporation on or before June 30, 2022.

(b) Remedies Upon Event of Default. If any Event of Default occurs, the outstanding principal amount of this Note, plus liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash (the "Mandatory Default Amount"). Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 7(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

(c) Interest Rate Upon Event of Default. Commencing on the occurrence of any Event of Default and until such Event of Default is cured, this Note shall accrue interest at an interest rate equal to the Default Interest Rate.

Section 8. Miscellaneous.

(a) No Rights as Stockholder Until Conversion. This Note does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company.

(b) Notices. All notices, offers, acceptance and any other acts under this Agreement (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by FedEx or similar receipted next day delivery, or at the Company's registered address or such other address as any of them, by notice to the other may designate from time to time. Time shall be counted to, or from, as the case may be, the date of delivery.

(c) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest and late fees, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

(d) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of this Note, and of the ownership hereof, reasonably satisfactory to the Company.

(e) Exclusive Jurisdiction; Governing Law; Prevailing Party Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of this Note and venue shall be governed by and construed and enforced in accordance with Section 6.9 of the Purchase Agreement. If any party shall commence an Action or Proceeding to enforce or otherwise relating to this Note, then, in addition to the other obligations of the Company elsewhere in this Note, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

(f) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

(g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Company (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

(h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach would be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

(i) Next Trading Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Trading Day, such payment shall be made on the next succeeding Trading Day.

(j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**60 DEGREES PHARMACEUTICALS, LLC**

By: /s/ Geoffrey Dow
Name: Geoffrey Dow
Title: Chief Executive Officer

**Exhibit 10.16**

***Please be advised that certain identified information has been excluded in Exhibit 10.16 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**DEBT CONVERSION AGREEMENT**

This Debt Conversion Agreement (the "***Agreement***"), dated as of January 9, 2023, is by and between Knight Therapeutics International S.A., a corporation formed under the laws of Uruguay, and formerly known as Knight Therapeutics (Barbados) Inc. (the "***Lender***"), and 60 Degrees Pharmaceuticals, Inc., a Delaware corporation and successor by merger of 60°
Pharmaceuticals, LLC, a District of Columbia limited liability company (the "***Company***"). Lender and the Company are each referred to as a "***Party***" and together as the "***Parties***".

**WHEREAS**, Lender extended the Company a line of credit up to $7,000,000 pursuant to the terms of that certain Loan Agreement and Engagement, dated December 10, 2015, by and between the Company and Lender (as amended, the "***Loan Agreement***");

**WHEREAS**, on April 24, 2018, Company, in connection with one tranche of funding provided by Lender, issued to Lender a Secured Convertible Debenture with a face value of $3,000,000 (as amended, the "***Note***").

**WHEREAS**, in connection with the Loan Agreement, the Company delivered to Lender a Security Agreement, dated December 10, 2015, pursuant to which the Company granted a security interest in its assets to Lender (the "***Security Agreement***" and together with the Loan Agreement and the Note, the "***Loan Documents***").

**WHEREAS**, the Company is the process of conducting an initial public offering on Nasdaq of its common stock ("Nasdaq listed"), par value $0.0001 per share (the "***Common Stock***") pursuant to an underwritten offering (the "***IPO***"); and

**WHEREAS**, as at 31 March 2022, the aggregate principal amount outstanding under the Loan Documents is $10,770,037 ("***Principal Amount***"), and the accrued interest under the Loan Documents is $8,096,486 (the "***Accrued Interest***" and together with the Principal Amount, the "***Debt***"),

**WHEREAS**, Lender and the Company desire to convert a portion of the Debt into shares of the Common Stock and desire to convert the remaining portion of the Debt into shares of a new class of preferred stock as more fully described in this Agreement, to fully satisfy the Company's obligations under the Loan Documents, provided that the IPO results in gross proceeds to the Company of at least $7,000,000 (a "***Qualified IPO***") and occurs before December 31, 2023. For clarification purposes, if the IPO does not meet the before mentioned results by the end of 2023, the conversion in this document will have no effect, the Company will continue to be obliged by the Loan Documents and the interest calculation shall be resumed under original terms of loan (including default interest) since March 31, 2022.

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

1. **Conversion of the Debt**.

(a) ***Conversion of the Principal Amount***. Subject to the terms and conditions hereof, at the Closing (as defined below), Lender hereby elects to convert the Principal Amount into (i) that number of shares of Common Stock equal to dividing the Principal Amount by an amount equal to the offering price of the Common Stock in the IPO discounted by 15% (the "***Conversion Common Shares***"), rounding up for fractional shares, in a number of Conversion Shares up to 19.9% of the Company's outstanding Common Stock after giving effect of the IPO; and (ii) the balance into a convertible promissory note (the "***Conversion Note***"), in substantially the form attached hereto as Exhibit A.

(b) ***Conversion of the Accrued Interest***. Subject to the terms and conditions hereof, at the Closing (as defined below), Lender hereby elects to convert the Accrued Interest into that number of shares (the "***Conversion Preferred Shares***" and, together with the Conversion Common Shares, the "***Conversion Shares***") of a new class of preferred stock (the "***Preferred Stock***") by dividing the Accrued Interest by [$1.00]. The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% [cumulative] dividend accumulated annually on March 31, (ii) shall be non-voting stock; and (iii) be convertible in shares of Common Stock at a price equal to the lower of (1) the price paid for the shares of Common Stock in the IPO and (2) the 10 day volume weighted average share price immediately preceding the Company's election to convert the Preferred Stock. Notwithstanding the foregoing, the Company shall not convert the Preferred Stock into shares of Common Stock if as a result of such conversion Lender will own 19.9% or more of the Company's outstanding Common Stock.

(c) ***Royalty***. In addition to the conversion of the Debt, for a period commencing on January 1, 2022 and ending upon the earlier of 10 years after the Closing or the conversion or redemption in full of the Conversion Preferred Shares, Company shall pay Lender a royalty equal to 3.5% of the Company's net sales (the "***Royalty***"), where "***Net Sales"*** has the same meaning as in the Company's license agreement with the U.S. Army for Tafenoquine. Upon succeeding the Qualified IPO, the Company shall calculate the royalty payable to Knight Therapeutics International S.A. ("Knight") at the end of each calendar quarter. The Company shall pay to Knight the royalty amounts due with respect to a given calendar quarter within fifteen (15) Business Days after the end of such calendar quarter. Each payment of royalties due to Knight shall be accompanied by a statement specifying the total gross sales, the net sales and the deductions taken to arrive to net sales. For clarification purposes, the first royalty payment will be performed following the above instructions, on the first calendar quarter in which the Qualified IPO took place and will cover the sales of the period from January 1, 2022 until the end of said calendar quarter.

(d) ***Effect of Conversion***. At the Closing, Lender shall deliver to the Company the Notes for conversion into the Conversion Shares and the Conversion Note, if any. After the conversion of the Debt into the Conversion Shares and the Conversion Note, if any, the Loan Documents shall terminate and be of no further force and effect.

2. **Closing; Conditions to Closing**.

(a) ***Closing***. The consummation of the transactions contemplated by this Agreement (the "***Closing***") shall take place contemporaneously with the consummation of the Qualified IPO, which Closing shall be held in the offices of the Company or such other place as may be mutually agreeable to the Parties. The date on which the Closing occurs is referred to as the "***Closing Date***".

(b) ***Conditions to Closing***. The Closing shall be subject to the satisfaction or waiver by the Company, on the one hand, and Lender, on the other, of the conditions that, on the Closing Date:

(i) the consummation of the Qualified IPO;

(ii) the acceptance by the Secretary of State of the State of Delaware of an Amended and Restated Certificate of Incorporation of the Company creating the Preferred Stock;

(iii) that all representations and warranties of the Parties contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case only as of such date); and

(iv) the Parties shall have performed, satisfied, and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Parties at or prior to the Closing.

(c) ***Closing Deliveries***. At the Closing,

(i) the Company shall issue certificates representing the Conversion Shares in the name of Lender, and shall issue and deliver the Conversion Note, if any, to the Lender; and

(ii) Lender shall deliver to the Company (A) the Note and other documents evidencing the Debt, which shall be marked "Cancelled" by the Company, and (B) such instruments and documents as may be necessary to effect the full and complete release of the security interest pursuant to the Security Agreement.

3. **Representations and Warranties**.

(a) ***Of the Company***. The Company hereby represents and warrants to Lender that:

(i) The Company is duly organized, validly existing, and good standing under the laws of the State of Delaware with the power to own its assets and to transact business in Delaware, and in such other states where its business is conducted.

(ii) The Company has all requisite limited liability company power and authority to enter into this Agreement, and this Agreement, when executed and delivered, will constitute a valid and legally binding obligation of the Company.

(iii) The Conversion Shares to be issued upon conversion of the Principal Amount have been duly authorized for issuance by all corporate action and no approval by the Company's stockholders or any third party, including any government agency, is required for the issuance of the Conversion Shares pursuant to this Agreement. The Conversion Shares, when issued pursuant to this Agreement, will be duly and validly authorized and issued, fully paid and nonassessable, and free and clear of all liens and encumbrances.

(b) ***Of Lender***. Lender hereby represents and warrants to the Company that:

(i) Lender is duly organized, validly existing, and good standing under the laws of the State of Delaware with the power to own its assets and to transact business in Delaware, and in such other states where its business is conducted.

(ii) Lender has all requisite limited liability company power and authority to enter into this Agreement, and this Agreement, when executed and delivered, will constitute a valid and legally binding obligation of Lender.

(iii) Lender is the owner of the Notes and owns such Notes free and clear of all liens, claims and encumbrances.

(iv) Lender hereby confirms, that the Conversion Shares, the Conversion Note, if any, and the shares of Common Stock into which they convert (the "***Conversion Securities***") to be purchased by it are being and will be acquired for investment for its own account, not as nominee or agent, and not with a view to the resale or distribution of any part thereof, and that neither Lender nor any of its officers, members, managers or representatives with the authority, responsibility or power to make a decision with regard to the purchase or sale of the Conversion Securities or any portion thereof has any present intention of selling, granting any participation in or otherwise distributing the same. Lender is familiar with the phrase "acquired for investment and not with a view to distribution" as it relates to the Securities Act of 1933, as amended (the "***Securities Act***") and state securities laws and the special meaning given to such term by the Securities and Exchange Commission (the "***SEC***"). By executing this Agreement, Lender further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Conversion Securities.

(v) Lender understands that the Conversion Securities will not be at the time of issuance, registered under the Securities Act on the ground that the sale provided for in this Agreement and the issuance of securities hereunder is exempt from registration under the Securities Act, and that the Company's reliance on such exemption is predicated on Lender' representations and warranties set forth herein.

(vi) Lender represents that it is experienced in evaluating and investment in private placement transactions of securities of companies in a similar stage of development as the Company and acknowledges that it can bear the economic risk of its investment and that it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the investment in the Conversion Securities.

(vii) Lender is an Accredited Investor, as such term is defined in Regulation D promulgated under the Securities Act.

(viii) Lender understands that the neither the Conversion Securities nor any portion thereof may be sold, transferred or otherwise disposed of without registration under the Securities Act or an exemption therefrom, and that in the absence of an effective registration statement covering the Conversion Securities (or such portion thereof) or an available exemption from registration under the Securities Act, the Conversion Securities and each portion thereof must be held indefinitely.

4. **Miscellaneous**.

(a) ***Governing Law***. This Agreement shall be construed and enforced in accordance with the laws of the State of Delaware.

(b) ***Entire Agreement***. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written negotiations and agreements between the Parties with respect to the subject matter hereof. No modification, variation or amendment of this Agreement (including any exhibit hereto) shall be effective unless made in writing and signed by both Parties.

(c) ***Attorneys' Fees***. In the event any Party hereto fails to perform any of its obligations under this Agreement or the transactions contemplated hereby or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all reasonable costs and expenses incurred by the other Party in enforcing or establishing its rights hereunder, including court costs and reasonable attorneys' fees.

(d) ***Successors and Assigns***. This Agreement shall be binding upon each Party hereto and its respective successors and assigns. The Company shall not assign this Agreement without the prior written consent of Lender, in its sole discretion.

(e) ***Severability***. If any term of provision of this Agreement or any application thereof shall be held invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.

(f) ***Counterparts; Electronic Signature***. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which, taken together, shall constitute one agreement. The Parties acknowledge and agree that this Agreement may be signed and/or transmitted by e-mail or a .pdf document or using electronic signature technology (e.g., via DocuSign, Adobesign, or other electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the Party so signing as a paper copy bearing such Party's handwritten signature.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Parties have executed this Debt Conversion Agreement as of the date first above written.

**LENDER:**

**KNIGHT THERAPEUTICS INTERNATIONAL S.A.**

Arvind Utchanah

By: /s/ Arvind Utchanah
Name: Arvind Utchanah
Title: CFO

**COMPANY:**

**60 DEGREES PHARMACEUTICALS, INC.**

By: [redacted]
Name: Geoffrey S. Dow
Title: CEO

**Signature Page to Debt Conversion Agreement**

**Exhibit A**

**Form of Convertible Promissory Note**

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS PROMISSORY NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS PROMISSORY NOTE.

**60 DEGREES PHARMACEUTICALS, INC.**

**CONVERTIBLE PROMISSORY NOTE**

**$[_____]** **Issue Date:** [IPO DATE], 2023

**FOR VALUE RECEIVED**, 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "***Company***"), hereby promises to pay to the order of Knight Therapeutics (Barbados) Inc. or its registered assigns ("***Holder***"), the principal amount set forth above, together with accrued and unpaid interest thereon, each due and payable on the date and in the manner set forth below.

1. **Repayment**. All payments of interest and principal under this Convertible Promissory Note (this "***Note***") shall be in lawful money of the United States of America. All payments shall be applied first to accrued interest, and thereafter to principal. The outstanding principal amount of this Note, together with all accrued but unpaid interest thereon, shall be due and payable on the second anniversary of the Issue Date (the "***Maturity Date***").

2. **Prepayment**. The Company may prepay all or any portion of the principal amount or accrued interest of this Note prior to the Maturity Date.

3. **Interest Rate**. The Company promises to pay simple interest on the outstanding principal amount hereof from the date hereof until payment in full, which interest shall be payable at the rate of 10.0% per annum or the maximum rate permissible by law, whichever is less. Interest shall be due and payable on the Maturity Date and shall be calculated on the basis of a 365-day year for the actual number of days elapsed.

4. **Conversion**.

(a) ***Conversion Upon Maturity***. In the event that this Note is not repaid in full prior to the Maturity Date, then the entire outstanding principal amount of this Note, together with all accrued but unpaid interest thereon, shall automatically convert in whole without any further action by Holder into shares of the Company's common stock, par value $0.0001 per share (the "***Common Stock***"). The number of shares of Common Stock into which the amounts due under this Note shall be converted shall be calculated using a conversion price per share of Common Stock equal to the lower of: (i) the price of the Company's Common Stock in its initial public offering, and (ii) the 10-day weighted average price of the Common Stock traded on the Nasdaq Capital Market or any other national securities exchange on which the shares of Common Stock are then trading, for the 10 trading days ending on the first trading day immediately preceding the Maturity Date (the "***Conversion Price***").

(b) ***Limitations to Conversion***. Notwithstanding the foregoing anything to the contrary contained in this Note, no amounts under this Note shall be converted to the extent (but only to the extent) that, after giving effect to such conversion, the Holder would beneficially own 19.9% (the "***Maximum Percentage***") or more of the outstanding Common Stock (calculated on an as-converted basis, fully diluted basis) of the Company. To the extent the above limitation applies, no amounts under this Note shall be converted and the Maturity Date of this Note shall be automatically extended by 12 months. After which time, this Note shall be converted up to the Maximum Percentage.

(c) ***No Fractional Shares***. If the conversion of this Note would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay Holder a sum in cash equal to the product resulting from multiplying the Conversion Price by such fractional share.

5. **Default**. If there shall be any Event of Default (defined below) hereunder, at the option of, and upon the declaration of the Holder and upon written notice to the Company (which election and notice shall not be required in the case of an Event of Default under Section 5(c), or 5(d)), this Note shall accelerate and all principal and unpaid accrued interest shall become immediately due and payable. The occurrence of any one or more of the following shall constitute an "***Event of Default***":

(a) The Company fails to pay timely any of the principal amount due under this Note on the date the same becomes due and payable or any accrued interest or other amounts due under this Note on the date the same becomes due and payable;

(b) The Company files any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of, or relating to, debtors, now or hereafter in effect, or makes any assignment for the benefit of creditors or takes any corporate action in furtherance of any of the foregoing; or

(c) An involuntary petition is filed against the Company (unless such petition is dismissed or discharged within 60 days) under any bankruptcy statute now or hereafter in effect, or a custodian, receiver, trustee, assignee for the benefit of creditors (or other similar official) is appointed to take possession, custody or control of any property of the Company.

6. **Waiver**. The Company hereby waives demand, notice, presentment, protest and notice of dishonor.

7. **Governing Law.** This Note shall be governed by and construed under the laws of the State of Delaware, as applied to agreements among Delaware residents, made and to be performed entirely within the State of Delaware, without giving effect to conflicts of laws principles.

8. **Modification; Waiver.** Any term of this Note may be amended or waived only with the written consent of the Company and the Holder.

9. **Assignment.** This Note may be transferred by Holder only with the consent of the Company and upon its surrender to the Company for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company. Thereupon, this Note shall be reissued to, and registered in the name of, the transferee, or a new Note for like principal amount and interest shall be issued to, and registered in the name of, the transferee. Interest and principal shall be paid solely to the registered holder of this Note. Such payment shall constitute full discharge of the Company's obligation to pay such interest and principal.

10. **Expenses**. In the event of any default hereunder, the Company shall pay all reasonable attorneys' fees and court costs incurred by Holder in enforcing and collecting this Note.

11. **Voting Rights**. The Holder shall have no voting rights as a stockholder with respect to the shares of Common Stock issuable upon conversion of this Note.

12. **Security**. The obligation of the Company under this Note are not secured. The Holder shall have rights in this respect pari passu with the Company's senior most unsecured debt issued after the date hereof.

**IN WITNESS WHEREOF**, the Company has caused this Convertible Promissory Note to be duly executed as of the Issuance Date set out above.

**60 DEGREES PHARMACEUTICALS, INC.**

By: _____
Name: Geoffrey S. Dow
Title:

**Exhibit 10.17**

***Please be advised that certain identified information has been excluded in Exhibit 10.17 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**AMMENDMENT TO THE DEBT CONVERSION AGREEMENT**

This amendment to the Debt Conversion Agreement (the "**Amendment Agreement**") is made and entered into on this 19th day of January 2023, by and between Knight Therapeutics International S.A. (the "**Lender**") and 60 Degrees Pharmaceuticals, INC (the "**Borrower**").

**WHEREAS** the Borrower and Lender entered into a Debt Conversion Agreement ("**the Initial Agreement**") as of January 9th, 2023.

**WHEREAS** the Borrower and Lender wish to amend the agreement as set forth below.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower and Lender, intending to be legally bound, hereby agree and contract as follows:

1. Amendment to Initial Agreement.

a. Clause 1b will be deleted and replaced with"

"Conversion of the Accrued Interest. Subject to the terms and conditions hereof, at the Closing (as defined below), Lender hereby elects to convert the Accrued Interest into that number of shares (the "Conversion Preferred Shares" and, together with the Conversion Common Shares, the "Conversion Shares") of a new class of preferred stock (the "Preferred Stock") by dividing the Accrued Interest by [$100.00], then rounding up. The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% [cumulative] dividend accumulated annually on March 31, (ii) shall be nonvoting stock; and (iii) be convertible in shares of Common Stock at a price equal to the lower of (1) the price paid for the shares of Common Stock in the IPO and (2) the 10 day volume weighted average share price immediately preceding the Company's election to convert the Preferred Stock. Notwithstanding the foregoing, the Company shall not convert the Preferred Stock into shares of Common Stock if as a result of such conversion Lender will own 19.9% or more of the Company's outstanding Common Stock."

2. Definitions. All capitalized terms not defined in this Amendment Agreement will have the meaning ascribed to them in the Debt Conversion Agreement.

3. Modification. Except as explicitly modified and amended hereby, the Initial Agreement remains and unchanged and unmodified and in full force and effect.

4. Governing Law. This Amendment Agreement will be governed and interpreted in accordance with the state of Delaware.

5. Counterparts, Electronic Signature. This Amendment Agreement may be executed in one or more counterparts which together shall be deemed to constitute one valid and binding agreement and delivery of the counterparts may be effected by means of a telecopier transmission, electronically or in a portable document format (pdf.)

***[Signature Page Follows]***

**IN WITNESS THEREOF**, the undersigned have executed this Amendment Agreement as of the date set forth above.

**Lender:**

**KNIGHT THERAPEUTICS INTERNATIONAL S. A.**

/s/ Arvind Utchanah
Name: Arvind Utchanah
Title: CFO

**Borrower:**

**60 DEGREES PHARMACEUTICALS, INC.**

[redacted]

Name: Geoffrey S. Dow
Title: CEO

**Exhibit 10.18**

***Please be advised that certain identified information has been excluded in Exhibit 10.18 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**AMMENDMENT TWO TO THE DEBT CONVERSION AGREEMENT**

This second amendment to the Debt Conversion Agreement (the "**Second Amendment Agreement**") is made and entered into on this 27th day of January 2023, by and between Knight Therapeutics International S.A. (the "**Lender**") and 60 Degrees Pharmaceuticals, INC. (the "**Borrower**").

**WHEREAS** the Borrower and Lender entered into a Debt Conversion Agreement ("**the Initial Agreement**") as of January 9th, 2023.

**WHEREAS** the Borrower and Lender entered into an Amendment to the Debt Conversion Agreement (the "**Amending Agreement**") as of January 19th, 2023.

**WHEREAS** the Borrower and Lender wish to further amend the Initial Agreement and Amendment to the Debt Conversion Agreement as set forth below.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower and Lender, intending to be legally bound, hereby agree and contract as follows:

1. Amendment to Initial Agreement.

a. Clause 1a will be deleted and replaced with:

"**Conversion of the Principal Amount.** Subject to the terms and conditions hereof, at the Closing (as defined below), Lender hereby elects to convert the Principal Amount into (i) that number of shares of Common Stock equal to dividing the Principal Amount by an amount equal to the offering price of the Common Stock in the IPO discounted by 15% (the "Conversion Common Shares"), rounding up for fractional shares, in a number of Conversion Shares up to 19.9% of the Company's outstanding Common Stock after giving effect of the IPO; (ii) the Company will make a milestone payment of $10 million to Knight if, after the date of a Qualifying IPO, the Company sells ARAKODA or if a Change of Control (as per the definition included in the original loan agreement dated on December 10th, 2015) occurs, provided that the purchaser of ARAKODA or individual or entity gaining control of the Borrower is not the Lender or an affiliate of the Lender; (iii) following the License and Supply agreement dated on December 10th, 2015 and subsequently amended on January 21st, 2019, an expansion of existing distribution rights to Tafenoquine/Arakoda to include COVID-19 indications as well as malaria prevention across the Territory as defined in said documents, subject to US Army approval; and (iv) Company will retain Lender or an affiliate to provide financial consulting services, management, strategic and/or regulatory advice of value $30,000 per month for five years (the parties will negotiate the terms of that consulting agreement separately in good faith).

b. Clause 1b will be deleted and replaced with:

"**Conversion of the Accrued Interest.** Subject to the terms and conditions hereof, at the Closing, Lender hereby elects to convert the Accrued Interest into that number of shares (the "Conversion Preferred Shares" and, together with the Conversion Common Shares, the "Conversion Shares") of a new class of preferred stock (the "Preferred Stock") by dividing the Accrued Interest by [$100.00], then rounding up. The Preferred Stock shall have the following rights, preferences, and designations: (i) have a 6% [cumulative] dividend accumulated annually on March 31; (ii) shall be non-voting stock; (iii) are not redeemable, (iv) be convertible to shares of Common Stock at a price equal to the lower of (1) the price paid for the shares of Common Stock in the IPO and (2) the 10 day volume weighted average share price immediately prior to conversion; and (v) conversion of the preferred stock to common shares will be at the sole discretion of the Company. Notwithstanding the foregoing, the Company shall not convert the Preferred Stock into shares of Common Stock if as a result of such conversion Lender will own 19.9% or more of the Company's outstanding Common Stock."

c. Exhibit A will be deleted.

d. Any references to the Conversion Note shall be deleted and inapplicable.

e. For the avoidance of doubt, the parties agree that all debt obligations of Borrower to Lender shall be deemed satisfied pursuant to the conversion of the Principal Amount and Accrued Interest as specified herein.

2. Definitions. All capitalized terms not defined in this Second Amendment Agreement will have the meaning ascribed to them in the Debt Conversion Agreement.

3. Modification. Except as explicitly modified and amended hereby, the Initial Agreement and Amendment to the Debt Conversion Agreement remain and unchanged and unmodified and in full force and effect.

4. Governing Law. This Second Amendment Agreement will be governed and interpreted in accordance with the State of Delaware, excluding its conflict of law provisions.

5. Counterparts. This Second Amendment Agreement may be executed in one or more counterparts which together shall be deemed to constitute one valid and binding agreement and delivery of the counterparts may be effected by means of a telecopier transmission, electronically or in a portable document format (pdf.)

***[Signature Page Follows]***

**IN WITNESS THEREOF**, the undersigned have executed this Second Amendment Agreement as of the date set forth above.

**Lender:**

**KNIGHT THERAPEUTICS INTERNATIONAL S. A.**

/s/ Arvind Utchanah
Name: Arvind Utchanah
Title: CFO

**Borrower:**

**60 DEGREES PHARMACEUTICALS, INC.**

[redacted]

Name: Geoffrey S. Dow
Title: CEO

**Exhibit 10.19**

***Please be advised that certain identified information has been excluded in Exhibit 10.19 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**INTER-INSTITUTIONAL AGREEMENT BETWEEN**
**60 DEGREE, INC.**
**AND FLORIDA STATE UNIVERSITY**

This Inter-Institutional Agreement (hereinafter "Agreement") is entered into by 60 Degree, Inc., having a principal business address at 1025 Connecticut Avenue NW, Suite 1000, Washington D.C., hereinafter referred to as "60 Degree" and Florida State University Research Foundation, Inc. ("FSURF"), a direct support organization created by Florida State University ("FSU") to, among other things, manage the licensing of intellectual property created at FSU. FSURF is located at 2000 Levy Ave. Suite 351, Tallahassee, FL 32310. The signatories to this Agreement are collectively referred to as "Parties" and individually as a "Party" hereto.

WHEREAS, 60 Degree has developed the Enabling Data described in Appendix A; and

WHEREAS, 60 Degree and FSURF seek to work together to market the Intellectual Property ("Technology") and in sharing in any royalties or other consideration resulting from such commercialization; and

WHEREAS, FSURF desires to lead the licensing effort for technology commercialization from the collaboration between FSURF and 60 Degree; and

WHEREAS, FSURF is willing to undertake the commercial licensing of the Intellectual Property that is jointly or solely owned by the Parties, and 60 Degree is willing to refrain from licensing such Intellectual Property, prosecuting patent(s) of this Intellectual Property and/or pursuing infringement actions against such Licensee(s) in return for prescribed shares in any License Income or equity stake received by FSURF as a result of licensing this Intellectual Property.

NOW, THEREFORE, the Parties agree as follows:

## 1. DEFINITIONS

1.1 **Intellectual Property** is defined and outlined in Appendix A, incorporated herein by reference.

1.2 **Licensed Intellectual Property** is defined as the specific Intellectual Property for which license or option rights are granted in a License Agreement with a third party Licensee. Such Intellectual Property shall be identified in an appendix to each License Agreement.

1.3 **License Agreement** is any license or option agreement that is entered into by FSURF under the provisions of this Agreement and that grants to a third party the right to make, have made, use, have used, import, sell, and/or have sold products or practice methods claimed by one or more piece(s) of Licensed Intellectual Property.

1.4 **Licensee** is any licensee or optionee to a License Agreement.

1.5 **License Income** is defined as any consideration, including but not limited to license issue fees, annual license fees, earned royalties or equity, received as a result of License Agreements using the specific Licensed Intellectual Property or optioning of Licensed Intellectual Property.

1.6 **Patent Prosecution Expenses** shall mean all out-of-pocket expenses incurred by FSURF for the preparation, filing, prosecution, maintenance, inventorship determination, licensing, and defense or endorsement of patent applications that include Intellectual Property.

## 2. LICENSING AND COMMERCIALIZATION OF THE TECHNOLOGY

2.1 60 Degree hereby grants to FSURF the right to exclusively or nonexclusively license Intellectual Property listed in Appendix A on 60 Degree's behalf during the term of this agreement. 60 Degree designates FSURF as the sole negotiating and licensing agent for any License Agreements involving the subject Intellectual Property. All licensing decisions shall be at the sole discretion of FSURF. However, FSURF may solicit input from 60 Degree regarding its licensing decisions and, to the extent such input is provided by 60 Degree, FSURF will take such input into consideration.

2.2 Subject to the rights granted in Paragraph 2.1, FSURF will undertake reasonable efforts to commercialize said Intellectual Property and to grant an exclusive or nonexclusive license to the Intellectual Property to one or more qualified Licensees and manage existing License Agreements, including distribution of License Income. FSURF agrees to provide an annual accounting to 60 Degree for all License Income received as a result of the commercialization of said Intellectual Property, to the extent that each entity is owed a proportionate share of License Income. FSURF agrees to pay 60 Degree its respective share of License Income on an annual basis each year. The determination of each Party's share of License Income derived from each License Agreement shall be calculated and distributed in accordance with the formula provided in Appendix B of this Agreement, incorporated herein by reference. Each Party shall distribute to its own Inventors according to its policy.

2.3 For any License Agreement that FSURF negotiates and executes, FSURF will seek the same protections, in the terms and conditions of the License Agreement, for 60 Degree that it does for itself.

2.4 FSURF will provide 60 Degree with a copy of each fully executed License Agreement.

2.5 FSURF shall keep books and records sufficient to verify the accounting referred to above, including without limitation, records relating to license revenues. Such books and records shall be preserved for a period of not less than five (5) years after they are created, during and after the term of this Agreement.

2.6 In consideration of a proportionate percentage share of License Income received by FSURF, 60 Degree agrees not to license the Intellectual Property, as defined herein.

2.7 This Inter-Institutional Agreement may be assigned by 60 Degree or FSURF in conjunction with an assignment or transfer of their rights in the Licensed Intellectual Property, with written authorization from the other Party.

2.8 The Parties may add new Intellectual Property or remove existing Intellectual Property from Appendix A through an amendment to this Agreement in accordance with Article 11. In no case will the removal of Intellectual Property from Appendix A nor termination of this Agreement remove Licensed Intellectual Property from an existing License Agreement.

2.9 FSURF will be responsible for costs associated with patent prosecution of the Intellectual Property and will require a licensee to reimburse FSURF for Patent Prosecution Expenses.

**3. RELATIONSHIP BETWEEN THE PARTIES**

3.1 Each Party is and shall remain an independent contractor as long as this Agreement is in effect and no Party shall act as an agent, legal representative, partner, or joint venturer of the other Party for any purpose whatsoever. The employees of one Party shall not be deemed employees of any other Party. Except as provided in Paragraph 2.1, neither of the Parties shall have any right, power, or authority to make any contract or other agreement to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other Party, or to bind the other Party in any way. Except as provided in Paragraph 2.1, none of the Parties to this Agreement shall represent to any other person that such Party has any such right, power, or authority. This Agreement is not intended to constitute, create, give effect to, or otherwise contemplate a joint venture, partnership, or formal business entity of any kind and the rights and obligations of the Parties shall not be construed as providing for a sharing of profits or losses arising out of the efforts of either of the Parties other than that which is specifically provided herein. The Parties retain the right to practice their invention for internal research and educational purposes.

3.2 The Parties agree to assist each other in achieving the purpose of this Agreement, including the sharing of information relating to entities that may have an interest in commercializing and/or sponsoring further research relating to the Technology. Notwithstanding such mutual assistance, it is further understood and agreed that neither this Agreement nor the Parties' performance hereunder shall establish any contract, express or implied, between the U.S. Government, 60 Degree, and FSURF, and this Agreement is not intended to restrict or confine any Party in their independent development of the underlying Technology.

**4. EFFECTIVE DATE AND TERMINATION OF AGREEMENT**

4.1 This Agreement is effective only upon the signature of duly authorized representatives of the Parties ("Effective Date") and may be modified only in writing with the consent of both Parties.

4.2 This agreement shall not be in effect and will terminate should 60 Degree enter into a license agreement with FSURF for the technology described in Appendix A.

4.3 This Agreement shall automatically expire five (5) years after the Effective Date if no License Agreement has been executed, or sooner at the mutual will of the Parties, as expressed in writing. If a License Agreement has been executed the Agreement shall expire upon the expiration date of the License Agreement. The terms of any Non-Disclosure or Proprietary Information Agreements executed under Article 5 hereof shall survive such termination of interest by a Party hereto.

4.4 Termination or expiration of this Agreement will not relieve either Party of any obligation or liability which arises under this Agreement including management of any existing License Agreements including distribution of License Income before expiration or termination, including without limitation any obligation to distribute License Income. Termination shall not affect any License Agreement granted prior to termination.

4.5 The following terms shall survive expiration or termination of this Agreement, Sections 4, 5, 6, 8, 9 and 10 in their entirety.

**5. NON-DISCLOSURE AGREEMENTS**

5.1 The Parties anticipate that under this Agreement it may be necessary for the Parties to transfer information of a proprietary nature. The Parties further agree to execute mutually agreeable Non-Disclosure Agreements if necessary, to protect such information.

**6. LIMITATION OF LIABILITY**

6.1 Nothing contained in this Agreement shall be construed against any Party as (1) a warranty or representation as to the validity or scope of the Intellectual Property; (2) granting by implication, estoppel, or otherwise, any licenses or rights to manufacture, use, or sell intellectual property, as distinct from the rights to enter into License Agreements as set forth in Article 2 of this Agreement; (3) a requirement to file any patent applications, or maintain any patents in force; (4) an obligation to bring or prosecute actions against third parties; (5) an obligation to furnish any manufacturing or technical information or technical assistance; or (6) conferring any immunity from or defenses under antitrust laws, patent misuse laws, or any other state or federal law.

## 7. EXCHANGE OF INFORMATION

7.1 Any notice or payment given to either Party pursuant to the terms of this Agreement will be deemed to have been properly given and to be effective on the date of:

a. delivery if delivered in person;
b. mailing if mailed by first-class certified mail; or
c. mailing if mailed by any express carrier service that requires the recipient to sign the documents demonstrating the delivery of such notice of payment;

to the respective addresses provided in Paragraph 7.2 below.

7.2 All notices, correspondence, and/or transmittal of information shall be addressed as follows:

**For 60 Degree, Inc.:**
*Mailing and Courier Address:*
Chief Executive Officer
Attn: Geoff Dow
1025 Connecticut Ave. NW, Suite 1000
Washington D.C. 20036

Telephone: (240) 351-1167
Facsimile:

**For FSURF:**
*Mailing and Courier Address:*
President, FSURF
Attn: Laurel Fulkerson
2000 Levy Ave., Suite 351
Tallahassee, FL 32310

Telephone: (850) 644-8650
Facsimile: (850) 644-3658

## 8. GOVERNING LAW/ENFORCEMENT

THIS AGREEMENT WILL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA.

**9. PUBLICITY**

9.1. Neither Party shall use, or grant the right to use, the name or insignia of the other Party or the name of any staff member, officer, employee or student of the other Party or any adaptation thereof in any advertising, promotional or sales literature, publicity or in any document employed to obtain funds (except as may be required under SEC stock registration requirements) without the prior written approval of the Party or individual whose name is to be used.

**10. U.S. GOVERNMENT INTERESTS**

Nothing in this Agreement shall be construed to limit in any way the rights of the U.S. Government or other state or local government organizations under applicable federal, state or local regulations, rules or laws. Each party shall be separately responsible for complying with all reporting and other requirements of any governmental entity with an interest in the joint inventions or joint patent rights.

**11. INTEGRATION**

The foregoing contains the entire Agreement between the Parties, and supersedes any prior oral or written agreements, commitments, understandings, or communications with respect to the subject matter of the Agreement. No amendment or modification of this Agreement shall be effective unless set forth in writing by duly authorized representatives of each Party.

IN WITNESS WHEREOF, the Parties to this Agreement have executed this Agreement in duplicate originals, by their respective officers on the day and year hereinafter written.

Signature: /s/ Geoff Dow

Name: Geoff Dow

Title: Chief Executive Officer

Date: 2/11/2021 6:31 AM PST

**Florida State University Research Foundation, Inc.**

Signature: /s/ Laurel Fulkerson

Name: Laurel Fulkerson

Title: President

Date: 2/15/2021 2:02 PM EST

## APPENDIX A

## INTELLECTUAL PROPERTY

FSU Contribution
Technology 20-037: Treatment of COVID19 Infections with Castanospermine
Provisional patent application 62/979,855 and US and foreign patent applications and issued patents based on this Provisional patent application.

Sixty Degree Pharmaceuticals Contribution
In vitro susceptibility data for castanospermine and celgosivir against respiratory viruses including SARS-CoV-2.

## APPENDIX B

## ROYALTY-SHARING/ DISTRIBUTION FORMULA

Distribution of License Income

After deduction of a five percent (5%) administrative fee by FSURF, capped at fifteen thousand dollars ($15,000) annually, and reimbursement of Patent Prosecution Expenses, 60 Degree shall receive Twenty percent (20%) of License Income and FSURF? shall receive eighty percent (80%) of License Income. Payments of License Income shall be paid in U.S. dollars quarterly each year.

**Exhibit 10.20**

***Please be advised that certain identified information has been excluded in Exhibit 10.20 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**CONFIDENTIAL**

**EXCLUSIVE LICENSE AGREEMENT**

This **EXCLUSIVE LICENSE AGREEMENT ("Agreement")** is made on the 15th day of September 2016 between

**NATIONAL UNIVERSITY OF SINGAPORE,** (Company Registration Number: 200604346E), a company limited by guarantee incorporated in Singapore, having its registered address at 21 Lower Kent Ridge Road, Singapore 119077 **("NUS"** which expression shall include its successors and assigns)of the first part;

And

**SINGAPORE HEALTH SERVICES PTE LTD** (Company Registration Number: 200002698Z), a company incorporated in Singapore, having its registered address at 31 Third Hospital Avenue #03-03, Singapore 168753 **("SHS"** which expression shall include its successors and assigns) of the second part;

(NUS and SHS hereinafter collectively referred to as **"Licensor")**

And

60° **PHARMACEUTICALS, LLC,** an American company having its registered office address at 1025 Connecticut Avenue NW, Suite 1000, Washington DC, USA 20036 (hereinafter referred to as "60P" which expression shall include its successors and assigns) of the third part

And

**60P AUSTRALIA PTY LTD** (Company Registration No. 167060219) a company incorporated in Australia and having its registered office at 105 North Steyne Manly New South Wales 2095, **("60P Australia"** which expression shall include its successors and assigns) of the fourth part

**(60P** and **60P Australia** hereinafter collectively referred to as **"Licensee").**

**WHEREAS:**

**A.** **NUS, SHS, 60P,** and **60P Australia** have agreed that all **Patent Rights** as described in **Schedule 2** are owned as legal and equitable owners in the following proportions [i.e. NUS owns [redacted] %; SHS owns [redacted] %; 60P owns [redacted]% and 60P Australia owns %].

**B.** **Licensor** has the right to grant licenses under its share of the said **Patent Rights.**

**D.** **Licensee** is interested in obtaining and **Licensor** is desirous of granting an exclusive, sub licensable license from **Licensor** in respect of **Licensor's** share of **the Patent Rights** to develop, market and sell **Licensed Products** in the **Field of Use** in the **Territory** in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, **Licensor** and **Licensee** (hereinafter collectively referred to as **"Parties"** and singularly as **"Party")** hereto agree as follows:

1. **DEFINITIONS**

NUS Industry Liaison Office

In this Agreement, unless the context otherwise requires, the following expressions have the following respective meanings:

| | | |
|---|---|---|
| **Academic Purposes** | - | academic research (including sponsored research),scholarly publications, educational purposes, and medical services. |
| **Affiliate** | | means, with respect to any entity, any other entity directly or indirectly controlling, controlled by, or under common control with, such entity. The expression "control" (including its correlative meanings, "controlled by", "controlling" and "under common control with") shall mean, with respect to a corporation, the right to exercise, directly or indirectly, more than 50 per cent, of the voting rights attributable to the shares of the controlled corporation and, with respect to any entity other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity. |
| **Confidential Information** | - | any information disclosed by one **Party** to the other **Party** in any form, which, if disclosed in tangible form, is marked at the time of disclosure as being confidential or proprietary or with words of similar import, and if disclosed orally or visually or in other intangible form, is described as confidential at the time of such disclosure and confirmed in writing as confidential within thirty (30) days of such disclosure. |
| **Effective Date** | - | 15 September 2016 |
| **Field of Use** | - | Therapeutic and prophylactic use for human and veterinary diseases. |
| **License** | - | exclusive, sub-licensable and transferable license in respect of the **Patent Rights** to develop, manufacture, market and sell products worldwide. |
| **Licensee's Improvements** | - | any modifications, additions, alterations,enhancements, upgrades or new versions made by **Licensee** of the **Invention** under the **Patent Rights,** including without limitation those made by **Licensee** under **Licensee's** sponsorship research programs other than **Licensor Improvements, NUS Improvements, SHS Improvements** and/or and **Joint Improvements.** |
| **Invention** | - | the invention as described in **Schedule 1 Part A.** |
| **Inventors** | - | Satoru Watanabe, Kitti Wing Ki Chan, Geoffrey Dow,Eng Eong Ooi, Jenny G Low, and Subhash Vasudevan. |
| **Licensed Process(es)** | - | any and all processes or methods that incorporate,utilize or are made with the use of the **Invention** or whose use or practice, but for the rights granted hereunder, would constitute an infringement of any claim within the **Patent Rights.** |

**Licensed Product(s)** - (a) any product: (i) which incorporates, utilizes or is made with the use of the **Invention;** or, (ii) which, but for the rights granted hereunder, the manufacture, use or sale thereof would constitute an infringement of any claim within the **Patent Rights;**

Or

(b) any article, composition, apparatus, chemical, substance or any other materials made, used or sold for use with a **Licensed Process.**

**Licensee's Representative** - any agent who is engaged by **Licensee** to act on behalf of the **Licensee,** for the purposes of this Agreement, to provide certain services, including the selling of **Licensed Products,** but shall not include **SubLicensees.**

**Gross Sales** - the gross amount of monies, cash, or non-cash consideration equivalent received for the treatment or prophylaxis of dengue in humans only, with the exception of data, drug, drug product, or in kind services or access to any of the foregoing provided by third parties, that is paid to **Licensee** and/or its **Related Company** for the **Licensed Products, Licensed Processes** or any products manufactured by **Licensee** that contain celgosivir. by sale or any other mode of transfer in the countries considered by the World Bank to be "high income" (ie per capita income over US $12,615) in 2012 (as annexed in **Schedule 5),** and such other countries as may be added by the World Bank from time to time **BUT EXCLUDING ALL** sales made which are intended for non-profit NonGovernment Organisations and charities worldwide notwithstanding that such sales are made in high income countries and **Licensee's** subsidiaries and any **Sub-licensing Revenue.**

**Joint Improvements** - any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between:

(i) the **Licensee;** and

(ii) any current or past employee, student or intern of NUS who terminated his employment with NUS within twelve (12) months after entering into the consultancy arrangement; and

(iii) any current or past employee, student or intern of SHS who terminated his employment with SHS within twelve (12) months after entering into the consultancy arrangement.

| | | |
|---|---|---|
| **Licensor Improvements** | | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made by **NUS** and/or **SHS.** |
| **NUS Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between the **Licensee** and any current or past employee, student or intern of NUS who terminated his employment with NUS within twelve (12) months after entering into the consultancy arrangement. |
| **Patents** | - | all or any of the patents and all continuations, divisions, and reissues thereof, and any corresponding foreign patent applications and any patents, or other equivalent foreign patent rights issuing, granted, or registered thereon granted pursuant to the **Patent Applications,** short particulars of which are set out in **Schedule 2 Part A.** |
| **Patent Applications** | - | all applications for patents and rights of a similar nature, filed and to be filed, in respect of the **Invention,** including, but not limited to, patent applications the short particulars of which are set out in **Schedule 2 Part B,** and/or any **Joint Improvements,** and in the event of any amendment of or a division of the same, such amended applications or divided applications. |
| **Patent Rights** | - | Rights under all **Patents** and **Patent Applications.** |
| **Phase III Clinical Trial** | - | A study in humans of the safety, dose ranging and efficacy of **a Licensed Product,** which is prospectively designed to generate sufficient data (if successful) to commence pivotal clinical trials, as further defined in 21 C.F.R. § 312.21(b), or a similar study in a country other than the United States. |
| **Regulatory Approval** | - | means the approval, registration, license, or authorization of a regulatory authority necessary for the manufacture, distribution, use, promotion and sale of a pharmaceutical or biological product for one or more indications in a country or other regulatory jurisdiction in the Field. |
| **Related Company** | - | any entity which directly or indirectly controls, is controlled by, or is under common control with **Licensee,** including **Licensee's** related corporations within the meaning of Section 6 of the Singapore Companies Act (Cap. 50). |

| | | |
|---|---|---|
| **SHS Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between the **Licensee** and any current or past employee, student or intern of SHS who terminated his employment with SHS within twelve (12) months after entering into the consultancy arrangement. |
| **Sub-licensing Revenue** | - | all upfront fees, sub-licensing fees, royalties and all other amounts in cash and cash equivalent which are paid to the **Licensee** by any **Sub-Licensee** of its rights hereunder, with the exception of data, drug, drug product, or in kind services or access to any of the foregoing provided by third parties and any revenue paid to the **Licensee** by any **Sub-Licensee** in relation to treatment or prophylaxis of dengue in humans. |
| **Sub-Licensee** | - | any person, company or other legal entity, other than **Licensee,** who has the right, granted by **Licensee,** to make, have made, use, sell or import for sale the **Licensed Product** or **Licensed Process.** |
| **Technology Rights** | - | all technical information, formulations, know-how, processes, procedures, compositions, devices, methods, formulae, materials, tests, data, designs, other information and **Confidential Information** related to the **Patent Rights,** that are not described by **Patent Rights** but that are necessary for practicing the invention covered by the **Patent Rights.** |
| **Term** | - | the period during which this Agreement is in force pursuant to **Section 6.** |
| **Territory** | - | Worldwide |

## 2. INTERPRETATION

2.1 In this Agreement:

(a) Words importing the singular shall include the plural and vice versa, and words that are gender specific or neuter shall include the other gender and the neuter.

(b) References to a person shall be construed as references to an individual, corporation, company, firm, incorporated body of persons of any country, or any agency, thereof.

(c) The headings in this Agreement are for convenience only and shall not affect its interpretation.

(d) All references to Sections and Schedules refer, unless the context otherwise requires, to Sections and Schedules of this Agreement.

(e) All references to statutes or statutory provisions shall be taken to be a reference to the statutes or provisions as revised, amended, supplemented or re-enacted from time to time, and shall include any subsidiary legislation made thereunder.

**3. GRANT OF LICENSE**

3.1 **Licensor** hereby grants to **Licensee** and **Licensee hereby** accepts, subject to the terms and conditions hereof, and subject to **Licensor's** rights under **Section 3.2** an exclusive, sublicensable, license of the **Licensor's** rights in the **Patent Rights** to make, use, sell, offer to sell, and import any **Licensed Products** in the **Field of Use** in the **Territory** during the **Term.**

3.2 Nothing in this Agreement shall prejudice **NUS'** and **SHS'** right to use / practice the **Patent Rights** for **Academic Purposes.**

3.3 **Licensor** shall be obliged under this Agreement to render reasonable technical assistance, or support, or provide training to **60P,** for purposes of using / practicing the **Patent Rights** granted hereunder, such assistance or support not to exceed 10 hours per month.

3.4 **Licensee** shall own all rights, title and interests in and to all of **Licensee's Improvements.** For clarity, neither **NUS** nor **SHS** has any rights to the **Licensee's Improvements** and no **Royalty,** fee or any fees cost or expense shall be payable to **NUS** and/or **SHS** in respect of **Licensee's Improvements.**

3.5 **Licensee** agrees that all rights, title and interests in and to all **Joint Improvements** shall be co-owned by **60P, 60P Australia, NUS,** and **SHS** as tenants in common in the following proportions: **60P Australia: [■] %, 60P: [■]** %, NUS: [■] %, SHS: [■] %

3.6 **Licensee** shall be entitled to use and practice **Joint Improvements** and such use and practice shall be subject to the same terms and conditions as the use and practice of **Patent Rights** licensed under this Agreement unless terms and conditions for the use and practice of **Joint Improvements** are separately negotiated and agreed in writing by **Licensor** and **Licensee.**

3.7 **NUS** hereby grants to Licensee a right of first refusal to negotiate a separate license agreement for any **NUS Improvements.** Ownership of all rights, title and interest in and to all **NUS Improvements** shall be determined by inventive contributions

3.8 **SHS** hereby grants to **Licensee** a right of first refusal to negotiate a separate license agreement for any **SHS Improvements.** Ownership of all rights, title and interest in and to all **SHS Improvements** shall be determined by inventive contributions.

3.9 Subject to **Sections 3.2 and 3.4**

(a) **Licensee** hereby grants to NUS and SHS a non-exclusive, royalty-free license under all rights protecting **Licensee's Improvements** to practice the same for **Academic Purposes** during the **Term** of this Agreement; and

(b) **Licensee** hereby grants to NUS and SHS a non-exclusive, royalty-free license under all **Licensee's** share in the rights protecting **Joint Improvements** to practise the same for **Academic Purposes** during the **Term** of this Agreement.

3.10 Subject always to the written consent of the **Licensee**

(a) **Licensee** further grants to **NUS** and **SHS** the non-exclusive, royalty-free right to sublicense the **Licensee's Improvements** to other non-profit academic institutions and to SHS's **Affiliates** for **Academic Purposes;** and

(b) **Licensee** further grants to **NUS** and **SHS** the non-exclusive, royalty-free right to sublicense the **Licensee's** share in the **Joint Improvements** to other non-profit academic institutions and to SHS's **Affiliates** for **Academic Purposes.**

**3A. NOT IN USE**

**4. NOT IN USE**

**5. SUB-LICENCES**

**5.1** **60P** and **60P Australia** shall each have the right to grant sub-licences of the **Patent Rights** under its license in this Agreement to **Sub-licensees** on an arm's length basis, provided that:

i. neither **60P** nor **60P Australia** shall grant any rights to its **Sub-licensees** which are inconsistent with the rights granted to and obligations of the **Licensee** hereunder;

ii any act or omission of a **Sub-licensee** which would be a breach of this Agreement if performed by the **Licensee** shall be deemed to be a breach by **Licensee** of this Agreement, unless such breach, if capable of remedy, shall have been remedied by the **Sub-licensee** within a period of ninety (90) days after notice of that breach has been provided by **Licensor** to **60P** in writing;

iii. each sub-licence granted by **60P** and/or **60P Australia** shall include an audit right in favour of the **Licensor** of at least the same scope as provided in **Section 9.1(c)** hereof with respect to the Licensee;

iv. each sub-licence granted by **60P** and/or **60P Australia** shall include an indemnity clause from the **Sub-licensee** for costs, claims, damages or expenses directly incurred or suffered by the **Licensor,** or for which the **Licensor** may become liable, as a result of the default or negligence of such **Sub-licensee;**

v upon the termination of this Agreement under **Section 19,** the **Licensor** shall have the right and option to require an assignment to it or its nominee of each sublicence between **60P** and/or **60P Australia** and its/their **Sub-licensees,** and for these purposes, both **60P** and **60P Australia** shall procure that all sub-licences granted hereunder shall contain express terms that:

(a) permit the assignment of the sub-license to the **Licensor** under the circumstances specified in this **Section 5.1(v)** and require **60P** and/or **60P Australia** and **Sub-licensee** to consent to such assignment;

(b) in the event that the **Licensor** does not exercise its option to require an assignment under this **Section 5.1(v),** or if for any reason the assignment cannot be effected, the sub-licence agreement will automatically be terminated; and

(c) **60P, 60P Australia** and the **Sub-licensee** in question shall bear their own expenses in relation to such assignment.

5.2 **60P** shall within thirty (30) days of the grant of any sub-licence (which shall be in writing) provide the **Licensor** with a true copy of the sub-licence at **60P's** own expense.

5.3 The sub-licences granted to any **Sub-licensee** by **60P** and/or **60P Australia** shall not be transferable and shall not permit further sub-licensing of the **Patent Rights, Invention** or **Technology** by the **Sub-licensee.**

5.4 The Parties agree that **Sub-Licensing Revenue** received from a **Related Company** of **60P** and/or **60P Australia** shall not be considered to be **Sub-Licensing Revenue** for the purposes of **Section 8.3** herein.

## 6. COMMENCEMENT DATE AND TERM

6.1 This Agreement shall come into effect on the date that this Agreement is signed and shall continue in force until the expiration of the last to expire of any patents under the **Patent Rights** unless terminated earlier in accordance with this Agreement **("Term").**

## 7. OBLIGATIONS OF LICENSEE

7.1 **Licensee** hereby undertakes and agrees with **Licensor** that it will at all times during the **Term** observe and perform the terms and conditions set out in this Agreement and in particular shall:

(a) use diligent efforts to effect introduction of the **Licensed Products** into the commercial market as soon as practicable, consistent with reasonable and sound business practice and judgment in order the achieve the **Performance Objectives** by the respective **Dates of Achievement** specified in **Section** 7.2;

(b) deliver to **NUS,** such part of the **Licensee's** annual audited financial statements which pertain to the **Gross Sales** of the **Licensed Products** and **Licensed Processes** and **Sub-licensing Revenue,** at the end of the first quarter following the end of each financial year of **Licensee** during the **Term.** For clarity, **NUS** is only entitled to view and review (if necessary) **Licensee's** financial statements which pertain to the **Gross Sales** of the **Licensed Products** and **Sub-licensing Revenue** and no other financial statements of **Licensee** whatsoever.

(c) deliver to **NUS, Licensee's** annual budget for the subsequent financial year as well as a technical/development update, no later than the end of **Licensee's** financial year commencing the first year from the introduction of the **Licensed Products** into the commercial market in the **Territory** or **31 December 2014** whichever is the later and thereafter based on the **Licensee's** financial year.

7.2 **Licensee** also undertakes to meet the following **Performance Objectives** by the respective **Dates of Achievement** whether by the **Licensee,** the **Sub-Licensees** or the **Licensee's** assignees:

| **Performance Objectives:** | **Date of Achievement** |
|---|---|
| Commencement of a Phase II Clinical Trial involving **Licensed Product or Process** | 3 years from **Effective Date** |
| Commencement of a Phase III Clinical Trial involving **Licensed Product** or **Process** | 5 years from **Effective Date** |
| Submission for Regulatory Approval involving **Licensed Product** or **Licensed Process** | 2 years from Completion of Phase III Clinical Program |
| **Market Launch** of **Licensed Product** or **Licensed Process** | 9 months from the date of Regulatory Approval involving **Licensed Product or Licensed Process.** |

7.3 Within twelve (12) months the date of **Market Launch of Licensed Product** or **Licensed Process, Licensee** and **Licensor** shall have good faith discussions on projected sales of the **Licensed Products** for the next three (3) years and mutually agree on the performance objectives of Licensee.

7.4 If **Licensee** fails to fulfill the performance objectives mutually agreed between **Licensee** and **Licensor** pursuant to Section **7.2** above, the **Parties** shall have good faith discussions on the reasons for such failure to meet the mutually agreed performance objectives. If **Licensee** is unable to provide any valid reasons reasonably satisfactory to **Licensor, Licensor** shall grant to **Licensee** a further grace period of **9 months** for each of the respective dates of achievement set out in **Section** 7.2 and in the event that **Licensee** is still unable to meet the respective dates of achievement, **Licensors,** at its option, have the right, by notice in writing to **Licensee,** to immediately: (i) terminate the exclusivity, sublicensing right and transferability of the **License** granted under **Section** 3.1 and grant licenses to other third party licensees in the **Territory;** or (ii) terminate this Agreement pursuant to **Section 19.1(a).**

## 8. FINANCIAL PROVISIONS

8.1 In consideration for the exclusive sub-licensable grant of **the License** under the **Patent Rights** by **Licensor** to **Licensee** under **Section 3, 60P** shall pay to **NUS** an agreed non- refundable upfront fee of **S$[ ](“Upfront Fee”)** in two (2) instalments as follows:

(a) the first instalment of **S$[ ] upon the signing of this Agreement; and**

(b) the second instalment of **S$**[ ]upon enrolment of the first volunteer in a Phase II Clinical Trial of the **Licensed Product** or 3 years from the **Effective** Date, whichever is earlier.

8.2 In addition to the **Upfront** Fee under **Section 8.1, 60P** shall pay to **NUS** during the **Term** of this Agreement, the greater of the amounts in Section 8.2(a) and **Section 8.2(b)** below, which, unless otherwise stated, shall be payable no later than within ten (10) business days of the start of each calendar year during the **Term** of this **Agreement:**

(a) royalty (“Royalty”) at the rate of [ ] % of **Gross Sales;** or

**(b)** minimum annual royalty for each calendar year during the **Term ( Minimum Annual Royalty")** as follows :

| **Minimum Annual Royalty** | **Dates** |
|---|---|
| **S$[** ] | Starting on the **Effective Date** and ending on 31 December 2022. |
| **S$[** | Starting on 1 January 2023 and ending at the end of the Term of this Agreement. |

8.3 **60P** shall further pay to **NUS:**

(i) % of all **Sub-licensing Revenue** where **Licensee** has not commenced a Phase III clinical trial on the **Licensed Products** before sub-licensing its rights under the **Section 3.1** to its **Sub-licensees;** or

(ii) % of all **Sub-licensing Revenue where Licensee** has commenced a Phase III clinical trial on the **Licensed Products** before sub-licensing its rights under **Section 3.1** to its **Sub-Licensees.**

8.4 The **Upfront Fee,** the **Royalty** and all other sums payable under this Agreement shall be paid in Singapore Dollars in favour of **NUS** in cleared funds to such bank account or in such other manner as NUS may specify from time to time to **Licensee** without any set-off, deduction or withholding of taxes, charges and other duties. Where the **Upfront Fee** and/or **Royalty** and/or any other sums payable under this Agreement are subject to goods and services taxes **("GST"), these GST** shall be borne by the **Licensee. Licensee** agrees to hold harmless from, and indemnify **Licensor** against all liabilities, costs, damages suffered by **Licensor** of whatever nature resulting from 60P's failure duly and timely to pay and discharge its liability for any **GST.**

8.5 If **60P** fails to pay in full to **NUS,** the **Upfront** Fee and/or **Royalty** and/or any other sums payable under this Agreement by their respective due dates, the amount outstanding shall bear interest, both before and after any judgment, at the rate of percent (%) per month, from such date until the said amounts are paid in full to **Licensor.**

## 9. ACCOUNTS

9.1 **60P** shall:

(a) provide financial statements pertaining to the Gross Sales of the **Licensed Products** with accompanying **Royalty** under this Agreement, showing all items of account from which such Royalty and other payment are calculated, such statements to be certified by an authorized officer of 60P as properly reflecting all amounts due to **Licensor** in accordance with the relevant provisions under this Agreement;

(b) keep true, accurate and complete accounts and records in sufficient detail to enable the amount of **Royalty** and other sums payable under this Agreement to be determined by **Licensor;**

(c) at the reasonable request of **Licensor** from time to time, but no more than once annually, and upon not less than ten (10) days' prior written notice, allow NUS or its agent (or enable NUS or its agent), at NUS's expense, to inspect, audit and copy those accounts and records pertaining to the items shown on the statements provided under **Section 7.1(b)**

9.2 If, following any inspection and audit pursuant to **Section 9.1(c)** which audit shall be limited to the documents in respect of the **Gross Sales** of the **Licensed Products** and **Sublicensing Revenue, NUS** discovers a discrepancy, in **NUS'** disfavour, between the amount of **Royalty** and other sums actually paid by **60P** and those which should have been payable under this Agreement, which is in excess ol'^^ percent %) of those that should have been payable under this Agreement, **60P** shall, within seven (7) days of the date of **NUS'** notification thereof, reimburse NUS for any such deficiency and for any professional fees and expenses incurred by NUS for such audit and inspection.

9.3 The provisions of this **Section 9** shall remain in full force and effect after the termination of this Agreement for any reason until the settlement of all subsisting claims of **NUS** under this Agreement.

**10. PROSECUTION OF PATENT APPLICATIONS AND MAINTENANCE OF PATENTS**

10.1 **Licensee** shall not do anything which might bring into question **NUS' and SHS'** respective ownership of their share of the intellectual property rights in and relating to the **Patent Rights** or their validity.

10.2 **60P Australia** shall, from the **Effective Date,** be responsible for the management and further prosecution of the **Patent Rights.** All such **Patent Rights** shall be in the names of **NUS, SHS, 60P** and **60P Australia** as the proprietors thereof. **60P Australia** shall:

(a) be responsible for all costs, expenses and fees relating to the preparation, filing, prosecution and maintenance of such **Patent Rights ("Patent Costs")** from the **Effective Date.,** and reimburse NUS for any and all costs, expenses and fees relating to the preparation, filing, prosecution and maintenance of the **Patent Rights** incurred by **Licensor** from the first filing date to date immediately before the **Effective Date** of this Agreement;

(b) seek and maintain the strongest and broadest patent claims practicable in the best interest of **NUS, SHS, 60P** and **60P Australia** and use patent attorneys acceptable to **Licensor,** such acceptance not to be unreasonably withheld;

(c) copy **Licensor** on all patent prosecution documents and give **Licensor** reasonable opportunities to advise **60P Australia** on such preparation, filing, prosecution and maintenance;

(d) keep **Licensor** informed of the status of such **Patent Rights** from time to time, and shall promptly furnish **Licensor** with copies of all grants or certificates of registration of any **Patent;**

(e) not abandon or allow to lapse any such **Patent Rights,** or to amend or re-file the patent specifications of any **Patent Applications** within the scope of the license granted under this Agreement, without the prior written consent of **Licensor;**

(f) do all such other acts and things as may be necessary, as **Licensor** may reasonably request, at Licensee's cost and expense, to assist or enable Licensor and Licensee to maintain the **Patent Rights.**

10.3 **Licensor** shall, at any time and from time to time, at **Licensee's** cost and expense, execute and do all such assurances, acts and things, and execute all such documents as **60P**

**Australia** may reasonably require to prosecute each of the **Patent Applications** to grant and to maintain each of the **Patents** in force.

10.4 It is hereby agreed and understood that, notwithstanding **Section 10.2, 60P Australia** shall, by giving three (3) months' written notice to **Licensor** prior to the relevant deadline for the payment of any fees, have the right and option not to pay for the prosecution of any **Patent Application** or patent maintenance in any country determined by **60P Australia.** If **60P Australia** elects not to pay for the prosecution of any such **Patent Application** in a particular country or countries as aforesaid:

(a) the license granted pursuant to this Agreement in respect of the country or countries of which **60P Australia** has made the election, shall automatically terminate and revert to **Licensor.**

(b) upon receipt of such notice pursuant to **Section 10.4, Licensor** may prosecute the **Patent Applications** in such country or countries in respect of which **60P Australia** has made the election, at its own cost and expense, and notwithstanding **Section 3,** to thereafter deal with the same and the related **Technology Rights** in that country or countries as **Licensor** deems fit without having to account to **Licensee** therefor and **Licensee** shall do all such other acts and things as may be necessary, as **Licensor** may reasonably request, at **Licensor's** cost and expense, to assist or enable **Licensor** and **Licensee** to maintain the **Patent Rights.**

10.5 If **60P Australia** fails to notify **NUS** of its intention to cease prosecuting any **Patent Applications** or maintaining any **Patents** in any country pursuant to **Section 10.4** and the **Patent Application** or the **Patent** lapses then :

(c) the license granted pursuant to this Agreement in respect of such country shall automatically terminate; and

(d) **Licensee** shall pay to **Licensors** a sum of which **Licensor** and **Licensee** agree is a genuine pre-estimate of the loss suffered by **Licensor** arising from lapse of such **Patent** or **Patent Application** in such country. For clarity, **Licensee** is neither obliged nor required to pay **Licensor** any further sum in respect of the loss suffered by **Licensor** herein.

## 11. FORMAL LICENSE FOR REGISTRATION

11.1 As and when required by **Licensee,** subject to the requirements of the relevant government authority of the **Territory, NUS** and **SHS** shall execute, within thirty (30) days of the grant of a patent pursuant to any of the **Patent Applications,** a separate formal licence document in **Licensee's** favour in respect of such patent for registration in all or any competent registries within such countries as may be determined by **Licensee,** each such license to be in the form set out in **Schedule 3** or as nearly in such form as may be required under the laws of such country in which it is to be registered.

11.2 Each of such formal licenses shall operate subject to and with the benefit of all the terms of this Agreement, the terms of which shall be deemed to be incorporated in their entirety into each of such formal licenses. In the event of any conflict in meaning between any such formal license and the provisions of this Agreement, lhe provisions of this Agreement shall prevail.

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11.3 The **Parties** shall use reasonable endeavours to ensure that, to the extent permitted by relevant authorities, this Agreement shall not form part of any public record.

11.4 Each of the **Parties** shall, at the request of the other **Party,** execute any further document that may be necessary to:

(a) give effect to this Agreement; or

(b) protect in any country the rights of the other Party under this Agreement and/or in relation to the **Patent Rights** from time to time; or

(c) procure the grant of **Patents** pursuant to each of the **Patent Applications.**

**12. INFRINGEMENT OF PATENTS**

12.1 From the **Effective Date, Licensee** shall forthwith notify **Licensor** in writing of any infringement, or suspected or threatened infringement, of any of the **Patents** by any third party that shall at any time come to its knowledge.

12.2 **Licensee** may in its sole discretion, take all appropriate steps (including all legal proceedings) as may be necessary to prevent or restrain any infringement by a third party of any of the **Patents** and shall be responsible for all costs and fees incurred by it in the taking of any such steps.

12.3 **Licensee** shall not be obliged to undertake any legal action. **60P** shall indemnify **Licensor** against all costs, expenses, losses, damages, claims and counter-claims issued or made against **Licensor** as a result of, or in the course of, such action taken by **Licensee** under **Section 12.2** on a full indemnity basis.

12.4 **NUS** and **SHS** shall (at **60P's** cost and expense) provide or procure the provision of such assistance in taking such steps (including any proceedings) as **Licensee** shall reasonably require.

12.5 If **Licensee** decides not to or fails to take appropriate steps to prevent or restrain any infringement by any third party of any of the **Patent Rights** (but not otherwise), **Licensor** shall be entitled to take action to prevent or restrain such infringement. In the event that **Licensor** decides to take action under this Section:

(a) **Licensor** shall have full control over, and shall conduct at its own cost, any such action as it deems fit;

(b) **Licensee** shall, at **Licensor's** cost, provide or procure the provision of such assistance as **Licensor** shall reasonably require in taking such action; and

(c) **Licensor** shall be entitled to retain any award of damages or other compensation obtained as a result of any such action (including any proceedings) being taken by **Licensor.**

**13. INFRINGEMENT OF THIRD PARTY RIGHTS**



13.1 If any proceedings are brought against **Licensee** on grounds that the use or exploitation by **Licensee** of any of the **Patent Rights** and **Technology Rights** infringes the rights of any third party, **Licensee** shall forthwith notify **Licensor** of the same. **Licensee** shall have the exclusive control of the defense of such proceedings.

13.2 **60P** shall indemnify **Licensor** and keep **Licensor** indemnified against, and hold **Licensor** harmless from, all costs, expenses, losses, damages, claims and counter-claims issued or made against **Licensor** in respect of such proceedings in **Section 13.1.**

14 **TRADE MARKS**

14.1 **Licensee** shall have the absolute right and discretion to manufacture, have manufactured, or use **Licensed Products** under any trade marks designated by **Licensee ("Licensee's Trade Marks")** provided that the **Licensee's Trade Marks** shall be readily distinguishable from, and not confusingly similar to, any trade mark or trade name, whether registered or not, of **NUS.**

14.2 **NUS** hereby agrees that it shall have no claim, right, title or interest in or to the **Licensee's Trade Marks** (except where any of such **Licensee's Trade Marks** is not readily distinguishable from, or is confusingly similar to, any trade mark or trade name of **NUS),** and that all goodwill accruing thereto shall belong to **Licensee** absolutely.

14.3 **Licensee** shall have the sole conduct of all proceedings relating to the **Licensee's Trade Marks.**

14.4 **Licensee** shall have the sole right to decide what action, if any, to take in respect of any infringement or alleged infringement of the **Licensee's Trade Marks** or any other claim or counterclaim brought or threatened in respect of the use or registration of any of the **Licensee's Trade Marks.**

14.5 **Licensee** shall not be obliged to bring or defend any proceedings in relation to the **Licensee's Trade Marks.**

14.6 **NUS** shall not be entitled to bring any proceedings in respect of any infringement or alleged infringement of any of the **Licensee's Trade Marks.**

**15. CONFIDENTIALITY**

15.1 Each **Party** hereby agrees to use all reasonable efforts to maintain the secrecy of any and all **Confidential Information** disclosed to it by the other **Party** under the terms of this Agreement, or developed pursuant to this Agreement, and not to disclose, without the express, written consent of the disclosing **Party,** such **Confidential Information** to any third party.

15.2 The receiving **Party** agrees to maintain the **Confidential Information** of the disclosing **Party** in confidence with the same degree of care as it holds its own confidential and proprietary information and in any event with no less than a reasonable standard of care. The receiving **Party** will use such **Confidential Information** for the performance of this Agreement only. The receiving **Party** may disclose such **Confidential Information** on a need-to-know basis only to its directors, officers, employees, contractors, consultants, advisors, authorised representatives, agents, investors or potential investors (each a **"Representative",** and collectively **"Representatives")** who have undertaken obligations of confidentiality for the benefit of receiving **Party** which are substantially similar to those contained in this **Section 15** and will not disclose such **Confidential Information** to any third party, or use the **Confidential Information** for any other purpose. The receiving **Party** undertakes that its **Representatives** shall make use of such **Confidential Information** only for the performance of this Agreement and receiving **Party** shall be responsible for any unauthorized use or disclosure of disclosing **Party's Confidential Information** by its **Representatives.**

15.3 The receiving **Party** shall take all reasonable steps, including, but not limited to, those steps taken to protects its own information, data or other tangible or intangible property that it regards as proprietary or confidential, to ensure that the **Confidential Information** of the other **Party** is not disclosed or duplicated for the use of any third **Party,** and shall take all reasonable steps to prevent its officers and employees, or any other persons having access to the **Confidential Information,** from disclosing or making unauthorized use of any **Confidential Information,** or from committing any acts or omissions that may result in a violation of this Agreement.

15.4 The preceding obligations of non-disclosure and the limitation on the right to use the **Confidential Information** shall not apply to the extent that the receiving **Party** can demonstrate that the **Confidential Information:**

(a) was already in the possession or control of the receiving **Party** prior to the time of disclosure by disclosing **Party,** as evidenced by written records; or

(b) was at the time of disclosure by the disclosing **Party** or thereafter becomes public knowledge through no fault or omission of the receiving Party; or

(c) is lawfully obtained by the receiving **Party** from a third party under no obligation of confidentiality to the disclosing **Party;** or

(d) is developed by the receiving **Party** independently of the **Confidential Information,** as evidenced by written records; or

(e) is required to be disclosed by court rule or governmental law or regulation, including for the purposes of seeking regulatory advice and marketing authorization from national health authorities provided that the receiving **Party** gives the disclosing **Party** prompt notice of any such requirement and cooperated with the disclosing **Party** in attempting to limit such disclosure; or

(f) was disclosed by the receiving **Party** with the disclosing **Party's** prior written approval.

15.5 Title to, and all rights emanating from the ownership of, all **Confidential Information** disclosed under this Agreement shall remain vested in the disclosing **Party.** Nothing herein shall be construed as granting any license or other right to use the **Confidential Information** of the other **Party** other than as specifically agreed upon by the **Parties.**

15.6 Upon written request of the disclosing **Party** given after termination of the Agreement, the receiving **Party** shall promptly return to the disclosing **Party** all written materials and documents, as well as other media, made available or supplied by the disclosing **Party** to the receiving **Party** that contains **Confidential Information,** together with any copies thereof, except that the receiving **Party** may retain one copy each of such document or other media for archival purposes, subject to protection and nondisclosure in accordance with the terms of this Agreement.

## 16. DISCLAIMER OF WARRANTIES

16.1 Neither **Licensor** nor any of its trustees, directors, employees, or agents assumes any responsibility for the manufacture, production, specifications, sale or use of the **Patent Rights** or **Licensed Products** by **Licensee** or any **Sub-licensees.**

16.2 Save for the warranties of **Section 4.1,** the **Licensor** makes no representations, and provides no warranties, express or implied:

(a) including, but not limited to, warranties of fitness for purpose or merchantability or satisfactory quality or compliance with any description, or any implied warranty arising from course of performance, course of dealing, usage of trade or otherwise, regarding or with respect to the **Patent Rights** or **Licensed Products;**

(b) on the patentability of the **Licensed Products** or of the enforceability of any **Patents,** if any, and

(c) that the **Patent Rights** or **Licensed Products** are or shall be free from infringement of any patent or other rights of third parties, and to the fullest extent permitted by law, all such warranties and representations are hereby excluded.

## 17. INDEMNITIES; INSURANCE; LIMITATION OF LIABILITY

17.1 **60P** and **60P Australia** hereby jointly and severally indemnify, hold harmless and defend **NUS and SHS** jointly and severally from and against any and all claims, demands, actions, losses, damages, costs (including legal costs on a full indemnity basis), expenses and liabilities whatsoever which **NUS** and/or **SHS** may incur or suffer in connection with:

(a) the manufacture, marketing, distribution and sale of the **Licensed Products** or any product for human use manufactured by the **Licensee** containing celgosivir by **Licensee** directly or through **Licensee's Representatives,** or otherwise by or through any **Sub-Licensees;** or

(b) any other agreements entered into by **Licensee** or **Licensee's Representatives** or any **Sub-licensees** relating to the **Licensed Products,** any product for human use manufactured by the **Licensee** containing celgosivir, and **Invention** or the performance or non-performance of the terms of such agreements or any representations or statements made by **Licensee** or **Licensee's Representatives** or any **Sub-Licensees** relating to the **Invention,** any product for human use manufactured by the **Licensee** containing celgosivir, or **Licensed Products;** or

(c) any claim that any modification(s) made by or on behalf of **Licensee** or any **SubLicensees** infringes any trademark, trade secret, confidential information, copyright or patent or any other proprietary rights of any third party; or

(d) all taxes of any kind (except Singapore income tax in respect of consideration received by **NUS and SHS** under this Agreement), payments in lieu of taxes, import duties, assessments, fees, charges and withholdings of any nature whatsoever, and all penalties, fines, additions to tax or interest thereon, however imposed, whether levied or asserted against **NUS and SHS** by any tax authority of any country in connection with this Agreement or any matters arising therefrom including any payments received by **NUS** and **SHS** hereunder; or

(e) all charges, fines or any liability arising from any default or failure by **Licensee** and/or **Licensee's Representatives** or any **Sub-Licensees** to comply with and observe all laws and regulations referred to in **Section 18;** or

(f) any action or omission of **Licensee,** or **Licensee's Representatives** or any **SubLicensees,** or any of their employees, agents or contractors in the performance of its obligations or the exercise of any of its rights under this Agreement.

**17.2** **Licensee** shall obtain and maintain adequate product liability insurance within (15) days from the date of Regulatory Approval referred in **Section 7.2** and shall ensure that **NUS** and SHS are named as additional insured on the policy subject always to the terms and conditions specified by the insurers. **Licensee** shall supply **Licensor** with a copy of such insurance policy upon written request.

**17.3** Neither **NUS** nor **SHS** shall have any liability to the **Licensee** for any indirect, consequential, special or incidental loss, damage, expense or liability (including lost profit and loss of goodwill, opportunity costs, loss of business, damage to reputation, claims by third parties or customers), or any exemplary or punitive damages, regardless of the form of action, whether in contract or tort (including negligence), arising from or caused by **NUS** or **SHS** or its employees and contractors or from the **Licensee's** use or exploitation of the **Patent Rights.**

**17.4** NUS's and SHS's total liability to **Licensee** for direct damages or losses for any cause arising from the acts or omissions of **NUS** and/or **SHS** including any failure by **NUS** and SHS or their affiliated related companies in complying with statutory requirements or in complying and adhering to Guidelines and Procedures for Good Clinical Practice in the conduct of a the clinical trials shall be limited to the total amount of funds payable by the **60P** in the form of **Upfront Payments** and **Royalties.**

## 18. COMPLIANCE WITH LAW

**18.1** **Licensee** shall observe, and shall ensure that all **Sub-Licensees** observe, all applicable laws and regulations and obtain all necessary licenses, consents and permissions required in respect of the manufacture, storage, marketing, distribution, sale (including export), and importation of the **Licensed Products** within the **Territory.**

## 19. TERMINATION

19.1**NUS** shall be entitled forthwith to terminate this Agreement immediately by notice in writing if:

(a) **60P** or **60P Australia** fails, or refuses, to perform or comply with any one or more of its obligations under this Agreement, and, if in the opinion of **NUS** that default is capable of remedy, **Licensee, 60P** or **60P Australia,** as the case may be, fails to remedy such default within 90 days after written notice of such default has been given to **Licensee, 60P** or **60P Australia,** as the case may be, by **NUS;**

(b) **Licensee, 60P** or **60P Australia,** ceases or, in **NUS'** reasonable opinion, may cease, to carry on its business;

(c) **Licensee, 60P** or **60P Australia,** becomes insolvent or is unable to pay its debts as they fall due or suspends or threatens to suspend making payments with respect to all or any class of its debts or enters into any composition or arrangement with its creditors or makes a general assignment for the benefit of its creditors;

(d) **Licensee, 60P** or **60P Australia,** goes into liquidation or if an order is made or a resolution is passed for the winding up of **Licensee, 60P** or **60P Australia,,** whether voluntarily or compulsorily (except for the purpose of a bona fide reconstruction or amalgamation); or

(e) **Licensee, 60P** or **60P Australia,** has a receiver or receiver and manager or judicial manager appointed over any part of its assets or undertaking.

19.2 **Licensee** shall be entitled forthwith to terminate this Agreement immediately by notice in writing if **NUS** and **SHS** are in breach of their obligations under this Agreement and shall fail to remedy any such default within the prescribed period in the notice given by Licensee.

19.3 **Licensee** shall be entitled to terminate this Agreement if the **Licensee** determines that further commercialization of celgosivir for the treatment of acute dengue fever is no longer viable.

19.4 Termination of this Agreement howsoever caused shall not prejudice any other right or remedy of the **Parties** in respect of any antecedent breach.

19.5 Upon the termination of this Agreement:

(a) **Licensee** shall be entitled to continue to exercise the rights granted to it under this Agreement to such extent and for such further period, not exceeding twelve (12) months from the date of termination, reasonably necessary to enable **Licensee** to satisfy any orders placed prior to such termination date or scheduled for delivery within such twelve(12)-month period;

(b) subject to **Section 19.5 (a)** above, **Licensee** shall forthwith cease to and shall not manufacture, market, distribute, sell, import, or use, until the expiration of the last to expire of any **Patents** under **Patent Rights** any product or process or method that incorporates utilizes or is made with the use of the **Invention** or which, but for the rights granted under this Agreement would constitute an infringement of any claim within the **Patent Rights;**

(c) Each receiving **Party** shall forthwith return to each disclosing **Party** all **Confidential Information** pursuant to **Section 15.5;**

(d) **60P** shall promptly pay all amounts due less all deductions due to **Licensee** under this Agreement to **NUS** and shall submit a declaration in writing signed by a duly authorized officer that it has complied with such payment obligations, along with a copy of all materials reasonably necessary to support such declaration.

(e) **Licensee** shall provide **Licensor** with all data and know-how developed by **Licensee** in the course of **Licensee's** efforts to develop **Licensed Product(s)** and **Licensed Process(es); Licensor** shall have the right to use such data and knowhow for academic purpose on such terms and conditions mutually agreed between **Licensor** and **Licensee;**

(f) **Licensee** shall provide **Licensor** access to any regulatory information filed with any U.S. or foreign government agency with respect to **Licensed Product(s)** and **Licensed Process(es);** and

(g) If **Licensee** has filed patent applications or obtained patents to any **Licensee's Improvements, Joint Improvements, NUS Improvements** and/or **SHS Improvements** to **Licensed Product(s)** or **Licensed Process(es)** within the scope of the **Patent Rights, Licensee** agrees upon request to enter into good faith negotiations with **Licensor** or **Licensor's** future licensee(s) for the purpose of granting licensing rights to said modifications or improvements in a timely fashion and under commercially reasonable terms

19.6 Notwithstanding termination of this Agreement under any of its provision, Sections 3A3 (Provisions Relating to Essential and Other documents), 9 (Accounts), 15 (Confidentiality), 16 (Disclaimer of Warranties), 17 (Indemnities; Insurance; Limitation of Liability), 19 (Termination), 20 (Use of Licensor's Name), and 22 to 29 and any other Sections of this Agreement which from their context are intended to survive the termination of this Agreement, shall survive the Term or the termination of this Agreement and shall be deemed to remain in full force and effect.

## 20. USE OF LICENSOR'S NAME

20.1 **Licensee** agrees that it shall not use in any way the name of **Licensor** or any logotypes or symbols associated with **Licensor** or the names of any directors or employees of **Licensor** without the prior written consent of **Licensor.**

## 21. FORCE MAJEURE EVENTS

21.1 Notwithstanding anything else in this Agreement, no default, delay or failure to perform on the part of either **Party** shall be construed a breach of this Agreement if such default delay or failure to perform is shown to be due entirely to causes beyond the control of the **Party** charged with a default, delay or failure to perform **("Force Majeure Events"),** including but not limited to, causes such as strikes, lockouts or other labour disputes to perform, including, without limitation, riots, civil disturbances, actions or inaction of governmental authorities, epidemics, war, embargoes, severe weather, fire, earthquakes, acts or God or the public enemy and nuclear disasters (each a **"Force Majeure Event").**

## 22. NO PARTNERSHIP OR AGENCY

22.1 No agency, partnership or joint venture is created hereby. **Licensee** does not have any authority of any kind to bind **Licensor** in any respect whatsoever.

## 23. ASSIGNMENT AND CHANGE OF CONTROLLING INTEREST

23.1 All rights and obligations hereunder are personal to the **Parties** and no **Party** shall assign any such rights, or novate its rights and obligations to any third party without the prior consent in writing of the other **Party** on terms to be agreed by the **Parties.** Where such consent is given, the **Party,** which is the assignor, shall procure that such third party covenants with the other **Party** to be bound by the terms of this Agreement as if it had been a party hereto in place of the assignor.

23.2 The **Licensee** shall notify **Licensor** no later than thirty (30) days prior to any intended issuance or transfer of shares which would result in a change in the control of **Licensee** to another party. **Licensor** shall, within thirty (30) days of receiving such notice, inform **Licensee** in writing whether or not **Licensor** consents to such issuance or transfer of shares, such consent not to be unreasonably withheld.

## 24. NO WAIVER

24.1 The failure or delay by a **Party** in enforcing an obligation, or exercising a right or remedy under this Agreement shall not be construed or deemed to be a waiver of that obligation, right or remedy. A waiver of a breach of a term under this Agreement shall not amount to a waiver of a breach of any other term in this Agreement and a waiver of a particular obligation in one circumstance will not prevent a **Party** from subsequently requiring compliance with the obligation on other occasions. Any waiver by a **Party** of any right under this Agreement shall be made in writing and signed by the authorized representative of such **Party.**

## 25. NOTICES

25.1 All notices, demands or other communications required or permitted to be given or made hereunder shall be in writing and delivered personally, or sent by prepaid registered post, email, or by telefax, addressed to the intended recipient thereof at its address or telefax number as set out below (or to such other address or telefax number as any **Party** may from time to time notify the other **Party).** Any such notice, demand or communication shall be deemed to have been duly served on and received by the addressee:

(a) if delivered by hand, at the time of delivery;

(b) if sent by prepaid registered post, within ten days of dispatch; or

(c) if transmitted by way of telefax or email, at the time of transmission.

25.2 In proving the giving of a notice or other communication, it shall be sufficient to show:

(a) in the case of registered post, that the notice or other communication was contained in an envelope which was duly addressed, sufficient postage paid and posted; or

(b) in the case of telefax that the telefax transmission was duly transmitted from the dispatching terminal as evidenced by a transmission report generated by the transmitting equipment.

**NUS:**
Director
Industry Liaison Office
National University of Singapore
Level 5
iCube Building
21 Heng Mui Keng Terrace
Singapore 119613
Fax: (65) 6777 6990

**Licensee:**
CEO
60° Pharmaceuticals LLC
1025 Connecticut Ave NW Suite 1000
Washington DC, 20036
United States

Fax: 1.202.688.2832

**SHS:**

Director
SingHealth Intellectual Property (SHIP)
Singapore Health Services Pte Ltd
20 College Road, The Academia
Level 7, Discovery Tower
Singapore 169856
Fax: 62215472

## 26. ENTIRE AGREEMENT

26.1 This Agreement contains the entire agreement between the **Parties** hereto regarding the subject matter hereof, and supersedes all prior agreements, understandings and negotiations regarding the same. No modification, variation or amendment shall be made to this Agreement unless made in writing, specifically referring to this Agreement and signed by the authorized representatives of both **Parties.**

## 27. SEVERABILITY

27.1 Should any one or more of the provisions of this Agreement be held to be invalid or unenforceable by a court of competent jurisdiction, it shall be considered severed from this Agreement and shall not serve to invalidate the remaining provisions hereof. The **Parties** shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by them when entering into this Agreement may be realized.

## 28. DISPUTE RESOLUTION

28.1 Informal Resolution

Any dispute, controversy or claim arising out of or in connection with this Agreement shall be resolved in the following manner:

(a) the aggrieved **Party ("Claimant")** shall notify the responding **Party ("Respondent")** in writing **("Resolution Notice"),** setting forth in detail the nature of its dispute, controversy or claim **("Claim")** and requesting a meeting **("Resolution Meeting")** of a senior representative from each **Party** to be held on a date not less than fifteen (15) nor more than thirty (30) days thereafter **("Resolution Period")** for the purpose of resolving such **Claim;**

(b) the **Respondent** shall issue and deliver a written response to **Claimant** not later than five (5) days before the **Resolution Meeting,** setting forth in detail its response to such **Claim,** failing which the **Resolution Meeting** shall not proceed and the **Claimant** shall be entitled to submit the dispute to arbitration/mediation as provided under **Section 28.2** below;

(c) the senior representative from each **Party** shall meet to resolve such **Claim** amicably between the **Claimant** and the **Respondent** in good faith; and

(d) if such **Claim** is not resolved by the end of fifteen (15) days after the **Resolution Period,** then either **Claimant** or **Respondent** shall be entitled to submit the dispute to arbitration, as provided under **Section 28.2** below.

28.2 Mediation

If such efforts taken under **Section 28.1** above fail, then the **Parties** shall refer the matter to mediation in accordance with the rules and procedures of the Singapore Mediation Centre. The language of the mediation shall be English.

If mediation fails, then the dispute shall be referred to and resolved by arbitration in Singapore at the Singapore Arbitration Centre **("S1AC")** in accordance with the Arbitration Rules of the **S1AC** for the time being in force, which rules are deemed to be incorporated by reference to **Section 28.2** herein. A tribunal consisting of a single arbitrator to be appointed by the Chairman of the **SIAC** shall be convened. The language of the arbitration is in English. Any arbitral award made hereunder shall be final and binding upon the **Parties** hereto and judgment on such award may be entered into any court or tribunal having jurisdiction thereof. The **Parties** hereto undertake to keep the mediation and arbitration proceedings and all information, pleadings, documents, evidence and all matters relating thereto confidential.

**29. GOVERNING LAW**

29.1 This Agreement shall be governed by, interpreted and construed in accordance with the laws of the Republic of Singapore and the **Parties** hereby submit to the exclusive jurisdiction of the courts of the Republic of Singapore.

**30. GENERAL**

30.1 Stamp duty or fees, if any, payable in respect of this Agreement shall be borne wholly by **60P.**

30.2 Each **Party** shall from time to time do all acts and execute all such documents as may be reasonable necessary in order to give effect to the provisions of this Agreement.

30.3 Except as otherwise provided in this Agreement, the **Parties** shall bear their own costs of and incidental to the preparation execution and implementation of this Agreement.

30.4 This Agreement may be executed in one or more counterparts by the **Parties** by signature of a person having authority to bind the **Party,** each of which when executed and delivered, by facsimile transmission or other electronic modes of delivery, will be an original and all of which will constitute but one and the same Agreement.

AS WITNESS the hands of the **Parties** hereto the day and year first above written.

SIGNED by for and on behalf of
**NATIONAL UNIVERSITY OF SINGAPORE**
[redacted]
Lily CHAN
CEO, NUS Enterprise

SIGNED by for and on behalf of
**60° PHARMACEUTICAL LLC**
[redacted]
Geoffrey DOW, CEO

NUS Industry Liaison Office

in the presence of:
[redacted]
Robert Jackson, Manager

SIGNED by for and on behalf of
**SINGAPORE HEALTH SERVICES PTE LTD**

[redacted]
Prof Ivy NG
Group CEO

in the presence of:
[redacted]
Name:Koh Choon Heng
Designation:Asst Dir

in the presence of:
[redacted]
Tyrone MILLER, CFO

SIGNED by for and on behalf of
**60P AUSTRALIA PTY LTD**

[redacted]
Geoffrey DOW, CEO

in the presence of:
[redacted]
Tyrone MILLER,CFO

CONFIDENTIAL

**SCHEDULE 1**

**Bart A**

**INTELLECTUAL PROPERTY**

**NUS Ref: 15301N: Novel Dosing Regimens of Celgosivir For The Prevention of Dengue** Methods of preventing a disease resulting from a dengue virus (DENV) infection in a human subject, comprising administering to the human subject a compound of Formula (I), or pharmaceutical composition comprising a compound of Formula (I): A compound of Formula (1) can be first administered to an asymptomatic human subject followed by subsequent doses administered at least once daily. The methods of the invention can be used to prevent a disease resulting from primary and secondary DENV1-4 viral infections.

**SCHEDULE 2**

**Part A**

**Patents**

NOT IN USE

**Part B**

Patent Applications

***Novel Dosing Regimens of Celgosivir For The Prevention of Dengue***

1.US Provisional Patent Application Number 62/266,119

CONFIDENTIAL

**SCHEDULE 3**

**FORMAL LICENSE**

**PATENT LICENSE FOR REGISTRATION**

**THIS AGREEMENT** is made on the [ ] day of [ J 20

between

(1) **NATIONAL UNIVERSITY OF SINGAPORE,** (Company Registration Number: 200604346E), a company limited by guarantee incorporated in Singapore and having its registered office at 21 Lower Kent Ridge Road, Singapore 119260 **("NUS"** which expression shall include its successors and assigns);

(2) **SINGAPORE HEALTH SERVICES PTE LTD** (Company Registration Number: 200002698Z), a company incorporated in Singapore, having its registered address at 31 Third Hospital Avenue #03-03, Singapore 168753 **("SHS"** which expression shall include its successors and assigns;

and

(3) **60° PHARMACEUTICALS LLC** a company incorporated in Washington DC and having its registered office at 1025 Connecticut Ave NW Suite 1000, Washington DC 20036 United States ("60P" which expression shall include its successors and assigns).

and

(4) **60P AUSTRALIA PTY LTD** (Company Registration No. 167060219) a company incorporated in Australia and having its registered office at 105 North Steyne Manly New South Wales 2095, **("60P Australia"** which expression shall include its successors and assigns)

**(60P** and **60P Australia** hereinafter collectively referred to as **"Licensee").**

**WHEREAS:**

(A) **NUS** and **SHS** are the registered joint proprietors in *[country]* of patent number **("Patent")** for an invention entitled [ **] ("Invention").**

**(B)** **By** an agreement dated [ **] ("Principal Agreement")** it was agreed between the **Parties** that **NUS** and **SHS** would grant to the **Licensee** an exclusive sub-licensable transferable license under the **Patent** on the terms and for the consideration set out in the **Principal Agreement.**

**NOW IT IS HEREBY AGREED** as follows:

I. Pursuant to and for the consideration specified in the **Principal Agreement, NUS** and **SHS** grant [and shall from the date of the publication of the application for the **Patent** be deemed to have granted] to the **Licensee** an exclusive, sublicensable transferable license under the Patent to manufacture, use, sell, and import *[describe the Products using the same wording as in the Principal Agreement]* made in accordance with the provisions of the **Principal Agreement** and to do all other things within the scope of the **Patent** on the terms and conditions of the **Principal Agreement,**

2. The **License** granted by Section 1 **("License")** shall automatically terminate and cease to have effect if terminated at any time under the provisions of the **Principal Agreement,** or on the expiration or termination of the **Principal Agreement** for any cause or reason whatsoever.

3. The **License** is granted pursuant to the terms of the **Principal Agreement** and not in substitution for any license or licenses granted under the **Principal Agreement.** Nothing contained in this Agreement shall in any way derogate from the **Principal Agreement,** which shall remain in full force and effect in accordance with its terms.

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed on the day and year first above written.

Licensor

**NATIONAL UNIVERSITY OF SINGAPORE**
**SINGAPORE HEALTH SERVICES PTE LTD**

By:
Name: Dr.Lily Chan
Title: CEO, NUS Enterprise

Licensee

**60° PHARMACEUTICALS LLC**

By: _____
Name: _____
Title: _____

**60P AUSTRALIA PTY LTD**

By: _____
Name: _____
Title: _____

NUS Industry Liaison Office

- Andorra (1990-2012)
- Antigua and Barbuda (2002, 2005–08, 2012)
- Aruba (1987–90, 94-2012)
- Australia (1987-2012)
- Austria (1987-2012)
- The Bahamas (1987-2012)
- Bahrain (1987–89, 2001–12)
- Barbados (1989, 2000, 2002, 2006–12)
- Belgium (1987-2012)
- Bermuda (1987-2012)
- Brunei (1987, 1990-2012)
- Canada (1987-2012)
- Cayman Islands (1993-2012)
- Channel Islands (1987-2012)
- Chile (2012)
- Croatia (2008–12)
- Curaçao (2010–12)
- Cyprus (1988-2012)
- Czech Republic (2006–12)
- Denmark (1987-2012)
- Equatorial Guinea (2007–12)
- Estonia (2006–
- Germany (1987-2012)
- Greece (1996-2012)
- Greenland (1987-2012)
- Guam (1987–89, 95-2012)
- Hong Kong (1987-2012)
- Iceland (1987-2012)
- Ireland (1987-2012)
- Isle of Man (1987–89, 2002–12)
- Israel (1987-2012)
- Italy (1987-2012)
- Japan (1987-2012)
- South Korea (1995–97, 2001–12)
- Kuwait (1987-2012)
- Latvia (2009, 2012)
- Liechtenstein (1994-2012)
- Lithuania (2012)
- Luxembourg (1987-2012)
- Macao (1994-2012)
- Malta (1989, 1998, 2000, 2002–12)
- Monaco (1994-2012)
- Netherlands (1987-2012)
- New Caledonia (1995-2012)
- New Zealand (1987-2012)
- Northern Mariana Islands (1995-2001, 2007–12)
- Norway (1987-2012)
- Oman (2007–12)
- Poland (2009–12)
- Portugal (1994-2012)
- Puerto Rico (1989, 2002–12)
- Qatar (1987-2012)
- Russia (2012)
- Saint Kitts and Nevis (2012)
- Saint Martin (2010–12)
- San Marino (1991–93, 2000–12)
- Saudi Arabia (1987–89, 2004–12)
- Singapore (1987-2012)
- Sint Maarten (2010–12)
- Slovakia (2007–12)
- Slovenia (1997-2012)
- Spain (1987-2012)
- Sweden (1987-2012)
- Switzerland (1987-2012)
- Taiwan[1] (1987-2012)
- Trinidad and Tobago (2006–12)
- Turks and Caicos Islands (2009–12)
- United Arab Emirates (1987-2012)
- United Kingdom (1987-2012)
- United States

CONFIDENTIAL

**SCHEDULE 5**

**LIST OF COUNTRIES CONSIDERED "HIGH INCOME" BY WORLD BANK IN 2012**

CONFIDENTIAL

**Exhibit 10.21**

***Please be advised that certain identified information has been excluded in Exhibit 10.21 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**Master Consultancy Agreement**

| | | |
|---|---|---|
| **Company** | *Name:* | $60^0$ Pharmaceuticals LLC |
| | *ABN:* | Not applicable |
| | *Address:* | 1025 Connecticut Avenue NW, Suite 1000, Washington DC, 20036 United States |
| | *Email:* | geoffdow@60degreespharma.com |
| **Consultant** | *Contact:* | Geoffrey S Dow, CEO & Principal |
| | *Name:* | Biointelect Pty Ltd |
| | *ABN:* | 17 154 647 051 17 154 647 051 |
| | *Address:* | 15 Boden Place, Castle Hill NSW 2154 |
| | *Email:* | jherz@biointelect.com.au |
| | *Contact:* | Jennifer Herz |
| **Commencement Date** | | 29 May 2013 |

**Background:**

The Company wishes to engage the Consultant to provide services to it from time to time and the Consultant has agreed to accept such engagement on the terms and conditions set out in this agreement.

**Operative Part:**

1. The Company agrees to engage the Consultant to provide the Services on the terms and conditions set out in this agreement and any Work Order under this agreement

2. The Consultant agrees to provide the Services to the Company and comply with the terms and conditions set out in this agreement and any Work Order under this agreement.

By signing below the Company and the Consultant (as defined above) agree to be bound by the terms of the agreement.

| **Signed for and on behalf of Biointelect Pty Limited by:** | **Signed for and on behalf of 60° Pharmaceut LLC by:** |
|---|---|
| **By:** [redacted] | **By:** [redacted] |
| Signature | Signature |
| **Name:** Jennifer Herz | **Name:** Geoffrey Dow |
| Print or Type | Print or Type |
| **Title:** CEO | **Title:** CEO |
| **Date:** 6-4-2013 | **Date:** 6-3-2013 |

**Terms and Conditions**

## 1 Definitions & Interpretation

1.1 In this agreement:

**Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Sydney, Australia.

**Confidential Information** means any information relating to the Company, the Company's business and financial affairs, the existence and terms of this agreement and information, including information of the Company's clients, provided to the Consultant of a confidential nature

**Corporations Act** means the *Corporations Act* 2001 (Cth).

**Fees** mean the fees and other amounts payable by the Company to the Consultant for providing the Services as specified in the Work Order relating to those Services

**GST** has the meaning given in the GST Law.

**GST Law** has the meaning given to that expression in the A *New Tax System (Goods and Services Tax) Act* 1999.

**Insolvency Event** means, in respect of a party, if that party enters into bankruptcy, provisional liquidation, liquidation, voluntary administration or if a "controller'' (as defined in the Corporations Act 2001 (Cth)) is appointed to that party or if a receiver or receiver and manager is appointed to that party, or if a mortgagee takes possession of any assets of that party whether by itself or by an agent or if that party ceases to trade or is unable to pay its debts as they fall due or if that party makes a compromise with its creditors or enters into a scheme of arrangement.

**Intellectual Property Rights** means all registered and unregistered rights in relation to present and future copyrights, trademarks, designs, know-how, patents, plant varieties and all other intellectual property as defined in article 2 of the Convention establishing the World Intellectual Property Organisation 1967

**Key Person** means the person(s) delivering the Services on behalf of the Consultant as specified in a Work Order.

**Moral Rights** means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the *Copyright Act* 1968 (Cth), and rights of a similar nature anywhere in the world whether existing presently or which may in the future come into existence.

**Personnel** mean all employees (fulltime, parttime or casual) employed by, seconded to or otherwise working for a party.

**Services** means the services described in a Work Order.

**Special Conditions** means the special conditions (if any) detailed in a Work Order.

**Term** means the period from the Commencement Date until the agreement is terminated under clause 11.

**Work Order** means a document in the form of the Schedule 1 (**Work Order**) (with such changes to the form as the parties may agree), containing details of the Services to be provided by the Consultant to the Company.

1.2 In this agreement unless the contrary intention appears:

(a) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements or any of them;

(b) singular includes the plural number and vice versa

(c) a reference to any one gender includes each other gender (as the case may require);

(d) the word "person" includes a firm, corporation, body corporate, unincorporated association or any governmental authority;

(e) a reference to a person includes a reference to the person's executors, administrators, legal personal representatives, successors and permitted assigns; and

(f) all headings in this agreement have been inserted for the purpose of ease of reference only, they do not affect the meaning or interpretation of it

1.3 Any schedule attached to this agreement forms part of it.

**2 Services**

2.1 The Company engages the Consultant to provide and the Consultant agrees to provide the Services as agreed in writing from time to time during the Term by the parties signing a Work Order in which details of the Services will be recorded

2.2 The Company makes no promises to the Consultant as to the quantity of Services it will be retained by the Company to provide

2.3 The term of this agreement wil commence on the Commencement Date and will continue until terminated under clause 11.

**3 Work Order**

3.1 When the Company requires the Consultant to provide Services it will submit a Work Order by email to the Consultant in the form set out in Schedule 1.

3.2 A Work Order will not be binding until the Company receives from the Consultant an acceptance of that Work Order, which acceptance must be in writing and may be given by email

3.3 A Work Order issued by the Company will form part of this agreement.

3.4 Each party must act in accordance with any Special Conditions detailed in a Work Order.

3.5 The Consultant must procure the Key Person and any other of its Personnel who provide the Services to sign the personal undertaking in Schedule 2, before the Key Person or Personnel commence the performance of any Services under a Work Order

**4 Performance of Services**

4.1 The Services are to be performed at the times and to achieve the business outcomes reasonably required by the Company as specified in a Work Order and as notified from time to time by the Company to Consultant.

4.2 The Services are to be provided on behalf of the Consultant by the Key Person. The Consultant warrants that the Key Person has the skills, qualifications and experience necessary to provide the Services to the Company.

4.3 Where the Key Person is unable to provide the Services the Services are to be provided by a replacement as approved by the Company, which approval may be given subject to conditions.

4.4 The Consultant must perform the Services in a proper, workmanlike and professional manner.

4.5 The Consultant must comply with all of the Company's reasonable requests about the performance of the Services.

**5 Fees and Expenses**

5.1 In consideration of the Services provided by the Consultant, the Company must pay the Consultant the Fees.

5.2 The Fees cover time spent on work for the Company whether carried out on the Company's premises or elsewhere.

5.3 Unless otherwise expressly stated, all Fees and other amounts payable in respect of the provision of Services are exclusive of GST. GST must be paid in addition to the stated amount payable

5.4 Subject to clause 5.5, the Company must reimburse the reasonable expenses of travel, meals and other related expenses provided that the Consultant obtained the Company's prior written approval for the Consultant to incur the expense on behalf of the Company

5.5 Expenses are payable after receipt by the Company of a note of the expenses incurred accompanied by supporting vouchers

**6 Consultants Status**

6.1 The Consultant is an independent contractor without authority to bind the Company by contract or otherwise

6.2 The Consultant and Consultant's Personnel are not agents or employees of the Company by virtue of this agreement.

6.3 The Consultant also agrees that neither it nor its Personnel have, under this agreement, any entitlement from the Company in relation to employment or related benefits.

6.4 At all times throughout the Term, the Consultant warrants that it has paid or will pay, on or before the due date for payment all:

(a) remuneration, superannuation and other benefits payable or to be provided to;

(b) payroll tax payable by the Consultant in respect of wages paid or payable in respect of;

(c) workers compensation insurance premiums payable by the Consultant in respect of,

employees (or deemed employees) of the Consultant in respect of work done in connection with this agreement.

6.5 The Consultant indemnifies the Company against any loss or liability (including statutory liability for unpaid wages, workers compensation insurance premiums, workers compensation liability and unpaid payroll tax) directly or indirectly arising from breach of this clause 6 or failure to pay the foregoing when due

6.6 The Consultant must not, and mustensure that the Consultant s Personnel do not

(a) make any representations, promises or public statements about the Company or its business, without the prior written approval of the Company; or

(b) make any false, misleading or deceptive statements with respect to the Company or its business

6.7 The Consultant must not engage in any activity which is likely to result in a conflict of interest with its role under this agreement.

7 Intellectual Property Rights

7.1 The Intellectual Property Rights in all written reports (whether final or interim) created by or on behalf of the Contractor and delivered to the Company as a result of the provision of the Services to the Company, will vest in the Company, after delivery of the report and payment of all fees due by the Company to the Contractor in respect of the work undertaken by the Contractor to which the report relates

7.2 The Intellectual Property Rights in all other materials (in whatever form they exist) brought into existence, by or on behalf of the Contractor, as a result of the provisions of the Services to the Company shall be and remain the property of the Contractor and the Company shall receive no right, title or interest in such Intellectual Property Rights.

7.3 For the avoidance of doubt, the Intellectual Property Rights in those materials provided by the Company to the Contractor during the Term of this Agreement remain with the Company or entity which licensed those materials to the Company and the Contractor acknowledges that it acquires no right or ownership of any such of the Intellectual Property Rights by virtue of this Agreement.

**8 Warranties**

8.1 The Consultant and the Company each represent and warrant to the other that:

(a) it is a corporation with limited liability registered (or taken to be registered) and validly existing under the Corporations Act:

(b) it has full power and authority to enter into and perform its obligations under this agreement in accordance with the terms of this agreement;

(c) it has taken all necessary action to authorise the execution, delivery and performance of the agreement; and

(d) this agreement constitutes legal, valid and binding obligations on the party and is enforceable against it in accordance with the terms of this agreement

8.2 The Consultant warrants to the Company that:

(a) the information provided to the Company in relation to the subject matter of this agreement before the date of this agreement is true and correct;

(b) the business of the Consultant is registered with the Australian Business Number set out in this agreement; and

(c) the Consultant is registered for the purposes of GST.

**9 Confidentiality**

9.1 Each party must treat as confidential the Confidential Information and will treat the Confidential Information with the same level of care and protection as they would their own confidential information.

9.2 Subject to clause 9 3, each party must not, without the prior written consent of the other party, use the Confidential Information except in performing its obligations under this agreement.

9.3 Each party may disclose any Confidential Information:

(a) with the prior written consent of the other party;

(b) if the Confidential lnformation has come within the public domain, other than by a breach of this clause 9 by either party; or

(c) if required to do so by a Governmental Agency,

but, to the extent possible, must consult with the other party before making the disclosure and use reasonable endeavours to agree on the form and content of the disclosure

9.4 The obligations set out in this clause 9 are in addition to, and not in substitution for any confidentiality agreements entered into between the Company and the Consultant (if any) prior to this agreement.

9.5 On termination of this agreement, each party will promptly return to the other all Confidential Information, in whatever form, in its possession, custody or control.

**10 Costs**

10.1 Except as expressly stated otherwise in this agreement each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this agreement.

**11 Termination**

11.1 Either party may terminate a Work Order, without cause at any time, by giving the other party written notice which may take effect immediately.

11.2 Either party may terminate this agreement, without cause at any time, by giving the other party 10 days written notice.

**12 Limitation of Liability**

12.1 Subject to clause 12.2, the Consultant's aggregate liability (whether for breach of contract, breach of statutory duty or negligence or other tort) for loss or damage suffered or incurred by the Company in connection with any Services provided under this agreement by the Consultant is limited to the total amount of the Fees received by the Consultant under this agreement.

12.2 The limitation in clause 12.1 and the exclusion in clause 12.3 do not apply in relation to liability:

(a) for personal injury (including sickness or death), or damage to tangible property; or

(b) wilful breach of this agreement, gross misconduct, fraud or dishonesty of the Consultant or its personnel

12.3 Subject to clause 12.1, neither party is liable to the other party for any loss of profits or income (actual or anticipated), loss of business or of goodwill, loss of data (and cost of data re-entry) or loss arising out of business interruption or delay in the performance of any obligation and includes costs and expenses incurred in connection with such loss or in connection with the mitigation (or attempted mitigation) of such loss

**13 Insurance**

13.1 The Consultant must during the term of its appointment under this agreement effect and maintain with a reputable insurer licensed to conduct business in Australia a professional indemnity insurance policy. This policy must be maintained for a period of three years after the end of the Term. The policy must provide cover of not less than $1 million and must provide for at least one reinstatement of the policy during each policy year. The Consultant must promptly, on request from the Company, provide evidence of the currency of this insurance.

**14 Restraint**

14.1 The Consultant agrees that neither it nor the Key Person nor its other Personnel providing the Services (directly or indirectly, or through any interposed body corporate, trust, principal, agent, shareholder, beneficiary or in any other capacity) will, during the Restraint Period.

(a) promote, participate in, operate or engage in a business in competition with the Company in the Territory;

(b) solicit, canvass or secure the custom of a person who is or was, during the Term, a supplier of goods or services to the Company;

(c) solicit, canvass or secure the custom of a person who is or was, during the Term, a customer of, the Company;

(d) solicit, employ or engage the services of any employee of the Company; or

(e) use any information concerning the business or affairs of the Company which may have been acquired by the Consultant for Consultant's own benefit or to the detriment or intended or probably detriment of the Company

14.2 In this clause 14 a reference to:

(a) **Company** includes the Company and any of its related bodies corporate;

(b) **Restraint Period** means the period commencing on the Commencement Date and ending 12 months after the Term of this agreement ends; and

(c) **Territory** means Australia, and any countries in which work was conducted by the Consultant or its sub contractors on behalf of the Company (this list includes but is not necessarily limited to Brazil, Thailand, United States and France)

14.3 Each of the restraint obligations imposed by this agreement is a separate and independent obligation from the other restraint obligations imposed (although they are cumulative in effect)

14.4 The parties agree that each of the restraint obligations imposed by this clause:

(a) is reasonable in its extent (as to duration and restrained conduct) having regard to the interests of each party to this agreement;

(b) extends no further (in any respect) than is reasonably necessary; and

(c) is to protect the goodwill of the Company's business.

14.5 If any of the restraint obligations imposed by this clause 14 is judged to go beyond what is reasonable in the circumstances and necessary to protect the goodwill of the business of the Company but would be judged reasonable and necessary if any activity were deleted or a period were reduced, then the restraint obligations apply with that activity deleted or area reduced by the minimum amount necessary.

**15 Notices**

15.1 Any notice given in accordance with this agreement will be correctly given if it is in writing and is left at or sent by email or by pre-paid security post addressed to a party at its registered office or principal place of business for the time being or at any other address as may be notified pursuant to this clause 15 for the purpose of the service of notices.

15.2 A notice will be regarded to have been given on the date of delivery, in the case of a notice being sent by email, on the earlier of the receipt by the sender of an automated message confirming delivery or four hours after the time (as recorded on the sender's email system) unless the sender receives an automated message that the email has not been delivered and in the case of a notice being sent by post, it will be deemed to have been given two Business Days after the date of posting.

**16 Invalidity**

16.1 If a provision of this agreement is void or voidable against, or is unenforceable by, a party but would not be void or voidable or unenforceable if it were read down and is capable of being read down, it is to be read down accordingly.

16.2 If a provision of this agreement is read down and is still void or voidable against, or is unenforceable by, a party:

(a) if the provision would not be void or voidable or unenforceable if a word or words were omitted, that word or those words are to be severed; and

(b) in any other case, the whole provision is to be severed,

and the remainder of this agreement has full effect.

**17 Waiver**

17.1 The failure of either party to enforce any provision of this agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

**18 Non Solicitation**

18.1 During the Term of this agreement, neither party will solicit for hire any employee of the other who was involved in Services provided under this agreement. In the event either party permits the other to hire one of its employees, the parties agree to negotiate a reasonable placement fee in good faith.

**19 Remedies**

19.1 The rights and remedies contained in this agreement are cumulative and are not exclusive of any rights and remedies provided by law.

19.2 A party is entitled to enforce or take action in respect of, to the extent permitted by law, any breach of another party's obligations under this agreement notwithstanding the termination of this agreement.

**20 Further Assurances**

20.1 Each party must do and perform all such other acts matters and things as may be necessary or convenient to implement the provisions of this agreement so as to give effect to the intentions of the parties as expressed in this agreement.

**21 Assignment**

21.1 A party may not assign or deal with any right under this agreement without the prior written consent of the other party. Any purported dealing in breach of this clause is of no effect

**22 Severability**

22.1 If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**23 Whole Agreement**

23.1 No modification of this agreement is binding unless it is in writing and signed by or on behalf of each party.

23.2 In relation to the subject matter of this agreement, this document embodies the entire understanding of the parties and constitutes the entire terms agreed on between them.

23.3 The Consultant acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of the Company (or any person acting on its behalf) except as expressly set out in this document

**24 Governing Law**

24.1 The contents of this document, its meaning and interpretation and the relationship of the parties are to be governed by the laws of this State of New South Wales, Australia. The parties submit to the exclusive jurisdiction of the courts of that State.

**SCHEDULE 1**

| **Work Order** | |
|---|---|
| | |
| **Biointelect Pty Limited ABN 17 154 647 051** | |
| **Key Person** | Jennifer Herz. Director |
| **Services** | #[lnsert]# |
| **Timetable** | #[lnsert]# |
| **Fees and manner of payment** | #[lnsert]# |
| **Special Conditions (if any)** | #[lnsert]# |

(a) This Work Order is made pursuant to and is governed by the terms and conditions of the Master Agreement between the Company and the Consultant dated **#(Insert]# 2013 (Agreement).**

(b) Any terms used but not defined in this Work Order have the meaning given to them in the Agreement

(c) This Work Order forms part of the Agreement and all provisions of the Agreement are applicable to this Work Order

**SIGNED for *Biointelect Pty Limited*** by its authorised officer:

Signature

Name (please print)

Title (please print)

**SIGNED for *60° Pharmaceuticals LLC*** *by* its authorised officer:

Signature

Name (please print)

Title (please print)

**SCHEDULE 2**

**Undertaking**

From: **#[Insert full name of Individual]# of #[Insert address]# (Individual)**

To: **#[Name of Company-ACN if applicable]# of #[Insert address]# (Company)**

**BACKGROUND**

**Suite 5.02, Level 5, 139 Macquarie Street, Sydney NSW Australia 2000**

A The Company and Biointelect Pty Limited (ABN 346245)of 15 Boden Place, Castle Hill, NSW, 17 154 647 051 2154 have entered into a Master Consultancy Agreement dated #[Insert]#2013 (Agreement).

B The Individual is an employee of Biointelect to whom either Biointelect or the Company will disclose Confidential Information to enable Biointelect to fulfil contractual obligations it has to the Company under the Agreement.

**OPERATIVE PROVISIONS**

**1 Definitions**

1.1 In this deed:

Confidential Information means all information of the Company which:

(a) is disclosed to or observed by the Individual in the course of the Individual fulfilling the contractual obligations Biointelect has to the Company under the Agreement; and

(b) is regarded by the Company as being confidential, including any information relating to:

(i) the Company, its business and financial affairs;

(ii) the business and financial affairs of Company's clients.

intellectual Property Rights means all registered and unregistered rights in relation to present and future copyrights, trademarks, designs, know-how, patents, plant varieties and all other intellectual property as defined in article 2 of the Convention establishing the World Intellectual Property Organisation 1967.

Moral Rights means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the *Copyright Act* 1968 (Cth), and rights of a similar nature anywhere in the world whether existing presently or which may in the future come into existence.

**2 Confidential information**

2.1 Subject to clause 2.2, the Individual must:

(a) not disclose the Confidential Information without the Company's consent;

(b) keep the Confidential Information secure and prevent third parties from gaining access to the Confidential Information;

(c) use the Confidential Information only for the purpose of enabling the Individual to fulfil the obligations and exercising the rights of Biointelect under the Agreement; and

(d) promptly return to the Company all Confidential information within 30 days of written request from the Company to do so.

2.2 Clause 2.1 does not apply where:

(a) disclosure is required by law;

(b) the relevant information is in the public domain; or

(c) the relevant information was received in good faith by the Individual from a third party who did not prohibit the proposed disclosure.

2.3 The Individual acknowledges that:

(a) any breach of the confidentiality obligations under this deed may not be adequately compensated by an award of damages; and

(b) any breach will entitle the Company, in addition to any other remedies available at law or in equity, to seek an injunction to restrain the committing of any breach (or continuing breach).

**3 Intellectual Property**

3.1 The individual must immediately disclose to Biointelect in writing any and all new materials, in which Intellectual Property Rights subsist, developed by him or her in the course of performing the obligations of Biointelect under the Agreement (Works).

3.2 The Individual acknowledges thatthe Intellectual Property Rights in all written reports (whether final or interim) created by him or her on behalf of the Contractor and delivered to the Company as a result of the provision of the Services to the Company, will vest in the Company, after delivery of the report and payment of all fees due by the Company to the Contractor in respect of the work undertaken by the Contractor to which the report relates.

3.3 The Intellectual Property Rights in all other materials (in whatever form they exist) brought into existence, by him or her on behalf of the Contractor, as a result of the provisions of the Services to the Company shall be and remain the property of the Contractor and the Company shall receive no right, title or interest in such Intellectual Property Rights.

3.4 For the avoidance of doubt, the Intellectual Property Rights in those materials provided by the Company to the Contractor during the Term of the Agreement remain with the Company or entity which licensed those materials to the Company and the Individual acknowledges that he or she acquires no right or ownership of any such of the Intellectual Property Rights of the Company by virtue of this undertaking.

3.5 The Individual acknowledges he or she must do all acts, matters and things and execute all documents that are necessary or desirable for:

(a) perfecting the title and interest of Biointelect to the intellectual Property Rights arising in the Works assigned under clause 3.2; and

(b) enabling Biointelect to procure registration of any of the Intellectual Property Rights that subsist in the Works in any jurisdiction

3.6 The Individual warrants that:

(a) he or she is the author of the Works;

(b) the Works are original and will not infringe or violate the rights of any third party;

(c) he or she not aware of the Works infringing the rights of any third party; and

(d) the Intellectual Property Rights in the Works vested under the Agreement in Biointelect are free from encumbrances and that the individual is free to assign the Intellectual Property Rights in the Works to Biointelect.

3.7 The Individual must provide such consents as are reasonably required by Biointelect in relation to any existing or future Moral Rights in respect of any Works developed by him or her in the course of performing the obligations of Biointelect under the Agreement.

3.8 Individual acknowledges that it has no rights or ownership of any aspect of the Intellectual Property Rights of the Company, or any of its clients, in any aspect or regard.

**4 Restraint**

4.1 The Individual (directly or indirectly, or through any interposed body corporate, trust, principal, agent, shareholder, beneficiary or in any other capacity) must not, during the Restraint Period:

(c) promote, participate in, operate or engage in a business in competition with the Company in the Territory;

(d) solicit, canvass or secure the custom of a person who is or was, during the term of the Agreement, a supplier of goods or services to the Company;

(e) solicit, canvass or secure the custom of a person who is or was, during the term of the Agreement, a customer of, the Company;

(f) solicit, employ or engage the services of any employee of the Company; or

(g) use any information concerning the business or affairs of the Company which may have been acquired by the Individual for individual's own benefit or to the detriment or intended or probably detriment of the Company.

4.2 In this clause 14 a reference to:

(h) #[lnsert name of Company]# includes the Company and any of its related bodies corporate;

(i) Restraint Period means the period commencing on the Commencement Date and ending 12 months after the Term of this agreement ends; and

(j) Territory means Australia, and any countries in which work was conducted by the Consultant or its sub contractors on behalf of the Company (this list includes but is not necessarily limited to Brazil. Thailand, United States and France)

4.3 Each of the restraint obligations imposed by this deed is a separate and independent obligation from the other restraint obligations imposed (although they are cumulative in effect).

4.4 The Individual agrees that each of the restraint obligations imposed by this clause 4:

(a) is reasonable in its extent (as to duration and restrained conduct) having regard to the interests of the party to the Agreement;

(b) extends no further (in ary respect) than is reasonably necessary; and

(c) is to protect the goodwill of the Company's business.

4.5 If any of the restraint obligations imposed by this clause 4 is fudged to go beyond what is reasonable in the circumstances and necessary to protect the goodwill of the business of the Company but would be judged reasonable and necessary if any activity were deleted or a period were reduced, then the restraint obligations apply with that activity deleted or area reduced by the minimum amount necessary.

**5 General**

5.1 All obligations in this deed will remain valid and binding upon the Individual following expiry or termination of the Agreement.

5.2 If any part or a provision of this deed is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remainder of this deed will continue to operate.

5.3 The laws in force in New South Wales govern this deed and the Individual submits to the non-exclusive jurisdiction of the courts in NewSouth Wales.

SIGNED SEALED and DELIVERED by the Individual as a deed

| | |
|---|---|
| [ ] | [ ] |
| Signature of Individual | Signature of Individual |
| DIANA MILLS | JENNIFER HERZ |
| Name | Name |
| 6-4-2013 | 6-4-2013 |
| Date | Date |

**Work Order #1 pursuant to Master Consultancy Agreement**
**Dated #[lnsert date]#**

| |
|---|
| **60° Pharmaceuticals LLC** |
| **Biointelect Pty Limited ABN 17 154 647 051** |

| | |
|---|---|
| **Key Person** | Jennifer Herz, Director |
| **Services** | **As set out in proposal letter dated 28 May 2013**<br><br>**Background:**<br><br>60° Pharmaceuticals are developing products for treatment of dengue fever including celgosivir, an anti-viral for early treatment of infection with dengue, and a novel disease modifying agent which may be used for later state treatment and/or for treatment of severe dengue. 60° Pharmaceuticals are in need of the following consultancy services:<br>A) Initial approach and liaison with sanofi to negotiate access to any relevant non-clinical and clinical data related to the early development of celgosivir for HIV and HCV<br>B) Analysis of market access environment and assessment of market demand forecast for both products in selected countries. Countries included initialy are Brazil and Thailand.<br>Mexico, Singapore, Vietnam, Malaysia and India may be added at a later date.<br><br>**Proposal:**<br>A) Liaison with Sanofi<br>Methodology:<br>Initially, an approach will be made by J Herz to selected key sanofi personnel to seek informal advice on the best approach for 60° Pharmaceuticals. The overall objective is to rapidly access al relevant data for celgosivir at a minimum cost for 60° Pharmaceuticals.<br>· Cost: USD$300per hour,<br>· Initial contacts and written report with recommendation of initial formal approach capped at 4 hours or USD$1,200, actual hours if less to be charged.<br>· Subsequent steps and costs to be agreed at each stage by the CEO of 60° Pharmaceuticals<br><br>B) Country analysis and market demand forecast<br><br>**Methodology:**<br>1) Phase 1: Secondary research will be conducted to understand the market access environment in Brazil and Thailand and will include a review of publicly available information on the regulatory, reimbursement and policy environment related to the pharmaceutical industry in each country. Estimate 12 hours per country.<br>2) Phase 2: An analysis of the healthcare systems in Brazil and Thailand, with a specific emphasis on the management of dengue fever and the use of antivirals and other relevant treatments. This will include patient flow, decision-making and pharmaceutical procurement. It will also include where possible information on mild versus severe dengue and attempt to assess the hidden burden. Publicly available information will be supplemented and validated by primary research with relevant health care professionals and decision makers from each country. This primary research will be conducted by email and telephone 12 hours per country. Consolidation and report writing for Phase 1 & 2 estimated at 6 hours per Country. |

| | |
|---|---|
| | 3) Phase 3: Forecast estimate - publications on dengue epidemiology and disease burden for each country will be reviewed from the literature to estimate patient numbers. Where possible, market intelligence on current use of pharmaceuticals which may provide analogues and be relevant for predicting uptake, usage and compliance estimates for both dengue products will be sought. In particular, 60° Pharmaceuticals would like to understand the trade-off between demand and price In both markets This information may be enhanced by purchase of local pharmaceutical market data from IMS. Quotations for this data will be sought separately and approved by the CEO of 60° Pharmaceuticals in advance.<br><br>**Costs proposal:** |
| | Literature searching and sourcing relevant articles for secondary research will be conducted by CNS library service @ $85 per hour, estimated at2 hours per country, total 14 hours (NB passed through at cost from CNS) — USD$1,190 |
| | Phase 1 & 2 are estimated to take 30 hours per country with a total consulting cost of USD$9,000 per country. This estimate is based on actual hours for a similar project. Actual hours will be charged (if less than 30 hours) but capped at USD$9,000 — USD$18,000 |
| | Phase 3 - Market forecast. In order to be more efficient it is recommended to prepare this in detail for one major market and then apply the forecasting model with variations for known key variables, to the other countries. Estimate 8 hours to prepare and adapt model @ $300 per hour — USD$2,400 |
| | **Total project costs (excluding expenses)** — **[ USD$21,590** |
| | **Payment schedule:**<br>· 40% to be invoiced on acceptance and signature of this proposal<br>· 30% to be invoiced at the end of June<br>· 30% to be invoiced on submission of the final report to 60° Pharmaceuticals<br>· Terms 30 days, payable by wire transfer to the following bank account:<br><br>Bank Name: Commonwealth Bank of Australia<br>Bank/Branch Code: 062 347<br>Account: BIOINTELECT PTY LTD<br>Account number: 1054 2500<br>SWIFT code CTBA AU 2S 3FX<br><br>**Expenses:**<br>· Normal telephone, stationery, printing, postage and internet costs are included.<br>· International phone calls to be recharged at cost (Skype will be used where possible)<br>· Travel expenses to be recharged at cost but to be approved in advance by the CEO of 60° Pharmaceuticals. |
| **Timetable** | · Draft report to be provided 60 days after acceptance of this Work Order. Final report to be completed subject to feedback from 60° Pharmaceuticals |
| **Fees and manner of payment** | 40% to be invoiced upon acceptance of this work order<br>30% to be invoiced at the end of June<br>30% to be invoiced upon submission offinal report by the Consultant to the Company<br>Payment of Fees to be made by wire transfer within 30 days of presentation of a Tax Invoice by the Consultant to the Company |

| | |
|---|---|
| Special Conditions (if any) | Payment to the following bank account:<br>Biointelect Pty Ltd<br>Bank Name: Commonwealth Bank of Australia<br>Bank/Branch Code 062 347<br>Account: BIOINTELECT PTY LTD<br>Account number: 1054 2500<br>SWIFT code CTBAAU 2S 3FX |

(a) This Work Order is made pursuant to and is governed by the terms and conditions of the Master Agreement between the Company and the Consultant dated June 2013 (Agreement)

(b) Any terms used but not defined in this Work Order have the meaning given to them in the Agreement.

(c) This Work Order forms part of the Agreement and all provisions of the Agreement are applicable to this Work Order

**SIGNED for *Biointelect Pty Limited*** by its authorised Officer

[redacted]
Signature

Jennifer Herz
Name (please print)

Director
Title (please print)

**SIGNED for 60$^{o}$ *Pharmaceuticals LLC*** by its authorised Officer

[redacted]
Signature

Geoffrey Don
Name (please print)

CEO
Title (please print)

| Work Order #11 | |
|---|---|
| **Biointelect Pty Limited ABN 17 154 647 051** | |
| **60 Degrees Pharmaceuticals LLC [Client]** | |
| **Key Persons** | **Jennifer Herz, in her role as Director of 60P Australia Pty Ltd** |
| **Services** | Support capital raising activities with the following activities:<br>· Identify and outreach to potential investors in Australia and overseas<br>· Preparation of pitch deck and other supporting materials<br>· Presentation of opportunity to potential investors<br>· Participation in webinar and preparation of content<br>· Outreach to media and response to media enquiries<br>· Support CEO and Torreya with negotiations, due diligence and investor relations activities.<br><br>Project Management of activities related to agreed in vitro, preclinical and clinical studies related to testing of Tafenoquine against SARS-CoV2<br>· Introductions to Certara and 360biolabs<br>· Liaison with Australia investigators, CRO's, health, defence, DFAT and TGA<br>· Local project management and coordination as required |
| **Timetable** | From March 2020 until deal concludes. |
| **Fees and manner of payment** | $245,000 USD in deferred compensation paid in shares of 60 Degrees Pharmaceuticals [with the number of shares to be defined by dividing $245,000 by the fair market value at the time of payment] for any deal involving an investor introduced by Biointelect which results in consummation of >$1 million USD in financing.<br><br>$100,000 USD and $155,000 USD deferred compensation paid in shares of 60 Degrees Pharmaceuticals [with the number of shares to be defined by dividing $155,000 by the fair market value at the time of payment] if the Company consummates an IPO or for any deal which results in additional $7.5 million USD or more in financing from an investor OR that results in i) sponsorship of a clinical trial for COVID19 by the 60P group and ii) that results in indefeasible retirement and conversion to equity of Knights principle, interest and debenture as a condition of closing.<br><br>Resident Director fees will be increased to $40,000 AUD p.a. in the event an IPO in consummated by 60 Degrees Pharmaceuticals LLC.<br><br>For clarity, compensation will be paid by 60 Degrees Pharmaceuticals (located at 1025 Connecticut Avenue NW, Suite 1000, Washington DC, United States) and the shares described above are in reference to shares in the same entity, and/or a successor entity and/or the entity owning 100% of 60 Degrees Pharmaceuticals LLC that will be listed in the event of an IPO.<br><br>Shares not issued within five years of execution of this work agreement will expire. The obligation of 60 Degrees Pharmaceuticals LLC to pay the cash compensation will expire withing three years of the date of execution of this agreement.<br><br>To be invoiced on completion of deal as specified above. |
| **Special Conditions (if any)** | Work is conducted at risk with payment contingent on successful funding outcome as defined above. |

(a) This Work Order is made pursuant to and is governed by the terms and conditions of the Master Agreement between the Company and the Consultant dated 29th May 2013 (Agreement).
(b) Any terms used but not defined in this Work Order have the meaning given to them in the Agreement.
(c) This Work Order forms part of the Agreement and all provisions of the Agreement are applicable to this Work Order.

**SIGNED** for ***Biointelect Pty Limited*** by its authorised officer:

**SIGNED** for 60 Degrees Pharmaceuticals LLC by its authorised officer:

| | |
|---|---|
| [redacted] | [redacted] |
| Signature | Signature |
| Jennifer Herz | Geoffrey Dow |
| Name (please print) | Name (please print) |
| Managing Director | CEO |

Biointelect Pty Ltd. Suite 110, 117 Old Pittwater Road, Brookvale NSW 2100 Australia, ABN: 17 154 647 051

T 1300 800 984 E office@biointelect.com Sydney | Lyon www.biointelect.com

**Exhibit 10.22**

# EMPLOYMENT AGREEMENT

This Employment Agreement, dated as of January 12, 2023 (this **"Agreement"**), is made and entered into by and between 60 Degrees Pharmaceuticals Inc., a De corporation (the **"Company"**), and Geoffrey Dow (the **"Executive"** and together with the Company, the "**Parties**" and individually a "**Party**"**).** Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 11.

## RECITALS

**WHEREAS**, subject to the terms and conditions hereinafter set forth, Company wishes to employ Executive as its Chief Executive Officer and Executive wishes to be employed by Company as its Chief Executive Officer.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual promises, terms, provisions, and conditions set forth in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

## AGREEMENT

1. Employment. Subject to the terms and conditions set forth in this Agreement, Company hereby offers, and Executive hereby accepts employment with Company, as of the date first above written (the **"Effective Date"**).

2. Term. The Executive's employment hereunder shall be effective as of the Effective Date and shall continue until the second (2nd) anniversary thereof (the "**Initial Term**"), unless terminated earlier pursuant to the terms of this Agreement; provided that, on such second (2nd) anniversary of the Effective Date and each annual anniversary thereafter (such date and each annual anniversary thereof, a "**Renewal Date**"), the Agreement shall be deemed to be automatically extended, upon the same terms and conditions, for successive periods of one (1) year (each "**Renewal Term**"), unless either Party provides written notice of its intention not to extend the term of the Agreement at least 90 days prior to the applicable Renewal Date. The Initial Term and each Renewal Term is hereinafter referred to as the "**Term**."

3. Capacity and Performance.

   (a) During the Term, the Executive shall be employed by Company on a full-time basis as its Chief Executive Officer and Board Chairman. Executive shall perform such duties and responsibilities as directed by the Board of Directors of the Company (the "**Board**"), consistent with Executive's position on behalf of Company.

   (b) Executive shall devote his full business time, attention, skill, and best efforts to the performance of his duties under this Agreement and shall not engage in any other business or occupation during the Term of Employment, including, without limitation, any activity that: (x) conflicts with the interests of the Company or any other member of the Company Group, (y) interferes with the proper and efficient performance of Executive's duties for the Company, or (z) interferes with Executive's exercise of judgment in the Company's best interests. Notwithstanding the foregoing, nothing herein shall preclude Executive from: (i) serving, with the prior written consent of the Board, as a member of the Board of Directors or Advisory Board (or the equivalent in the case of a non-corporate entity) of a noncompeting for-profit business and one or more charitable organizations, (ii) engaging in charitable activities and community affairs, and (iii) managing Executive's personal investments and affairs; *provided, however,* that the activities set out in clauses (i), (ii), and (iii) shall be limited by Executive so as not to materially interfere, individually or in the aggregate, with the performance of his duties and responsibilities hereunder.

   (c) Executive's employment with Company shall be exclusive with respect to the business of Company. Accordingly, during the Term, Executive shall devote Executive's full business time and Executive's best efforts, business judgment, skill and knowledge to the advancement of the business and interests of Company and the discharge of Executive's duties and responsibilities hereunder, except for permitted vacation (and other paid time off) periods, reasonable periods of illness or incapacity, and reasonable and customary time spent on civic, charitable and religious activities, in each case such activities shall not interfere in any material respect with Executive's duties and responsibilities hereunder.

(d) During the Term, the Executive will report directly to the Board.

(e) On the Effective Date, the Board shall appoint Executive as the Chief Executive Officer & Chairman of the Board of Directors of the Company and shall, during the Term, nominate and recommend Executive for election as a director. Executive acknowledges and agrees that Executive is not entitled to any additional compensation in respect of Executive's appointment as a director of Company. If during the Term, Executive ceases to be a director of Company for any reason, Executive's employment with the Company will continue (unless terminated under Section 5), and all terms of this Agreement (other than those relating to Executive's position as a director of Company) will continue in full force, and effect and Executive will have no claims in respect of such cessation of office. Executive agrees to abide by all statutory, fiduciary or common law duties arising under applicable law that apply to Executive as a director of Company.

(f) Executive shall be employed to perform his duties under this Agreement at the primary office location of Company, or at such other location or locations as may be mutually agreeable to Executive and Company (including reasonable provisions during the COVID-19 national public health emergency). Notwithstanding this, it is expected that the Executive shall be required to travel a reasonable amount of time in the performance of his duties under this Agreement.

4. Compensation and Benefits.

(a) Base Salary. For services performed by Executive under this Agreement, Company shall pay Executive an annual base salary during the Term at the rate of $228,000 per year, minus applicable withholdings and deductions, payable at the same times as salaries are payable to other executives of Company (the **"Base Salary"**). During the Term, the Base Salary shall be reviewed by the Compensation Committee and/or the Board each year, and the Board may, from time to time, increase such Base Salary and any reference to **"Base Salary"** herein shall refer to such Base Salary, as increased.

(b) Annual Bonus. For each fiscal year of the Company during the Term, the Company shall afford Executive the opportunity to earn an incentive bonus (**"Bonus"**) as described in this Section 4(b). The aggregate target Bonus payable to Executive under such program(s) shall equal 25% percent (25%) of the Base Salary for such fiscal year and shall be payable to the extent the applicable performance goals are achieved (which goals and payment matrices shall be set by the Compensation Committee of the Board in its discretion). amount of the Bonus will be determined by certification by the Board that the applicable goals have been achieved, and the Board shall promptly provide such certification following achievement of the applicable goals. The amount payable under this Section 4(b) shall be paid by the seventh (7th) day following the approval of the annual audited financial statements by the Board or its audit committee, as applicable, for the calendar year in which the Bonus is earned or if later, the fifteenth (15th) day of the third month following the end of the Company's fiscal year in which the Bonus is earned..

(c) Equity Awards. During the Term, the Executive shall be entitled to receive equity awards either now or in the future, on terms and conditions similar to those applicable to other executive officers of the Company generally, inside or outside of any established equity plan. The amount and terms of the long-term incentive awards awarded to the Executive shall be set by the Compensation Committee in its discretion, except

Annual Stock Option**.** Upon the Company becoming publicly traded on a national exchange, Executive shall be granted a five-year option (the "Option") to purchase a total of 15,000 shares of the Company's common stock on the last day of each quarter, or March 31, June 30, September 30 and December 31, in each calendar year (for a cumulative total or no more than 300,000 shares over five years). The per share exercise price of the Option shall be equal to the per share closing price of the Company's common stock on the date of grant, and shall have a cashless exercise provision. The Option shall vest and become exercisable subject to the terms set forth in the 2022 Equity Incentive Plan approved by the Board and effectuated prior to the Company going public by way of Initial Public Offering of its common stock on a national exchange. The Option shall otherwise be subject to the terms of the plan pursuant to which it is granted and/or an option agreement to be entered into between Executive and the Company.

(d) Other Executive Benefits. During the Term, the Executive shall be entitled to participate in all Executive benefit plans, including health and 401(k) plans, from time to time generally in effect for Company's Executives (collectively, **"Benefit Plans"**). If the Company does not implement a health plan, it will compensate Executive $1,100.00 per month. Such participation and receipt of benefits under any such Benefit Plans shall be on the same terms (including cost-sharing between Company and Executive) as are applicable to other Company Executives and shall be subject to the terms of the applicable plan documents and generally applicable Company policies. The Company may alter, modify, add to or delete the Benefit Plans in a manner nondiscriminatory to Executive at any time in accordance with applicable plan rules.

(e) Vacation. The Executive shall be entitled to an annual vacation of 28 days plus ten established holiday days per full calendar year of his employment with the Company hereunder. Any unused vacation in one accrued calendar year may not be carried over to any subsequent calendar year. However, the Company shall pay the Executive (based on the Executive's Base Salary) for any such unused vacation days within 30 days of the end of any such calendar year.

(f) Business and Travel Expenses. Company shall pay or reimburse Executive for all reasonable, customary and necessary business expenses (including cell phone, travel, lodging, and entertainment expenses) which are correctly documented and incurred or paid by Executive in the performance of Executive's duties and responsibilities hereunder, subject to the rules, regulations, and procedures of Company and in effect from time to time.

(g) Change in Control Transaction Bonus. During Executive's employment, if (i) a Change in Control has occurred, and (ii) as of such Change in Control, the price per share of Company's common stock is two (2) times or more than the closing price per share of the common stock of the Company upon listing on an exchange, Executive shall be paid a bonus (the **"Change in Control Transaction Bonus"**), in cash, equal to two (2) times the Base Salary as in effect immediately before such Change in Control. If applicable, the Change in Control Transaction Bonus shall be paid in a lump sum within fifteen (15) days after the consummation of such Change in Control and the following certification by the Board of the occurrence of clauses (i) and (ii) above.

5. Termination of Employment; Severance Benefits. Notwithstanding the provisions of Section 2, the Executive's employment hereunder shall terminate under the following circumstances:

(a) Death. If Executive's dies during the Term, Executive's employment hereunder shall immediately and automatically terminate. In such event, Company shall pay to Executive's designated beneficiary or, if no beneficiary has been selected by Executive, to Executive's estate, the Final Compensation. Company shall have no further obligation hereunder to Executive, Executive's beneficiary, or Executive's estate upon the termination of Executive's employment under this Section 5(a) including, specifically, that the provisions of Section 5(d) shall not apply.

(b) Disability.

(i) Company may terminate Executive's employment hereunder due to Executive's Disability during the Term by giving Executive thirty (30) days' written notice of its intent to terminate, but in no event shall such termination be effective prior to the expiration of the time periods in the definition of **"Disability."** Notwithstanding the foregoing, Company will, after engaging in an interactive process with Executive to discern whether reasonable accommodation(s) can be provided without undue hardship upon Company, offer Executive reasonable accommodation(s) to enable Executive to perform the essential functions of Executive's position to the extent required by applicable law (if any) before terminating Executive's employment hereunder. Executive may decline such reasonable accommodation, in which case Executive's employment hereunder will terminate as provided in this subsection.

(ii) In the event of such termination for Disability, Executive will receive Executive's Final Compensation. Company shall have no further obligation hereunder to Executive upon termination of Executive's employment under this Section 5(d), including, specifically, that the provisions of Section 5(d) shall not apply.

(iii) Subject to Executive's rights under the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA), Company may designate another Executive to act in Executive's place during any period of Executive's Disability during which Executive is unable to perform the essential functions of Executive's position with or without a reasonable accommodation. Notwithstanding any such designation, Executive shall continue to receive the Base Salary in accordance with Section 4(a) and coverage under the Benefit Plans in accordance with Section 4(b), to the extent permitted by the then- current terms of the applicable benefit plans and as provided under the FMLA, if applicable, until the earliest to occur of: (A) the end of the Term, (B) Executive becomes eligible for disability income benefits under Company's disability income plan, or (C) the termination of Executive's employment.

(iv) While receiving disability income payments under Company's disability income plan (if applicable), Company will continue to pay to Executive Executive's Base Salary under Section 4(a), but may offset any such disability income payments Executive receives against the Base Salary payments. Executive will also continue to participate in the Benefit Plans in accordance with Section 4(b) and the terms of such Benefit Plans, until the end of the Term or until the termination of Executive's employment, whichever occurs first.

(v) If any question arises as to whether during any period Executive has a Disability as defined herein, Executive may, and at the request of Company shall, submit to a medical examination by a qualified, unbiased physician selected by Company and reasonably acceptable to Executive or Executive's duly appointed guardian, if any, to determine whether Executive has a Disability and such determination shall for the purposes of this Agreement be conclusive of the issue.

(c) By Company for Cause. Company may terminate Executive's employment hereunder for Cause, as defined in Section 11(c), at any time upon notice to Executive setting forth in reasonable detail the nature of such Cause. Upon the giving of notice of termination of Executive's employment hereunder for Cause, Executive will receive Executive's Final Compensation. Except as provided herein, Company will have no further obligation to Executive upon termination of Executive's employment under this Section 5(c). Any notice of termination of Executive's employment hereunder for Cause, or any notice to Executive regarding any event, condition or circumstance that, if not cured, if applicable, in accordance with the above, could give rise to a termination of Executive's employment hereunder for Cause, shall set forth in detail the applicable event(s), condition(s) or circumstance(s) constituting reason(s) or potential reason(s) for such termination hereunder.

(d) By Company Other than for Cause or by Executive for Good Reason. Company may terminate Executive's employment hereunder other than for Cause at any time upon thirty (30) days' written notice to Executive and Executive may terminate Executive's employment hereunder for Good Reason at any time upon thirty (30) days' written notice to Company.

(i) In the event of a termination of Executive's employment under this Section 5(d), in addition to the Final Compensation, Executive shall receive:

(1) continuation of Executive's Base Salary, at the rate in effect as of the date immediately preceding the date of termination, until the earlier of: (x) the Term End Date and (y) the first anniversary of the date of termination (*provided*, *however*, if the date of termination is after the first anniversary of the Effective Date, the period pursuant to this subsection shall be eighteen (18) months after the date of termination), payable in accordance with the Company's regular payroll practices, less applicable withholdings, commencing at the conclusion of the period set forth in Section 5(d)(iii), provided that the first installment of such payments shall include all amounts which would have been paid during the period between Executive's date of termination and the date of such first installment; and

(2) if the date of termination occurs after the end of a calendar year but prior to the date on which a Bonus is paid under Section 4(d), payment of such Bonus as determined under Section 4(d) shall be at the time proscribed by Section 4(b); and

(3) payment of a *pro-rata* portion of the amount of Executive's Bonus for the year in which termination occurs that would have been payable based on actual performance determined under the terms of the Bonus as then in effect for such year, with such *pro-rata* portion calculated by multiplying the amount of such bonus for the year in which such termination occurs (as determined by the Board based on actual performance for such year) by a number: (x) the numerator of which is the number of days worked by Executive during the year of such termination, and (y) the denominator of which is three hundred sixty-five (365), with such payment to be made after the determination of the Bonus pursuant to Section 4(b).

(ii) If the Executive timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (**"COBRA"**), the Company shall reimburse the Executive for the monthly COBRA premium paid by the Executive for himself and his dependents. Such reimbursement shall be paid to the Executive on the 1st day of the month immediately following the month in which the Executive timely remits the premium payment. The Executive shall be eligible to receive such reimbursement until the earliest of:

(1) the first anniversary of the date of termination (provided, however, if the date of termination is after the first anniversary of the Effective Date, the period pursuant to this subsection (1) shall be eighteen (18) months after the date of termination);

(2) the date the Executive is no longer eligible to receive COBRA continuation coverage; and

(3) the date on which the Executive receives substantially similar coverage from another employer or other source.

(iii) Any obligation of Company to Executive under this Section 5(d) (other than for the Final Compensation or for benefits required by law) is conditioned upon Executive's execution and delivery to Company and the expiration of all applicable statutory revocation periods of a release of claims in the form attached hereto as Exhibit A (the "**Executive Release**"), provided, that the terms of such Executive Release shall be subject to modification to the extent necessary to comply with: (a) the fact that Company is simultaneously terminating more than one executive as part of a group termination decision or (b) changes in applicable law, if any, occurring after the date hereof, and prior to the date such Executive Release is executed.

(e) By Executive Other than for Good Reason. Executive may terminate Executive's employment hereunder other than for Good Reason upon thirty (30) days' written notice to Company; *provided*, that Company may, in its sole and absolute discretion, by written notice accelerate such date of termination. In the event of a termination of Executive's employment under this Section 5(e), Executive will receive the Final Compensation. Company shall have no further obligation hereunder to Executive upon termination of Executive's employment under this Section 5(e).

(f) Change in Control Severance. Except as otherwise set forth herein, if a Change in Control occurs, and on, or at any time during the 24 months following, the Change in Control, (i) the Company terminates Executive's employment for any reason other than Cause or Disability, or (ii) Executive terminates Executive's employment for Good Reason, Executive shall be entitled to the following benefits:

(i) The Company shall pay Executive, in a lump sum within 60 days following termination of Executive's employment, severance equal to two times the sum of Executive's Base Salary and Bonus (the full, non- prorated Bonus for the year of termination assuming attainment of the targeted performance goals at the 100% payout level).

(ii) Executive also shall be entitled to receive any and all vested benefits accrued under any other incentive plans to the date of termination of employment, the amount, entitlement to, form, and time of payment of such benefits to be determined by the terms of such incentive plans. For purposes of calculating Executive's benefits under the incentive plans, Executive's employment shall be deemed to have terminated under circumstances that have the most favorable result for Executive under the applicable incentive plan.

(iii) If, upon the date of termination of Executive's employment, Executive holds any awards with respect to securities of the Company, (i) all such awards that are options shall immediately become vested and exercisable upon such date and shall be exercisable thereafter until the earlier of the third (3rd) year anniversary of Executive's termination of employment or the expiration of the term of the options; (ii) all restrictions on any such awards of restricted stock, restricted stock units or other awards shall terminate or lapse, and all such awards of restricted stock, restricted stock units or other awards shall be vested and payable; and (iii) all performance goals applicable to any such performance-based awards that are "in cycle" (i.e., the performance period is not yet complete) shall be deemed satisfied at the "target" level (assuming 100% payout), and (iv) all such awards shall be paid in accordance with the terms of the applicable award agreement. The provisions of this subsection shall be subject (and defer) to the provisions of any incentive plan, award agreement or other agreement as it relates to an individual award to the extent such provisions provide treatment that is more favorable to Executive than the treatment described in this subsection and such more favorable provisions in such incentive plan, award agreement or other agreement shall supersede any inconsistent or contrary provision of this subsection. All of Executive's awards with respect to securities of the Company that are outstanding upon the date of termination of Executive's employment shall continue to be subject to, and enjoy the benefits and protections under, the terms of the incentive plan, the award agreement and any other plan, agreement, policy or other arrangement to which such awards are subject as of the effective date of Executive's participation, including any employment security agreement or other written compensation arrangement (even if the remaining terms thereof are waived), without application of this subsection.

(iv) Executive and Executive's spouse and other qualified beneficiaries shall be eligible for continued coverage as follows:

(A) If the Executive, Executive's spouse and/or Executive's other qualified beneficiaries are enrolled under a group health plan as defined by COBRA, on the date of termination of Executive's employment, Executive, Executive's spouse and/or Executive's qualified beneficiaries may elect to continue such coverage under COBRA, except that the maximum coverage period shall be extended to no less than the Severance Period (but no more than 2 years) for that Executive, unless, after electing COBRA, the individual attains age 65 and becomes eligible for Medicare, in which case COBRA shall end for that individual. If Executive, Executive's spouse and/or Executive's other qualified beneficiaries elect COBRA coverage, the Company shall pay a portion of the COBRA costs for the Severance Period for that Executive (subject to any earlier termination of COBRA). The portion to be paid by the Company shall equal the amount necessary so that the total of the COBRA costs paid by Executive is equal to the costs that would have been paid by Executive for such coverage as an active employee immediately prior to termination of Executive's employment or, if less, prior to the Change in Control. The cost of COBRA coverage paid by the Company may be taxable income to the Executive and reported on Executive's Internal Revenue Service Form W-2. Executive, Executive's spouse and/or Executive's qualified beneficiaries may continue coverage under COBRA after the Severance Period for that Executive, provided they pay the full COBRA costs and COBRA otherwise remains available.

(B) The benefits and/or extended coverage provided under this subsection shall cease prior to the date such benefits and/or extended coverage would otherwise end under subsection if and when Executive (A) obtains employment with another employer during the Severance Period and becomes eligible for coverage under any substantially similar plan provided by his/her new employer or (B) fails to pay the required active employee portion of the cost of coverage provided under this subsection in the time and manner specified by the Company or its designee.

(v) Executive shall be entitled to payment for any accrued but unused vacation in accordance with the Company's policy in effect at the time of termination of Executive's employment, in a lump sum within 60 days following such termination. Executive shall not be entitled to receive any payments or other compensation attributable to vacation that would have been earned had Executive's employment continued during the Severance Period, and Executive waives any right to receive any such compensation.

(vi) The Company shall, at the Company's expense, provide Executive with 12 months of executive outplacement services with a professional outplacement firm selected by the Company; provided that Executive must use the outplacement services by no later than the end of the second calendar year following the calendar year in which the termination of Executive's employment occurred and the total cost of such outplacement services must not exceed any per individual cap on such amounts in the Company's agreement with the professional outplacement firm selected by the Company.

(vii) Executive shall not be entitled to reimbursement for any other fringe benefits or perquisite payments during the Severance Period, including but not limited to dues and expenses related to club memberships, automobile, cell phone, expenses for professional services, executive physicals, and other similar perquisites.

(viii) The Company shall pay as incurred (within ten calendar days following the Company's receipt of an invoice from Executive) Executive's out-of-pocket expenses, including attorneys' fees, incurred by Executive at any time from the date of this Agreement through Executive's remaining lifetime or, if longer, the statute of limitations for contract claims under applicable state law, in connection with any action taken to enforce the Executive's rights under this Agreement or construe or determine the validity of this Agreement or otherwise in connection herewith, including any claim or legal action or proceeding, whether brought by Executive or the Company or another party; provided, Executive must be successful through judgment in his/her favor with respect to such action in order to recover fees under this Section 5(f)(viii); provided further, that Executive shall have submitted an invoice for such fees and expenses at least fifteen calendar days before the end of the calendar year next following the calendar year in which such fees and expenses were incurred. The amount of such legal fees and expenses that the Company is obligated to pay in any given calendar year shall not affect the legal fees and expenses that the Company is obligated to pay in any other calendar year, and Executive's right to have the Company pay such legal fees and expenses may not be liquidated or exchanged for any other benefit. The Company's obligation to pay Executive's eligible legal fees and expenses under this Section 5(f)(viii) shall not be conditioned upon the termination of Executive's employment.

6. Effect of Termination.

(a) Upon termination of Executive's employment hereunder and subject to the provisions of Section 5 and Section 6(c), Company's entire obligation to Executive shall be payment of Final Compensation.

(b) In connection with the cessation of Executive's service as Chief Executive Officer of Company for any reason, except as may otherwise be requested by the Company in writing and agreed upon in writing by Executive, Executive shall be deemed to have resigned from any and all directorships, committee memberships, and any other positions Executive holds with the Company or any other member of the Company Group. Executive hereby agrees that no further action is required by Executive or any of the preceding to make the transitions and resignations provided for in this paragraph effective, but Executive nonetheless agrees to execute any documentation Company reasonably requests at the time to confirm it and to not reassume any such service or position without the written consent of Company.

(c) Except as otherwise required by Consolidated Omnibus Budget Reconciliation Act or any similar federal or state law, benefits shall continue or terminate pursuant to the terms of the applicable benefit plan or agreement, without regard to any continuation of Base Salary or other payment to Executive following such date of termination.

(d) The provisions of this Section 6 shall apply to any termination of employment. Provisions of this Agreement will survive any termination if so provided herein or if necessary or desirable to accomplish the purposes of other surviving provisions, including, without limitation, the obligations of Executive under Section 7 through Section 9.

(e) Any termination of Executive's employment with Company under this Agreement shall automatically be deemed to be simultaneous resignation of all other positions and titles (including any director positions) that Executive holds with Company and any Affiliate or subsidiary thereof. This Section 6(e) shall constitute a resignation notice for such purposes.

(f) Upon termination of the Executive's employment or upon the Company's request at any other time, the Executive will deliver to the Company all of the Company's property, equipment, and documents, together with all copies thereof, and any other material containing or disclosing any Intellectual Property or Confidential Information and certify in writing that the Executive has fully complied with the foregoing obligation. The Executive agrees that the Executive will not copy, delete, or alter any Company computer equipment information before the Executive returns it to the Company. In addition, if the Executive has used any personal computer, server, or email system to receive, store, review, prepare or transmit any Company information, including but not limited to, Confidential Information, the Executive agrees to provide the Company with a computer-usable copy of all such Confidential Information and then permanently delete and expunge such Confidential Information from those systems; and the Executive agrees to provide the Company access to the Executive's system as reasonably requested to verify that the necessary copying and/or deletion is completed.

7. Confidential Information.

(a) Executive acknowledges that Company continually develops Confidential Information, that Executive may develop Confidential Information for Company and that Executive may learn of Confidential Information during the course of employment with Company. Executive will comply with the policies and procedures of Company for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law, regulation or process or for the proper performance of Executive's duties and responsibilities to Company, any Confidential Information obtained by Executive incident to Executive's employment or other association with Company. Executive understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) Notwithstanding anything contained in this Section 7 to the contrary, nothing contained herein shall prevent Executive from disclosing any Confidential Information required by law, subpoena, court order or other legal processes to be disclosed; provided, that, Executive shall give prompt written notice to Company of such requirement, disclose no more information than is so required and cooperate, at Company's cost and expense, with any attempt by Company to obtain a protective order or similar treatment with respect to such information.

(c) Pursuant to the Defend Trade Secrets Act of 2016, Executive understands that:

(i) Executive may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and solely for the purpose of reporting or investigating a suspected violation of law; or is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding; and

(ii) if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the employer's trade secrets to Executive's attorney and use the trade secret information in the court proceeding if Executive files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

8. Assignment of Rights to Intellectual Property. Executive shall promptly and fully disclose to Company all Intellectual Property developed for the benefit of Company in the course of Executive's employment by Company. Executive hereby assigns and agrees to assign to Company (or as otherwise directed by Company) Executive's full right, title, and interest in and to all such Intellectual Property. Executive agrees to execute any and all applications for domestic and foreign patents, copyrights or other proprietary rights and to do such other acts (including without limitation the execution and delivery of instruments of further assurance or confirmation) requested by Company (at Company's expense) to assign to Company the Intellectual Property developed for the benefit of Company in the course of Executive's employment by Company and to permit Company to enforce any patents, copyrights or other proprietary rights to the Intellectual Property. Executive will not charge Company for time spent in complying with these obligations. All copyrightable works that Executive creates developed for the benefit of Company in the course of Executive's employment by Company shall be considered **"**work made for hire**."**

9. Restricted Activities. Executive agrees that the restrictions on Executive's activities during and after Executive's employment set forth below are necessary to protect the goodwill, Confidential Information and other legitimate interests of Company and its successors and assigns:

   (a) During the Term of this Agreement and during the Restricted Period following termination of employment, Executive will not, without the prior written consent of Company, directly or indirectly, and whether as principal or investor or as an Executive, officer, director, manager, partner, consultant, agent, or otherwise, alone or in association with any other Person, firm, corporation, or other business organization, engage or otherwise become involved in a Competing Business (as defined below) in any country in which the Company conducted business during the Term; provided, however, that the provisions of this Section 9 shall apply solely to those activities of a Competing Business which are congruent with those activities with which Executive was personally involved or for which Executive was responsible while employed by the Company or its subsidiaries during the twelve (12) month period preceding termination of Executive's employment. This Section 9 will not be violated, however, by Executive's investment of up to $500,000 in the aggregate in one or more publicly-traded companies that engage in a Competing Business. **"Competing Business"** means a business or enterprise (other than Company or its subsidiaries) engaged in development and commercialization of therapeutics for COVID-19 or malaria and any other business directly competing with the business of the Company as currently conducted or otherwise conducted by the Company during the Term. **"Restricted Period"** means twenty-four (24) months.

   (b) During the Term of this Agreement and during the Restricted Period (as defined above), Executive will not engage in any Wrongful Solicitation. A **"Wrongful Solicitation"** shall be deemed to occur when Executive directly or indirectly (except in the course of Executive's employment with Company), for the purpose of conducting or engaging in a Competing Business, calls upon, solicits, advises or otherwise does, or attempts to do, business with any Person who is, or was, during the then most recent 12-month period, a customer of Company or any of its subsidiaries, or takes away or interferes or attempts to take away or interfere with any custom, trade, business, patronage or affairs of Company or any of its subsidiaries, or hires or attempts to hire any Person who is, or was during the most recent 12-month period, an Executive, officer, representative or agent of Company or any of its subsidiaries, or solicits, induces, or attempts to solicit or induce any Person who is an Executive, officer, representative or agent of Company or any of its subsidiaries to leave the employ or agency of the Company or any of its subsidiaries, or violate the terms of their contract, or any employment consulting or agent agreement, with it.

   (c) It is expressly understood and agreed that although Executive and Company consider the restrictions contained in this Section 9 to be reasonable if a court makes a final judicial determination of competent jurisdiction that the time or territory or any other restriction contained in this Agreement is an unenforceable restriction against Executive, the provisions of this Agreement shall not be rendered void but shall be deemed amended to apply as to such maximum time and territory and to such maximum extent as the court may judicially determine or indicate to be enforceable. Alternatively, if any court of competent jurisdiction finds that any restriction contained in this Agreement is unenforceable, and such restriction cannot be amended so as to make it enforceable, such finding shall not affect the enforceability of any of the other restrictions contained herein.

(d) Executive expressly understands that in the event of a violation of any period specified in this Section 9, such period shall be extended by a period of time equal to that period beginning with the commencement of any such violation and ending when such violation shall have been finally terminated in good faith.

10. Enforcement of Covenants. Executive acknowledges that Executive has carefully read and considered all the terms and conditions of this Agreement, including the restraints imposed upon Executive pursuant to Sections 7, 8 and 9, and Executive agrees that these restraints are necessary for the reasonable and proper protection of Company and its successors and assigns and that each and every one of the restraints is reasonable in respect to the subject matter, length of time and geographic area. Executive further acknowledges that, were Executive to breach any of the covenants in Section 7, Section 8 and/or Section 9 the damage to the Company would be irreparable. Executive therefore agrees that Company, in addition to any other remedies available to it, shall be entitled to preliminary and permanent injunctive relief against any breach or threatened breach by Executive of any of the covenants herein, without any requirement to post a bond or similar security. The Parties further agree that in the event that any provision of Section 7, Section 8 and/or Section 9 shall be determined by any court of competent jurisdiction to be unenforceable by reason of its being extended over too great a time, too large a geographic area or too great a range of activities, such provision shall be deemed to be modified to permit its enforcement to the maximum extent permitted by law.

11. Definitions. Words or phrases that are initially capitalized or within quotation marks shall have the meanings provided in this Section 11 and as provided elsewhere. For purposes of this Agreement, the following definitions apply:

(a) **"$"** refers to U.S. Dollars.

(b) **"Affiliate"** means, with respect to any specified Person, any other Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, **"control"** (including, with correlative meanings, the terms **"controlling," "controlled by"** and **"under common control with"**), as used with respect to any Person, means the possession, directly or indirectly, of the power to either: (i) direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise, or (ii) vote at least fifty percent (50%) or more of the securities having voting power for the election of a majority of the directors (or Persons performing similar functions) of such Person.

(c) **"Cause"** means if Executive is discharged by Company on account of the occurrence of one or more of the following events:

(i) Executive's continued refusal or failure to perform (other than by reason of Disability) Executive's material duties and responsibilities to Company if such refusal or failure is not cured within thirty (30) days following written notice of such refusal or failure by Company to Executive, or Executive's continued refusal or failure to follow any reasonable lawful direction of the Board if such refusal or failure is not cured within thirty (30) days following written notice of such refusal or failure by Company to Executive;

(ii) a material breach of this Agreement (other than Section 7, Section 8 and/or Section 9) by Executive that, if capable of being cured, is not cured within thirty (30) days following written notice of such breach by Company to Executive;

(iii) an intentional and material breach of Section 7, Section 8 and/or Section 9 hereof by Executive;

(iv) willful, grossly negligent or unlawful misconduct by Executive which causes material harm to Company or its reputation;

(v) any conduct engaged in by Executive that is materially detrimental to the business or reputation of Company as determined by the Board in good faith using its reasonable business judgment that is not cured within thirty (30) days following written notice from Company to Executive;

(vi) the Company is directed in writing by regulatory or governmental authorities to terminate the employment of Executive or Executive engages in activities that: (i) are not approved or authorized by the Board, and (ii) cause actions to be taken by regulatory or governmental authorities that have a material adverse effect on Company; or

(vii) a conviction, plea of guilty, or plea of *nolo contendere* by Executive, of or with respect to a criminal offense which is a felony or other crime involving dishonesty, disloyalty, fraud, embezzlement, theft, or similar action(s) (including, without limitation, acceptance of bribes, kickbacks or self-dealing), or the material breach of Executive's fiduciary duties with respect to Company.

(d) **"Change in Control"** means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) A transaction or series of transactions (other than an offering of common stock to the general public through a registration statement filed by the Company with the Securities and Exchange Commission) whereby any "Person" or related "group" of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its subsidiaries, an Executive benefit plan maintained by the Company or any of its subsidiaries or a "Person" that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13(d)(3) under the Exchange Act) of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of the Company's securities outstanding immediately after such acquisition;

(ii) The consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination, or (y) a sale or other disposition of all or substantially all of the Company's assets in any single transaction or series of related transactions:

(A) which results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the Person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such Person, the **"Successor Entity"**) directly or indirectly, at least a majority of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(B) after which no Person or group beneficially owns voting securities representing fifty percent (50%) or more of the combined voting power of the Successor Entity; *provided*, *however*, that no Person or group shall be treated for purposes of this Section 11(d) as beneficially owning fifty percent (50%) or more of the combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction.

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 transaction.

(e) **"Code"** means the Internal Revenue Code of 1986, as amended.

(f) **"Company"** has the meaning ascribed to it in the preamble of this Agreement.

(g) "**Company Group"** shall mean the Company together with any of its direct or indirect subsidiaries.

(h) **"Compensation Committee"** shall mean the committee of the Board designated to make compensation decisions relating to senior executive officers of the Company.

(i) **"Confidential Information"** means any and all nonpublic information of the Company. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing, and financial activities of the Company, (ii) the Services, (iii) the costs, sources of supply, financial performance, and strategic and/or business plans of Company, (iv) the identity and special needs of the customers and prospective customers of Company, and (v) the people and organizations with whom Company has business relationships and those relationships. Confidential Information also includes any information that Company has received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed. Notwithstanding the foregoing, **"**Confidential Information**"** does not include (x) any information that is or becomes generally known to the industry or the public through no wrongful act of Executive or any representative of Executive and (y) any information that is made legitimately available to Executive by a third Party without breach of any confidentiality obligation.

(j) **"Disability"** means Executive's inability, due to any illness, injury, accident or condition of either a physical or psychological nature, to substantially perform Executive's duties and responsibilities hereunder for a period of one hundred twenty (120) consecutive days, or for any one hundred and eighty (180) days during any period of three hundred and sixty-five (365) consecutive calendar days, exclusive of any leave Executive may take under the Family and Medical Leave Act, 29 U.S.C. § 12101 *et seq. (***"FMLA"***)* or as a reasonable accommodation under the Americans with Disabilities Act, 29 U.S.C. § 2601 *et seq. (***"ADA"***).*

(k) **"Final Compensation"** means the amount equal to the sum of: (i) the Base Salary earned but not paid through the date of termination of employment, payable not later than the next scheduled payroll date, (ii) any business and related expenses and allowances incurred by Executive or to which Executive is entitled under Section 4(f) but unreimbursed on the date of termination of employment; provided that with respect to business expenses unreimbursed under Section 4(f), such expenses and required substantiation and documentation are submitted within one hundred eighty (180) days of termination in the case of termination on account of Executive's death, or thirty (30) days on account of termination for any reason other than death, and that such expenses are reimbursable under Company's applicable reimbursement policy, and (iii) any other supplemental compensation, insurance, retirement or other benefits due and payable or otherwise required to be provided under Section 4 in accordance with the terms and conditions of the applicable plan or agreement.

(l) **"Good Reason"** means, without Executive's express written consent: (i) a material reduction in the Base Salary, then in effect, except a material diminution generally affecting all of the members of the Company's management, (ii) a material reduction in job title, position or responsibility, (iii) a material breach of any term or condition contained in this Agreement, or (iv) a relocation of Executive's principal worksite that is more than fifty (50) miles from Executive's principal worksite as of the Effective Date. However, none of the foregoing events or conditions will constitute **"Good Reason"** unless (i) Executive provides Company with written notice of the existence of Good Reason within ninety (90) days following the occurrence thereof, (ii) Company does not reverse or otherwise cure the event or condition within thirty (30) days of receiving that written notice, and (iii) Executive resigns Executive's employment within thirty (30) days following the expiration of that cure period.

(m) **"Intellectual Property"** means inventions, discoveries, developments, methods, processes, compositions, works, concepts and ideas (whether or not patentable or copyrightable or constituting trade secrets) conceived, made, created, developed or reduced to practice by Executive (whether alone or with others, whether or not during normal business hours or on or off Company premises) during Executive's employment that relate to either the Services or any prospective activity of Company or that make use of Confidential Information or any of the equipment or facilities of Company.

(n) **"Person"** means an individual, a corporation, a limited liability company, an association, a partnership, an estate, a trust, and any other entity or organization other than Company.

(o) **"Sale of Company"** means the sale of Company to an independent third Party or group of independent third Parties pursuant to which such Party or Parties acquire: (i) equity interests possessing the voting power under normal circumstances to elect a majority of the Board of Directors or similar governing body of Company (whether by merger, consolidation or sale or transfer of such equity interests), or (ii) all or substantially all of Company's assets determined on a consolidated basis.

(p) **"Services"** means all services planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by Company, together with all products provided or planned by Company, during Executive's employment.

(q) **"Severance Period**" shall mean that number of years or partial years following termination of Executive's employment equal to the number of years or partial years of Base Salary that the Executive receives under Section 5(f)..

(r) **"Term End Date"** shall mean the last day of the Term of this Employment Agreement.

12. Withholding. All payments made by Company under this Agreement may be reduced by any tax or other amounts required to be withheld by Company under applicable law or by any amounts authorized in writing by Executive.

13. Assignment. Neither Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that Company may assign its rights and obligations under this Agreement without the consent of Executive in the event of a Sale of Company. This Agreement shall inure to the benefit of and be binding upon Company and Executive, their respective successors, executors, administrators, heirs and permitted assigns.

14. Compliance with Code Section 409A.

    (a) Notwithstanding any provision of this Agreement to the contrary, Executive's employment will be deemed to have terminated on the date of Executive "separation from service" (within the meaning of Treas. Reg. Section 1.409A-1(h)) with Company.

    (b) It is intended that this Agreement will comply with Section 409A of the Code, and any regulations and guideline issued thereunder (**"Section 409A"**) to the extent that any compensation and benefits provided hereunder constitute deferred compensation subject to Section 409A. This Agreement shall be interpreted on a basis consistent with this intent. The Parties will negotiate in good faith to amend this Agreement as necessary to comply with Section 409A in a manner that preserves the original intent of the Parties to the extent reasonably possible. No action or failure to act, pursuant to this Section 14 shall subject Company to any claim, liability, or expense, and Company shall not have any obligation to indemnify or otherwise protect Executive from the obligation to pay any taxes pursuant to Section 409A of the Code.

    (c) For purposes of the application of Treas. Reg. § 1.409A-1(b)(4)(or any successor provision), each payment in a series of payments will be deemed a separate payment.

    (d) Notwithstanding anything in this Agreement to the contrary, if any amount or benefit that would constitute non-exempt "deferred compensation" for purposes of Section 409A of the Code would otherwise be payable or distributable under this Agreement by reason of Executive's separation from service during a period in which Executive is a "specified Executive" (as defined under Code Section 409A and the final regulations thereunder), then, subject to any permissible acceleration of payment by Company under Treas. Reg. Section 1.409A-3(j)(4)(ii) (domestic relations order), (j)(4)(iii) (conflicts of interest), or (j)(4)(vi) (payment of employment taxes):

        (i) if the payment or distribution is payable in a lump sum, the Executive's right to receive payment or distribution of such non-exempt deferred compensation will be delayed until the earlier of Executive's death or the first day of the seventh month following Executive's separation from service; and

        (ii) if the payment or distribution is payable over time, the amount of such non-exempt deferred compensation that would otherwise be payable during the six months immediately following Executive's separation from service will be accumulated, and the Executive's right to receive payment or distribution of such accumulated amount will be delayed until the earlier of Executive's death or the first day of the seventh month following Executive's separation from service, whereupon the accumulated amount will be paid or distributed to Executive and the normal payment or distribution schedule for any remaining payments or distributions will resume.

This Section 14(d) should not be construed to prevent the application of Treas. Reg § 1.409A-1(b)(9)(iii)(or any successor provision) to amounts payable hereunder (or any portion thereof).

15. Golden Parachute Limitation. Notwithstanding anything in this Section or elsewhere in this Agreement to the contrary, in the event the payments and benefits payable hereunder to or on behalf of Executive (which the Parties agree will not include any portion of payments allocated to the non-competition and non-solicitation provisions of Section 9) that are classified as payments of reasonable compensation for purposes of Section 280G of the Code, when added to all other amounts and benefits payable to or on behalf of Executive, would result in the loss of a deduction under Code Section 280G, or the imposition of an excise tax under Code Section 4999, the amounts and benefits payable hereunder shall be reduced to such extent as may be necessary to avoid such loss of deduction or imposition of excise tax. In applying this principle, the reduction shall be made in a manner consistent with the requirements of Code Section 409A and where two or more economically equivalent amounts are subject to reduction, but payable at different times, such amounts shall be reduced on a *pro-rata* basis. All calculations required to be made under this subsection will be made by the Company's independent public accountants, subject to the right of Executive's professional advisors to review the same. The Parties recognize that the actual implementation of the provisions of this subsection are complex and agree to deal with each other in good faith to resolve any questions or disagreements arising hereunder.

16. Successors.

(a) Company's Successors. Subject to Section 5(f),, any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this Section 16 or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder shall inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees

17. Clawback Provisions. Any amounts payable under this Agreement are subject to any policy (whether in existence as of the Effective Date or later adopted) established by the Company providing for clawback or recovery of amounts that were paid to the Executive. The Company will make any determination for clawback or recovery in its sole discretion and in accordance with any applicable law or regulation.

18. Indemnification. Company will indemnify Executive to the fullest extent permitted by law, for all amounts (including, without limitation, judgments, fines, settlement payments, expenses and reasonable out-of-pocket attorneys' fees) incurred or paid by Executive in connection with any action, suit, investigation or proceeding, or threatened action, suit, investigation or proceeding, arising out of or relating to the performance by Executive of services for, or the acting by Executive as a director, officer or Executive of, Company, or any subsidiary of Company. Any fees or other necessary expenses incurred by Executive in defending any such action, suit, investigation or proceeding shall be paid by Company in advance, subject to Company's right to seek repayment from Executive if a determination is made that Executive was not entitled to indemnification.

19. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in the circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving Party. The failure of either Party to require the performance of any term or obligation of this Agreement, or the waiver by either Party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

21. Survival. Section 6 through and including Section 32 shall survive and continue in full force in accordance with their terms notwithstanding the termination of Executive's employment (and hence the Term of this Agreement) for any reason.

22. Notices. Any and all notices, requests, demands and other communications provided for by this Agreement shall be in writing and shall be effective when delivered in Person, with respect to notices delivered personally, or upon confirmed receipt when delivered by facsimile or deposited with a reputable, nationally recognized overnight courier service and addressed or faxed to Executive at Executive's last known address on the books of Company or, in the case of Company, at its principal place of business, attention: Secretary, Board of Directors.

23. Entire Agreement. This Agreement constitutes the entire agreement between the Parties (including with respect to Company, its successors and assigns) with respect to Executive's employment and supersedes all prior communications, agreements and understandings, written or oral, with respect to the terms and conditions of Executive's employment.

24. Amendment. This Agreement may be amended or modified only by a written instrument signed by Executive and by an expressly authorized representative of Company.

25. Headings. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement.

26. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. Furthermore, the delivery of a copy of such signature by facsimile transmission or other electronic exchange methodology shall constitute a valid and binding execution and delivery of this Agreement by such Party, and such electronic copy shall constitute an enforceable original document. Counterpart signatures need not be on the same page and shall be deemed effective upon receipt.

27. Additional Obligations. Without implication that the contrary would otherwise be true, Executive's obligations under Section 7, Section 8 and Section 9 are in addition to, and not in limitation of, any obligations that Executive may have under applicable law (including any law regarding trade secrets, duty of loyalty, fiduciary duty, unfair competition, unjust enrichment, slander, libel, conversion, misappropriation and fraud).

28. Attorneys' Fees . In any action or proceeding brought to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs, and expenses from the other Party to the action or proceeding. For purposes of this Agreement, the **"prevailing Party"** shall be deemed to be that Party who obtains substantially the result sought, whether by settlement, mediation, judgment or otherwise, and **"attorneys' fees"** shall include, without limitation, the reasonable out-of-pocket attorneys' fees incurred in retaining counsel for advice, negotiations, suit, appeal or other legal proceeding, including mediation and arbitration.

29. Confidentiality. The Parties acknowledge and agree that this Agreement and each of its provisions are and shall be treated strictly confidential. During the Term and thereafter, Executive shall not disclose any terms of this Agreement to any Person or entity without the prior written consent of Company, with the exception of Executive's tax, legal or accounting advisors or for legitimate business purposes of Executive, or as otherwise required by law.

30. No Rule of Construction. This Agreement shall be construed to be neither against nor in favor of any Party hereto based upon any Party's role in drafting this Agreement, but rather in accordance with the fair meaning hereof.

31. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the state of Florida.

32. WAIVER OF JURY TRIAL. EXECUTIVE AND THE COMPANY EXPRESSLY WAIVE ANY RIGHT EITHER MAY HAVE TO A JURY TRIAL CONCERNING ANY CIVIL ACTION THAT MAY ARISE FROM THIS AGREEMENT OR THE RELATIONSHIP OF THE PARTIES HERETO.

33. Conditions. This Agreement and the Executive's continued employment hereunder is conditional on the Company's satisfaction (determined in the Company's sole discretion) that the Executive has met the legal requirements to perform the Executive's role, including but not limited to satisfactory results of a background and/or credit search or any other applicable security clearance checks and criminal record checks and other reference checks that the Company performs. The Executive acknowledges and agrees that in signing this Agreement, and providing the Company with the necessary documentation to perform the checks required for the Executive's role and with references, the Executive is providing consent to the Company or its agent, to performs such checks and contact the references the Executive provided to the Company.

34. Prior Restrictions. By signing below, the Executive represents that the Executive is not bound by the terms of any agreement with any Person which restricts in any way the Executive's hiring by the Company and the performance of the Executive's expected job duties; the Executive also represents that, during the Executive's employment with the Company, the Executive shall not disclose or make use of any confidential information of any other persons or entities in violation of any of their applicable policies or agreements and/or applicable law.

35. Independent Legal Counsel. By signing below, the Executive hereby acknowledges that the Executive has been encouraged to obtain independent legal advice regarding the execution of this Agreement, and that the Executive has either obtained such advice or voluntarily chosen not to do so, and hereby waives any objections or claims the Executive may make resulting from any failure on the Executive's part to obtain such advice.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original when executed, but all of which taken together shall constitute the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement by electronic transmission, including in portable document format (.pdf), shall be deemed as effective as delivery of an original executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, this Agreement has been executed by Company (by its duly authorized representative) and by Executive, as of the date first above written.

**60 Degrees Pharmaceuticals Inc.**

By: */s/ Ty Miller*
Name: Ty Miller
Title: CFO

**EXECUTIVE**:

*/s/ Geoff Dow*

EXHIBIT A

Release of Claims

FOR AND IN CONSIDERATION OF the benefits to be provided me in1c/o1n2n/e2ct0io2n3 with the termination of my employment, as set forth in that certain Employment Agreement, dated as of _____, 2022 (the **"Agreement"**), between me and 60 Degrees Pharmaceuticals Inc. (the **"Company"**), or under any severance pay plan applicable to me, which benefits are conditioned on my signing this Release of Claims and to which I am not otherwise entitled, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I, on my own behalf and on behalf of my heirs, executors, administrators, beneficiaries, representatives and assigns, and all others connected with me, hereby release and forever discharge Company and any of its subsidiaries and Affiliates (as that term is defined in Section 11(b) of the Agreement) and all of their respective past, present and future officers, directors, trustees, equity holders, Executives, agents, managers, joint venturers, representatives, successors and assigns, and all others connected with any of them (collectively, the **"Released Parties"**), both individually and in their official capacities, from any and all causes of action, rights and claims of any type or description, known or unknown, which I have had in the past, now have, or might now have, through the date of my signing of this Release of Claims, in any way resulting from, arising out of or connected with my employment by the Company or any of its Affiliates or the termination of that employment, including, but not limited to, any allegation, claim or violation arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Worker Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Worker Adjustment Retraining and Notification Act; Executive Retirement Income Security Act of 1974; the Fair Labor Standards Act; any applicable Executive Orders; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other federal, state or local law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, intentional infliction of emotional distress or defamation; or any claim for costs, fees or other expenses, including attorneys' fees incurred in these matters (all of the foregoing collectively referred to herein as **"Claims"**), other than (i) the right to payment of any vested or accrued benefits under any supplemental compensation, insurance, retirement and/or other benefit plan or agreement applicable to Executive, (ii) the right to payment of any amounts owed to me by Company pursuant to Section 5 of the Agreement, (iii) any rights under applicable workers compensation or unemployment compensation laws, (iv) any rights that survive termination of my employment pursuant to an option grant agreement or certificate to purchase the Company's (or an Affiliate's) capital stock, (v) any rights with respect to the Company's (or an Affiliate's) capital stock owned by Executive, or (vi) any rights to indemnification under the Agreement, the Company's by-laws or any other applicable law.

In signing this Release of Claims, I acknowledge my understanding that I may not sign it prior to the termination of my employment, but that I may consider the terms of this Release of Claims for up to twenty-one (21) days (or such longer period as the Company may specify) from the later of the date my employment with the Company terminates or the date I receive this Release of Claims. I also acknowledge that I am advised by the Company and its Affiliates to seek the advice of an attorney prior to signing this Release of Claims; that I have had sufficient time to consider this Release of Claims and to consult with an attorney, if I wished to do so, or to consult with any other Person of my choosing before signing; and that I am signing this Release of Claims voluntarily and with a full understanding of its terms.

I represent that I have not filed against the Released Parties any complaints, charges, or lawsuits arising out of my employment, or any other matter arising on or prior to the date of this Release of Claims, and covenant and agree that I will never individually or with any Person file, or commence the filing of, any charges, lawsuits, complaints or proceedings with any governmental agency, or against the Released Parties with respect to any of the matters released by me pursuant to this Release of Claims.

I further acknowledge that, in signing this Release of Claims, I have not relied on any promises or representations, express or implied, that are not set forth expressly in the Agreement. I understand that I may revoke this Release of Claims at any time within seven (7) days of the date of my signing by written notice to the Secretary, Board of Directors of the Company (or such other Person as the Company may specify by notice to me given in accordance with the Agreement) and that this Release of Claims will take effect only upon the expiration of such seven-day revocation period and only if I have not timely revoked it.

Intending to be legally bound, I have signed this Release of Claims as of the date written below.

Signature: /s/ Geoff Dow

Name: Geoff Dow

Date Signed: 1/12/2023

**Exhibit 10.23**

# EMPLOYMENT AGREEMENT

This Employment Agreement, dated as of January 12, 2023 (this **"Agreement"**), is made and entered into by and between 60 Degrees Pharmaceuticals Inc., a Delaware corporation (the **"Company"**), and Tyrone Miller (the **"Executive"** and together with the Company, the "**Parties**" and individually a "**Party**"**).** Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 11.

## RECITALS

**WHEREAS**, subject to the terms and conditions hereinafter set forth, Company wishes to employ Executive as its Chief Financial Officer and Executive wishes to be employed by Company as its Chief Financial Officer.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual promises, terms, provisions, and conditions set forth in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

## AGREEMENT

1. Employment. Subject to the terms and conditions set forth in this Agreement, Company hereby offers, and Executive hereby accepts employment with Company, as of the date first above written (the **"Effective Date"**).

2. Term. The Executive's employment hereunder shall be effective as of the Effective Date and shall continue until the second (2nd) anniversary thereof (the "**Initial Term**"), unless terminated earlier pursuant to the terms of this Agreement; provided that, on such second (2nd) anniversary of the Effective Date and each annual anniversary thereafter (such date and each annual anniversary thereof, a "**Renewal Date**"), the Agreement shall be deemed to be automatically extended, upon the same terms and conditions, for successive periods of one (1) year (each "**Renewal Term**"), unless either Party provides written notice of its intention not to extend the term of the Agreement at least 90 days prior to the applicable Renewal Date. The Initial Term and each Renewal Term is hereinafter referred to as the "**Term**."

3. Capacity and Performance.

   (a) During the Term, the Executive shall be employed by Company on a full-time basis as its Chief Financial Officer. Executive shall perform such duties and responsibilities as directed by the Board of Directors of the Company (the "**Board**"), consistent with Executive's position on behalf of Company.

   (b) Executive shall devote his full business time, attention, skill, and best efforts to the performance of his duties under this Agreement and shall not engage in any other business or occupation during the Term of Employment, including, without limitation, any activity that: (x) conflicts with the interests of the Company or any other member of the Company Group, (y) interferes with the proper and efficient performance of Executive's duties for the Company, or (z) interferes with Executive's exercise of judgment in the Company's best interests. Notwithstanding the foregoing, nothing herein shall preclude Executive from: (i) serving, with the prior written consent of the Board, as a member of the Board of Directors or Advisory Board (or the equivalent in the case of a non-corporate entity) of a noncompeting for-profit business and one or more charitable organizations, (ii) engaging in charitable activities and community affairs, and (iii) managing Executive's personal investments and affairs and (iv) continuing tax advisory work for existing clients; *provided*, *however,* that the activities set out in clauses (i), (ii), (iii) and (iv) shall be limited by Executive so as not to materially interfere, individually or in the aggregate, with the performance of his duties and responsibilities hereunder.

   (c) Executive's employment with Company shall be exclusive with respect to the business of Company. Accordingly, during the Term, Executive shall devote Executive's full business time and Executive's best efforts, business judgment, skill and knowledge to the advancement of the business and interests of Company and the discharge of Executive's duties and responsibilities hereunder, except for permitted vacation (and other paid time off) periods, reasonable periods of illness or incapacity, and reasonable and customary time spent on civic, charitable and religious activities, in each case such activities shall not interfere in any material respect with Executive's duties and responsibilities hereunder.

(d) During the Term, the Executive will report directly to the Chief Executive Officer.

(e) On the Effective Date, the Board shall appoint Executive as the Chief Financial Officer

(f) Executive shall be employed to perform his duties under this Agreement at the primary office location of Company, or at such other location or locations as may be mutually agreeable to Executive and Company. Notwithstanding this, it is expected that the Executive shall be required to travel a reasonable amount of time in the performance of his duties under this Agreement.

4. Compensation and Benefits.

(a) Base Salary. For services performed by Executive under this Agreement, Company shall pay Executive an annual base salary during the Term at the rate of $204,000 per year, minus applicable withholdings and deductions, payable at the same times as salaries are payable to other executives of Company (the **"Base Salary"**). During the Term, the Base Salary shall be reviewed by the Compensation Committee and/or the Board each year, and the Board may, from time to time, increase such Base Salary and any reference to **"Base Salary"** herein shall refer to such Base Salary, as increased.

(b) Annual Bonus. For each fiscal year of the Company during the Term, the Company shall afford Executive the opportunity to earn an incentive bonus (**"Bonus"**) as described in this Section 4(b). The aggregate target Bonus payable to Executive under such program(s) shall equal 25% percent (25%) of the Base Salary for such fiscal year and shall be payable to the extent the applicable performance goals are achieved (which goals and payment matrices shall be set by the Compensation Committee of the Board in its discretion). The amount of the Bonus will be determined by certification by the Board that the applicable goals have been achieved, and the Board shall promptly provide such certification following achievement of the applicable goals. The amount payable under this Section 4(b) shall be paid by the seventh (7th) day following the approval of the annual audited financial statements by the Board or its audit committee, as applicable, for the calendar year in which the Bonus is earned or if later, the fifteenth (15th) day of the third month following the end of the Company's fiscal year in which the Bonus is earned.

(c) Equity Awards. During the Term, the Executive shall be entitled to receive equity awards either now or in the future, on terms and conditions similar to those applicable to other executive officers of the Company generally, inside or outside of any established equity plan. The amount and terms of the long-term incentive awards awarded to the Executive shall be set by the Compensation Committee in its discretion, except

Annual Stock Option**.** Upon the Company becoming publicly traded on a national exchange, Executive shall be granted a five-year option (the "Option") to purchase a total of 12,000 shares of the Company's common stock on the last day of each quarter, or March 31, June 30, September 30 and December 31, in each calendar year (for a cumulative total or no more than 240,000 shares over five years). The per share exercise price of the Option shall be equal to the per share closing price of the Company's common stock on the date of grant, and shall have a cashless exercise provision. The Option shall vest and become exercisable subject to the terms set forth in the 2022 Equity Incentive Plan approved by the Board and effectuated prior to the Company going public by way of Initial Public Offering of its common stock on a national exchange. The Option shall otherwise be subject to the terms of the plan pursuant to which it is granted and/or an option agreement to be entered into between Executive and the Company.

(d) Other Executive Benefits. During the Term, the Executive shall be entitled to participate in all Executive benefit plans, including health and 401(k) plans, from time to time generally in effect for Company's Executives (collectively, **"Benefit Plans"**). If the Company does not implement a health plan, it will compensate Executive $1,100.00 per month. Such participation and receipt of benefits under any such Benefit Plans shall be on the same terms (including cost-sharing between Company and Executive) as are applicable to other Company Executives and shall be subject to the terms of the applicable plan documents and generally applicable Company policies. The Company may alter, modify, add to or delete the Benefit Plans in a manner nondiscriminatory to Executive at any time in accordance with applicable plan rules.

(e) Vacation. The Executive shall be entitled to an annual vacation of 28 days plus ten established holiday days per full calendar year of his employment with the Company hereunder. Any unused vacation in one accrued calendar year may not be carried over to any subsequent calendar year. However, the Company shall pay the Executive (based on the Executive's Base Salary) for any such unused vacation days within 30 days of the end of any such calendar year.

(f) Business and Travel Expenses. Company shall pay or reimburse Executive for all reasonable, customary and necessary business expenses (including cell phone, travel, lodging, and entertainment expenses) which are correctly documented and incurred or paid by Executive in the performance of Executive's duties and responsibilities hereunder, subject to the rules, regulations, and procedures of Company and in effect from time to time.

(g) Change in Control Transaction Bonus. During Executive's employment, if (i) a Change in Control has occurred, and (ii) as of such Change in Control, the price per share of Company's common stock is two (2) times or more than the closing price per share of the common stock of the Company upon listing on an exchange, Executive shall be paid a bonus (the **"Change in Control Transaction Bonus"**), in cash, equal to two (2) times the Base Salary as in effect immediately before such Change in Control. If applicable, the Change in Control Transaction Bonus shall be paid in a lump sum within fifteen (15) days after the consummation of such Change in Control and the following certification by the Board of the occurrence of clauses (i) and (ii) above.

5. Termination of Employment; Severance Benefits. Notwithstanding the provisions of Section 2, the Executive's employment hereunder shall terminate under the following circumstances:

(a) Death. If Executive's dies during the Term, Executive's employment hereunder shall immediately and automatically terminate. In such event, Company shall pay to Executive's designated beneficiary or, if no beneficiary has been selected by Executive, to Executive's estate, the Final Compensation. Company shall have no further obligation hereunder to Executive, Executive's beneficiary, or Executive's estate upon the termination of Executive's employment under this Section 5(a) including, specifically, that the provisions of Section 5(d) shall not apply.

(b) Disability.

(i) Company may terminate Executive's employment hereunder due to Executive's Disability during the Term by giving Executive thirty (30) days' written notice of its intent to terminate, but in no event shall such termination be effective prior to the expiration of the time periods in the definition of **"Disability."** Notwithstanding the foregoing, Company will, after engaging in an interactive process with Executive to discern whether reasonable accommodation(s) can be provided without undue hardship upon Company, offer Executive reasonable accommodation(s) to enable Executive to perform the essential functions of Executive's position to the extent required by applicable law (if any) before terminating Executive's employment hereunder. Executive may decline such reasonable accommodation, in which case Executive's employment hereunder will terminate as provided in this subsection.

(ii) In the event of such termination for Disability, Executive will receive Executive's Final Compensation. Company shall have no further obligation hereunder to Executive upon termination of Executive's employment under this Section 5(d), including, specifically, that the provisions of Section 5(d) shall not apply.

(iii) Subject to Executive's rights under the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA), Company may designate another Executive to act in Executive's place during any period of Executive's Disability during which Executive is unable to perform the essential functions of Executive's position with or without a reasonable accommodation. Notwithstanding any such designation, Executive shall continue to receive the Base Salary in accordance with Section 4(a) and coverage under the Benefit Plans in accordance with Section 4(b), to the extent permitted by the then- current terms of the applicable benefit plans and as provided under the FMLA, if applicable, until the earliest to occur of: (A) the end of the Term, (B) Executive becomes eligible for disability income benefits under Company's disability income plan, or (C) the termination of Executive's employment.

(iv) While receiving disability income payments under Company's disability income plan (if applicable), Company will continue to pay to Executive Executive's Base Salary under Section 4(a), but may offset any such disability income payments Executive receives against the Base Salary payments. Executive will also continue to participate in the Benefit Plans in accordance with Section 4(b) and the terms of such Benefit Plans, until the end of the Term or until the termination of Executive's employment, whichever occurs first.

(v) If any question arises as to whether during any period Executive has a Disability as defined herein, Executive may, and at the request of Company shall, submit to a medical examination by a qualified, unbiased physician selected by Company and reasonably acceptable to Executive or Executive's duly appointed guardian, if any, to determine whether Executive has a Disability and such determination shall for the purposes of this Agreement be conclusive of the issue.

(c) By Company for Cause. Company may terminate Executive's employment hereunder for Cause, as defined in Section 11(c), at any time upon notice to Executive setting forth in reasonable detail the nature of such Cause. Upon the giving of notice of termination of Executive's employment hereunder for Cause, Executive will receive Executive's Final Compensation. Except as provided herein, Company will have no further obligation to Executive upon termination of Executive's employment under this Section 5(c). Any notice of termination of Executive's employment hereunder for Cause, or any notice to Executive regarding any event, condition or circumstance that, if not cured, if applicable, in accordance with the above, could give rise to a termination of Executive's employment hereunder for Cause, shall set forth in detail the applicable event(s), condition(s) or circumstance(s) constituting reason(s) or potential reason(s) for such termination hereunder.

(d) By Company Other than for Cause or by Executive for Good Reason. Company may terminate Executive's employment hereunder other than for Cause at any time upon thirty (30) days' written notice to Executive and Executive may terminate Executive's employment hereunder for Good Reason at any time upon thirty (30) days' written notice to Company.

(i) In the event of a termination of Executive's employment under this Section 5(d), in addition to the Final Compensation, Executive shall receive:

(1) continuation of Executive's Base Salary, at the rate in effect as of the date immediately preceding the date of termination, until the earlier of: (x) the Term End Date and (y) the first anniversary of the date of termination (*provided*, *however*, if the date of termination is after the first anniversary of the Effective Date, the period pursuant to this subsection shall be eighteen (18) months after the date of termination), payable in accordance with the Company's regular payroll practices, less applicable withholdings, commencing at the conclusion of the period set forth in Section 5(d)(iii), provided that the first installment of such payments shall include all amounts which would have been paid during the period between Executive's date of termination and the date of such first installment; and

(2) if the date of termination occurs after the end of a calendar year but prior to the date on which a Bonus is paid under Section 4(d), payment of such Bonus as determined under Section 4(d) shall be at the time proscribed by Section 4(b); and

(3) payment of a *pro-rata* portion of the amount of Executive's Bonus for the year in which termination occurs that would have been payable based on actual performance determined under the terms of the Bonus as then in effect for such year, with such *pro-rata* portion calculated by multiplying the amount of such bonus for the year in which such termination occurs (as determined by the Board based on actual performance for such year) by a number: (x) the numerator of which is the number of days worked by Executive during the year of such termination, and (y) the denominator of which is three hundred sixty-five (365), with such payment to be made after the determination of the Bonus pursuant to Section 4(b).

(ii) If the Executive timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (**"COBRA"**), the Company shall reimburse the Executive for the monthly COBRA premium paid by the Executive for himself and his dependents. Such reimbursement shall be paid to the Executive on the 1st day of the month immediately following the month in which the Executive timely remits the premium payment. The Executive shall be eligible to receive such reimbursement until the earliest of:

(1) the first anniversary of the date of termination (provided, however, if the date of termination is after the first anniversary of the Effective Date, the period pursuant to this subsection (1) shall be eighteen (18) months after the date of termination);

(2) the date the Executive is no longer eligible to receive COBRA continuation coverage; and

(3) the date on which the Executive receives substantially similar coverage from another employer or other source.

(iii) Any obligation of Company to Executive under this Section 5(d) (other than for the Final Compensation or for benefits required by law) is conditioned upon Executive's execution and delivery to Company and the expiration of all applicable statutory revocation periods of a release of claims in the form attached hereto as Exhibit A (the **"Executive Release"**), provided, that the terms of such Executive Release shall be subject to modification to the extent necessary to comply with: (a) the fact that Company is simultaneously terminating more than one executive as part of a group termination decision or (b) changes in applicable law, if any, occurring after the date hereof, and prior to the date such Executive Release is executed.

(e) By Executive Other than for Good Reason. Executive may terminate Executive's employment hereunder other than for Good Reason upon thirty (30) days' written notice to Company; *provided*, that Company may, in its sole and absolute discretion, by written notice accelerate such date of termination. In the event of a termination of Executive's employment under this Section 5(e), Executive will receive the Final Compensation. Company shall have no further obligation hereunder to Executive upon termination of Executive's employment under this Section 5(e).

(f) Change in Control Severance. Except as otherwise set forth herein, if a Change in Control occurs, and on, or at any time during the 24 months following, the Change in Control, (i) the Company terminates Executive's employment for any reason other than Cause or Disability, or (ii) Executive terminates Executive's employment for Good Reason, Executive shall be entitled to the following benefits:

(i) The Company shall pay Executive, in a lump sum within 60 days following termination of Executive's employment, severance equal to two times the sum of Executive's Base Salary and Bonus (the full, non- prorated Bonus for the year of termination assuming attainment of the targeted performance goals at the 100% payout level).

(ii) Executive also shall be entitled to receive any and all vested benefits accrued under any other incentive plans to the date of termination of employment, the amount, entitlement to, form, and time of payment of such benefits to be determined by the terms of such incentive plans. For purposes of calculating Executive's benefits under the incentive plans, Executive's employment shall be deemed to have terminated under circumstances that have the most favorable result for Executive under the applicable incentive plan.

(iii) If, upon the date of termination of Executive's employment, Executive holds any awards with respect to securities of the Company, (i) all such awards that are options shall immediately become vested and exercisable upon such date and shall be exercisable thereafter until the earlier of the third (3rd) year anniversary of Executive's termination of employment or the expiration of the term of the options; (ii) all restrictions on any such awards of restricted stock, restricted stock units or other awards shall terminate or lapse, and all such awards of restricted stock, restricted stock units or other awards shall be vested and payable; and (iii) all performance goals applicable to any such performance-based awards that are "in cycle" (i.e., the performance period is not yet complete) shall be deemed satisfied at the "target" level (assuming 100% payout), and (iv) all such awards shall be paid in accordance with the terms of the applicable award agreement. The provisions of this subsection shall be subject (and defer) to the provisions of any incentive plan, award agreement or other agreement as it relates to an individual award to the extent such provisions provide treatment that is more favorable to Executive than the treatment described in this subsection and such more favorable provisions in such incentive plan, award agreement or other agreement shall supersede any inconsistent or contrary provision of this subsection. All of Executive's awards with respect to securities of the Company that are outstanding upon the date of termination of Executive's employment shall continue to be subject to, and enjoy the benefits and protections under, the terms of the incentive plan, the award agreement and any other plan, agreement, policy or other arrangement to which such awards are subject as of the effective date of Executive's participation, including any employment security agreement or other written compensation arrangement (even if the remaining terms thereof are waived), without application of this subsection.

(iv) Executive and Executive's spouse and other qualified beneficiaries shall be eligible for continued coverage as follows:

(A) If the Executive, Executive's spouse and/or Executive's other qualified beneficiaries are enrolled under a group health plan as defined by COBRA, on the date of termination of Executive's employment, Executive, Executive's spouse and/or Executive's qualified beneficiaries may elect to continue such coverage under COBRA, except that the maximum coverage period shall be extended to no less than the Severance Period (but no more than 2 years) for that Executive, unless, after electing COBRA, the individual attains age 65 and becomes eligible for Medicare, in which case COBRA shall end for that individual. If Executive, Executive's spouse and/or Executive's other qualified beneficiaries elect COBRA coverage, the Company shall pay a portion of the COBRA costs for the Severance Period for that Executive (subject to any earlier termination of COBRA). The portion to be paid by the Company shall equal the amount necessary so that the total of the COBRA costs paid by Executive is equal to the costs that would have been paid by Executive for such coverage as an active employee immediately prior to termination of Executive's employment or, if less, prior to the Change in Control. The cost of COBRA coverage paid by the Company may be taxable income to the Executive and reported on Executive's Internal Revenue Service Form W-2. Executive, Executive's spouse and/or Executive's qualified beneficiaries may continue coverage under COBRA after the Severance Period for that Executive, provided they pay the full COBRA costs and COBRA otherwise remains available.

(B) The benefits and/or extended coverage provided under this subsection shall cease prior to the date such benefits and/or extended coverage would otherwise end under subsection if and when Executive (A) obtains employment with another employer during the Severance Period and becomes eligible for coverage under any substantially similar plan provided by his/her new employer or (B) fails to pay the required active employee portion of the cost of coverage provided under this subsection in the time and manner specified by the Company or its designee.

(v) Executive shall be entitled to payment for any accrued but unused vacation in accordance with the Company's policy in effect at the time of termination of Executive's employment, in a lump sum within 60 days following such termination. Executive shall not be entitled to receive any payments or other compensation attributable to vacation that would have been earned had Executive's employment continued during the Severance Period, and Executive waives any right to receive any such compensation.

(vi) The Company shall, at the Company's expense, provide Executive with 12 months of executive outplacement services with a professional outplacement firm selected by the Company; provided that Executive must use the outplacement services by no later than the end of the second calendar year following the calendar year in which the termination of Executive's employment occurred and the total cost of such outplacement services must not exceed any per individual cap on such amounts in the Company's agreement with the professional outplacement firm selected by the Company.

(vii) Executive shall not be entitled to reimbursement for any other fringe benefits or perquisite payments during the Severance Period, including but not limited to dues and expenses related to club memberships, automobile, cell phone, expenses for professional services, executive physicals, and other similar perquisites.

(viii) The Company shall pay as incurred (within ten calendar days following the Company's receipt of an invoice from Executive) Executive's out-of-pocket expenses, including attorneys' fees, incurred by Executive at any time from the date of this Agreement through Executive's remaining lifetime or, if longer, the statute of limitations for contract claims under applicable state law, in connection with any action taken to enforce the Executive's rights under this Agreement or construe or determine the validity of this Agreement or otherwise in connection herewith, including any claim or legal action or proceeding, whether brought by Executive or the Company or another party; provided, Executive must be successful through judgment in his/her favor with respect to such action in order to recover fees under this Section 5(f)(viii); provided further, that Executive shall have submitted an invoice for such fees and expenses at least fifteen calendar days before the end of the calendar year next following the calendar year in which such fees and expenses were incurred. The amount of such legal fees and expenses that the Company is obligated to pay in any given calendar year shall not affect the legal fees and expenses that the Company is obligated to pay in any other calendar year, and Executive's right to have the Company pay such legal fees and expenses may not be liquidated or exchanged for any other benefit. The Company's obligation to pay Executive's eligible legal fees and expenses under this Section 5(f)(viii) shall not be conditioned upon the termination of Executive's employment.

6. Effect of Termination.

(a) Upon termination of Executive's employment hereunder and subject to the provisions of Section 5 and Section 6(c), Company's entire obligation to Executive shall be payment of Final Compensation.

(b) In connection with the cessation of Executive's service as Chief Financial Officer of Company for any reason, except as may otherwise be requested by the Company in writing and agreed upon in writing by Executive, Executive shall be deemed to have resigned from any and all directorships, committee memberships, and any other positions Executive holds with the Company or any other member of the Company Group. Executive hereby agrees that no further action is required by Executive or any of the preceding to make the transitions and resignations provided for in this paragraph effective, but Executive nonetheless agrees to execute any documentation Company reasonably requests at the time to confirm it and to not reassume any such service or position without the written consent of Company.

(c) Except as otherwise required by Consolidated Omnibus Budget Reconciliation Act or any similar federal or state law, benefits shall continue or terminate pursuant to the terms of the applicable benefit plan or agreement, without regard to any continuation of Base Salary or other payment to Executive following such date of termination.

(d) The provisions of this Section 6 shall apply to any termination of employment. Provisions of this Agreement will survive any termination if so provided herein or if necessary or desirable to accomplish the purposes of other surviving provisions, including, without limitation, the obligations of Executive under Section 7 through Section 9.

(e) Any termination of Executive's employment with Company under this Agreement shall automatically be deemed to be simultaneous resignation of all other positions and titles (including any director positions) that Executive holds with Company and any Affiliate or subsidiary thereof. This Section 6(e) shall constitute a resignation notice for such purposes.

(f) Upon termination of the Executive's employment or upon the Company's request at any other time, the Executive will deliver to the Company all of the Company's property, equipment, and documents, together with all copies thereof, and any other material containing or disclosing any Intellectual Property or Confidential Information and certify in writing that the Executive has fully complied with the foregoing obligation. The Executive agrees that the Executive will not copy, delete, or alter any Company computer equipment information before the Executive returns it to the Company. In addition, if the Executive has used any personal computer, server, or email system to receive, store, review, prepare or transmit any Company information, including but not limited to, Confidential Information, the Executive agrees to provide the Company with a computer-usable copy of all such Confidential Information and then permanently delete and expunge such Confidential Information from those systems; and the Executive agrees to provide the Company access to the Executive's system as reasonably requested to verify that the necessary copying and/or deletion is completed.

7. Confidential Information.

(a) Executive acknowledges that Company continually develops Confidential Information, that Executive may develop Confidential Information for Company and that Executive may learn of Confidential Information during the course of employment with Company. Executive will comply with the policies and procedures of Company for protecting Confidential Information and shall not disclose to any Person or use, other than as required by applicable law, regulation or process or for the proper performance of Executive's duties and responsibilities to Company, any Confidential Information obtained by Executive incident to Executive's employment or other association with Company. Executive understands that this restriction shall continue to apply after Executive's employment terminates, regardless of the reason for such termination.

(b) Notwithstanding anything contained in this Section 7 to the contrary, nothing contained herein shall prevent Executive from disclosing any Confidential Information required by law, subpoena, court order or other legal processes to be disclosed; provided, that, Executive shall give prompt written notice to Company of such requirement, disclose no more information than is so required and cooperate, at Company's cost and expense, with any attempt by Company to obtain a protective order or similar treatment with respect to such information.

(c) Pursuant to the Defend Trade Secrets Act of 2016, Executive understands that:

(i) Executive may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and solely for the purpose of reporting or investigating a suspected violation of law; or is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding; and

(ii) if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the employer's trade secrets to Executive's attorney and use the trade secret information in the court proceeding if Executive files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

8. Assignment of Rights to Intellectual Property. Executive shall promptly and fully disclose to Company all Intellectual Property developed for the benefit of Company in the course of Executive's employment by Company. Executive hereby assigns and agrees to assign to Company (or as otherwise directed by Company) Executive's full right, title, and interest in and to all such Intellectual Property. Executive agrees to execute any and all applications for domestic and foreign patents, copyrights or other proprietary rights and to do such other acts (including without limitation the execution and delivery of instruments of further assurance or confirmation) requested by Company (at Company's expense) to assign to Company the Intellectual Property developed for the benefit of Company in the course of Executive's employment by Company and to permit Company to enforce any patents, copyrights or other proprietary rights to the Intellectual Property. Executive will not charge Company for time spent in complying with these obligations. All copyrightable works that Executive creates developed for the benefit of Company in the course of Executive's employment by Company shall be considered **"**work made for hire**."**

9. Restricted Activities. Executive agrees that the restrictions on Executive's activities during and after Executive's employment set forth below are necessary to protect the goodwill, Confidential Information and other legitimate interests of Company and its successors and assigns:

(a) During the Term of this Agreement and during the Restricted Period following termination of employment, Executive will not, without the prior written consent of Company, directly or indirectly, and whether as principal or investor or as an Executive, officer, director, manager, partner, consultant, agent, or otherwise, alone or in association with any other Person, firm, corporation, or other business organization, engage or otherwise become involved in a Competing Business (as defined below) in any country in which the Company conducted business during the Term; provided, however, that the provisions of this Section 9 shall apply solely to those activities of a Competing Business which are congruent with those activities with which Executive was personally involved or for which Executive was responsible while employed by the Company or its subsidiaries during the twelve (12) month period preceding termination of Executive's employment. This Section 9 will not be violated, however, by Executive's investment of up to $500,000 in the aggregate in one or more publicly-traded companies that engage in a Competing Business. **"Competing Business"** means a business or enterprise (other than Company or its subsidiaries) engaged in the development and commercialization of therapeutics for malaria or COVID-19 and any other business directly competing with the business of the Company as currently conducted or otherwise conducted by the Company during the Term. **"Restricted Period"** means twenty-four (24) months.

(b) During the Term of this Agreement and during the Restricted Period (as defined above), Executive will not engage in any Wrongful Solicitation. A **"Wrongful Solicitation"** shall be deemed to occur when Executive directly or indirectly (except in the course of Executive's employment with Company), for the purpose of conducting or engaging in a Competing Business, calls upon, solicits, advises or otherwise does, or attempts to do, business with any Person who is, or was, during the then most recent 12-month period, a customer of Company or any of its subsidiaries, or takes away or interferes or attempts to take away or interfere with any custom, trade, business, patronage or affairs of Company or any of its subsidiaries, or hires or attempts to hire any Person who is, or was during the most recent 12-month period, an Executive, officer, representative or agent of Company or any of its subsidiaries, or solicits, induces, or attempts to solicit or induce any Person who is an Executive, officer, representative or agent of Company or any of its subsidiaries to leave the employ or agency of the Company or any of its subsidiaries, or violate the terms of their contract, or any employment consulting or agent agreement, with it.

(c) It is expressly understood and agreed that although Executive and Company consider the restrictions contained in this Section 9 to be reasonable if a court makes a final judicial determination of competent jurisdiction that the time or territory or any other restriction contained in this Agreement is an unenforceable restriction against Executive, the provisions of this Agreement shall not be rendered void but shall be deemed amended to apply as to such maximum time and territory and to such maximum extent as the court may judicially determine or indicate to be enforceable. Alternatively, if any court of competent jurisdiction finds that any restriction contained in this Agreement is unenforceable, and such restriction cannot be amended so as to make it enforceable, such finding shall not affect the enforceability of any of the other restrictions contained herein.

(d) Executive expressly understands that in the event of a violation of any period specified in this Section 9, such period shall be extended by a period of time equal to that period beginning with the commencement of any such violation and ending when such violation shall have been finally terminated in good faith.

10. Enforcement of Covenants. Executive acknowledges that Executive has carefully read and considered all the terms and conditions of this Agreement, including the restraints imposed upon Executive pursuant to Sections 7, 8 and 9, and Executive agrees that these restraints are necessary for the reasonable and proper protection of Company and its successors and assigns and that each and every one of the restraints is reasonable in respect to the subject matter, length of time and geographic area. Executive further acknowledges that, were Executive to breach any of the covenants in Section 7, Section 8 and/or Section 9 the damage to the Company would be irreparable. Executive therefore agrees that Company, in addition to any other remedies available to it, shall be entitled to preliminary and permanent injunctive relief against any breach or threatened breach by Executive of any of the covenants herein, without any requirement to post a bond or similar security. The Parties further agree that in the event that any provision of Section 7, Section 8 and/or Section 9 shall be determined by any court of competent jurisdiction to be unenforceable by reason of its being extended over too great a time, too large a geographic area or too great a range of activities, such provision shall be deemed to be modified to permit its enforcement to the maximum extent permitted by law.

11. Definitions. Words or phrases that are initially capitalized or within quotation marks shall have the meanings provided in this Section 11 and as provided elsewhere. For purposes of this Agreement, the following definitions apply:

(a) **"$"** refers to U.S. Dollars.

(b) **"Affiliate"** means, with respect to any specified Person, any other Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, **"control"** (including, with correlative meanings, the terms **"controlling," "controlled by"** and **"under common control with"**), as used with respect to any Person, means the possession, directly or indirectly, of the power to either: (i) direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise, or (ii) vote at least fifty percent (50%) or more of the securities having voting power for the election of a majority of the directors (or Persons performing similar functions) of such Person.

(c) **"Cause"** means if Executive is discharged by Company on account of the occurrence of one or more of the following events:

(i) Executive's continued refusal or failure to perform (other than by reason of Disability) Executive's material duties and responsibilities to Company if such refusal or failure is not cured within thirty (30) days following written notice of such refusal or failure by Company to Executive, or Executive's continued refusal or failure to follow any reasonable lawful direction of the Board if such refusal or failure is not cured within thirty (30) days following written notice of such refusal or failure by Company to Executive;

(ii) a material breach of this Agreement (other than Section 7, Section 8 and/or Section 9) by Executive that, if capable of being cured, is not cured within thirty (30) days following written notice of such breach by Company to Executive;

(iii) an intentional and material breach of Section 7, Section 8 and/or Section 9 hereof by Executive;

(iv) willful, grossly negligent or unlawful misconduct by Executive which causes material harm to Company or its reputation;

(v) any conduct engaged in by Executive that is materially detrimental to the business or reputation of Company as determined by the Board in good faith using its reasonable business judgment that is not cured within thirty (30) days following written notice from Company to Executive;

(vi) the Company is directed in writing by regulatory or governmental authorities to terminate the employment of Executive or Executive engages in activities that: (i) are not approved or authorized by the Board, and (ii) cause actions to be taken by regulatory or governmental authorities that have a material adverse effect on Company; or

(vii) a conviction, plea of guilty, or plea of *nolo contendere* by Executive, of or with respect to a criminal offense which is a felony or other crime involving dishonesty, disloyalty, fraud, embezzlement, theft, or similar action(s) (including, without limitation, acceptance of bribes, kickbacks or self-dealing), or the material breach of Executive's fiduciary duties with respect to Company.

(d) **"Change in Control"** means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) A transaction or series of transactions (other than an offering of common stock to the general public through a registration statement filed by the Company with the Securities and Exchange Commission) whereby any "Person" or related "group" of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its subsidiaries, an Executive benefit plan maintained by the Company or any of its subsidiaries or a "Person" that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13(d)(3) under the Exchange Act) of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of the Company's securities outstanding immediately after such acquisition;

(ii) The consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination, or (y) a sale or other disposition of all or substantially all of the Company's assets in any single transaction or series of related transactions:

(A) which results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the Person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such Person, the **"Successor Entity")** directly or indirectly, at least a majority of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(B) after which no Person or group beneficially owns voting securities representing fifty percent (50%) or more of the combined voting power of the Successor Entity; *provided*, *however*, that no Person or group shall be treated for purposes of this Section 11(d) as beneficially owning fifty percent (50%) or more of the combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction.

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 transaction.

(e) **"Code"** means the Internal Revenue Code of 1986, as amended.

(f) **"Company"** has the meaning ascribed to it in the preamble of this Agreement.

(g) "**Company Group"** shall mean the Company together with any of its direct or indirect subsidiaries.

(h) **"Compensation Committee"** shall mean the committee of the Board designated to make compensation decisions relating to senior executive officers of the Company.

(i) **"Confidential Information"** means any and all nonpublic information of the Company. Confidential Information includes, without limitation, such information relating to (i) the development, research, testing, manufacturing, marketing, and financial activities of the Company, (ii) the Services, (iii) the costs, sources of supply, financial performance, and strategic and/or business plans of Company, (iv) the identity and special needs of the customers and prospective customers of Company, and (v) the people and organizations with whom Company has business relationships and those relationships. Confidential Information also includes any information that Company has received, or may receive hereafter, belonging to customers or others with any understanding, express or implied, that the information would not be disclosed. Notwithstanding the foregoing, **"**Confidential Information**"** does not include (x) any information that is or becomes generally known to the industry or the public through no wrongful act of Executive or any representative of Executive and (y) any information that is made legitimately available to Executive by a third Party without breach of any confidentiality obligation.

(j) **"Disability"** means Executive's inability, due to any illness, injury, accident or condition of either a physical or psychological nature, to substantially perform Executive's duties and responsibilities hereunder for a period of one hundred twenty (120) consecutive days, or for any one hundred and eighty (180) days during any period of three hundred and sixty-five (365) consecutive calendar days, exclusive of any leave Executive may take under the Family and Medical Leave Act, 29 U.S.C. § 12101 *et seq. (***"FMLA"***)* or as a reasonable accommodation under the Americans with Disabilities Act, 29 U.S.C. § 2601 *et seq. (***"ADA"***).*

(k) **"Final Compensation"** means the amount equal to the sum of: (i) the Base Salary earned but not paid through the date of termination of employment, payable not later than the next scheduled payroll date, (ii) any business and related expenses and allowances incurred by Executive or to which Executive is entitled under Section 4(f) but unreimbursed on the date of termination of employment; provided that with respect to business expenses unreimbursed under Section 4(f), such expenses and required substantiation and documentation are submitted within one hundred eighty (180) days of termination in the case of termination on account of Executive's death, or thirty (30) days on account of termination for any reason other than death, and that such expenses are reimbursable under Company's applicable reimbursement policy, and (iii) any other supplemental compensation, insurance, retirement or other benefits due and payable or otherwise required to be provided under Section 4 in accordance with the terms and conditions of the applicable plan or agreement.

(l) **"Good Reason"** means, without Executive's express written consent: (i) a material reduction in the Base Salary, then in effect, except a material diminution generally affecting all of the members of the Company's management, (ii) a material reduction in job title, position or responsibility, (iii) a material breach of any term or condition contained in this Agreement, or (iv) a relocation of Executive's principal worksite that is more than fifty (50) miles from Executive's principal worksite as of the Effective Date. However, none of the foregoing events or conditions will constitute **"Good Reason"** unless (i) Executive provides Company with written notice of the existence of Good Reason within ninety (90) days following the occurrence thereof, (ii) Company does not reverse or otherwise cure the event or condition within thirty (30) days of receiving that written notice, and (iii) Executive resigns Executive's employment within thirty (30) days following the expiration of that cure period.

(m) **"Intellectual Property"** means inventions, discoveries, developments, methods, processes, compositions, works, concepts and ideas (whether or not patentable or copyrightable or constituting trade secrets) conceived, made, created, developed or reduced to practice by Executive (whether alone or with others, whether or not during normal business hours or on or off Company premises) during Executive's employment that relate to either the Services or any prospective activity of Company or that make use of Confidential Information or any of the equipment or facilities of Company.

(n) **"Person"** means an individual, a corporation, a limited liability company, an association, a partnership, an estate, a trust, and any other entity or organization other than Company.

(o) **"Sale of Company"** means the sale of Company to an independent third Party or group of independent third Parties pursuant to which such Party or Parties acquire: (i) equity interests possessing the voting power under normal circumstances to elect a majority of the Board of Directors or similar governing body of Company (whether by merger, consolidation or sale or transfer of such equity interests), or (ii) all or substantially all of Company's assets determined on a consolidated basis.

(p) **"Services"** means all services planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by Company, together with all products provided or planned by Company, during Executive's employment.

(q) **"Severance Period**" shall mean that number of years or partial years following termination of Executive's employment equal to the number of years or partial years of Base Salary that the Executive receives under Section 5(f)..

(r) **"Term End Date"** shall mean the last day of the Term of this Employment Agreement.

12. Withholding. All payments made by Company under this Agreement may be reduced by any tax or other amounts required to be withheld by Company under applicable law or by any amounts authorized in writing by Executive.

13. Assignment. Neither Company nor Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that Company may assign its rights and obligations under this Agreement without the consent of Executive in the event of a Sale of Company. This Agreement shall inure to the benefit of and be binding upon Company and Executive, their respective successors, executors, administrators, heirs and permitted assigns.

14. Compliance with Code Section 409A.

(a) Notwithstanding any provision of this Agreement to the contrary, Executive's employment will be deemed to have terminated on the date of Executive "separation from service" (within the meaning of Treas. Reg. Section 1.409A-1(h)) with Company.

(b) It is intended that this Agreement will comply with Section 409A of the Code, and any regulations and guideline issued thereunder (**"Section 409A"**) to the extent that any compensation and benefits provided hereunder constitute deferred compensation subject to Section 409A. This Agreement shall be interpreted on a basis consistent with this intent. The Parties will negotiate in good faith to amend this Agreement as necessary to comply with Section 409A in a manner that preserves the original intent of the Parties to the extent reasonably possible. No action or failure to act, pursuant to this Section 14 shall subject Company to any claim, liability, or expense, and Company shall not have any obligation to indemnify or otherwise protect Executive from the obligation to pay any taxes pursuant to Section 409A of the Code.

(c) For purposes of the application of Treas. Reg. § 1.409A-1(b)(4)(or any successor provision), each payment in a series of payments will be deemed a separate payment.

(d) Notwithstanding anything in this Agreement to the contrary, if any amount or benefit that would constitute non-exempt "deferred compensation" for purposes of Section 409A of the Code would otherwise be payable or distributable under this Agreement by reason of Executive's separation from service during a period in which Executive is a "specified Executive" (as defined under Code Section 409A and the final regulations thereunder), then, subject to any permissible acceleration of payment by Company under Treas. Reg. Section 1.409A-3(j)(4)(ii) (domestic relations order), (j)(4)(iii) (conflicts of interest), or (j)(4)(vi) (payment of employment taxes):

(i) if the payment or distribution is payable in a lump sum, the Executive's right to receive payment or distribution of such non-exempt deferred compensation will be delayed until the earlier of Executive's death or the first day of the seventh month following Executive's separation from service; and

(ii) if the payment or distribution is payable over time, the amount of such non-exempt deferred compensation that would otherwise be payable during the six months immediately following Executive's separation from service will be accumulated, and the Executive's right to receive payment or distribution of such accumulated amount will be delayed until the earlier of Executive's death or the first day of the seventh month following Executive's separation from service, whereupon the accumulated amount will be paid or distributed to Executive and the normal payment or distribution schedule for any remaining payments or distributions will resume.

This Section 14(d) should not be construed to prevent the application of Treas. Reg § 1.409A-1(b)(9)(iii)(or any successor provision) to amounts payable hereunder (or any portion thereof).

15. Golden Parachute Limitation. Notwithstanding anything in this Section or elsewhere in this Agreement to the contrary, in the event the payments and benefits payable hereunder to or on behalf of Executive (which the Parties agree will not include any portion of payments allocated to the non-competition and non-solicitation provisions of Section 9) that are classified as payments of reasonable compensation for purposes of Section 280G of the Code, when added to all other amounts and benefits payable to or on behalf of Executive, would result in the loss of a deduction under Code Section 280G, or the imposition of an excise tax under Code Section 4999, the amounts and benefits payable hereunder shall be reduced to such extent as may be necessary to avoid such loss of deduction or imposition of excise tax. In applying this principle, the reduction shall be made in a manner consistent with the requirements of Code Section 409A and where two or more economically equivalent amounts are subject to reduction, but payable at different times, such amounts shall be reduced on a *pro-rata* basis. All calculations required to be made under this subsection will be made by the Company's independent public accountants, subject to the right of Executive's professional advisors to review the same. The Parties recognize that the actual implementation of the provisions of this subsection are complex and agree to deal with each other in good faith to resolve any questions or disagreements arising hereunder.

16. Successors.

(a) Company's Successors. Subject to Section 5(f),, any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this Section 16 or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder shall inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees

17. Clawback Provisions. Any amounts payable under this Agreement are subject to any policy (whether in existence as of the Effective Date or later adopted) established by the Company providing for clawback or recovery of amounts that were paid to the Executive. The Company will make any determination for clawback or recovery in its sole discretion and in accordance with any applicable law or regulation.

18. Indemnification. Company will indemnify Executive to the fullest extent permitted by law, for all amounts (including, without limitation, judgments, fines, settlement payments, expenses and reasonable out-of-pocket attorneys' fees) incurred or paid by Executive in connection with any action, suit, investigation or proceeding, or threatened action, suit, investigation or proceeding, arising out of or relating to the performance by Executive of services for, or the acting by Executive as a director, officer or Executive of, Company, or any subsidiary of Company. Any fees or other necessary expenses incurred by Executive in defending any such action, suit, investigation or proceeding shall be paid by Company in advance, subject to Company's right to seek repayment from Executive if a determination is made that Executive was not entitled to indemnification.

19. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in the circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving Party. The failure of either Party to require the performance of any term or obligation of this Agreement, or the waiver by either Party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

21. Survival. Section 6 through and including Section 32 shall survive and continue in full force in accordance with their terms notwithstanding the termination of Executive's employment (and hence the Term of this Agreement) for any reason.

22. Notices. Any and all notices, requests, demands and other communications provided for by this Agreement shall be in writing and shall be effective when delivered in Person, with respect to notices delivered personally, or upon confirmed receipt when delivered by facsimile or deposited with a reputable, nationally recognized overnight courier service and addressed or faxed to Executive at Executive's last known address on the books of Company or, in the case of Company, at its principal place of business, attention: Secretary, Board of Directors.

23. Entire Agreement. This Agreement constitutes the entire agreement between the Parties (including with respect to Company, its successors and assigns) with respect to Executive's employment and supersedes all prior communications, agreements and understandings, written or oral, with respect to the terms and conditions of Executive's employment.

24. Amendment. This Agreement may be amended or modified only by a written instrument signed by Executive and by an expressly authorized representative of Company.

25. Headings. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement.

26. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. Furthermore, the delivery of a copy of such signature by facsimile transmission or other electronic exchange methodology shall constitute a valid and binding execution and delivery of this Agreement by such Party, and such electronic copy shall constitute an enforceable original document. Counterpart signatures need not be on the same page and shall be deemed effective upon receipt.

27. Additional Obligations. Without implication that the contrary would otherwise be true, Executive's obligations under Section 7, Section 8 and Section 9 are in addition to, and not in limitation of, any obligations that Executive may have under applicable law (including any law regarding trade secrets, duty of loyalty, fiduciary duty, unfair competition, unjust enrichment, slander, libel, conversion, misappropriation and fraud).

28. Attorneys' Fees. In any action or proceeding brought to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs, and expenses from the other Party to the action or proceeding. For purposes of this Agreement, the **"prevailing Party"** shall be deemed to be that Party who obtains substantially the result sought, whether by settlement, mediation, judgment or otherwise, and **"attorneys' fees"** shall include, without limitation, the reasonable out-of-pocket attorneys' fees incurred in retaining counsel for advice, negotiations, suit, appeal or other legal proceeding, including mediation and arbitration.

29. Confidentiality. The Parties acknowledge and agree that this Agreement and each of its provisions are and shall be treated strictly confidential. During the Term and thereafter, Executive shall not disclose any terms of this Agreement to any Person or entity without the prior written consent of Company, with the exception of Executive's tax, legal or accounting advisors or for legitimate business purposes of Executive, or as otherwise required by law.

30. No Rule of Construction. This Agreement shall be construed to be neither against nor in favor of any Party hereto based upon any Party's role in drafting this Agreement, but rather in accordance with the fair meaning hereof.

31. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the state of Florida.

32. WAIVER OF JURY TRIAL. EXECUTIVE AND THE COMPANY EXPRESSLY WAIVE ANY RIGHT EITHER MAY HAVE TO A JURY TRIAL CONCERNING ANY CIVIL ACTION THAT MAY ARISE FROM THIS AGREEMENT OR THE RELATIONSHIP OF THE PARTIES HERETO.

33. Conditions. This Agreement and the Executive's continued employment hereunder is conditional on the Company's satisfaction (determined in the Company's sole discretion) that the Executive has met the legal requirements to perform the Executive's role, including but not limited to satisfactory results of a background and/or credit search or any other applicable security clearance checks and criminal record checks and other reference checks that the Company performs. The Executive acknowledges and agrees that in signing this Agreement, and providing the Company with the necessary documentation to perform the checks required for the Executive's role and with references, the Executive is providing consent to the Company or its agent, to performs such checks and contact the references the Executive provided to the Company.

34. Prior Restrictions. By signing below, the Executive represents that the Executive is not bound by the terms of any agreement with any Person which restricts in any way the Executive's hiring by the Company and the performance of the Executive's expected job duties; the Executive also represents that, during the Executive's employment with the Company, the Executive shall not disclose or make use of any confidential information of any other persons or entities in violation of any of their applicable policies or agreements and/or applicable law.

35. Independent Legal Counsel. By signing below, the Executive hereby acknowledges that the Executive has been encouraged to obtain independent legal advice regarding the execution of this Agreement, and that the Executive has either obtained such advice or voluntarily chosen not to do so, and hereby waives any objections or claims the Executive may make resulting from any failure on the Executive's part to obtain such advice.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original when executed, but all of which taken together shall constitute the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement by electronic transmission, including in portable document format (.pdf), shall be deemed as effective as delivery of an original executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, this Agreement has been executed by Company (by its duly authorized representative) and by Executive, as of the date first above written.

**60 Degrees Pharmaceuticals Inc.**

By: */s/ Geoff Dow*

Name: Geoff Dow

Title: CEO

**EXECUTIVE**:

*/s/ Tyrone Miller*

EXHIBIT A

Release of Claims

FOR AND IN CONSIDERATION OF the benefits to be provided me in connection with the termination of my employment, as set forth in that certain Employment Agreement, dated as of_____, 2022 (the **"Agreement"**), between me and 60 Degrees Pharmaceuticals Inc. (the **"Company"**), or under any severance pay plan applicable to me, which benefits are conditioned on my signing this Release of Claims and to which I am not otherwise entitled, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I, on my own behalf and on behalf of my heirs, executors, administrators, beneficiaries, representatives and assigns, and all others connected with me, hereby release and forever discharge Company and any of its subsidiaries and Affiliates (as that term is defined in Section 11(b) of the Agreement) and all of their respective past, present and future officers, directors, trustees, equity holders, Executives, agents, managers, joint venturers, representatives, successors and assigns, and all others connected with any of them (collectively, the **"Released Parties"**), both individually and in their official capacities, from any and all causes of action, rights and claims of any type or description, known or unknown, which I have had in the past, now have, or might now have, through the date of my signing of this Release of Claims, in any way resulting from, arising out of or connected with my employment by the Company or any of its Affiliates or the termination of that employment, including, but not limited to, any allegation, claim or violation arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Worker Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Worker Adjustment Retraining and Notification Act; Executive Retirement Income Security Act of 1974; the Fair Labor Standards Act; any applicable Executive Orders; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other federal, state or local law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, intentional infliction of emotional distress or defamation; or any claim for costs, fees or other expenses, including attorneys' fees incurred in these matters (all of the foregoing collectively referred to herein as **"Claims"**), other than (i) the right to payment of any vested or accrued benefits under any supplemental compensation, insurance, retirement and/or other benefit plan or agreement applicable to Executive, (ii) the right to payment of any amounts owed to me by Company pursuant to Section 5 of the Agreement, (iii) any rights under applicable workers compensation or unemployment compensation laws, (iv) any rights that survive termination of my employment pursuant to an option grant agreement or certificate to purchase the Company's (or an Affiliate's) capital stock, (v) any rights with respect to the Company's (or an Affiliate's) capital stock owned by Executive, or (vi) any rights to indemnification under the Agreement, the Company's by-laws or any other applicable law.

In signing this Release of Claims, I acknowledge my understanding that I may not sign it prior to the termination of my employment, but that I may consider the terms of this Release of Claims for up to twenty-one (21) days (or such longer period as the Company may specify) from the later of the date my employment with the Company terminates or the date I receive this Release of Claims. I also acknowledge that I am advised by the Company and its Affiliates to seek the advice of an attorney prior to signing this Release of Claims; that I have had sufficient time to consider this Release of Claims and to consult with an attorney, if I wished to do so, or to consult with any other Person of my choosing before signing; and that I am signing this Release of Claims voluntarily and with a full understanding of its terms.

I represent that I have not filed against the Released Parties any complaints, charges, or lawsuits arising out of my employment, or any other matter arising on or prior to the date of this Release of Claims, and covenant and agree that I will never individually or with any Person file, or commence the filing of, any charges, lawsuits, complaints or proceedings with any governmental agency, or against the Released Parties with respect to any of the matters released by me pursuant to this Release of Claims.

I further acknowledge that, in signing this Release of Claims, I have not relied on any promises or representations, express or implied, that are not set forth expressly in the Agreement. I understand that I may revoke this Release of Claims at any time within seven (7) days of the date of my signing by written notice to the Secretary, Board of Directors of the Company (or such other Person as the Company may specify by notice to me given in accordance with the Agreement) and that this Release of Claims will take effect only upon the expiration of such seven-day revocation period and only if I have not timely revoked it.

Intending to be legally bound, I have signed this Release of Claims as of the date written below.

Signature: /s/ Ty Miller

Name: Ty Miller

Date Signed: 1/12/2023

**Exhibit 10.24**

***Please be advised that certain identified information has been excluded in Exhibit 10.24 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

600 PHARMACEUTICALS,LLC

**SUBSCRIPTION AGREEMENT**

WITH

**Avante International** Limited

October 11, 2017

NOTICE TO **INVESTORS**

FOR RESIDENTS OF ALL STATES AND THE DISTRICT OF COLUMBIA:
THIS OFFERING IS BEING MADE SOLELY TO "ACCREDITED INVESTORS," AS SUCH TERM IS DEFINED INRULE 501 OF REGULATION D UNDER THE SECURITIES ACT. THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OR THE SECURITIES LAWS OF ANY STATE AND WILL BE OFFERED AND SOLD IN RELIANCE ON THE EXEMPTION FROM REGISTRATION AFFORDED BY SECTION 4(2) AND REGUlATION D (RULE 506) OF THE SECURITIES ACT AND CORRESPONDING PROVISIONS OF STATE SECURITIES LAWS.

THE SECURITIES ARE SUBJECT TO RESTRICTION ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND STATE LAW, PURSUANT TO REGISTRATION THEREUNDER OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

THE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY, COMPLETENESS OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

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**SUBSCRIPTION AGREEMENT**

This Subscription Agreement (this "Agreement") is made as of October II, 2017 (the "Effective Date"), by and between The 60 Degrees Pharmaceuticals, LLC., a limited liability company organized and operating in Washington, District of Columbia, USA (the "Company"), and Avante International Limited, a family company based in Hong Kong, ("Investor").

RECITALS

A. The Company is engaged in development and commercialization of drugs to treat and prevent tropical diseases.

B. The Company desires to issue and sell to Investor, and Investor desires to purchase, an unsecured non-convertible promissory note of the Company in the form as the attached EXHIBIT A (the "Note"), pursuant to the terms and conditions of this Agreement and the Note of even date herewith.

D. The capitalized terms used herein without definition have the meanings ascribed thereto in Section 10 hereof.

AGREEMENT

In consideration of the premises and the mutual promises and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Issuance, Purchase and Sale of the Note.

1.1 Purchase and Sale.

(a) Subject to the terms and conditions of this Agreement, Investor hereby agrees to purchase from Company, and Company agrees to issue and sell to Investor, the Notes at a price of Seven Hundred and Fifty Thousand Dollars($ 750,000.00).

(b) In consideration of the foregoing issuance and sale of the Note, Investor agrees to pay to Company the sum of Seven Hundred and Fifty Thousand Dollars ($750,000.00) (the "Purchase Price") as provided in Section 1.2 below.

1.2 The Closing.

(a) Investor shall purchase from the Company, and the Company shall issue and sell to Investor, the Note as set forth in Section 1. l(a) above. The Purchase Price for the Note shall be paid by Investor in one lump sum payment, without notice, demand, deduction or offset, by ACH, wire transfer or check to the bank account of the Company at B11nk of **America.** The Note is issued and sold as part of an offering of convertible and non-convertible promissory notes in the aggregate principal amount of up to $2,500,000 (the "Offering").

(b) Place. The purchase and sale of the Note (hereinafter referred to as a "Closing") shall take place once all documents are signed and delivered to the Company's legal counsel, C. Thomas Hicks III, at DiMuro Ginsberg, PC, t 101 King Street, Suite 610, Alexandria, Virginia 22314. If Investor fails to pay the Purchase Price after all such documents
are signed and delivered as set out above then this Agreement shall terminate immediately. Upon such termination Investor's right to purchase the Note shall be null and void and Investor s hall reimburse the Company within three (3) calendar days following the Company's written demand for such reimbursement, for all reasonable out-of.pocket costs and expenses (including reasonable attorneys' fees) incurred by or on behalf of the Company in connection with this Agreement and the sale of the Note contemplated herein.

(c) Deliveries at Closing. Promptly following the Closing but not later than thirty (30) calendar days, subject to receipt of the Purchase Price, the Company shall deliver to Investor documentation reflecting the purchased Note has been reflected in the Company's electronic record-keeping of its debt. The Note shall be subject to the rights and conditions set forth in Sections 1.3, ll and hereof.

1.3 Investor Rights to information. Investor will have access, upon written request, to regularly prepared financial statements, Company Manager and Member resolutions and access to the Company's Manager, Geoffrey S. Dow or his successor(s,) with reasonable notice at reasonable times at the Company's principal place of business, on a best efforts basis, except that access to information which is confidential under third-party contract and/or Company research and development and other proprietary information will not be accessible. Investor herby agrees that in the event any confidential and/or proprietary information is provided to or learned by Investor, such information shall **be kept** strictly confidential by Investor and may not disclosed, disseminated, distributed, divulged, used or reproduced in any manner without the prior written consent of the Company, which consent may be withheld in the Company's sole discretion.

2. Representations and Warranties of Company. Company represents and warrants to Investor as follows:

2.1 0rW}i7,ation; Authority. Company is a limited liability company duly organized and validly existing under the laws of Washington, District of Columbia, USA, with full company power and authority to execute, deliver and perfom1 this Agreement, to conduct the Business, to own its properties and to consummate the transactions contemplated by this Agreement. The Company was fanned on September 9, 2010, and since the time of its formation has not owned any assets not related to the Business or engaged in any business other than the Business . This Agreement has been duly authorized by all necessary actions of Company and its members and the Manager and constitutes legal, valid and binding obligations of Company , enforceable against it in accordance with their respective teams, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

2.2 No Conflicts . Neither the execution and delivery of this Agreement nor performance by the Company of any or all of the transactions contemplated hereby will violate, conflict with, or give rise to any termination right under (a) any provision of the Articles of Organization, as amended, or the Amended and Restated Operating Agreement of the Company, (b) any material agreement or commitment to which Company is a party, or (c) any law, rule , regulation or order of any court or other Governmental Agency applicable to Company.

2.3 Business/Financial Projections/RISK FACTORS. The Company has provided Investor with a briefing document describing in general the Business and the non convertible note investment opportunity. However, Investor acknowledges and agrees that such briefing document provided to Investor in connection with the transactions contemplated hereunder contains forward looking statements concerning future events that involve material risks and uncertainty, including that. if for any reason. including insufficient available funds, the Company is unable to obtain United States Food and Drug Administration confirmation of the Borrower's eligibility for a New Drug Application for a Tafenoquine prophylactic antimalarial drug and/or there is no PRV Voucher Presale or Priority Voucher Sale, the remaining Note proceeds shall be applied to other drug development projects of the Company. Other financial risks may apply, and Investor is responsible for doing its own due diligence and investigation as to any additional risk factors prior to making this investment.

*2.5* Litigation. There is no litigation or governmental or administrative proceeding or, to the knowledge of the Company, any investigation pending or threatened against the Company or affecting the properties or assets of the Company, or, as to matters related to the Company, against any member, manager or key employee of the Company, nor, to the knowledge of the Company (a) bas any material event occurred, or (b) does any material condition exist, on the basis of which any such claim may be asserted.

*2.6* - .. The Company has filed on a timely basis all Tax Returns required to be filed on or before the date hereof pursuant to all applicable laws or regulations of each Governmental Agency having jurisdiction over it. AJl Taxes that Company has been required by law to withhold or collect have been duly withheld or collected and paid or will be timely paid to the proper Governmental Agency. All Tax Returns filed by Company are true, complete and complete in all material respects.

*2.7* Intellectual Property.

(a) As of the time of the execution of this Agreement, the Company has the right to use all of the intellectual property which is used by the Company in the Business . Details regarding intellectual property used by the Company are available upon request from the Manager, provided that this does not violate confidentiality provisions of third party agreements, or reveal trade secrets.

*2.8* Contracts and Commitments. All of the material contracts to which the Company is a party are valid, binding, in full force and effect in all material respects and enforceable by Company in accordance with their respective terms in all material respects, subject to applicable bankruptcy, insolvency, reorganization, moratorium. and other laws of general application affecting enforcement of creditors' rights generally. The Company is not in default under any of the material contracts and no other party to any of the material contracts is in default thereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated thereby will not conflict with or result in any violation or default under, or give rise to a right of termination, contract. cancellation or acceleration under any material

*2.9* Compliance with Law.

(a) The operations of the Company have been conducted in accordance with, and the Company is in compliance with, all applicable laws and regulations. The Company has not received any notification of any asserted present or past failure to comply with any such law or regulation.

(b) All of the Company's books and records are complete and correct in all material respects, and are available to Investor for inspection and review at the Company's principal place of business.

*2.10* Employee Matters. The Company is in compliance with all applicable laws and regulations (including those of the United States) respecting labor, employment, fair employment practices, terms and conditions of employment. and wages and hours, except for violations, individually or in the aggregate, which are not reasonably likely to have a Material Adverse Effect.

2.l l Debts and Security Interests. The company is subject to the repayment of approximately $6,7000,000 in loan principal plus accrued interest to Knight Therapeutics (Barbados), Inc.• and to $1,596,750 in notes payable to Geoffrey S. Dow. The company also has three convertible notes outstanding to Geoffrey Dow ($377,000), Tyrone Miller ($20,000) and Douglas Loock ($32,000).

2.12 Business. Company is not engaged in any business or operations other than the Business and associated events and activities.

3 Representations of lnvestor. Investor hereby represents to Company as follows as to itself:

3.1 Organization of **Investor;** Authorization. This Agreement constitutes the legal. valid and binding obligations of Investor , enforceable against him in accordance with their terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

3.2 No Conflict as to Investor. Neither the execution and delivery of this Agreement by Investor nor the performance of (investor's obligations hereunder will violate (a) any material agreement or commitment to which Investor is a party or (c) any law or order of any court or other Governmental Agency applicable to Investor.

3.3 Investment Intent. This Agreement is made with Investor in reliance upon Investor' s representation to Company, which by Investor's execution of this Agreement Investor hereby confirms, that the Note to be purchased by and issued to Investor (collectively, the "Securities") will be acquired for investment for Investor's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, Investor hereby further represents that Investor does not have any contract, undertaking, agreement or arrangement with any person to sell. transfer or grant participations to such person or to any third person, with respect to any of the Securities.

3.4 Reliance upon Investor's Representations. Investor understands that the Note is not registered under the Securities Act of 1933 (the "1933 Act"). Investor hereby acknowledges that the Note has not been reviewed by the United States Securities and Exchange Commission ("the SEC") because of Company's representations that this is intended to be a nonpublic offering pursuant to Sections 4(2) and 4(6) of the Act and Regulation D promulgated thereunder, as wen as under exemptions provided for in state laws. Investor represents that the Note is being purchased for his/ her/its own account, for investment and not for distribution or resale to others. Investor agrees that he or she will not transfer, sell, or otherwise dispose of the Note unless it is registered under the Act or unless an exemption from such registration is available.

3.5 Investment. Investor acknowledges this purchase of the Note is suitable only for highly sophisticated "accredited investors" (as defined below) and that the Company has no independently audited financial statements and full and complete disclosure concerning its financial condition cannot therefore be made. The Company is an early development stage company and has no significant revenues or earnings to date. The purchase of the Note involves a high degree of risk and only investors who can withstand a complete loss of their investment should consider investing in the Company. In this regard, Investor represents that Investor is experienced in evaluating and investing in private placement transactions of securities of companies in a similar stage of development and acknowledges that Investor is able to fend for itself, can bear the economic risk of Investor's investment, and *has* such knowledge and experience in financial and business matters that Investor is capable of evaluating the merits and risks of the investment in the Note. In furtherance of Investor's due diligence in evaluating the merits and risks of this investment in the Note, Investor represents that Investor has had full and complete access to all documents containing certain organizational, business and financial information about the Company as well as the right to ask for and receive additional information from the Company's management, which Investor has either requested and received, or [investor has chosen to not ask for after the opportunity to review any such information or requests for information with Investor's counsel and/or advisors. Investor specifically represents and wants to the Company the following:

(a) Investor is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended (hereinafter. the "1940 Act"), or a company that is excluded from the definition of an investment company solely by reason of the provisions of Sections 3(c)(l) or 3(cX7) of the 1940 Act;

(b) Investor has such knowledge and experience in financial and business matters that he/she/it is capable of evaluating the merits and risks of an investment in the Company and the capacity to protect his/her/its interest in connection with the proposed investment in the Company and bas obtained, in his/her/its judgment, sufficient information from the Company to evaluate the merits and risks of such investment;

(c) Investor is acquiring the Note for his/her/its own account, for investment purposes only and not with a view toward distribution or resale of the Note in whole or in part; and

(d) Investor represents that he/she/it is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "Act"). The definition of "accredited investor" includes, but is not limited to, the following:
ank, insurance company, registered investment
company, business development company, or small business investment company;

{ii) An employee benefit plan, within the meaning of the Employee Retirement Income Security Act, if a bank, insurance company, or registered investment adviser makes the investment decisions, or if the plan has total assets in excess of $5 million;

(iii) A charitable organization, corporation, or partnership with
assets exceeding *$5* million;

(iv) A director, executive officer, or **general** partner of the company selling the securities

(v) A business in which all the equity owners are accredited investors;

(vi) A natural person who bas individual net worth, or joint net worth with the person's spouse, that exceeds $1 million at the time of the purchase, excluding the value of the primary residence of such person;

(vii} A natural person with income exceeding $200,000 in each of the two most recent years or joint in me with a spouse: exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year; or

(viii) A trust with assets in excess of *$5* million, not formed to acquire the securities offered, whose purchases a sophisticated person makes.

3.6 Restricted Securities. Investor understands that the Note may not be sold, transferred. or otherwise disposed of without registration under the 1933 Act or an exemption therefrom, and that in the absence of an effective registration statement covering tile Note or an available exemption from registration wider the 1933 Act, the Note must be held indefinitely. In particular, Investor is aware that the Note may not be sold pursuant to Rule 144 promulgated under the 1933 Act unless all of the conditions of that Rule are met. Among the conditions for use of Rule 144 may be the availability of current information to the public about the Company. Such information is not now available and the Company has no present plans to make such information available. In this connection, Investor represents that he/she/it is familiar with and understands the resale limitations imposed by Rule 144 under the 1933 Act.

Investor acknowledges that the Note has not been registered under the Act by reason of a claimed exemption under the provisions of the Act that depends, in part, upon his investment intention. Investor understands that, if the Note is sold in the United States or to United States residents, it is the position of the SEC that the statutory basis for such exemption would not be present if his/ her/its representation merely meant that his/her/its present intention was to hold the Note for a short period, for a deferred sale, for a market rise, or for any other fixed period. Investor realizes that, in the view of the SEC, a purchase now with an intent to resell would represent a purchase with an intent inconsistent with his/ her/its representation to the Company, and the SEC might regard such a sale, transfer, or other disposition as a deferred sale for which the exemption is not available.

Investor agrees that the Company may, if it desires, permit the transfer of the Note by Investor out of his/ her/its name only when his or her request for transfer is accompanied by an opinion of counsel reasonably satisfactory to the Company that the proposed sale, transfer, or disposition does not result in a violation of the Act or any applicable state or province "blue sky" laws (collectively "S securities Laws.") Investor agrees to hold the Company and its directors, officers, controlling persons, and their respective heirs, representatives, successors and assigns harmless to indemnify them against all liabilities, costs and expenses incurred by them as a result of any sale, transfer, or disposition of the Note by the undersigned Investor in violation of any Securities Laws or misrepresentation herein.

Investor acknowledges and agrees that the Company is relying on Investor's representations contained in this Agreement in determining whether to accept this subscription. Investor agrees that the Company has the unrestricted right to reject or limit any subscription and to cl9se the offer at any time.

Investor represents and warrants that all representations made by Investor hereunder are true and correct in all material respects as of the date of execution hereof: and Investor further agrees that until the closing on the Note subscribed for he shall inform the Company immediately of any changes in any of the representations provided by Investor herein.

3.7 Legends. To the extent applicable, each document (whether electronic or on paper) evidencing the Note shall be endorsed with a legend substantially in the form set forth below:

'TIIB NOTE REPRESENTED HEREBY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED, OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT, OR UNLESS THE COMPANY HAS RECE£VED AN OPINION OF COUNSEL OR OTHER EVIDENCE, SATISFACTORY TO TIIE COMPANY AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED."

3.8 Financial Books and Records. Investor acknowledges that he/she/it has had the opportunity to review the Company's financial books and records but Investor understands and acknowledges that the Company has no independently audited financial statements and full and complete disclosure concerning its financial condition cannot therefore be made.

3.9 Reliance. The foregoing representations and warranties are made by Investor with the knowledge and expectation that the Company is placing reliance thereon.

4. **Representations** to Continue in Effect; Indemnification.

4.1 Continued Effect. All representations and warranties contained in this Agreement shall be true as of the date of this Agreement and, except where limited, shall continue in effect notwithstanding any investigation conducted or knowledge acquired with respect thereto.

4.2 Indemnification by Company. The Company shall indemnify and hold harmless and reimburse Investor for any loss, liability, claim , damage, cost, expense (including, but not limited to, costs of investigation and reasonable attorneys' fees) or diminution of value of the Note, but excluding any punitive or consequential damages (collectively, **"Damages")** arising from any (a) material inaccuracy in any of the representations or warranties of the Company in this Agreement or (b) material failure by the Company to comply with any agreement or obligation in this Agreement, in each case when proven and adjudicated in a final, non appealable decision of a court of competent jurisdiction.

4.3 Indemnification by Investor. [investor shall indemnify and hold harmless and reimburse the Company for any Damages arising from (a) any inaccuracy in any of the representations and warranties of Investor in this Agreement, (b) any failure by Investor to comply with any agreement or obligation in this Agreement, or (c) any claim by any Person for brokerage fees, commissions or similar payments based upon any agreement or understanding made by such Investor.

5. Conditions to Closing of lnvestor.

5.1 Condition§ to Closing. The obligations of Investor under Section 1. I ere subject to the fulfillment on or before the Closing of each of the following conditions:

(a) Each of the representations and warranties of the Company set forth in Section 2 hereof shall be true in all material respects at the Closing as if then made and Investor shall have received a certificate of the Manager to that eff t.

(b) The Company shall have made available to Investor all other documents required by this Agreement or otherwise reasonably requested by Investor in connection with the transactions contemplated hereunder. Investor acknowledges and agrees that some or all of such documents made available to Investor in connection with the transactions contemplated hereunder contain forward looking statements concerning future events that involve material
risks and uncertainty.

6. Conditions to Closing of Company. The obligations of the Company to Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by Investor:

(a) The representations and warranties of Investor contained in Section 3 shall be true in an material respects as of the Closing as though such representations and warranties had been made on and as of the date of Closing.

(b) All authorizations, approvals or permits,, ;'if any* , of' any governmental authority or regulatory body of the United States or of any state that acquired in connection with the lawful issuance and sale of the Note pursuant to this Agreement sq l have been duly obtained and effective as of the Closing.

7. Use of Proceeds.

The Company shall use the proceeds from the sale of the Note to fund the prosecution of its New Drug Application with the United States Food and Drug Administration for a determination of eligibility for priority review and to obtain a priority review voucher for a Tafenoquine prophylactic antimalarial drug developed by the Company, and general operating and capital expenditures as reasonably determined by management, in furtherance of the Business.

8. Notices.

All notices, consents and other communications under this agreement shall be in writing or other electronic form and shall be deemed to have been duly given when (a) sent by Certified and Registered U.S. Mail, return receipt requested, or (b) delivered by hand or by recognized overnight courier, or (c) sent by facsimile (with receipt confirmed) or (d) sent via e mail (with acknowledgment of receipt by recipient}, in each case to the appropriate postal addresses. email and facsimile numbers set forth below (or to such other addresses, and facsimile numbers as a party may designate as to itself by notice to the other Parties):

(a) If to Investor:

Address on Signature Page Below

(b) If to the Company:

**Geoffrey S. Dow**
[redacted]
[redacted]
[redacted]

with a copy to:

**C. Thomas Hicks III, Esq**.
[redacted]
[redacted]
[redacted]

9. Miscellaneous.

9.1 Expenses. Each party shall bear its own expenses incident to the preparation, negotiation, execution and delivery of this Agreement and the performance of its obligations hereunder.

9.2 Captions. The captions in this Agreement are for convenience of reference only and shall not be given any effect in the interpretation of this Agreement.

9.3 No Waiver. The failure of a party to insist upon strict adherence to any obligation of this Agreement shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement Any waiver must be in writing.

9.4 Exclusive Agreement; Amendment. This Agreement and the other agreements and documents delivered pursuant hereto supersedes any and all other prior or contemporaneous written or oral understandings or agreements among the Parties with respect to its subject matter. This Agreement is intended (with the documents referred to herein) as a complete and exclusive statement of **the** terms of the agreement among the Parties with respect thereto and cannot be changed or terminated orally. This Agreement may only be amended with prior written consent of the Company and Investor.

9.5 Counterparts. This Agreement may be executed electronically and/or in two (2) or more counterparts, all of which shall be considered an original.

9.6 Governing Law. This Agreement shall be governed by the internal laws of Washington, District of Columbia, USA, without regard to the conflicts of law principles thereof.

9.7 Attorney's Fees. In any action or proceeding brought by a party to enforce any provision of this Agreement, the prevailing party shall be entitled to recover the reasonable costs and expenses incurred by it in connection with that action or proceeding (including. but not limited to, attorneys' fees).

9.8 Designation of Forum and Consent to Jurisdiction. The Parties hereto (a) designate any state or federal court of competent jurisdiction in Washington, District of Columbia, USA, as a forum where all matters pertaining to this Agreement may be adjudicated, and (b) by the foregoing designation, consent to the exclusive jurisdiction and venue of such Court for the purpose of adjudicating all matters pertaining to this Agreement.

9.9 Waiver of Jury Trial. As a specifically bargained inducement for the other Parties to enter into this Agreement, each of the Parties waives any right it may have to have a jury participate in resolving any dispute arising out of or related to this Agreement. Instead, any such disputes resolved in court shall be resolved in a bench trial without a jury.

9.10 No Assignment. No party may assign its rights and obligations under this Agreement without obtaining the prior written consent of the other party (which consent may be withheld by such party in his/her/its sole and absolute discretion), provided, however, the Parties agree that Investor shall have the right at any time and from time to time to assign his/her/its rights under this Agreement or any instrument or document executed in connection herewith for estate planning purposes.

9.11 General Cooperation. Upon request from the other party following the Closing, each party will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all and every further act, deed, conveyance, transfer and assurance necessary to better assure compliance with the terms, provisions, purposes and intents of this Agreement and all other agreements, securities and instruments contemplated hereby and thereby, and the effectiveness of the rights, benefits and remedies provided for hereby and thereby.

l0. Definitions.

As used in this Agreement, the following terms have the meanings specified in this Section 10:

"Business" - Development of drugs to treat and prevent tropical diseases.

"Business Days" - any day other than a Saturday, Sunday or nationally recognized holiday or other day when banks are closed for business.

"Closing" - See Section 1.2.

"Note" - See Recital C.

"Company" — See the first paragraph of this Agreement.

"Effective Date" — See the first paragraph of this Agreement

"Governmental Agency" — The United States, any state or municipality, the government of any foreign country, any subdivision of any of the foregoing or any authority, department, commission, board, bureau, agency, court or instrumentality of any of the foregoing.

“Investor" - See the first paragraph of this Agreement.

"Material Adverse Effect" - A material adverse effect on the business, assets, results of operations, financial condition or prospects of Company.

"Party" or "Parties" - the Company or the Investor, or both, as the case may be.

"Person" — Any individual or legal entity.

"Securities Act" ·- The Securities Act of 1933, as amended.

"Truces" - All taxes, penalties, interest, or other assessments or charges including, without limitation, income, transfer, excise, franchise, sales, use, property, employment, withholding. social security, workers' compensation., and **_value added taxes and customs duties, imposed by any Governmental Agency.**

"Tax Returns" -· Any return, report, information return or other document (including any related or supporting information) filed or required to be filed with any Governmental Agency in connection with any Taxes.

Other capitalized terms used in this Agreement have the meanings ascribed to them elsewhere in this Agreement.

IN **WITNESS WHEREOF,** the Parties have executed this Agreement as of the date and year first above written.

**COMPANY:**

**60 DEGREES PHARMACEUTICALS,** LLC

[ ]
[ ]
[ ]

**By Geoffrey S. Dow, Manager**

WITNESS: [ ]
[ ]
[ ]

**INVESTOR:**

**AVENTE INTERNATIONAL LIMITED**
**7/F D1, KIN ON COMMERCIAL BUILDING. SHEUNG WAN, HONG HONG**
*"For and on behalf of*

[ ]
[ ]
[ ]

WITNESS: [ ]
[ ]
[ ]

**EXHIBIT A**

**Form of Note**

**Exhibit 10.25**

***Please be advised that certain identified information has been excluded in Exhibit 10.25 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

THE NOTE REPRESENTED HEREBY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933,AS AMENDED, ANO MAY NOT BE SOLO, TRANSFERRED, ASSIGN ED, PLEDGED, OR HYPOTHECATEO UNLESS AND UNTIL REGISTERED UNDER SUCH ACT, OR UNLESS THE COMPANY HAS RECEIVED AN OPINION Of COUNSEL OR OTHER EVIDENCE, SATISFACTORY TO THE COMPANY ANO ITS COUNSEL. THAT SUCH REGISTRATION IS NOT REQUIRED.

THE PAYMENT OF THIS NOTE ANO THE RIGHTS OF THE LENDER UNDER THIS NOTE ARE SUBORDINATED TO THE PAYMENT OF SENIOR INDEBTEDNESS (AS DEFINED IN THE SUBORDINATION AGREEMENT REFERRED TO BELOW) ("SENIOR INDEBTEDNESS") AND THE RIGHTS OF THE HOLDERS OF SENIOR INDEBTEDNESS PURSUANT TO THE TERMS OF THE SUBORDINAtION AGREEMENT DATED AS OF THE DATE HEREOF (THE "SUBORDINATION AGREEMENT") BY AND AMONG 60 DEGREES PHARMACEUTICALS, LLC, KNIGHT THERAPEUTICS (BARBADOS) INC. (THE "SENIOR LENDER") AND EACH OF THE CREDITORS REFERRED TO THEREIN, INCLUDING THE LENDER UNDER THIS NOTE.

**PROMISSORY NOTE**

ORIGINAL ISSUE DATE: OCTOBER 11, 2017
AMOUNT PER UNIT: $250,000.00 USO
NUMBER OF UNITS: 3
PRINCIPAL AMOUNT OF NOTE: $750,000.00 USO

**FOR VALUE RECEIVED,** 60 DEGREES PHARMACEUTICALS, LLC, a District of Columbia limited liability company the "Borrower" promises to pay to Avante International Limited (the "Lender"), located at or at such other location as the lender may designate from time to time in a written notice provided to the Borrower, or to any subsequent holder or permitted assignee of this promissory note (this "Note"), the principal amount of Seven Hundred Fifty Thousand and 00/100 DOLLARS ($750,000.00) (the "Principal Amount'"), upon the terms and conditions specified below. This Note is issued as part of an offering of convertible and non-convertible promissory notes (the " Offering").

The Borrower is not permitted to issue more than ten discrete units for Two Hundred and Fifty Thousand and 00/100 DOLLARS ($250,000.00) each (each, a "Unit") for a total Offering of Two Million Five Hundred Thousand and 00/100 DOLLARS ($2,500 ,000.00) in convertible and non convertible promissory notes (including this Note) as part of the Offering without the prior written consent of all existing holders of such promissory notes. All promissory notes issued for Units as part of the Offering will be issued in the principal amount of Two Hundred Fifty Thousand and 00/100 DOLLARS ($250,000.00). This Note represents three (3) Units of non-convertible promissory notes combined into one instrument.

1. Maturity Date. The "Maturity Date" of the Note shall be the earlier of:

    a. the presale of a Priority Review Voucher ("PRV Presale") by the Borrower after the United States Food and Drug Administration (USFDA) confirms the Borrower's eligibility for a New Drug Application (NOA); or

b. the sale of a Priority Review Voucher ("'PRV" ) by the Borrower previously granted by the USF DA to the Borrower for a Tafenoquine prophylactic antimalarial drug ("PRV Voucher Sale"); or

c. Sixty (60) days after the date on which the Senior indebtedness is indefeasibly paid in full and the Senior Lender has terminated the Subordination Agreement pursuant to Section 2 2 thereof. For the avoidance of doubt, no payments of principal, pursuant to this Section I or of interest, pursuant to Section 2 below, shall be made by Borrower to Lender unless permitted by the terms of the Subordination Agreement.

2. Interest. The outstanding Principal Amount and accrued interest of this Note shall bear interest from the date the Note is issued at the rate of five percent (5%) per annum for the first six months, and thereafter at the rate of ten percent ( I 0%) per annum. Interest shall accrue on a calendar year quarterly basis (Mar 31, Jun 30, Sep 30, Dec 31) and at Maturity and be payable in arrears on Maturity.

3. Preferred Units. If proceeds of at least Seven Hundred Fifty Thousand and 00/100 DOLLARS ($750,000.00) from the sale of Units as part of the Offering are received by the Borrower by October 13, 2017 or in case of wire transfer delays proof of copy of remittance that funds were sent on October 13, 2017 and received no later than October 18 , 20 17, then all Units (both convertible and non-convertible) for which the proceeds are received by the Borrower prior to that date will be deemed Preferred Units eligible to receive an exclusive *pro rata* bonus share of2% of the gross proceeds of a PRV Sale or a PRV Presale. If the minimum offering proceeds of Seven Hundred Fifty Thousand and 00/100 DOLLARS ($750,000.00) are not received by October 13, 2017 or proof of remittance on that date, then all Units issued under this offering will be deemed to be Preferred Units .

4. PRV Distributions, Repayment of Principal, and Interest. Immediately following the date of closing a PRV Voucher Sale or PRY Pre-sale, the Borrower will satisfy its Knight Obligation, and thereafter make, within ten (10) days, the following distributions to each holder of one or more Units issued as part of the Offering (both convertible and non-convertible), including the Lender and the Founders, in the event either or both purchase such Units:

A. payment in full of the Principal Amount of each Unit; and

B. payment in full of the interest accrued under each Unit; and

C. and one percent (1%) of the gross proceeds from any PRV Sale or PRV Presale for each Unit owned; and if

D. the Unit is deemed to be a Preferred Unit then the Lender will receive a bonus *pro rata* share of two percent (2%) of gross proceeds from the PRV Sale or PRV Presale calculated as follows: amount of the gross proceeds from the PRV Sale or PRV Pre- Sale in US dollars ($US), multiplied by two percent (2%), multiplied by a quotient equal to the number of Preferred Units held by the Lender, divided by the total number of Preferred Units purchased under the Offering.

5. Prepayment. Borrower may not prepay any portion of the Principal Amount of this Note prior to the Maturity Date.

6. Conversion Option. The Lender shall have the option to exercise a conversion of their debt into shares of the Borrower:

A. Exercise Price: Pre-money value of the Borrower will be set at the lower of $32.835M USO (approximately 16,417,500 units outstanding at $2 per unit) or a valuation agreed with a third party that is lower than $32.835M. In the event the agreed valuation is $32.835M, each $250,000 USO note will convert to 125,000 units of Borrower stock.
B. Option Period: The Lender's option to convert begins at the Maturity date and shall expire 30 days later.
C. No Interest Payment and Conversion of Principal: Interest will not be paid if Lender elects to convert the outstanding Principal of this Note to Equity. In the event the Lender elects to convert, the Principal will be converted to equity in the Borrower per above and the Note will be retired.
D. Subscription Agreement: Investor will sign a stand-alone subscription agreement which will contain the form for the Lender to exercise its right of conversion and to join in the operating agreement of the Company.

7. Rank. The right to payment under this Note will be in priority relative to the right to payment under other non-convertible promissory notes issued by the Borrower as part of the Offering that have substantially the same terms and conditions as this Note other than principal amount (together with this Note, the " Borrower Issued Notes"). The Borrower will inform the Lender when/if additional Notes arc subscribed under this offering.

8. Events of Acceleration. The entire unpaid Principal Amount under this Note shall become immediately due and payable, subordinate to the Borrower's obligation to pay in full the First Knight Obligation, upon (i) admission by the Borrower of its inability to pay its debts generally as they become due, (ii) the filing of a petition in bankruptcy by the Borrower, (iii) the execution by the Borrower of a general assignment for the benefit of creditors, or (iv) the filing by or against the Borrower of a petition in bankruptcy or a petition for relief under the provisions of the federal bankruptcy code or another state or federal law for the relief of debtors and the continuation of such petition without dismissal for a period of ninety (90) days or more.

9. Amendment and Waiver. This Note may be amended or a provision hereof waived only in a writing signed by both the Borrower and the Lender.

10. Severability. The unenforceability or invalidity of any provision or provisions of this Note as to any person, entity, or circumstance shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

11. Assignment. This Note is not assignable by the Lender without the Borrower's prior written consent, which consent may be withheld in the Borrower's sole and absolute discretion.

12. Notices. All notices, demands and requests of any kind to be delivered to any party in connection with this Note shall be in writing and shall be deemed to have been duly given if personally delivered, sent by facsimile or electronic mail, or if sent by nationally-recognized overnight courier or by registered or certified mail, return receipt requested and postage prepaid, to the address set forth in this Note or to such other address as the party to whom notice is to be given may have furnished to the other party hereto in writing in accordance with the provisions of this Section 12. Any such notice or communication shall be deemed to have been received (i) in the case of personal delivery, on the date of such delivery, (ii) in the case of facsimile or electronic mail, when receipt is confirmed, (iii) in the case of nationally-recognized overnight courier, on the next business day after the date when sent, and (iv) in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted.

13. Legal Matters. The validity, construction, enforcement, and interpretation of this Note are governed by the laws of Washington, District of Columbia, USA and the federal laws of the United States of America, without regard to principles of conflict of laws. The Borrower and the Lender (a) consent to the personal jurisdiction of the city and federal courts having jurisdiction in Washington, District of Columbia, USA, (b) stipulate that the proper, exclusive and convenient venue of any legal proceeding arising out of this Note is Washington, District of Columbia, USA, for city court proceedings, and the U.S. District Court for the District of Columbia, for federal district court proceedings, and (c) waive any defense, whether asserted by a motion or pleading, that Washington, District of Columbia, USA or the U.S. District Court for the District of Columbia is an improper or inconvenient venue.

14. No Rights as a Member. Nothing contained in this Note shall be construed as conferring upon the Lender or any other person the right to vote or to consent or to receive notices as a member in respect of meetings of members of the Borrower or any other matters or any rights whatsoever as a member of the Borrower, and no distributions shall be payable or accrued in respect of this Note or the interest represented hereby until Maturity.

15. Further Assurances. From time to time, the Lender, at the Borrower's reasonable request, shall execute and deliver such other instruments and do and perform such other acts as required to confirm the Lender' s rights under this Note.

16. Deposit Upon Closing.. Upon closing the purchase of this Note, the full Principle Amount shall be sent via wire transfer by the Lender to the Bank of America, N.A. Account of the Borrower.

**SIGNATURE PAGE FOLLOWS**

**IN WITNESS HEREOF** ,this Note has been executed by the Borrower and delivered to the Lender as of the date first above written.

**BORROWER**
**60 DEGREES PHARMACEUTICALS, LLC**
a District of Columbia limited liability company

By: [redacted]

Name: Geoffrey. Dow, Manager

WITNESS: [redacted]
TYRONE MILLER
Chief Financial Officer

**LENDER**
[redacted]
[redacted]
[redacted]

Name:
Title:

WITNESS:JUN ZOV
[redacted]
[redacted]

**Exhibit 10.26**

***Please be advised that certain identified information has been excluded in Exhibit 10.26 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**CONVERTIBLE PROMISSORY NOTE**

**ORIGINAL ISSUE DATE: DECEMBER 31ST 2016**
**PRINCIPAL AMOUNT: $ 346,000.00 USD**

FOR VALUE RECEIVED, 60 DEGREES PHARMACEUTICALS, LLC, a District of Columbia limited liability company (the "Borrower"), promises to pay to Geoffrey S. Dow , or any subsequent holder or permitted assignee of this Note (the "Lender"), located at [redacted]or at such other location as the Lender may designate from time to time in a written notice provided to the Borrower, the principal amount of three hundred forty six Thousand and 00/100 DOLLARS ($ 346,000.00) (the "Principal Amount"), upon the terms and conditions specified below. Notwithstanding the foregoing, no payment of the Principal Amount under this Note shall be required to the extent that such Principal Amount has been converted pursuant to Section 4 of this Note.

The Borrower is not permitted to issue more than $750,000 in convertible notes (including this Note) issued as part of the offering under which this Note was issued (the "Offering") without the prior written consent of all existing holders of such convertible notes.

1. Maturity Date. The "Maturity Date" of the Note shall be the earlier of the date on which payment in full is made under a loan of up to $5,000,000 to the Borrower from Knight Therapeutics (Barbados), Inc. under that certain Loan Agreement and Engagement dated as of December 10, 2015 (the "First Knight Obligation"), and:

a. the sale of a Priority Review Voucher ("PRV") by the Borrower previously granted by the United States Food and Drug Administration (USFDA) to the Borrower for a Tafenoquine prophylactic antimalarial drug (the "PRV Voucher Sale"); or

b. the presale of such a PRV to someone other than the Borrower, or another business transaction or agreement that would prevent the Borrower from obtaining a PRV; or

c. Tafenoquine has been approved by the USFDA for use for another indication but not for malaria prophylaxis;

2. Interest. The outstanding Principal Amount of this Note shall not bear interest.

3. Distributions.

a. The Lender shall be eligible for certain distributions with respect to this Note until it is fully converted to Class II Units (defined below). After payment from net proceeds of a PRV of the First Knight Obligation and up to an additional $3,000,000 and accrued interest from Knight Therapeutics (Barbados), Inc. under further Knight loans, the Borrower shall distribute, prior to conversion of the convertible notes (including this Note) issued as part of the Offering, the remaining net proceeds of the PRV Voucher Sale in the manner and priority as follows:

**(i)** to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, as payment in full of the entire outstanding Principal Amount under the Note (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000, then a maximum aggregate amount of up to $750,000 may be distributed);

**(ii)** to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, in an amount up to the principal amount of convertible notes issued as part of the Offering multiplied by four (4) (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000 then a maximum aggregate amount of up to $3,000,000 of the principal amounts under such convertible notes may be distributed); and

**(iii)** to the Lender his/her/its pro rata share, *pari passu*, together with distributions to all other holders of convertible notes (including the Founders, in the event either or both purchase such convertible notes) issued as part of the Offering in proportion to their percentage of the Offering, of up to 5.03% of remaining net proceeds of the PRV Voucher Sale available for distribution to existing holders of Class I and II units immediately prior to the Offering and the holders of convertible notes (including this Note) issued under the Offering.

b. Following the Principal Amount being converted pursuant to Section 5 below, all distributions to the Lender set forth in Section 3.a., if any, which could have been made because sufficient "net proceeds" (as defined in Section 3.c.) were available, but have not yet been distributed, shall be made with respect to Class II Units into which the Principal Amount has been converted. For the purpose of avoiding doubt, holders of convertible notes will be eligible for payment in full of the distributions required under Section 3.a. only if sufficient "net proceeds" as defined in Section 3.c. are derived from a PRV sale as defined in Section 1.a.

c. The term "net proceeds" of a PRV Voucher Sale for the purpose of subsection 3.a. shall mean the proceeds available to the Borrower to distribute from gross proceeds of the PRV Voucher Sale after first repaying loans as described in 3a., and making distributions to other parties as required by contract. In the event of a PRV Voucher Sale no greater than $22,500,000, net proceeds available to the Borrower to distribute to holders of convertible notes issued as part of the Offering will represent 81% of the gross proceeds of sale. In addition in the event of a PRV Voucher Sale greater than $22,500,000 but no greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 41% of every $1.00 over $22,500,000, up to $60,000,000. In addition in the event of a PRV Voucher Sale greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 31% of every $1.00 over $60,000,000.

4. "Prepayment. Borrower may not prepay any portion of the Principal Amount of this Note prior to the Maturity Date.

5. Conversion.

a. Conversion. The Principal Amount shall be converted at and as of the Maturity Date into fully paid and non-assessable non-voting Class II Units of the Borrower ("Class II Units") that have identical rights, restrictions, preferences and privileges as all other holders of Class II Units of the Borrower outstanding as of the conversion date pursuant to the Lender transmitting to the Borrower a copy of an executed notice of conversion, in the form attached hereto as **Exhibit-A.**

b. Conversion Ratio. The number of Class II Units into which this Note shall be converted pursuant to this Section 5 shall be the number determined by dividing the Principal of this note by $1.

c. Fractional Shares. If the conversion of this Note in accordance with this Section 5 would result in the issuance of a fraction of a Class II Unit, then the Borrower shall round such fraction of a Class II Unit to the nearest whole Class II Unit.

d. Joinder to Operating Agreement. As a condition to receiving Class II Units from the Borrower, upon the Lender's conversion of this Note, the Lender shall execute and transmit to the Borrower a joinder, in the form attached hereto as Exhibit B, to the Borrower's then existing Operating Agreement, and shall agree to be bound by its terms.

6. Rank. The right to payment under this Note will be *pari passu* with the right to payment under all other notes issued by the Borrower as part of the Offering that have substantially the same terms and conditions as this Note other than principal amount (together with this Note, the "Borrower Issued Convertible Notes"). Any payments on the Borrower Issued Convertible Notes will be made pro rata to all the holders of the Borrower Issued Convertible Notes based on the principal amounts of such Borrower Issued Convertible Notes.

7. Events of Acceleration. The entire unpaid Principal Amount under this Note shall become immediately due and payable, subordinate to the Borrower's obligation to pay in full the First Knight Obligation, upon (i) admission by the Borrower of its inability to pay its debts generally as they become due, (ii) the filing of a petition in bankruptcy by the Borrower, (iii) the execution by the Borrower of a general assignment for the benefit of creditors, or (iv) the filing by or against the Borrower of a petition in bankruptcy or a petition for relief under the provisions of the federal bankruptcy code or another state or federal law for the relief of debtors and the continuation of such petition without dismissal for a period of ninety (90) days or more.

9. Amendment and Waiver. This Note may be amended or a provision hereof waived only in a writing signed by both the Borrower and the Lender.

10. Severability. The unenforceability or invalidity of any provision or provisions of this Note as to any person, entity, or circumstance shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

11. Assignment. This Note is not assignable by the Lender without the Borrower's prior written consent, which consent may be withheld in the Borrower's sole and absolute discretion.

12. Notices. All notices, demands and requests of any kind to be delivered to any party in connection with this Note shall be in writing and shall be deemed to have been duly given if personally delivered, sent by facsimile or if sent by nationally-recognized overnight courier or by registered or certified mail, return receipt requested and postage prepaid, to the address set forth in this Note or to such other address as the party to whom notice is to be given may have furnished to the other party hereto in writing in accordance with the provisions of this Section 12. Any such notice or communication shall be deemed to have been received (i) in the case of personal delivery, on the date of such delivery, (ii) in the case of facsimile, when receipt is confirmed, (iii) in the case of nationally-recognized overnight courier, on the next business day after the date when sent, and (iv) in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted.

13. Legal Matters. The validity, construction, enforcement, and interpretation of this Note are governed by the laws of Washington, District of Columbia, USA and the federal laws of the United States of America, without regard to principles of conflict of laws. The Borrower and the Lender (a) consent to the personal jurisdiction of the state and federal courts having jurisdiction in Washington, District of Columbia, USA, (b) stipulate that the proper, exclusive and convenient venue of any legal proceeding arising out of this Note is Washington, District of Columbia, USA, for state court proceedings, and the U.S District Court for the District of Columbia, for federal district court proceedings, and (c) waive any defense, whether asserted by a motion or pleading, that Washington, District of Columbia, USA or the U.S. District Court for the District of Columbia is an improper or inconvenient venue.

14. No Rights as a Member. Nothing contained in this Note shall be construed as conferring upon the Lender or any other person the right to vote or to consent or to receive notices as a member in respect of meetings of members of the Borrower or any other matters or any rights whatsoever as a member of the Borrower, and no distributions shall be payable or accrued in respect of this Note or the interest represented hereby or the Class II Units obtainable hereunder, until, and only to the extent that, this Note shall have been converted.

15. Further Assurances. From time to time, the Lender, at the Borrower's reasonable request, shall execute and deliver such other instruments and do and perform such other acts as required to confirm the Lender's rights under this Note.

16. Escrow. Upon closing the purchase of this Note, the full Principle Amount shall be sent via wire transfer by the Lender to the Bank of America, N.A. Account of the Borrower.

IN WITNESS HEREOF, this Note has been executed by the Borrower and delivered to the Lender as of the date first above written.

**BORROWER** **LENDER**
**60 DEGREES PHARMACEUTICALS, LLC**

a District of Columbia limited liability company

By: [redacted]
Name: Tyrone Miller
Partner

[redacted]
Name: Geoffrey S. Dow

**Exhibit A**
**60 DEGREES PHARMACEUTICALS, LLC CONVERSION NOTICE**

Reference is made to the Convertible Promissory Note (the “Note”) issued to the undersigned by 60 DEGREES PHARMACEUTICALS, LLC (the "Company"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Principal Amount (as defined in the Note) indicated below into non-voting Class II Units of membership ("Class II Units") of the Company as of the date specified below.

Date of Conversion: _____

Aggregate Principal Amount to be converted: _____

Please confirm the following information:

Number of Class II Units to be issued: _____

Please issue the Class II Units into which the Note is being converted in the following name and to the following address:

Name: _____
Address: _____
_____

By: _____
Title: _____

Dated: _____

**Exhibit B**

**60 DEGREES PHARMACEUTICALS, LLC JOINDER TO OPERATING AGREEMENT**

The undersigned acknowledges that he, she or it has been provided with a copy of the 60 DEGREES PHARMACEUTICALS, LLC Operating Agreement in effect as of the date below (the "Operating Agreement"). The undersigned further acknowledges and agrees to be bound by all of the terms of the Operating Agreement to the same extent as if he, she or it had been an original party thereto. All capitalized terms not defined herein have the meaning set forth in the Operating Agreement.

**IN WITNESS WHEREOF**, the undersigned has (have) executed this Joinder to the Operating Agreement this ____ day of _____, 2016.

Printed Name of Member: _____

Printed Name of Co-Member (if any) *If an Entity:* _____

Printed Name of Entity: _____
Address: _____
_____

Signature of Member: _____

Signature of Co-Member: _____

Signature of Authorized
Person Print Name: _____

Print Title: _____

**Exhibit 10.27**

***Please be advised that certain identified information has been excluded in Exhibit 10.27 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**AGREEMENT TO CONSOLIDATE AND CONVERT EXISTING DEBT**

This Agreement to Consolidate and Convert Related Party Debt (the "**Agreement**") is made effective as 31st December 2021 between 60° Pharmaceuticals, LLC, a limited liability company organized and operating under the laws of Washington, District of Columbia ("Company"), and Geoffrey Dow ("Creditor"), as follows:

A. Creditor has made the following loans, totaling $3,445,489 to the Company:
   1. Dow Long Term Loan ($1,596,750 Principal; $259,058 Interest at 12/31/21)
   2. Dow 2019 & 2020 Paid In Capital @ AFR ($450,000 Principal, $25,008 interest at 12/31/21)
   3. Dow Debenture ($596,389 at 12/31/21)
   4. Dow 300K Loan associated with debenture ($300,000 Principal, $218,284 Interest at 12/31/21)
B. Company requires consolidation then conversion of all related party debt to prepare for future financing events.
C. The Creditor agrees to this consolidation and conversion of debt into 3,426,489 new membership interest in 60 Degree Pharmaceuticals, effective as of 12/31/21.
D. The Creditor is already a member of 60 Degrees Pharmaceuticals LLC

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, and other good and valuable consideration, receipt and sufficiency is acknowledged by the Parties:

1. Creditor hereby agrees to permit Company to convert the Debt to equity in Company in the form of an economic interest in Company on the books of Company ("Economic Interest") measured in terms of percentage of equity in Company held *pari passu* by Members and holders of Economic Interests who are not Members.

2. Economic Interest in Company is defined under Company's Eight Amended and Restated Operating Agreement dated as of 31 December 2021 (the "Operating Agreement") as the (a) right to a distributive share of the income, gain, losses and deductions of the Company in accordance with this Agreement, and (b) right to a distributive share of Company Assets. This constitutes all financial benefits available from Company which are allocated and distributed under the terms of the Operating Agreement. The difference between Members and mere holders of an Economic Interest is that the latter have no right to vote or participate in management of Company.

60° PHARMACEUTICALS, LLC

[redacted]
By: [redacted]

Authorized Agent

for CRE

[redacted]
By: [redacted]

Geoffrey Dow

**Exhibit 10.28**

***Please be advised that certain identified information has been excluded in Exhibit 10.28 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**AGREEMENT TO CONVERT DEBT TO EQUITY**

This Agreement to Convert Debt to Equity (the "**Agreement**") effective as of the 31st day of December, 2021 between 60° Pharmaceuticals, LLC, a limited liability company organized and operating under the laws of Washington, District of Columbia ("Company"), and Geoffrey Dow ("Creditor"), as follows:

A. Creditor has loaned US $448,500 (the "Debt") to Company in consideration of receiving a promissory note. The terms of that Promissory note require conversion to equity, and the Company has administratively considered the Debt to be converted for tax purposes.
B. Company requires all debt-related administrative paperwork to be updated in preparation for future financing events
C. As a component of updating the Companies' administrative paperwork, Company has requested that Creditor agree to convert the Debt to membership interests in the partnership and Creditor has agreed to do so.
D. The Creditor is already a member of the Company.

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, and other good and valuable consideration, receipt and sufficiency is acknowledged by the Parties:

1. Creditor hereby agrees to permit Company to convert the Debt to equity in Company in the form of an economic interest in Company on the books of Company ("Economic Interest") measured in terms of percentage of equity in Company held *pari passu* by Members and holders of Economic Interests who are not Members.

2. Economic Interest in Company is defined under Company's Seventh Amended and Restated Operating Agreement dated as of 26 September 2018 (the "Operating Agreement") as the (a) right to a distributive share of the income, gain, losses and deductions of the Company in accordance with this Agreement, and (b) right to a distributive share of Company Assets. This constitutes all financial benefits available from Company which are allocated and distributed under the terms of the Operating Agreement. The difference between Members and mere holders of an Economic Interest is that the latter have no right to vote or participate in management of Company.

3. All capitalized terms in this Agreement shall have the meaning ascribed to such terms in the Operating Agreement.

60° PHARMACEUTICALS, LLC

[redacted]
By: [redacted]

Authorized Agent

for CREDITOR

[redacted]
By: [redacted]

Geoffrey Dow

**Exhibit 10.29**

***Please be advised that certain identified information has been excluded in Exhibit 10.29 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**CONVERTIBLE PROMISSORY NOTE**

ORIGINAL ISSUE DATE: DECEMBER 31ST 2016
PRINCIPAL AMOUNT: $ 20,000.00 USD

FOR VALUE RECEIVED, 60 DEGREES PHARMACEUTICALS, LLC, a District of Columbia limited liability company (the "Borrower"), promises to pay to Tyrone Miler, or any subsequent holder or permitted assignee of this Note (the "Lender"), located at 7/4 Gist Ave, Silver Spring, MD, 20910 or at such other location as the Lender may designate from time to time in a written notice provided to the Borrower, the principal amount of Twenty Thousand and 00/100 DOLLARS ($ 20,000.00) (the "Principal Amount"), upon the terms and conditions specified below. Notwithstanding the foregoing, no payment of the Principal Amount under this Note shall be required to the extent that such Principal Amount has been converted pursuant to Section 4 of this Note.

The Borrower is not permitted to issue more than $750,000 in convertible notes (including this Note) issued as part of the offering under which this Note was issued (the "Offering") without the prior written consent of all existing holders of such convertible notes.

1. Maturity Date. The "Maturity Date" of the Note shall be the earlier of the date on which payment in full is made under a loan of up to $5,000,000 to the Borrower from Knight Therapeutics (Barbados), Inc. under that certain Loan Agreement and Engagement dated as of December 10, 2015 (the "First Knight Obligation"), and:

a. the sale of a Priority Review Voucher ("PRV") by the Borrower previously granted by the United States Food and Drug Administration (USFDA) to the Borrower for a Tafenoquine prophylactic antimalarial drug (the "PRV Voucher Sale"); or

b. the presale of such a PRV to someone other than the Borrower, or another business transaction or agreement that would prevent the Borrower from obtaining a PRV; or

c. Tafenoquine has been approved by the USFDA for use for another indication but not for malaria prophylaxis;

2. Interest. The outstanding Principal Amount of this Note shall not bear interest.

3. Distributions.

a. The Lender shall be eligible for certain distributions with respect to this Note until it is fully converted to Class II Units (defined below). After payment from net proceeds of a PRV of the First Knight Obligation and up to an additional $3,000,000 and accrued interest from Knight Therapeutics (Barbados), Inc. under further Knight loans, the Borrower shall distribute, prior to conversion of the convertible notes (including this Note) issued as part of the Offering, the remaining net proceeds of the PRV Voucher Sale in the manner and priority as follows:

(i) to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, as payment in full of the entire outstanding Principal Amount under the Note (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000, then a maximum aggregate amount of up to $750,000 may be distributed);

(ii) to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, in an amount up to the principal amount of convertible notes issued as part of the Offering multiplied by four (4) (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000 then a maximum aggregate amount of up to $3,000,000 of the principal amounts under such convertible notes may be distributed); and

(iii) to the Lender his/her/its pro rata share, *pari passu*, together with distributions to all other holders of convertible notes (including the Founders, in the event either or both purchase such convertible notes) issued as part of the Offering in proportion to their percentage of the Offering, of up to 5.03% of remaining net proceeds of the PRV Voucher Sale available for distribution to existing holders of Class I and II units immediately prior to the Offering and the holders of convertible notes (including this Note) issued under the Offering.

b. Following the Principal Amount being converted pursuant to Section 5 below, all distributions to the Lender set forth in Section 3.a., if any, which could have been made because sufficient “net proceeds" (as defined in Section 3.c.) were available, but have not yet been distributed, shall be made with respect to Class II Units into which the Principal Amount has been converted. For the purpose of avoiding doubt, holders of convertible notes will be eligible for payment in full of the distributions required under Section 3.a. only if sufficient “net proceeds" as defined in Section 3.c. are derived from a PRV sale as defined in Section 1.a.

c. The term “net proceeds" of a PRV Voucher Sale for the purpose of subsection 3.a. shall mean the proceeds available to the Borrower to distribute from gross proceeds of the PRV Voucher Sale after first repaying loans as described in 3a., and making distributions to other parties as required by contract. In the event of a PRV Voucher Sale no greater than $22,500,000, net proceeds available to the Borrower to distribute to holders of convertible notes issued as part of the Offering will represent 81% of the gross proceeds of sale. In addition in the event of a PRV Voucher Sale greater than $22,500,000 but no greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 41% of every $1.00 over $22,500,000, up to $60,000,000. In addition in the event of a PRV Voucher Sale greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 31% of every $1.00 over $60,000,000.

4. Prepayment. Borrower may not prepay any portion of the Principal Amount of this Note prior to the Maturity Date.

5. Conversion.

a. Conversion. The Principal Amount shall be converted at and as of the Maturity Date into fully paid and non-assessable non-voting Class II Units of the Borrower ("Class II Units") that have identical rights, restrictions, preferences and privileges as all other holders of Class II Units of the Borrower outstanding as of the conversion date pursuant to the Lender transmitting to the Borrower a copy of an executed notice of conversion, in the form attached hereto as **Exhibit A.**

b. Conversion Ratio. The number of Class II Units into which this Note shall be converted pursuant to this Section 5 shall be the number determined by dividing the Principal of this note by $1.

c. Fractional Shares. If the conversion of this Note in accordance with this Section 5 would result in the issuance of a fraction of a Class II Unit, then the Borrower shall round such fraction of a Class II Unit to the nearest whole Class II Unit.

d. Joinder to Operating Agreement. As a condition to receiving Class II Units from the Borrower, upon the Lender's conversion of this Note, the Lender shall execute and transmit to the Borrower a joinder, in the form attached hereto as Exhibit B, to the Borrower's then existing Operating Agreement, and shall agree to be bound by its terms.

6. Rank. The right to payment under this Note will be *pari passu* with the right to payment under all other notes issued by the Borrower as part of the Offering that have substantially the same terms and conditions as this Note other than principal amount (together with this Note, the "Borrower Issued Convertible Notes"). Any payments on the Borrower Issued Convertible Notes will be made pro rata to all the holders of the Borrower Issued Convertible Notes based on the principal amounts of such Borrower Issued Convertible Notes.

7. Events of Acceleration. The entire unpaid Principal Amount under this Note shall become immediately due and payable, subordinate to the Borrower's obligation to pay in full the First Knight Obligation, upon (i) admission by the Borrower of its inability to pay its debts generally as they become due, (ii) the filing of a petition in bankruptcy by the Borrower, (iii) the execution by the Borrower of a general assignment for the benefit of creditors, or (iv) the filing by or against the Borrower of a petition in bankruptcy or a petition for relief under the provisions of the federal bankruptcy code or another state or federal law for the relief of debtors and the continuation of such petition without dismissal for a period of ninety (90) days or more.

9. Amendment and Waiver. This Note may be amended or a provision hereof waived only in a writing signed by both the Borrower and the Lender.

10. Severability. The unenforceability or invalidity of any provision or provisions of this Note as to any person, entity, or circumstance shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

11. Assignment. This Note is not assignable by the Lender without the Borrower's prior written consent, which consent may be withheld in the Borrower's sole and absolute discretion.

12. Notices. All notices, demands and requests of any kind to be delivered to any party in connection with this Note shall be in writing and shall be deemed to have been duly given if personally delivered, sent by facsimile or if sent by nationally-recognized overnight courier or by registered or certified mail, return receipt requested and postage prepaid, to the address set forth in this Note or to such other address as the party to whom notice is to be given may have furnished to the other party hereto in writing in accordance with the provisions of this Section 12. Any such notice or communication shall be deemed to have been received (i) in the case of personal delivery, on the date of such delivery, (ii) in the case of facsimile, when receipt is confirmed, (iii) in the case of nationally-recognized overnight courier, on the next business day after the date when sent, and (iv) in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted.

13. Legal Matters. The validity, construction, enforcement, and interpretation of this Note are governed by the laws of Washington, District of Columbia, USA and the federal laws of the United States of America, without regard to principles of conflict of laws. The Borrower and the Lender (a) consent to the personal jurisdiction of the state and federal courts having jurisdiction in Washington, District of Columbia, USA, (b) stipulate that the proper, exclusive and convenient venue of any legal proceeding arising out of this Note is Washington, District of Columbia, USA, for state court proceedings, and the U.S District Court for the District of Columbia, for federal district court proceedings, and (c) waive any defense, whether asserted by a motion or pleading, that Washington, District of Columbia, USA or the U.S. District Court for the District of Columbia is an improper or inconvenient venue.

14. No Rights as a Member. Nothing contained in this Note shall be construed as conferring upon the Lender or any other person the right to vote or to consent or to receive notices as a member in respect of meetings of members of the Borrower or any other matters or any rights whatsoever as a member of the Borrower, and no distributions shall be payable or accrued in respect of this Note or the interest represented hereby or the Class II Units obtainable hereunder, until, and only to the extent that, this Note shall have been converted.

15. Further Assurances. From time to time, the Lender, at the Borrower's reasonable request, shall execute and deliver such other instruments and do and perform such other acts as required to confirm the Lender's rights under this Note.

16. Escrow. Upon closing the purchase of this Note, the fall Principle Amount shall be sent via wire transfer by the Lender to the Bank of America, N.A. Account of the Borrower.

IN WITNESS HEREOF, this Note has been executed by the Borrower and delivered to the Lender as of the date first above written.

**BORROWER**
**60 DEGREES PHARMACEUTICALS, LLC**

**LENDER**

**a District of Columbia limited liability company**

By: [redacted]
Name: Geoffrey S. Dow
Manager

[redacted]
Name: Tyrone Miller

**Exhibit A**

**60 DEGREES PHARMACEUTICALS, LLC CONVERSION NOTICE**

Reference is made to the Convertible Promissory Note (the "Note") issued to the undersigned by 60 DEGREES PHARMACEUTICALS, LLC (the "Company"). **In** accordance with and pursuant to the Note, the undersigned hereby elects to convert the Principal Amount (as defined in the Note) indicated below into non-voting Class II Units of membership (“Class II Units”) of the Company as of the dale specified below.

Date of Conversion: _____

Aggregate Principal Amount to be converted*:* _____

Please confirm the following information:

Number of Class II Units to be issued*:* _____

Please issue the Class II Units into which the Note is being converted in the following name and to the following address:

Name: _____

Address: _____

_____

By: _____

Title: _____

Dated: _____

**Exhibit B**

**60 DEGREES PHARMACEUTICALS, LLC JOINDER TO OPERATING AGREEMENT**

The undersigned acknowledges that he, she or it has been provided with a copy of the 60 DEGREES PHARMACEUTICALS, LLC Operating Agreement in effect as of the date below (the "Operating Agreement"). The undersigned further acknowledges and agrees to be bound by all of the terms of the Operating Agreement to the same extent as if he, she or it had been an original party thereto. All capitalized terms not defined herein have the meaning set forth in the Operating Agreement.

**IN WITNESS WHEREOF,** the undersigned has (have) executed this Joinder to the Operating Agreement this __ day of _____, 2016.

**Printed Name of Member:** _____

**Printed Name of Co-Member (if any)** *If an Entity:* _____

**Printed Name of Entity:** _____
**Address:** _____

_____

**Signature of Member:** _____

**Signature of Co-Member:** _____

**Signature of Authorized Person Print Name:** _____

**Print Title:** _____

**Exhibit 10.30**

***Please be advised that certain identified information has been excluded in Exhibit 10.30 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**AGREEMENT TO CONVERT DEBT TO EQUITY**

This Agreement to Convert Debt to Equity (the "**Agreement**") is made effective as of the 31st day of December, 2021 between 60° Pharmaceuticals, LLC, a limited liability company organized and operating under the laws of Washington, District of Columbia ( "Company"), and Ty Miller ("Creditor"), as follows:

A. Creditor has loaned US $20,000 (the "Debt") to Company in consideration of receiving a promissory note. The terms of that Promissory note require conversion to equity, and the Company has administratively considered the Debt to be converted for tax purposes.

B. Company requires all debt-related administrative paperwork to be updated in preparation for future financing events

C. As a component of updating the Companies' administrative paperwork, Company has requested that Creditor agree to convert the Debt to membership units in the partnership and Creditor has agreed to do so.

D. The Creditor is already a member of the Company.

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, and other good and valuable consideration, receipt and sufficiency is acknowledged by the Parties:

1. Creditor hereby agrees to permit Company to convert the Debt to equity in Company in the form of an economic interest in Company on the books of Company ("Economic Interest") measured in terms of percentage of equity in Company held *pari passu* by Members and holders of Economic Interests who are not Members.

2. Economic Interest in Company is defined under Company's Seventh Amended and Restated Operating Agreement dated as of 26 September 2018 (the "Operating Agreement") as the (a) right to a distributive share of the income, gain, losses and deductions of the Company in accordance with this Agreement, and (b) right to a distributive share of Company Assets. This constitutes all financial benefits available from Company which are allocated and distributed under the terms of the Operating Agreement. The difference between Members and mere holders of an Economic Interest is that the latter have no right to vote or participate in management of Company.

3. All capitalized terms in this Agreement shall have the meaning ascribed to such terms in the Operating Agreement.

60° PHARMACEUTICALS, LLC

By: [redacted]
Founder

for CREDITOR

By: [redacted]
Ty Miller

**Exhibit 10.31**

CONVERTIBLE PROMISSORY NOTE

Original Issue Date: December 3 1st 2016
Principal Amount: $ 32,000,00 USD

FOR VALUE RECEIVED, 60 DEGREES PHARMACEUTICALS, LLC, a District of Columbia limited liability company (the "Borrower"), promises to pay to Doug Loock , or any subsequent holder or permitted assignee of this Note (the "Lender"), located at 6213 Red wivy ct Bethesda,20817 MD or at such other location as the Lender may designate from time to time in a written notice provided to the Borrower, the principal amount of thirty two Thousand and 00/100 DOLLARS ($ 32,000.00) (the "Principal Amount"), upon the terms and conditions specified below. Notwithstanding the foregoing, no payment of the Principal Amount under this Note shall be required to the extent that such Principal Amount has been converted pursuant to Section 4 of this Note.

The Borrower is not permitted to issue more than $750,000 in convertible notes (including this Note) issued as part of the offering under which this Note was issued (the "Offering") without the prior written consent of all existing holders of such convertible notes.

1. Maturity Date. The "Maturity Date" of the Note shall be the earlier of the date on which payment in full is made under a loan of up to $5,000,000 to the Borrower from Knight Therapeutics (Barbados), Inc. under that certain Loan Agreement and Engagement dated as of December 10, 2015 (the "First Knight Obligation"), and:

   a. the sale of a Priority Review Voucher ("PRV") by the Borrower previously granted by the United States Food and Drug Administration (USFDA) to the Borrower for a Tafenoquine prophylactic antimalarial drug (the "PRV Voucher Sale"); or

   b. the presale of such a PRV to someone other than the Borrower, or another business transaction or agreement that would prevent the Borrower from obtaining a PRV; or

   c. Tafenoquine has been approved by the USFDA for use for another indication but not for malaria prophylaxis;

2. Interest. The outstanding Principal Amount of this Note shall not bear interest.

3. Distributions.

   a. The Lender shall be eligible for certain distributions with respect to this Note until it is fully converted to Class II Units (defined below). After payment from net proceeds of a PRV of the First Knight Obligation and up to an additional $3,000,000 and accrued interest from Knight Therapeutics (Barbados), Inc. under further Knight loans, the Borrower shall distribute, prior to conversion of the convertible notes (including this Note) issued as part of the Offering, the remaining net proceeds of the PRV Voucher Sale in the manner and priority as follows:

(i) to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, as payment in full of the entire outstanding Principal Amount under the Note (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000, then a maximum aggregate amount of up to $750,000 may be distributed);

(ii) to the Lender his/her/its pro rata share, together with payments to other holders of all convertible notes (including the Note) issued as part of the Offering, in an amount up to the principal amount of convertible notes issued as part of the Offering multiplied by four (4) (therefore, since the maximum permitted value of convertible notes issued as part of the Offering is $750,000 then a maximum aggregate amount of up to $3,000,000 of the principal amounts under such convertible notes may be distributed); and

(iii) to the Lender his/her/its pro rata share, pari passu, together with distributions to all other holders of convertible notes (including the Founders, in the event either or both purchase such convertible notes) issued as part of the Offering in proportion to their percentage of the Offering, of up to 5.03% of remaining net proceeds of the PRV Voucher Sale available for distribution to existing holders of Class I and II units immediately prior to the Offering and the holders of convertible notes (including this Note) issued under the Offering.

b. Following the Principal Amount being converted pursuant to Section 5 below, all distributions to the Lender set forth in Section 3.a., if any, which could have been made because sufficient “net proceeds” (as defined in Section 3.c.) were available, but have not yet been distributed, shall be made with respect to Class II Units into which the Principal Amount has been converted. For the purpose of avoiding doubt, holders of convertible notes will be eligible for payment in full of the distributions required under Section 3.a. only if sufficient “net proceeds” as defined in Section 3.c. are derived from a PRV sale as defined in Section 1 .a.

c. The term “net proceeds” of a PRV Voucher Sale for the purpose of subsection 3.a. shall mean the proceeds available to the Borrower to distribute from gross proceeds of the PRV Voucher Sale after first repaying loans as described in 3a., and making distributions to other parties as required by contract. In the event of a PRV Voucher Sale no greater than $22,500,000, net proceeds available to the Borrower to distribute to holders of convertible notes issued as part of the Offering will represent 81% of the gross proceeds of sale. In addition in the event of a PRV Voucher Sale greater than $22,500,000 but no greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 41% of every $1.00 over $22,500,000, up to $60,000,000. In addition in the event of a PRV Voucher Sale greater than $60,000,000, the Borrower will have available for distribution to such holders of convertible notes an additional 31% of every $1.00 over $60,000,000.

4. Prepayment. Borrower may not prepay any portion of the Principal Amount of this Note prior to the Maturity Date.

5. Conversion.

a. Conversion. The Principal Amount shall be converted at and as of the Maturity Date into fully paid and non-assessable non-voting Class II Units of the Borrower ("Class II Units") that have identical rights, restrictions, preferences and privileges as all other holders of Class II Units of the Borrower outstanding as of the conversion date pursuant to the Lender transmitting to the Borrower a copy of an executed notice of conversion, in the form attached hereto as **Exhibit A**.

b. Conversion Ratio. The number of Class II Units into which this Note shall be converted pursuant to this Section 5 shall be the number determined by dividing the Principal of this note by $1.

c. Fractional Shares. If the conversion of this Note in accordance with this Section 5 would result in the issuance of a fraction of a Class II Unit, then the Borrower shall round such fraction of a Class II Unit to the nearest whole Class II Unit.

d. Joinder to Operating Agreement. As a condition to receiving Class II Units from the Borrower, upon the Lender's conversion of this Note, the Lender shall execute and transmit to the Borrower a joinder, in the form attached hereto as Exhibit B, to the Borrower's then existing Operating Agreement, and shall agree to be bound by its terms.

6. Rank. The right to payment under this Note will be pari passu with the right to payment under all other notes issued by the Borrower as part of the Offering that have substantially the same terms and conditions as this Note other than principal amount (together with this Note, the "Borrower Issued Convertible Notes"). Any payments on the Borrower Issued Convertible Notes will be made pro rata to all the holders of the Borrower Issued Convertible Notes based on the principal amounts of such Borrower Issued Convertible Notes.

7. Events of Acceleration. The entire unpaid Principal Amount under this Note shall become immediately due and payable, subordinate to the Borrower's obligation to pay in full the First Knight Obligation, upon (i) admission by the Borrower of its inability to pay its debts generally as they become due, (ii) the filing of a petition in bankruptcy by the Borrower, (iii) the execution by the Borrower of a general assignment for the benefit of creditors, or (iv) the filing by or against the Borrower of a petition in bankruptcy or a petition for relief under the provisions of the federal bankruptcy code or another state or federal law for the relief of debtors and the continuation of such petition without dismissal for a period of ninety (90) days or more.

9. Amendment and Waiver. This Note may be amended or a provision hereof waived only in a writing signed by both the Borrower and the Lender.

10. Severability. The unenforceability or invalidity of any provision or provisions of this Note as to any person, entity, or circumstance shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

11. Assignment. This Note is not assignable by the Lender without the Borrower's prior written consent, which consent may be withheld in the Borrower's sole and absolute discretion.

12 Notices. All notices, demands and requests of any kind to be delivered to any party in connection with this Note shall be in writing and shall be deemed to have been duly given if personally delivered, sent by facsimile or if sent by nationally-recognized overnight courier or by registered or certified mail, return receipt requested and postage prepaid, to the address set forth in this Note or to such other address as the party to whom notice is to be given may have furnished to the other party hereto in writing in accordance with the provisions of this Section 12. Any such notice or communication shall be deemed to have been received (i) in the case of personal delivery, on the date of such delivery, (ii) in the case of facsimile, when receipt is confirmed, (iii) in the case of nationally-recognized overnight courier, on the next business day after the date when sent, and in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted.

13. Legal Matters. The validity, construction, enforcement, and interpretation of this Note are governed by the laws of Washington, District of Columbia, USA and the federal laws of the United States of America, without regard to principles of conflict of laws. The Borrower and the Lender (a) consent to the personal jurisdiction of the state and federal courts having jurisdiction in Washington, District of Columbia, USA, (b) stipulate that the proper, exclusive and convenient venue of any legal proceeding arising out of this Note is Washington, District of Columbia, USA, for state court proceedings, and the U.S District Court for the District of Columbia, for federal district court proceedings, and (c) waive any defense, whether asserted by a motion or pleading, that Washington, District of Columbia, USA or the U.S. District Court for the District of Columbia is an improper or inconvenient venue.

14. No Rights as a Member. Nothing contained in this Note shall be construed as conferring upon the Lender or any other person the right to vote or to consent or to receive notices as a member in respect of meetings of members of the Borrower or any other matters or any rights whatsoever as a member of the Borrower, and no distributions shall be payable or accrued in respect of this Note or the interest represented hereby or the Class II Units obtainable hereunder, until, and only to the extent that, this Note shall have been converted.

15. Further Assurances. From time to time, the Lender, at the Borrower's reasonable request, shall execute and deliver such other instruments and do and perform such other acts as required to confirm the Lender's rights under this Note.

16. Escrow. Upon closing the purchase of this Note, the full Principle Amount shall be sent via wire transfer by the Lender to the Bank of America, N. A. Account of the Borrower.

IN WITNESS HEREOF, this Note has been executed by the Borrower and delivered to the Lender as of the date first above written.

| **BORROWER** | **LENDER** |
|---|---|
| **60 DEGREES PHARMACEUTICALS, LLC** | |
| a District of Columbia limited liability company | |
| **By.** _____ | _____ |
| **Name: Geoffrey S. Dow** | **Name:** _____ |
| **Manager** | |

**Exhibit A**
**60 DEGREES PHARMACEUTICALS,LLC CONVERSION NOTICE**

Reference is made to the Convertible Promissory Note (the "Note") issued to the undersigned by 60 DEGREES PHARMACEUTICALS, LLC (the "Company"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Principal Amount (as defined in the Note) indicated below into non-voting Class II Units of membership ("Class II Units") of the Company as of the date specified below.

Date of Conversion: _____

Aggregate Principal Amount to be converted: _____

Please confirm the following information:

Number of Class II Units to be issued: _____

Please issue the Class II Units into which the Note is being converted in the following name and to the following address:

Name: _____

Address: _____

_____

By: _____

Title: _____

Dated: _____

The undersigned acknowledges that he, she or it has been provided with a copy of the 60 DEGREES PHARMACEUTICALS, LLC Operating Agreement in effect as of the date below (the "Operating Agreement"). The undersigned further acknowledges and agrees to be bound by all of the terms of the Operating Agreement to the same extent as if he, she or it had been an original party thereto. All capitalized terms not defined herein have the meaning set forth in the Operating Agreement.

IN WITNESS WHEREOF, the undersigned has (have) executed this Joinder to the Operating Agreement this_____day of_____, 2016.

Printed Name of Member: _____

Printed Name of Co-Member (if any) If an Entity: _____

Printed Name of Entity: _____

Address: _____

_____

_____

Signature of Member: _____

Signature of Co-Member: _____

Signature of Authorized

Person Print Name: _____

Print Title: _____

**Exhibit 10.32**

**AGREEMENT TO CONVERT DEBT TO EQUITY**

This Agreement to Convert Debt to Equity (the “Agreement”) is made as of the 3l$^{st}$ day of August, 2021 between 60° Pharmaceuticals, LLC, a limited liability company organized and operating under the laws of Washington, District of Columbia ( “Company"), and Dong Loock (“Creditor"), as follows:

A. Creditor has loaned US S32,000 (the "Debt") to Company in consideration of receiving a promissory note.

B. Company has entered into an agreement with HORIZON 3 BIOTECH FUND ("Fund") to initially borrow US $1.5 Million (the "Loan") under terms of a Convertible Promissory Note.

C. As a condition to Fund making the Loan, Company has agreed with Fund to restructure debt and equity of Company.

D. As part of the restructure of debt and equity of Company, Company has requested that Creditor agree to convert the Debt to equity ownership of Company and Creditor has agreed to do so.

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, and other good and valuable consideration, receipt and sufficiency is acknowledged by the Pities:

1. Creditor hereby agrees to permit Company to convert the Debt to equity in Company in the form of an economic interest in Company on the books of Company upon closing the investment of Fund in Company (“Closing”) with all proportionate rights to financial and income tax benefits generated by Company ("Economic lnterest") measured in terms of percentage of equity in Company held *pari passu* by Members and holders of Economic Interests who are not Members.

2. Economic Interest in Company is defined under Company’s Eighth Amended and Restated Operating Agreement dated as of 31 August 2021 (the "Operating Agreement") as the (a) right to a distributive share of the income, gain, losses and deductions of the Company in accordance with this Agreement, and (b) right to a distributive share of Company Assets. This constitutes all financial benefits available from Company which are allocated and distributed under the terms of the Operating Agreement. The difference between Members and mere holders of an Economic Interest is that the latter have no right to vote or participate in management of Company.

3. Holders of Economic Interests, including Creditor, shall sign Joinder Agreements in the form attached as ADDENDUM III of the Operating Agreement at Closing agreeing to be admitted as Members of the Company and shall be fully bound by, and subject to, all of the covenants, terms and conditions of the Operating Agreement as though they were original parties to the Agreement, and shall be subject to all obligations and entitled to all the rights incidental to Members under the terms of the Operating Agreement, with their financial benefits maintained in accordance with their percentage Interests relative to Interests of other Members and non-Member holders of Economic Interests.

4. All capitalized terms in this Agreement shall have the meaning ascribed to such terms in the Operating Agreement.s

60° PHARMACEUTICALS, LLC

By: _____
Founder

For Creditor

By: _____
Doug Loock

**Exhibit 10.33**

**AGREEMENT and PLAN OF MERGER**
**of**
**60 DEGREES PHARMACEUTICALS, LLC**

This Agreement and Plan of Merger (the "**Plan**") for 60 Degrees Pharmaceuticals, LLC, a District of Columbia limited liability company (the "**Company**"), is made and entered into effective as of June 1, 2022 in accordance with the terms of the Company's Eighth Amended and Restated Operating Agreement, dated as of December 31, 2021 (the "**LLC Agreement**"), the District of Columbia Limited Liability Company Act (the "**DC Act**"), and the Delaware General Corporation Law (the "**DGCL**"). Capitalized terms used but not otherwise defined in this Plan have the meanings ascribed to such terms in the LLC Agreement.

**RECITALS**

WHEREAS, the Company is a limited liability company, formed on September 9, 2010 by the filing of Articles of Organization with the District of Columbia Department of Consumer and Regulatory Affairs Corporations Division (the "**DCRA**") pursuant to and in accordance with the DC Act;

WHEREAS, under the terms of the LLC Agreement, the Company is managed by the manager;

WHEREAS, the Company has incorporated as a Delaware corporation effective June 1, 2022, as managed by the sole director;

WHEREAS, the Company wishes to merge with the Delaware corporation effective June 1, 2022;

WHEREAS, a District of Columbia limited liability company may merge into a Delaware corporation under Title 8, Section 264(c) of the DGCL and Section § 29–809.02 of the DC Act;

WHEREAS, it is intended that the merger of the Company will be treated as an exchange pursuant to Section 351 of the Internal Revenue Code of 1986, as amended (the "**Code**") for US federal income tax purposes; and

WHEREAS, the manager and the members have approved the merger of the Company into a Delaware corporation (the "**Merger**") and the terms of the Plan.

NOW, THEREFORE, the Company does hereby adopt this Plan to effect the merger as follows:

Article 1

**TERMS AND CONDITIONS OF CONVERSION**

1. Name of Converting Entity. The name of the converting entity is 60 Degrees Pharmaceuticals, LLC.

2. Name of Converted Entity. The name of the converted entity is 60 Degrees Pharmaceuticals, Inc. (the "**Corporation**"), which is incorporated in Delaware concurrent with the filing of the Certificate of Merger.

3. Certificate of Merger. Pursuant to Title 8, Section 264(c) of the DGCL, the Company shall cause to be filed with the Delaware Secretary of State a certificate of merger in substantially the form attached hereto as Exhibit A (the "**Certificate of Merger**").

4. Effective Date. The Merger shall become effective at the time of filing the Certificate of Merger with the Secretary of State (the "**Effective Time**").

5. Merger. At the Effective Time, the Company shall continue its existence in the organizational form of a Delaware corporation. The Company's LLC Agreement shall be terminated and of no further force or effect and shall be superseded in their entirety by the Certificate of Incorporation (as defined in Section 9 below) and the By-Laws (as defined in Section 10 below), and no party shall have any further rights, duties, or obligations pursuant to the Company's LLC Agreement. Notwithstanding the foregoing, the termination of the LLC Agreement shall not relieve any party thereto from any liability arising in connection with any breach by such party of the LLC Agreement.

6. Approval. This Plan has been approved by the Manager and by the Members holding more than fifty percent (50%) of all outstanding membership interests.

7. Merger of Membership Interests. The value of each outstanding members 'membership interest in the Company as set forth in the LLC Agreement shall, without any action on the part of any holder thereof, be automatically converted into common stock in the Corporation, par value $.0001 (the "**Common Stock**"), equal to five dollars ($5.00) per share of Common Stock. No fractional shares shall be issued in connection with the Merger.

| | Shares | Percentage Ownership |
|---|---|---|
| Geoffrey Dow | 1,888,975 | 80.42% |
| Douglas Look | 165,938 | 7.06% |
| Tyrone Miller | 294,029 | 12.52% |
| TOTAL | 2,348,942 | 100% |

The shares of Common Stock into which the membership interests shall be converted at the Effective Time have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**") or the securities laws of the District of Columbia or any state and may not be transferred, pledged, or hypothecated except as permitted under the Securities Act and applicable state securities laws pursuant to registration or exemption therefrom; any certificates evidencing the Common Stock, if any, or any other securities issued in respect of the Common Stock upon any split, dividend, recapitalization, merger, consolidation, or similar event shall bear any legend required by the Corporation, required under the Securities Act and application state securities laws, or called for by an agreement between the Corporation and any stockholder.

8. Rights and Liabilities. At the Effective Time:

8.1 All the rights, privileges, and powers of the Company and all property and all debts due to the Company, as well as all other things and causes of action belonging to the Company, shall remain vested in the Corporation and shall be the property of the Corporation.

8.2 All actions and resolutions of the manager and the member, as applicable, taken or adopted from the inception of the Company prior to the Effective Time shall continue in full force and effect as if the Corporation's board of directors and the stockholders, respectively, had taken such actions and adopted such resolutions.

8.3 All rights of creditors and all liens upon any property of the Company shall be preserved unimpaired, and all debts, liabilities, and duties of the Company shall remain attached to the Corporation and may be enforced against the Corporation to the same extent as if said debts, liabilities, and duties had originally been incurred or contracted by the Corporation in its capacity as a Delaware corporation.

9. Certificate of Incorporation. A certificate of incorporation of the Corporation in substantially the form attached hereto as Exhibit B (the "**Certificate of Incorporation**") shall be filed with the Secretary of State.

10. By-Laws. The by-laws of the Corporation shall be substantially in the form attached hereto as Exhibit C (the "**By-Laws**").]

11. Board of Directors; Officers. Pursuant to an Organizational Action by Sole Incorporator substantially in the form attached hereto as D, which shall be executed immediately following the filing of the Certificate of Incorporation, the initial directors of the Corporation shall be elected and shall hold such office until the first annual meeting of stockholders, or until his or her successor shall have been duly elected and qualified, or until his or her earlier death, resignation, or removal. Thereafter, immediately following the filing of the Organizational Action by Sole Incorporator, the initial director shall ratify and approve the by-laws of the Corporation substantially in the form attached hereto as Exhibit C (the "**By-Laws**") and elect the officers of the Corporation.

12. US Federal Income Tax Consequences. The Merger has been structured to be treated, for US federal income tax purposes, as if the Company transferred its assets to the Corporation for shares of the Corporation's common stock pursuant to an exchange described in Section 351 of the Code, followed by a distribution of the shares of the Corporation's common stock to the members in liquidation of the Company, as described in Rev. Rul. 2004-59.

13. Amendment or Termination. This Plan may be amended or terminated by the Company and the Merger may be abandoned at any time prior to the Effective Date by the managers, except that the Plan may not be so amended without the written consent of the Members if the effect of such amendment materially alters the rights and obligations of the Members after the Merger.

14. Counterparts. This Plan may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Plan delivered by facsimile, email, or other means of Electronic Transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Plan.

15. Governing Law. All issues and questions concerning the application, construction, validity, interpretation, and enforcement of this Plan shall be governed by and construed in accordance with the internal laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Delaware.

[SIGNATURE PAGE FOLLOWS]

**EXHIBIT A**

**CERTIFICATE OF MERGER**

[ATTACHMENT]

**EXHIBIT B**

**CERTIFICATE OF INCORPORATION OF 60 DEGREES PHARMACEUTICALS, INC.**

[ATTACHMENT]

**EXHIBIT C**

**BY-LAWS OF 60 DEGREES PHARMACEUTICALS, INC.**

[ATTACHMENT]

**EXHIBIT D**

**ORGANIZATIONAL ACTION BY SOLE INCORPORATOR**

[ATTACHMENT]

IN WITNESS WHEREOF, the undersigned, having been duly authorized, hereby adopt this Plan as of the date set forth above.

**60 Degrees Pharmaceuticals, LLC**

By /s/ GEOFF DOW
GEOFF DOW, SOLE MANAGER

**60 Degrees Pharmaceuticals, Inc.**

By /s/ GEOFF DOW
GEOFF DOW, SOLE DIRECTOR

***Please be advised that certain identified information has been excluded in Exhibit 10.34 because it is the type of information that the registrant treats as private or confidential and is (i) not material and (ii) would be competitively harmful if publicly disclosed.***

**CONFIDENTIAL**

**EXCLUSIVE LICENSE AGREEMENT**

This **EXCLUSIVE LICENSE AGREEMENT ("Agreement")** is made on the 30th day of **May 2014** between

**NATIONAL UNIVERSITY OF SINGAPORE,** (Company Registration Number: 200604346E), a company limited by guarantee incorporated in Singapore, having its registered address at 21 Lower Kent Ridge Road, Singapore 119077 **("NUS"** which expression shall include its successors and assigns)of the first part;

And

**SINGAPORE HEALTH SERVICES PTE LTD** (Company Registration Number: 200002698Z), a company incorporated in Singapore, having its registered address at 31 Third Hospital Avenue #03-03, Singapore 168753 **("SHS"** which expression shall include its successors and assigns) of the second part;

**(NUS** and **SHS** hereinafter collectively referred to as **"Licensor")**

And

**60° PHARMACEUTICALS, LLC,** an American company having its registered office address at 1025 Connecticut Avenue NW, Suite 1000, Washington DC, USA 20036 **("60P"** which expression shall include its successors and assigns) of the third part;

And

**60P AUSTRALIA PTY LTD** (Company Registration No. 167060219) a company incorporated in Australia and having its registered office at 105 North Steyne Manly New South Wales 2095, **("60P Australia"** which expression shall include its successors and assigns) of the fourth part

**(60P** and **60P Australia** hereinafter collectively referred to as **"Licensee").**

**WHEREAS:**

**A.** **NUS** and **Singapore General Hospital Pte Ltd ("SGH")** (UEN Number: 198703907Z), a company incorporated in Singapore and having its registered office at 31 Third Hospital Avenue #03-03 Singapore 168753 and Tan Tock Seng Hospital Pte Ltd (Company Registration No.199003683N), a company incorporated in Singapore and having its registered office at 11 Jalan Tan Tock Seng, Singapore 308433 **("TTSH")** had entered into a **Project Agreement dated 27 July 2012** (hereinafter referred as **"the Project Agreement")** wherein **NUS, SGH,** and **TTSH** inter alia agreed to folfill their respective roles in the project entitled ***"CELGOSIVIR PROOF OF CONCEPT TRIAL FOR TREATMENT OF ACUTE DENGUE FEVER"*** **("the Celaden Project").**

**B.** Pursuant to the Project Agreement, **NUS, SHS** and **TTSH** have agreed that all **Patent Rights** as described in **Schedule 2** are owned by **Licensor** as legal and equitable owners in the following proportions [i.e. NUS owns[ ] c % and SHS owns [ ]c %].

**C.** **Licensor** has the right to grant licenses under the said **Patent Rights.**

**D.** Licensee is interested in obtaining and **Licensor** is desirous of granting an exclusive, sublicensable license from **Licensor** in **respect** of the **Patent Rights** to develop, market and sell **Licensed Products** in the **Field of Use** in the **Territory** in accordance with the terms of this Agreement.

**E.** Except where they are public records, the **Licensee** is interested in obtaining and **Licensor** is desirous of granting access to the **Essential Documents** of the **CELADEN** study for the purpose of developing, marketing, and selling **Licensed Products** in the **Field of Use** in the **Territory** in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, **Licensor** and **Licensee** (hereinafter collectively referred to as **"Parties"** and singularly as **"Party")** hereto agree as follows:

## 1. DEFINITIONS

In this Agreement, unless the context otherwise requires, the following expressions have the following respective meanings:

| | | |
|---|---|---|
| **Academic Purposes** | - | academic research (including sponsored research), scholarly publications, educational purposes, and medical services. |
| **Affiliate** | | means, with respect to any entity, any other entity directly or indirectly controlling, controlled by, or under common control with, such entity. The expression "control" (including its correlative meanings, "controlled by", "controlling" and "under common control with") shall mean, with respect to a corporation, the right to exercise, directly or indirectly, more than 50 per cent. of the voting rights attributable to the shares of the controlled corporation and, with respect to any entity other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity. |
| **Confidential Information** | - | any information disclosed by one **Party** to the other **Party** in any form, which, if disclosed in tangible form, is marked at the time of disclosure as being confidential or proprietary or with words of similar import, and if disclosed orally or visually or in other intangible form, is described as confidential at the time of such disclosure and confirmed in writing as confidential within thirty (30) days of such disclosure. |
| **Effective Date** | - | May 30th,2014 |
| **Field of Use** | - | Therapeutic and prophylactic use for human and veterinary diseases. |
| **License** | - | exclusive, sub-licensable and transferable license in respect of the **Patent Rights** to develop, manufacture, market and sell products worldwide. |
| **Licensee's Improvements** | - | any modifications, additions, alterations, enhancements, upgrades or new versions made by **Licensee** of the **Invention** under the **Patent Rights,** including without limitation those made by **Licensee** under **Licensee's** sponsorship research programs other than **Licensor Improvements, NUS Improvements, SHS Improvements** and/or and **Joint Improvements.** |

| | | |
|---|---|---|
| **Invention** | - | the invention as described in **Schedule 1 Part A.** |
| **Inventors** | - | Drs Subhash Vasudevan, Cynthia Sung, Abhay Rathore, Satoru Watanabe, Eng Eong Ooi and Jenny Low, assignors under the Deeds of Assignments dated 21 May2013 and26June2013. |
| **Essential Documents** | - | **Essential Documents** of the **Celaden Project** conducted by **NUS, SGH, and TTSH** under the Project Agreement. For the avoidance of doubt, **Essential Documents** for the purpose of this Agreement shall include the "Essential Documents for the Conduct of a Clinical Trial" as defined in ICH Guidelines for Good Clinical Practice E6 (Rl) and those documents particularly described in **Schedule 4.** |
| **Licensed Process(es)** | - | any and all processes or methods that incorporate, utilize or are made with the use of the **Invention** or whose use or practice, but for the rights granted hereunder, would constitute an infringement of any claim within the **Patent Rights.** |
| **Licensed Product(s)** | - | (a) any product: (i) which incorporates, utilizes or is made with the use of the **Invention;** or, (ii) which, but for the rights granted hereunder, the manufacture, use or sale thereof would constitute an infringement of any claim within the **Patent Rights;**<br><br>or<br><br>(b) any article, composition, apparatus, chemical, substance or any other materials made, used or sold for use with a **Licensed Process.** |
| **Licensee's Representative** | - | any agent who is engaged by **Licensee** to act on behalf of the **Licensee,** for the purposes of this Agreement, to provide certain services, including the selling of **Licensed Products,** but shall not include **Sub-Licensees.** |
| **Gross Sales** | - | the gross amount of monies, cash, or non-cash consideration equivalent received for the treatment or prophylaxis of dengue in humans only, with the exception of data, drug, drug product, or in kind services or access to any of the foregoing provided by third parties, that is paid to **Licensee** and/or its **Related Company** for the **Licensed Products, Licensed Processes** or any products manufactured by **Licensee** that contain celgosivir. by sale or any other mode of transfer in the countries considered by the World Bank to be "high income" (ie per capita income over US $12,615) in 2012 (as annexed in **Schedule 5),** and such other countries as may be added by the World Bank from time to time **BUT EXCLUDING ALL** sales made which are intended for non-profit NonGovernment Organisations and charities worldwide notwithstanding that such sales are made in high income countries and **Licensee's** subsidiaries and any **Sub-licensing Revenue.** |

| | | |
|---|---|---|
| **Joint Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between:<br>(i) the **Licensee;** and<br>(ii) any current or past employee, student or intern of **NUS** who terminated his employment with **NUS** within twelve (12) months after entering into the consultancy arrangement; and<br>(iii) any current or past employee, student or intern of **SHS** who terminated his employment with **SHS** within twelve (12) months after entering into the consultancy arrangement,<br><br>including US provisional application 61/911795 and PCT/US2014/028076 filed on March 14, 2014. |
| **Licensor Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made by **NUS** and/or **SHS.** |
| **NUS Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between the **Licensee** and any current or past employee, student or intern of **NUS** who terminated his employment with **NUS** within twelve (12) months after entering into the consultancy arrangement. |
| **Patents** | - | all or any of the patents and all continuations, divisions, and reissues thereof, and any corresponding foreign patent applications and any patents, or other equivalent foreign patent rights issuing, granted, or registered thereon granted pursuant to the **Patent Applications,** short particulars of which are set out in **Schedule 2 Part A.** |
| **Patent Applications** | -- | all applications for patents and rights of a similar nature, filed and to be filed, in respect of the |

| | | |
|---|---|---|
| | | **Invention,** including, but not limited to, patent applications the short particulars of which are set out in **Schedule 2 Part B,** and/or any **Joint Improvements,** and in the event of any amendment of or a division of the same, such amended applications or divided applications. |
| **Patent Rights** | - | Rights under all **Patents** and **Patent Applications.** |
| **Related Company** | - | any entity which directly or indirectly controls, is controlled by, or is under common control with **Licensee,** including **Licensee's** related corporations within the meaning of Section 6 of the Singapore Companies Act (Cap. 50). |
| **SHS Improvements** | - | any modifications, addition, alterations, enhancements, upgrades or new versions of the **Invention** under the **Patent Rights** made through any consultancy agreement or arrangement between the **Licensee** and any current or past employee, student or intern of SHS who terminated his employment with **SHS** within twelve (12) months after entering into the consultancy arrangement. |
| **Sub-licensing Revenue** | - | all upfront fees, sub-licensing fees, royalties and all other amounts in cash and cash equivalent which are paid to the **Licensee** by any **Sub-Licensee** of its rights hereunder, with the exception of data, drug, drug product, or in kind services or access to any of the foregoing provided by third parties and any revenue paid to the **Licensee** by any **Sub-Licensee** in relation to treatment or prophylaxis of dengue in humans. |
| **Sub-Licensee** | - | any person, company or other legal entity, other than **Licensee,** who has the right, granted by **Licensee,** to make, have made, use, sell or import for sale the **Licensed Product or Licensed Process.** |
| **Technology Rights** | - | all technical infomation, formulations, know-how, processes, procedures, compositions, devices, methods, formulae, materials, tests, data, designs, other information and **Confidential Information** related to the **Patent Rights,** that are not described by **Patent Rights** but that are necessary for practicing the invention covered by the **Patent Rights.** |
| **Term** | - | the period during which this Agreement is in force pursuant to **Section 6.** |
| **Territory** | - | Worldwide |
| **The Celaden Project** | | Celgosivir Proof of Concept Trial for Treatment of Acute Dengue Fever |

## 2. INTERPRETATION

2.1. In this Agreement:

(a) Words importing the singular shall include the plural and vice versa, and words that are gender specific or neuter shall include the other gender and the neuter.

(b) References to a person shall be construed as references to an individual, corporation, company, firm, incorporated body of persons of any country, or any agency, thereof.

(c) The headings in this Agreement are for convenience only and shall not affect its interpretation.

(d) All references to Sections and Schedules refer, unless the context otherwise requires, to Sections and Schedules of this Agreement.

(e) All references to statutes or statutory provisions shall be taken to be a reference to the statutes or provisions as revised, amended, supplemented or re-enacted from time to time, and shall include any subsidiary legislation made thereunder.

## 3. GRANT OF LICENSE

3.1. **Licensor** hereby grants to **Licensee and Licensee hereby** accepts, subject to the terms and conditions hereof, and subject to **Licensor's** rights under **Section 3.2** an exclusive, sub-licensable, license of the **Patent Rights** to make, use, sell, offer to sell, and import any **Licensed Products** in the **Field of Use** in the **Territory** during the **Term.**

3.2. Nothing in this Agreement shall prejudice **NUS', SHS',** and/or **TTSH's** right to use / practice the **Patent Rights for Academic Purposes.**

3.3. **Licensor** shall be obliged under this Agreement to render reasonable technical assistance, or support, or provide training to **60P,** for purposes of using / practicing the **Patent Rights** granted hereunder, such assistance or support not to exceed 10 hours per month.

3.4. **Licensee** shall own all rights, title and interests in and to all of **Licensee's Improvements.** For clarity, neither **NUS** nor **SHS** has any rights to the **Licensee's Improvements** and no **Royalty,** fee or any fees cost or expense shall be payable to **NUS** and/or **SHS** in respect **of Licensee's Improvements.**

3.5 **Licensee** agrees that all rights, title and interests in and to all **Joint Improvements** shall be co-owned by **60P, 60P Australia, NUS, and SHS** as tenants in common in the following proportions: **60P Australia: [■] %, 60P: [■] %,NUS: [■] %, SHS: [■] %**

3.6 **Licensee** shall be entitled to use and practice **Joint Improvements** and such use and practice shall be subject to the same terms and conditions as the use and practice of **Patent Rights** licensed under this Agreement unless terms and conditions for the use and practice of **Joint Improvements** are separately negotiated and agreed in writing by **Licensor and Licensee.**

3.7 **NUS** hereby grants to **Licensee** a right of first refusal to negotiate a separate license agreement for any **NUS Improvements.** Ownership of all rights, title and interest in and to all **NUS Improvements** shall be determined by inventive contributions.

3.8 **SHS** hereby grants to **Licensee** a right of first refusal to negotiate a separate license agreement for any **SHS Improvements.** Ownership of all rights, title and interest in and to all **SHS Improvements** shall be determined by inventive contributions.

3.9 Subject to **Sections 3.2** and **3.4, Licensee** hereby grants to **NUS and SHS** a nonexclusive, royalty-free license under all rights protecting **Licensee's Improvements** and **Joint Improvements** to practice the same for **Academic Purposes** during the **Term** of this Agreement.

3.10 Subject always to the written consent of the **Licensee, Licensee** further grants to **NUS** and **SHS** the non-exclusive, royalty-free right to sublicense the **Licensee's Improvements** and **Joint Improvements** to other non-profit academic institutions and to **SHS's Affiliates** for **Academic Purposes.**

**3A. ACCESS TO ALL OF ESSENTIAL DOCUMENTS AND ANY OTHER DOCUMENTS RELATED TO THE CELADEN PROJECT TO LICENSEE**

3A.l **Licensor** shall furnish to the **Licensee** all of the **Essential Documents** in complete and readable format per industry practices in respect of commercialization of clinical trials and programs data and, subject always to the obligations of disclosure to the relevant authorities and the right of access granted to **SGH** and **TTSH** as participants in the **Celaden Project,** each of **NUS** and **SHS** hereby jointly and severally undertake that they shall not, from the **Effective Date** and during the **Term** of this Agreement, grant any third party access to the **Essential Documents** for commercial purposes. **Licensee,** its **Related Companies** and **Sub-Licensees** may utilize the **Essential Documents** to make, seek and maintain regulatory approval for the use, sale, offer to sell, and import of any products for human use manufactured by **Licensee** that contain celgosivir.

3A.2 **Licensee** may, from time to time, request for access to documents related to the **Celaden Project** which are not **Essential Documents ("Other Documents").** If the **Other Documents** are within the possession, custody and control of **Licensor, Licensor** may, in its sole and unfettered discretion, grant to **Licensee** access to the **Other Documents.** If further requested by **Licensee** and subject always to the obligations of disclosure to the relevant authorities and the right of access granted to **SGH** and **TTSH** as participants in the **Celaden Project, Licensor** may, it its sole and unfettered discretion, undertake in writing not to grant during the **Term** any third party access to the **Other Documents** for commercial purposes. If such undertaking is given by **Licensor, Licensee,** its **Related Companies** and **Sub-Licensees** may utilize such **Other Documents** as are described in the undertaking to make, seek and maintain regulatory approval for the use, sale, offer to sell, and import of any products for human use manufactured by the **Licensee** that contain celgosivir.

3A.3 **Licensee** may request that **Licensor** continue not to grant to any third party access to the **Essential Documents** and the **Other Documents** in respect of which **Licensor** has given a written undertaking pursuant to **Section 3A.2** after the expiry of the **Term** of this Agreement. **Licensor** may, in its sole and unfettered discretion, agree and undertake in writing to continue not granting any third party access to such **Essential Documents** and **Other Documents** subject to payment of an annual fee of Singapore Dollars [[redacted]](S$ [[redacted]]) for each year that the **Licensee** requires the **Licensor** to give such undertaking. If such undertaking is given by **Licensor, Licensee,** its **Related Companies** and **Sub-Licensees** may utilize the **Essential Documents** and such **Other Documents** as are described in the undertaking to make, seek and maintain regulatory approval for the use, sale, offer to sell, and import of any product containing celgosivir for each year that the undertaking is given. In the event that such an undertaking is not given, the **Licensee** may continue to use, on a non-exclusive basis, the **Essential Documents** and such **Other Documents** to make, seek, and maintain regulatory approval for the use, sale, offer to sell, and import of any product for human use manufactured by **Licensee** containing celgosivir.

## 4. WARRANTIES OF NUS AND SHS

4.1 Both **NUS** and **SHS** hereby jointly and severally warrant to **Licensee** as follows:

(a) **NUS** and **SHS** have legal and equitable ownership of the **Patent Rights** in the following proportions :

**(i) NUS - [■]%;** and

**(ii) SHS - [■]%.**

(b) Neither **NUS** nor **SHS** has received any claim or notice of claim of ownership and infringement whatsoever in respect of the **Patent Rights;**

(c) To the best of **NUS**' and **SHS**' knowledge, the **Patent Rights** are in full force and effect and free from all liens and encumbrances.

(d) To the best of **NUS**' and **SHS**' knowledge, there are no restrictions or prohibitions affecting their respective rights in licensing the **Patent Rights** to **Licensee;**

(e) To the best of **NUS'** and **SHS**' knowledge, there are no claims or notice of claims by any of the participants involved in the clinical trial in the **Celaden Project;**

(f) To give **Licensee** the first right of refusal to license in respect of any **Licensor Improvements.**

## 5. SUB-LICENCES

5.1 **60P** and **60P Australia** shall each have the right to grant sub-licences ofthe **Patent Rights** under its license in this Agreement to **Sub-licensees** on an arm's length basis, provided that:

i. neither **60P** nor **60P Australia** shall grant any rights to its **Sub-licensees** which are inconsistent with the rights granted to and obligations of the **Licensee** hereunder;

ii. any act or omission of a **Sub-licensee** which would be a breach of this Agreement if performed by the **Licensee** shall be deemed to be a breach by **Licensee** of this Agreement, unless such breach, if capable of remedy, shall have been remedied by the **Sub-licensee** within a period of ninety (90) days after notice of that breach has been provided by **Licensor** to **60P** in writing;

iii. each sub-licence granted by **60P** and/or **60P Australia** shall include an audit right in favour of the **Licensor** of at least the same scope as provided in **Section 9.1(c)** hereof with respect to the Licensee;

iv. each sub-licence granted by **60P** and/or **60P Australia** shall include an indemnity clause from the **Sub-licensee** for costs, claims, damages or expenses directly incurred or suffered by the **Licensor,** or for which the **Licensor** may become liable, as a result of the default or negligence of such **Sub-licensee;**

v. upon the termination of this Agreement under **Section 19,** the **Licensor** shall have the right and option to require an assignment to it or its nominee of each sublicence between **60P** and/or **60P Australia** and its/their **Sub-licensees,** and for these purposes, both **60P and 60P Australia** shall procure that all sub-licences granted hereunder shall contain express terms that:

(a) permit the assignment of the sub-license to the **Licensor** under the circumstances specified in this **Section 5.l(v)** and require **60P** and/or **60P Australia and Sub-licensee** to consent to such assignment;

(b) in the event that the **Licensor** does not exercise its option to require an assignment under this **Section 5.l(v),** or if for any reason the assignment cannot be effected, the sub-licence agreement will automatically be terminated; and

(c) **60P, 60P Australia** and the **Sub-licensee** in question shall bear their own expenses in relation to such assignment.

5.2 **60P** shall within thirty (30) days of the grant of any sub-licence (which shall be in writing) provide the **Licensor** with a true copy of the sub-licence at **60P's** own expense.

5.3 The sub-licences granted to any **Sub-licensee** by **60P** and/or **60P Australia** shall not be transferable and shall not permit further sub-licensing of the **Patent Rights, Invention** or **Technology** by the **Sub-licensee.**

5.4 The Parties agree that **Sub-Licensing Revenue** received from a **Related Company of 60P** and/or **60P Australia** shall not be considered to be **Sub-Licensing Revenue** for the purposes of **Section 8.3** herein.

## 6. COMMENCEMENT DATE AND TERM

6.1 This Agreement shall come into effect on the date that this Agreement is signed and shall continue in force until the expiration of the last to expire of any patents under the **Patent Rights** unless terminated earlier in accordance with this Agreement **("Term").**

## 7. OBLIGATIONS OF LICENSEE

7.1 **Licensee** hereby undertakes and agrees with **Licensor** that it will at all times during the **Term** observe and perform the terms and conditions set out in this Agreement and in particular shall:

(a) use diligent efforts to effect introduction of the **Licensed Products** into the commercial market as soon as practicable, consistent with reasonable and sound business practice and judgment in order the achieve the **Performance Objectives** by the respective **Dates of Achievement** specified in **Section 7.2;**

(b) deliver to **NUS,** such part of the **Licensee's** annual audited financial statements which pertain to the **Gross Sales** of the **Licensed Products** and **Licensed Processes and Sub-licensing Revenue,** at the end of the first quarter following the end of each financial year of **Licensee** during the **Term.** For clarity, **NUS** is only entitled to view and review (if necessary) **Licensee's** financial statements which pertain to the **Gross Sales** of the **Licensed Products** and **Sub-licensing Revenue** and no other financial statements of **Licensee** whatsoever.

(c) deliver to **NUS, Licensee's** annual budget for the subsequent financial year as well as a technical/development update, no later than the end of **Licensee's** financial year commencing the first year from the introduction of the **Licensed Products** into the commercial market in the **Territory** or **31 December 2014** whichever is the later and thereafter based on the **Licensee's** financial year.

7.2 **Licensee** also undertakes to meet the following **Performance Objectives** by the respective **Dates of Achievement** whether by the **Licensee,** the **Sub-Licensees** or the **Licensee's** assignees:

| **Performance Objectives:** | **Date of Achievement** |
|---|---|
| Commencement of a Phase II Clinical Trial involving **Licensed Product** or **Process** | 3 years from **Effective Date** |
| Commencement of a Phase III Clinical Trial involving **Licensed Product** or **Process** | 5 years from **Effective Date** |
| Submission for Regulatory Approval involving **Licensed Product** or **Licensed Process** | 2 years from Completion of Phase III Clinical Program |
| **Market Launch** of **Licensed Product** or **Licensed Process** | 9 months from the date of Regulatory Approval involving **Licensed Product** or **Licensed Process.** |

7.3 Within twelve (12) months the date of **Market Launch of Licensed Product** or **Licensed Process, Licensee** and **Licensor** shall have good faith discussions on projected sales of the **Licensed Products** for the next three (3) years and mutually agree on the performance objectives of **Licensee.**

7.4 If **Licensee** fails to fulfill the performance objectives mutually agreed between **Licensee** and **Licensor** pursuant to **Section 7.2** above, the **Parties** shall have good faith discussions on the reasons for such failure to meet the mutually agreed performance objectives. If **Licensee** is unable to provide any valid reasons reasonably satisfactory to **Licensor, Licensor** shall grant to **Licensee** a further grace period of **9 months** for each of the respective dates of achievement set out in **Section 7.2** and in the event that **Licensee** is still unable to meet the respective dates of achievement, **Licensors,** at its option, have the right, by notice in writing to **Licensee,** to immediately: (i) terminate the exclusivity, sublicensing right and transferability of the **License** granted under **Section 3.1** and grant licenses to other third party licensees in the **Territory;** or (ii) terminate this Agreement pursuant to **Section 19.1(a).**

## 8. FINANCIAL PROVISIONS

8.1 In consideration for the exclusive sub-licensable grant of the **License** under the **Patent Rights** by **Licensor** to **Licensee** under **Section 3, 60P** shall pay to **NUS** an agreed non- refundable upfront fee of **S[redacted] ("Upfront Fee")** as follows:

(a) **S[ ]** being the Option Fee which was paid on execution of the Intellectual Property Option Agreement made between **NUS** and **60P** dated 1 April 2013 (the receipt of which **NUS** hereby acknowledges);

(b) S**[ ]** on the signing of this Agreement; and

(c) the balance S[ ] upon enrolment of the first volunteer in a Phase II Clinical Trial of the **Licensed Product** or 3 years from the **Effective Date,** whichever is earlier.

8.2 In addition to the **Upfront Fee** under **Section 8.1, 60P** shall, commencing from nine (9) months from the date of Regulatory Approval referred in **Section 7.2,** pay to **NUS** during the **Term** of this **Agreement,** no later than by the end of the first quarter following the relevant financial year of **60P** in respect of which such amounts are payable:

(a) a royalty fee **("Royalty")** at the rate of [ ]% of **Gross Sales**

8.3 **60P** shall, commencing from the first (1st) year anniversary of the date of Market Launch of **Licensed Product** or **Licensed Process,** further pay to **NUS:**

(i) **[ ]** % of all **Sub-licensing Revenue** where **Licensee** has not commenced a Phase III clinical trial on the **Licensed Products** before sub-licensing its rights under the **Section 3.1** to its **Sub-licensees;** or

(ii) **[ ]** % of all **Sub-licensing Revenue** where **Licensee** has commenced a Phase III clinical trial on the **Licensed Products** before sub-licensing its rights under **Section 3.1** to its **Sub-Licensees**

8.4 The **Upfront Fee,** the **Royalty** and all other sums payable under this Agreement shall be paid in Singapore Dollars in favour of **NUS** in cleared funds to such bank account or in such other manner as **NUS** may specify from time to time to **Licensee** without any set-off, deduction or withholding of taxes, charges and other duties. Where the **Upfront Fee** and/or **Royalty** and/or any other sums payable under this Agreement are subject to goods and services taxes **("GST"),** these **GST** shall be borne by the **Licensee. Licensee** agrees to hold harmless from, and indemnify **Licensor** against all liabilities, costs, damages suffered by **Licensor** of whatever nature resulting from **60P's** failure duly and timely to pay and discharge its liability for any **GST.**

8.5 If **60P** fails to pay in full to **NUS,** the **Upfront Fee** and/or **Royalty** and/or any other sums payable under this Agreement by their respective due dates, the amount outstanding shall bear interest, both before and after any judgment, at the rate of **[ ]** percent **[ ]** %) per month, from such date until the said amounts are paid in full to **Licensor.**

**9. ACCOUNTS**

9.1 **60P shall:**

(a) provide financial statements pertaining to the **Gross Sales** of the **Licensed Products** with accompanying **Royalty** under this Agreement, showing all items of account from which such **Royalty** and other payment are calculated, such statements to be certified by an authorized officer of **60P** as properly reflecting all amounts due to **Licensor** in accordance with the relevant provisions under this Agreement;

(b) keep true, accurate and complete accounts and records in sufficient detail to enable the amount of **Royalty** and other sums payable under this Agreement to be determined by **Licensor;**

(c) at the reasonable request of **Licensor** from time to time, but no more than once annually, and upon not less than ten (10) days' prior written notice, allow **NUS** or its agent (or enable **NUS** or its agent), at **NUS's** expense, to inspect, audit and copy those accounts and records pertaining to the items shown on the statements provided under **Section 7.1(b)**

9.2 If, following any inspection and audit pursuant to **Section 9.1(c)** which audit shall be limited to the documents in respect of the **Gross Sales** of the **Licensed Products** and **Sublicensing Revenue, NUS** discovers a discrepancy, in NUS' disfavour, between the amount of **Royalty** and other sums actually paid by **60P** and those which should have been payable under this Agreement, which is in excess of [ ] percent ([ ]%) of those that should have been payable under this Agreement, **60P** shall, within seven (7) days of the date of **NUS'** notification thereof, reimburse **NUS** for any such deficiency and for any professional fees and expenses incurred by **NUS** for such audit and inspection.

9.3 The provisions of this **Section 9** shall remain in fall force and effect after the termination of this Agreement for any reason until the settlement of all subsisting claims of **NUS** under this Agreement.

**10. PROSECUTION OF PATENT APPLICATIONS AND MAINTENANCE OF PATENTS**

10.1 **Licensee** acknowledges that all intellectual property rights in and relating to the **Patent Rights** belongs to both **NUS and SHS** and **Licensee** shall not do anything which might bring into question **NUS' and SHS'** respective ownership of the intellectual property rights in and relating to the **Patent Rights** or their validity.

10.2 **60P Australia** shall, from the **Effective Date,** be responsible for the management and farther prosecution of the **Patent Rights.** All such **Patent Rights** shall be in the names of **NUS** and **SHS** as the proprietors thereof. **60P Australia** shall:

(a) be responsible for all costs, expenses and fees relating to the preparation, filing, prosecution and maintenance of such **Patent Rights ("Patent Costs")** from the **Effective Date.,** and reimburse **NUS** for any and all costs, expenses and fees relating to the preparation, filing, prosecution and maintenance of the **Patent Rights** incurred by **Licensor** from the first filing date to date immediately before the **Effective Date** of this Agreement;

(b) seek and maintain the strongest and broadest patent claims practicable in the best interest of **NUS and SHS** and use patent attorneys acceptable to **Licensor,** such acceptance not to be unreasonably withheld;

(c) copy **Licensor** on all patent prosecution documents and give **Licensor** reasonable opportunities to advise **60P Australia** on such preparation, filing, prosecution and maintenance;

(d) keep **Licensor** informed of the status of such **Patent Rights** from time to time, and shall promptly furnish **Licensor** with copies of all grants or certificates of registration of any **Patent;**

(e) not abandon or allow to lapse any such **Patent Rights,** or to amend or re-file the patent specifications of any **Patent Applications** within the scope of the license granted under this Agreement, without the prior written consent of **Licensor;**

(f) do all such other acts and things as may be necessary, as **Licensor** may reasonably request, at **Licensee's** cost and expense, to assist or enable **Licensor** maintain the **Patent Rights.**

10.3 **Licensor** shall, at any time and from time to time, at **60P Australia's** cost and expense, execute and do all such assurances, acts and things, and execute all such documents as **60P Australia** may reasonably require to prosecute each of the **Patent Applications** to grant and to maintain each of the **Patents** in force.

10.4 It is hereby agreed and understood that, notwithstanding **Section 10.2, 60P Australia** shall, by giving three (3) months' written notice to **Licensor** prior to the relevant deadline for the payment of any fees, have the right and option not to pay for the prosecution of any **Patent Application** or patent maintenance in any country determined by **60P Australia.** If **60P Australia** elects not to pay for the prosecution of any such **Patent Application** in a particular country or countries as aforesaid:

(a) the license granted pursuant to this Agreement in respect of the country or countries of which **60P Australia** has made the election, shall automatically terminate and revert to **NUS.**

(b) upon receipt of such notice pursuant to **Section 10.4, Licensor** may prosecute the **Patent Applications** in such country or countries in respect of which **60P Australia** has made the election, at its own cost and expense, and notwithstanding **Section 3,** to thereafter deal with the same and the related **Technology Rights** in that country or countries as **Licensor** deems fit without having to account to **Licensee** therefore.

(c) For the avoidance of doubt, any **Patent** obtained pursuant to **Section 10.4(b)** shall be or remain the absolute property of **Licensor.**

10.5 If **60P Australia** fails to notify **NUS** of its intention to cease prosecuting any **Patent Applications** or maintaining any **Patents** in any country pursuant to **Section 10.4** and the **Patent Application** or the **Patent** lapses then :

(a) the license granted pursuant to this Agreement in respect of such country shall automatically terminate; and

(b) **60P Australia** shall pay to **Licensors** a sum of **S[ ]** which **Licensor** and **Licensee** agree is a genuine pre-estimate of the loss suffered by **Licensor** arising from lapse of such **Patent** or **Patent Application** in such country. For clarity, **60P Australia** is neither obliged nor required to pay **Licensor** any farther sum in respect ofthe loss suffered by **Licensor** herein.

**11. FORMAL LICENSE FOR REGISTRATION**

11.1 As and when required by **Licensee,** subject to the requirements of the relevant government authority of the **Territory, NUS** and **SHS** shall execute, within thirty (30) days of the grant of a patent pursuant to any of the **Patent Applications,** a separate formal licence document th **Licensee's** favour in respect of such patent for registration in all or any competent registries within such countries as may be determined by **Licensee,** each such license to be in the form set out in ***Schedule 3*** or as nearly in such form as may be required under the laws of such country in which it is to be registered.

11.2 Each of such formal licenses shall operate subject to and with the benefit of all the terms of this Agreement, the terms of which shall be deemed to be incorporated in their entirety into each of such formal licenses. In the event of any conflict in meaning between any such formal license and the provisions of this Agreement, the provisions of this Agreement shall prevail.

11.3 The **Parties** shall use reasonable endeavours to ensure that, to the extent permitted by relevant authorities, this Agreement shall not form pant of any public record.

11.4 Each of the **Parties** shall, at the request of the other **Party,** execute any further document that may be necessary to:

(a) give effect to this Agreement; or

(b) protect in any country the rights of the other **Party** under this Agreement and/or in relation to the **Patent Rights** from time to time; or

(c) procure the grant of **Patents** pursuant to each of the **Patent Applications.**

## 12. INFRINGEMENT OF PATENTS

12.1 From the **Effective Date, Licensee** shall forthwith notify **Licensor** in writing of any infringement, or suspected or threatened infringement, of any of the **Patents** by any third party that shall at any time come to its knowledge.

12.2 **Licensee** may in its sole discretion, take all appropriate steps (including all legal proceedings) as may be necessary to prevent or restrain any infringement by a third party of any of the **Patents** and shall be responsible for all costs and fees incurred by it in the taking of any such steps.

12.3 **Licensee** shall not be obliged to undertake any legal action. **60P** shall indemnify **Licensor** against all costs, expenses, losses, damages, claims and counter-claims issued or made against **Licensor** as a result of, or in the course of, such action taken by **Licensee** under **Section 12.2** on a full indemnity basis.

12.4 **NUS** and **SHS** shall (at **60P's** cost and expense) provide or procure the provision of such assistance in taking such steps (including any proceedings) as **Licensee** shall reasonably require.

12.5 If **Licensee** decides not to or fails to take appropriate steps to prevent or restrain any infringement by any third party of any of the **Patent Rights** (but not otherwise), **Licensor** shall be entitled to take action to prevent or restrain such infringement. In the event that **Licensor** decides to take action under this Section:

(a) **Licensor** shall have full control over, and shall conduct at its own cost, any such action as it deems fit;

(b) **Licensee** shall, at **Licensor's** cost, provide or procure the provision of such assistance as **Licensor** shall reasonably require in taking such action; and

(c) **Licensor** shall be entitled to retain any award of damages or other compensation obtained as a result of any such action (including any proceedings) being taken by **Licensor.**

## 13. INFRINGEMENT OF THIRD PARTY RIGHTS

13.1 If any proceedings are brought against **Licensee** on grounds that the use or exploitation by **Licensee** of any of the **Patent Rights** and **Technology Rights** infringes the rights of any third party, **Licensee** shall forthwith notify **Licensor** of the same. **Licensee** shall have the exclusive control of the defense of such proceedings.

13.2 **60P** shall indemnify **Licensor** and keep **Licensor** indemnified against, and hold **Licensor** harmless from, all costs, expenses, losses, damages, claims and counter-claims issued or made against **Licensor** in respect of such proceedings in **Section 13.1.**

## 14. TRADE MARKS

14.1 **Licensee** shall have the absolute right and discretion to manufacture, have manufactured, or use **Licensed Products** under any trade marks designated by **Licensee ("Licensee's Trade Marks")** provided that the **Licensee's Trade Marks** shall be readily distinguishable from, and not confusingly similar to, any trade mark or trade name, whether registered or not, of **NUS.**

14.2 **NUS** hereby agrees that it shall have no claim, right, title or interest in or to the **Licensee's Trade Marks** (except where any of such **Licensee's Trade Marks** is not readily distinguishable from, or is confusingly similar to, any trade mark or trade name of **NUS),** and that all goodwill accruing thereto shall belong to **Licensee** absolutely.

14.3 **Licensee** shall have the sole conduct of all proceedings relating to the **Licensee's Trade Marks.**

14.4 **Licensee** shall have the sole right to decide what action, if any, to take in respect of any infringement or alleged infringement of the **Licensee's Trade Marks** or any other claim or counterclaim brought or threatened in respect of the use or registration of any of the **Licensee's Trade Marks.**

14.5 **Licensee** shall not be obliged to bring or defend any proceedings in relation to the **Licensee's Trade Marks.**

14.6 **NUS** shall not be entitled to bring any proceedings in respect of any infringement or alleged infringement of any of the **Licensee's Trade Marks.**

## 15. CONFIDENTIALITY

15.1 Each **Party** hereby agrees to use all reasonable efforts to maintain the secrecy of any and all **Confidential Information** disclosed to it by the other **Party** under the terms of this Agreement, or developed pursuant to this Agreement, and not to disclose, without the express, written consent of the disclosing **Party,** such **Confidential Information** to any third party.

15.2 The receiving **Party** agrees to maintain the **Confidential Information** of the disclosing **Party** in confidence with the same degree of care as it holds its own confidential and proprietary information and in any event with no less than a reasonable standard of care.

The receiving **Party** will use such **Confidential Information** for the performance of this Agreement only. The receiving **Party** may disclose such **Confidential Information** on a need-to-know basis only to its directors, officers, employees, contractors, consultants, advisors, authorised representatives, agents, investors or potential investors (each a **"Representative",** and collectively **"Representatives")** who have undertaken obligations of confidentiality for the benefit of receiving **Party** which are substantially similar to those contained in this **Section 15** and will not disclose such **Confidential Information** to any third party, or use the **Confidential Information** for any other purpose. The receiving **Party** undertakes that its **Representatives** shall make use of such **Confidential Information** only for the performance of this Agreement and receiving **Party** shall be responsible for any unauthorized use or disclosure of disclosing **Party's Confidential Information** by its **Representatives.**

15.3 The receiving **Party** shall take all reasonable steps, including, but not limited to, those steps taken to protects its own information, data or other tangible or intangible property that it regards as proprietary or confidential, to ensure that the **Confidential Information** of the other **Party** is not disclosed or duplicated for the use of any third **Party,** and shall take all reasonable steps to prevent its officers and employees, or any other persons having access to the **Confidential Information,** from disclosing or making unauthorized use of any **Confidential Information,** or from committing any acts or omissions that may result in a violation of this Agreement.

15.4 The preceding obligations of non-disclosure and the limitation on the right to use the **Confidential Information** shall not apply to the extent that the receiving **Party** can demonstrate that the **Confidential Information:**

(a) was already in the possession or control of the receiving **Party** prior to the time of disclosure by disclosing **Party,** as evidenced by written records; or

(b) was at the time of disclosure by the disclosing **Party** or thereafter becomes public knowledge through no fault or omission of the receiving Party; or

(c) is lawfully obtained by the receiving **Party** from a third party under no obligation of confidentiality to the disclosing **Party;** or

(d) is developed by the receiving **Party** independently of the **Confidential Information,** as evidenced by written records; or

(e) is required to be disclosed by court rule or governmental law or regulation, including for the purposes of seeking regulatory advice and marketing authorization from national health authorities provided that the receiving **Party** gives the disclosing **Party** prompt notice of any such requirement and cooperated with the disclosing **Party** in attempting to limit such disclosure; or

(f) was disclosed by the receiving **Party** with the disclosing **Party's** prior written approval.

15.5 Title to, and all rights emanating from the ownership of, all **Confidential Information** disclosed under this Agreement shall remain vested in the disclosing **Party.** Nothing herein shall be construed as granting any license or other right to use the **Confidential Information** of the other **Party** other than as specifically agreed upon by the **Parties.**

15.6 Upon written request of the disclosing **Party** given after termination of the Agreement, the receiving **Party** shall promptly return to the disclosing **Party** all written materials and documents, as well as other media, made available or supplied by the disclosing **Party** to the receiving **Party** that contains **Confidential Information,** together with any copies thereof, except that the receiving **Party** may retain one copy each of such document or other media for archival purposes, subject to protection and nondisclosure in accordance with the terms of this Agreement.

## 16. DISCLAIMER OF WARRANTIES

16.1 Neither **Licensor** nor any of its trustees, directors, employees, or agents assumes any responsibility for the manufacture, production, specifications, sale or use of the **Patent Rights or Licensed Products** by **Licensee** or any **Sub-licensees.**

16.2 Save for the warranties of **Section 4.1,** the **Licensor** makes no representations, and provides no warranties, express or implied:

(a) including, but not limited to, warranties of fitness for purpose or merchantability or satisfactory quality or compliance with any description, or any implied warranty arising from course of performance, course of dealing, usage of trade or otherwise, regarding or with respect to the **Patent Rights or Licensed Products;**

(b) on the patentability of the **Licensed Products** or of the enforceability of any **Patents,** if any, and

(c) that the **Patent Rights or Licensed Products** are or shall be free from infringement of any patent or other rights of third parties,

and to the fullest extent permitted by law, all such warranties and representations are hereby excluded.

## 17. INDEMNITIES; INSURANCE; LIMITATION OF LIABILITY

17.1. **60P and 60P Australia** hereby jointly and severally indemnify, hold harmless and defend **NUS and SHS** from and against any and all claims, demands, actions, losses, damages, costs (including legal costs on a full indemnity basis), expenses and liabilities whatsoever which **NUS** and/or **SHS** may incur or suffer in connection with:

(a) the manufacture, marketing, distribution and sale of the **Licensed Products** or any product for human use manufactured by the **Licensee** containing celgosivir by **Licensee** directly or through **Licensee's Representatives,** or otherwise by or through any **Sub-Licensees;** or

(b) any other agreements entered into by **Licensee or Licensee's Representatives** or any **Sub-licensees** relating to the **Licensed Products,** any product for human use manufactured by the **Licensee** containing celgosivir, and **Invention** or the performance or non-performance of the terms of such agreements or any representations or statements made by **Licensee or Licensee's Representatives** or any **Sub-Licensees** relating to the **Invention,** any product for human use manufactured by the **Licensee** containing celgosivir, or **Licensed Products;** or

(c) any claim that any modification(s) made by or on behalf of **Licensee** or any **SubLicensees** infringes any trademark, trade secret, confidential information, copyright or patent or any other proprietary rights of any third party; or

(d) all taxes of any kind (except Singapore income tax in respect of consideration received by **NUS and SHS** under this Agreement), payments in lieu of taxes, import duties, assessments, fees, charges and withholdings of any nature whatsoever, and all penalties, fines, additions to tax or interest thereon, however imposed, whether levied or asserted against **NUS and SHS** by any tax authority of any country in connection with this Agreement or any matters arising therefrom including any payments received by **NUS** and **SHS** hereunder; or

(e) all charges, fines or any liability arising from any default or failure by **Licensee** and/or **Licensee's Representatives** or any **Sub-Licensees** to comply with and observe all laws and regulations referred to in **Section 18;** or

(f) any action or omission of **Licensee,** or **Licensee's Representatives** or any **Sub-Licensees,** or any of their employees, agents or contractors in the performance of its obligations or the exercise of any of its rights under this Agreement.

17.2 **Licensee** shall obtain and maintain adequate product liability insurance within (15) days from the date of Regulatory Approval referred in **Section 7.2** and shall ensure that **NUS** and **SHS** are named as additional insured on the policy subject always to the terms and conditions specified by the insurers. **Licensee** shall supply **Licensor** with a copy of such insurance policy upon written request.

17.3 Neither **NUS** nor **SHS** shall have any liability to the **Licensee** for any indirect, consequential, special or incidental loss, damage, expense or liability (including lost profit and loss of goodwill, opportunity costs, loss of business, damage to reputation, claims by third parties or customers), or any exemplary or punitive damages, regardless of the form of action, whether in contract or tort (including negligence), arising from or caused by **NUS** or **SHS** or its employees and contractors or from the **Licensee's** use or exploitation of the **Patent Rights.**

17.4 **NUS's** and **SHS's** total liability to **Licensee** for direct damages or losses for any cause arising from the acts or omissions of **NUS** and/or **SHS** including any failure by **NUS** and **SHS** or their affiliated related companies in complying with statutory requirements or in complying and adhering to Guidelines and Procedures for Good Clinical Practice in the conduct of a the clinical trials shall be limited to the total amount of funds payable by the **60P** in the form of **Upfront Payments** and **Royalties.**

## 18. COMPLIANCE WITH LAW

18.1 **Licensee** shall observe, and shall ensure that all **Sub-Licensees** observe, all applicable laws and regulations and obtain all necessary licenses, consents and permissions required in respect of the manufacture, storage, marketing, distribution, sale (including export), and importation of the **Licensed Products** within the **Territory.**

## 19. TERMINATION

19.1 NUS shall be entitled forthwith to terminate this Agreement immediately by notice in writing if:

(a) **Licensee, 60P** or **60P Australia** fails, or refuses, to perform or comply with any one or more of its obligations under this Agreement, and, if in the opinion of **NUS** that default is capable of remedy, **Licensee, 60P** or **60P Australia,** as the case may be, fails to remedy such default within 90 days after written notice of such default has been given to **Licensee, 60P** or **60P Australia,** as the case may be, by **NUS;**

(b) **Licensee, 60P or 60P Australia,** ceases or, in **NUS'** reasonable opinion, may cease, to carry on its business;

(c) **Licensee, 60P or 60P Australia,** becomes insolvent or is unable to pay its debts as they fall due or suspends or threatens to suspend making payments with respect to all or any class of its debts or enters into any composition or arrangement with its creditors or makes a general assignment for the benefit of its creditors;

(d) **Licensee, 60P or 60P Australia,** goes into liquidation or if an order is made or a resolution is passed for the winding up of **Licensee, 60P or 60P Australia,** whether voluntarily or compulsorily (except for the purpose of a bona fide reconstruction or amalgamation); or

(e) **Licensee, 60P or 60P Australia,** has a receiver or receiver and manager or judicial manager appointed over any part of its assets or undertaking.

19.2 **Licensee** shall be entitled forthwith to terminate this Agreement immediately by notice in writing if

(a) **NUS' and SHS's** breach their respective warranties referred in **Section 4** in this Agreement; or

(b) **NUS and SHS** are in breach of their obligations under this Agreement and shall fail to remedy any such default within the prescribed period in the notice given by **Licensee.**

19.3 **Licensee** shall be entitled to terminate this Agreement upon the occurrence of any of the following:

(a) if the **Licensee** determines that farther commercialization of celgosivir for the treatment of acute dengue fever is no longer viable.

(b) **Licensee** is unable to complete satisfactory due diligence in respect of the clinical data relating to the **Celaden Project;**

19.4 Termination of this Agreement howsoever caused shall not prejudice any other right or remedy of the **Parties** in respect of any antecedent breach.

19.5 Upon the termination of this Agreement:

(a) **Licensee** shall be entitled to continue to exercise the rights granted to it under this Agreement to such extent and for such further period, not exceeding twelve (12) months from the date of termination, reasonably necessary to enable **Licensee** to satisfy any orders placed prior to such termination date or scheduled for delivery within such twelve(12)-month period;

(b) subject to **Section 19.5 (a)** above, **Licensee** shall forthwith cease to and shall not manufacture, market, distribute, sell, import, or use, until the expiration of the last to expire of any **Patents** under **Patent Rights** any product or process or method that incorporates utilizes or is made with the use of the **Invention** or which, but for the rights granted under this Agreement would constitute an infringement of any claim within the **Patent Rights;**

(c) Each receiving **Party** shall forthwith return to each disclosing **Party** all **Confidential Information** pursuant to **Section 15.5;**

(d) **60P** shall promptly pay all amounts due less all deductions due to ***Licensee*** under this Agreement to ***NUS*** and shall submit a declaration in writing signed by a duly authorized officer that it has complied with such payment obligations, along with a copy of all materials reasonably necessary to support such declaration.

(e) **Licensee** shall provide **Licensor** with all data and know-how developed by **Licensee** in the course of **Licensee's** efforts to develop **Licensed Product(s)** and **Licensed Process(es); Licensor** shall have the right to use such data and knowhow for academic purpose on such terms and conditions mutually agreed between **Licensor** and **Licensee;**

(f) **Licensee** shall provide **Licensor** access to any regulatory infomation filed with any U.S. or foreign government agency with respect to **Licensed Product(s)** and **Licensed Process(es);** and

(g) If **Licensee** has filed patent applications or obtained patents to any **Licensee's Improvements, Joint Improvements, NUS Improvements** and/or **SHS Improvements** to **Licensed Product(s)** or **Licensed Process(es)** within the scope of the **Patent Rights, Licensee** agrees upon request to enter into good faith negotiations with **Licensor** or **Licensor's** future licensee(s) for the purpose of granting licensing rights to said modifications or improvements in a timely fashion and under commercially reasonable terms.

19.6. Notwithstanding termination of this Agreement under any of its provision, **Sections 3A3 (Provisions Relating to Essential and Other documents), 9 (Accounts), 15 (Confidentiality), 16 (Disclaimer of Warranties), 17 (Indemnities; Insurance; Limitation of Liability), 19 (Termination), 20 (Use of Licensor's Name), and 22 to 29** and any other Sections of this Agreement which from their context are intended to survive the termination of this Agreement, shall survive the **Term** or the termination of this Agreement and shall be deemed to remain in full force and effect.

**20. USE OF LICENSOR'S NAME**

20.1 **Licensee** agrees that it shall not use in any way the name of **Licensor** or any logotypes or symbols associated with **Licensor** or the names of any directors or employees of **Licensor** without the prior written consent of **Licensor.**

**21. FORCE MAJEURE EVENTS**

21.1 Notwithstanding anything else in this Agreement, no default, delay or failure to perform on the part of either **Party** shall be construed a breach of this Agreement if such default delay or failure to perform is shown to be due entirely to causes beyond the control of the **Party** charged with a default, delay or failure to perform **("Force Majeure Events"),** including but not limited to, causes such as strikes, lockouts or other labour disputes to perform, including, without limitation, riots, civil disturbances, actions or inaction of governmental authorities, epidemics, war, embargoes, severe weather, fire, earthquakes, acts or God or the public enemy and nuclear disasters (each a **"Force Majeure Event").**

**22. NO PARTNERSHIP OR AGENCY**

22.1 No agency, partnership or joint venture is created hereby. **Licensee** does not have any authority of any kind to bind **Licensor** in any respect whatsoever.

## 23. ASSIGNMENT AND CHANGE OF CONTROLLING INTEREST

23.1 All rights and obligations hereunder are personal to the **Parties** and no **Party** shall assign any such rights, or novate its rights and obligations to any third party without the prior consent in writing of the other **Party** on terms to be agreed by the **Parties.** Where such consent is given, the **Party,** which is the assignor, shall procure that such third party covenants with the other **Party** to be bound by the terms of this Agreement as if it had been a party hereto in place of the assignor.

23.2 The **Licensee** shall notify **Licensor** no later than thirty (30) days prior to any intended issuance or transfer of shares which would result in a change in the control of **Licensee** to another party. **Licensor** shall, within thirty (30) days of receiving such notice, inform **Licensee** in writing whether or not **Licensor** consents to such issuance or transfer of shares, such consent not to be unreasonably withheld.

## 24. NO WAIVER

24.1 The failure or delay by a **Party** in enforcing an obligation, or exercising a right or remedy under this Agreement shall not be construed or deemed to be a waiver of that obligation, right or remedy. A waiver of a breach of a term under this Agreement shall not amount to a waiver of a breach of any other term in this Agreement and a waiver of a particular obligation in one circumstance will not prevent a **Party** from subsequently requiring compliance with the obligation on other occasions. Any waiver by a **Party** of any right under this Agreement shall be made in writing and signed by the authorized representative of such **Party.**

## 25. NOTICES

25.1 All notices, demands or other communications required or permitted to be given or made hereunder shall be in writing and delivered personally, or sent by prepaid registered post, email, or by telefax, addressed to the intended recipient thereof at its address or telefax number as set out below (or to such other address or telefax number as any **Party** may from time to time notify the other **Party).** Any such notice, demand or communication shall be deemed to have been duly served on and received by the addressee:

(a) if delivered by hand, at the time of delivery;

(b) if sent by prepaid registered post, within ten days of dispatch; or

(c) if transmitted by way of telefax or email, at the time of transmission.

25.2 In proving the giving of a notice or other communication, it shall be sufficient to show:

(a) in the case of registered post, that the notice or other communication was contained in an envelope which was duly addressed, sufficient postage paid and posted; or

(b) in the case of telefax that the telefax transmission was duly transmitted from the dispatching terminal as evidenced by a transmission report generated by the transmitting equipment.

| **NUS:** | **Licensee:** |
|---|---|
| Director<br>Industry Liaison Office | CEO<br>60° Pharmaceuticals LLC |

National University of Singapore
Level 5
iCube Building
21 Heng Mui Keng Terrace
Singapore 119613
Fax: (65) 6777 6990

1025 Connecticut Ave NW Suite 1000
Washington DC, 20036
United States

Fax: 1.202.688.2832

**26. ENTIRE AGREEMENT**

26.1 This Agreement contains the entire agreement between the **Parties** hereto regarding the subject matter hereof, and supersedes all prior agreements, understandings and negotiations regarding the same. No modification, variation or amendment shall be made to this Agreement unless made in writing, specifically referring to this Agreement and signed by the authorized representatives of both **Parties.**

**27. SEVERABILITY**

27.1 Should any one or more of the provisions of this Agreement be held to be invalid or unenforceable by a court of competent jurisdiction, it shall be considered severed from this Agreement and shall not serve to invalidate the remaining provisions hereof. The **Parties** shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by them when entering into this Agreement may be realized.

**28. DISPUTE RESOLUTION**

28.1 Informal Resolution

Any dispute, controversy or claim arising out of or in connection with this Agreement shall be resolved in the following manner:

(a) the aggrieved **Party ("Claimant")** shall notify the responding **Party ("Respondent")** in writing **("Resolution Notice"),** setting forth in detail the nature of its dispute, controversy or claim **("Claim")** and requesting a meeting **("Resolution Meeting")** of a senior representative from each **Party** to be held on a date not less than fifteen (15) nor more than thirty (30) days thereafter **("Resolution Period")** for the purpose of resolving such **Claim;**

(b) the **Respondent** shall issue and deliver a written response to **Claimant** not later than five (5) days before the **Resolution Meeting,** setting forth in detail its response to such **Claim,** failing which the **Resolution Meeting** shall not proceed and the **Claimant** shall be entitled to submit the dispute to arbitration/mediation as provided under **Section 28.2** below;

(c) the senior representative from each **Party** shall meet to resolve such **Claim** amicably between the **Claimant** and the **Respondent** in good faith; and

(d) if such **Claim** is not resolved by the end of fifteen (15) days after the **Resolution Period,** then either **Claimant or Respondent** shall be entitled to submit the dispute to arbitration, as provided under **Section 28.2** below.

28.2 Mediation

If such efforts taken under **Section 28.1** above fail, then the **Parties** shall refer the matter to mediation in accordance with the rules and procedures of the Singapore Mediation Centre. The language of the mediation shall be English.

If mediation fails, then the dispute shall be referred to and resolved by arbitration in Singapore at the Singapore Arbitration Centre **("SIAC")** in accordance with the Arbitration Rules of the SIAC for the time being in force, which rules are deemed to be incorporated by reference to **section 28.2** herein. A tribunal consisting of a single arbitrator to be appointed by the Chairman of the **SIAC** shall be convened. The language of the arbitration is in English. Any arbitral award made hereunder shall be final and binding upon the **Parties** hereto and judgment on such award may be entered into any court or tribunal having jurisdiction thereof. The **Parties** hereto undertake to keep the mediation and arbitration proceedings and all information, pleadings, documents, evidence and all matters relating thereto confidential.

**29. GOVERNING LAW**

29.1 This Agreement shall be governed by, interpreted and construed in accordance with the laws of the Republic of Singapore and the **Parties** hereby submit to the exclusive jurisdiction of the courts of the Republic of Singapore.

**30. GENERAL**

30.1 Stamp duty or fees, if any, payable in respect of this Agreement shall be borne wholly by **60P.**

30.2 Each **Party** shall from time to time do all acts and execute all such documents as may be reasonable necessary in order to give effect to the provisions of this Agreement.

30.3 Except as otherwise provided in this Agreement, the **Parties** shall bear their own costs of and incidental to the preparation execution and implementation of this Agreement.

30.4 This Agreement may be executed in one or more counterparts by the **Parties** by signature of a person having authority to bind the **Party,** each of which when executed and delivered, by facsimile transmission or other electronic modes of delivery, will be an original and all of which will constitute but one and the same Agreement.

AS WITNESS the hands of the **Parties** hereto the day and year first above written.

SIGNED by for and on behalf of
**NATIONAL UNIVERSITY OF SINGAPORE**

[redacted]
Lily CHAN
CEO, NUS Enterprise

in the presence of:

[redacted]
Brian WONG, Manager

SIGNED by for and on behalf of
**SINGAPORE HEALTH SERVICES PTE LTD**

[redacted]
Prof Ivy NG
Group CEO

in the presence of:

[redacted]
Name:
Designation:

SIGNED by for and on behalf of
**60$^{o}$ PHARMACEUTICAL LLC**

Geoffrey DOW, CEO

in the presence of:

Tyrone MILLER, CFO

SIGNED by for and on behalf of
**60P AUSTRALIA PTY LTD**

Geoffrey DOW, CEO

in the presence of:

Tyrone MILLER, CFO

**CONFIDENTIAL**

**SCHEDULE 1**

**Part A**

**INTELLECTUAL PROPERTY**

**NUS Ref: 11325N: Dosing Regimen for Use of Celgosivir as an Antiviral Therapeutic For Dengue Virus Infection** The present invention pertains to methods of treating a dengue virus (DENY) infection in a human subject, comprising administering to the human subject an initial dose of about 100 to 600 mg of a compound of Celgosivir or a pharmaceutical composition comprising a compound of Celgosivir, within from about 48 to about 72 hours of fever onset due to dengue infection and administering to the human subject a dose of about 25 to about 300 mg per day of Celgosivir or a pharmaceutical composition comprising Celgosivir at intervals of from about 6 to about 12 hours until there is an improvement in the infection.

**SCHEDULE 2**

**Part A**

**Patents**

NOT IN USE

**Part B**

Patent Applications

***Dosing Regimen/or Use of Celgosivir as an Antiviral Therapeutic For Dengue Virus Infection***

1. Patent Cooperation Treaty Serial No. IB2013/001634 Filed on 26, July 2013
2. Australia Serial No. 201 3203400, filed on 10, April 2013
3. PCT/US2014/028076 filed on March 14, 2014.

**CONFIDENTIAL**

**SCHEDULE 3**

**FORMAL LICENSE**

**PATENT LICENSE FOR REGISTRATION**

**THIS AGREEMENT** is made on the [ ] day of [ ] 20

between

(1) **NATIONAL UNIVERSITY OF SINGAPORE,** (Company Registration Number: 200604346E), a company limited by guarantee incorporated in Singapore and having its registered office at 21 Lower Kent Ridge Road, Singapore 119260 **("NUS"** which expression shall include its successors and assigns);

(2) **SINGAPORE HEALTH SERVICES PTE LTD** (Company Registration Number: 200002698Z), a company incorporated in Singapore, having its registered address at 31 Third Hospital Avenue #03-03, Singapore 168753 **("SHS"** which expression shall include its successors and assigns;

(3) **60° PHARMACEUTICALS LLC** a company incorporated in Washington DC and having its registered office at 1025 Connecticut Ave NW Suite 1000, Washington DC 20036 United States **("60P"** which expression shall include its successors and assigns).

and

(4) **60P AUSTRALIA PTY LTD** (Company Registration No. 167060219) a company incorporated in Australia and having its registered office at 105 North Steyne Manly New South Wales 2095, **("60P Australia"** which expression shall include its successors and assigns)

**(60P** and **60P Australia** hereinafter collectively referred to as **"Licensee").**

**WHEREAS:**

(A) **NUS** and **SHS** are the registered joint proprietors in *[country] of* patent number [ ] **("Patent")** for an invention entitled [ ] **("Invention").**

(B) By an agreement dated [ ] **("Principal Agreement")** it was agreed between the **Parties** that **NUS** and **SHS** would grant to the **Licensee** an exclusive sub-licensable transferable license under the **Patent** on the terms and for the consideration set out in the **Principal Agreement.**

**NOW IT IS HEREBY AGREED** as follows:

1. Pursuant to and for the consideration specified in the **Principal Agreement, NUS** and **SHS** grant [and shall from the date of the publication of the application for the **Patent** be deemed to have granted] to the **Licensee** an exclusive, sublicensable transferable license under the Patent to manufacture, use, sell, and import *[describe the Products using the same wording as in the Principal Agreement]* made in accordance with the provisions of the **Principal Agreement** and to do all other things within the scope of the **Patent** on the terms and conditions of the **Principal Agreement.**

2. The **License** granted by Section 1 **("License")** shall automatically terminate and cease to have effect if terminated at any time under the provisions of the **Principal Agreement,** or on the expiration or termination of the **Principal Agreement** for any cause or reason whatsoever.

3. The **License** is granted pursuant to the terms of the **Principal Agreement** and not in substitution for any license or licenses granted under the **Principal Agreement.** Nothing contained in this Agreement shall in any way derogate from the **Principal Agreement,** which shall remain in foil force and effect in accordance with its terms.

IN **WITNESS WHEREOF** the patties hereto have caused this Agreement to be executed on the day and year first above written.

Licensor

**NATIONAL UNIVERSITY OF SINGAPORE**

By: _____
Name: _____
Title: _____

**SINGAPORE HEALTH SERVICES PTE LTD**

By: _____
Name: _____
Title: _____

Licensee

**60° PHARMACEUTICALS LLC**

By: _____
Name: _____
Title: _____

**60P AUSTRALIA PTY LTD**

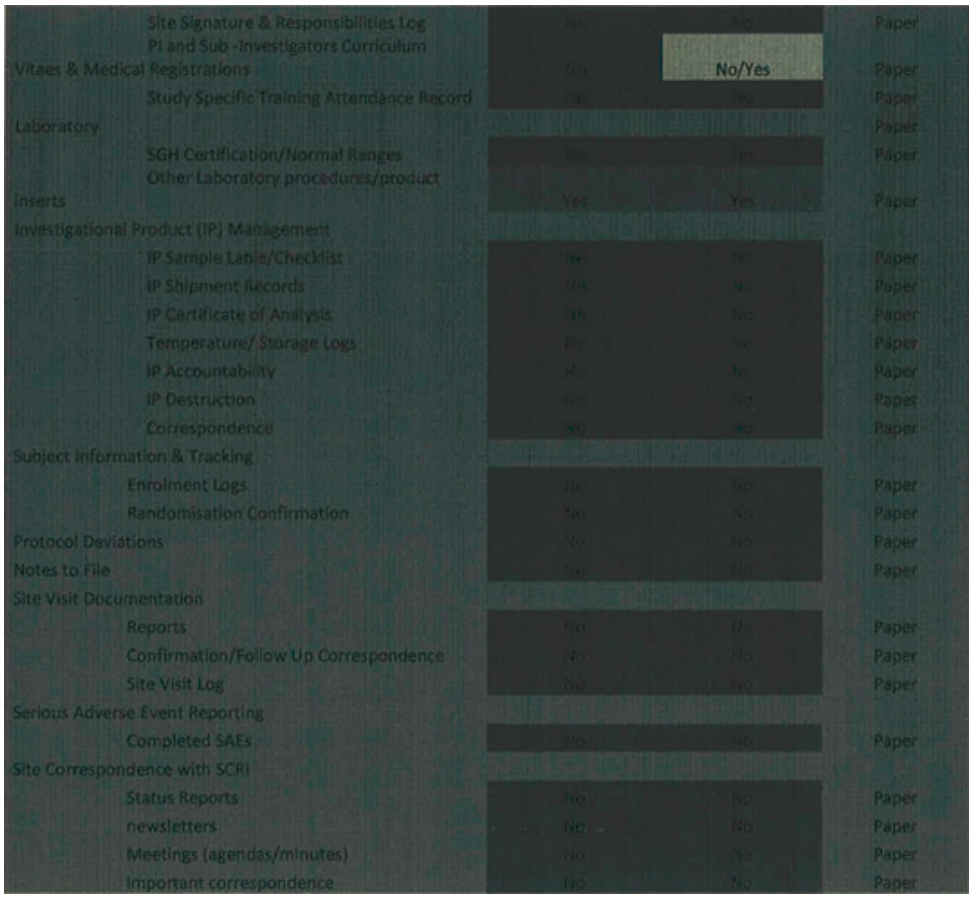
By: _____
Name: _____
Title: _____

**CONFIDENTIAL**

**SCHEDULE 4**

**ESSENTIAL DOCUMENTS**

| Document(s) Type | Requested From NUS | Received From NUS | Desired Format |
|---|---|---|---|
| All approved versions of the protocol | | | Electronic |
| Current version of investigator brochure | | | Electronic |
| Final signed version of SAP | | | Electronic |
| Paper copy of final blank CRF | | | Electronic |
| Full GMP manufacturing information from Dalton | | | Electronic |
| Data dictionaries | | | Electronic |
| Raw PK Data | Yes | Yes | Electronic |
| PK sample times/randomization codes | Yes | Yes | Electronic |
| SAS transport files | Yes | | Electronic |
| SAS datasets for non CRF data | Yes | | Electronic |
| Randomization datasets | Yes | | Electronic |
| SAS datasets of CRF data | Yes | | Electronic |
| Coded SAS final data sets | Yes | | Electronic |
| Lab datasets in SAS linked with CRF data | Yes | | Electronic |
| Final clinical study report | | | Electronic |
| Acceptance of final clinical study report by SHA | | | Electronic |
| **Agreements** | | | |
| Clinical Trial Research Agreement with SGH , agreements with CRO, etc | Yes | Yes | Paper |
| Indemnity/Insurance | | | Paper |
| Human Research Ethics Committee | | | |
| Initial Submission | | | Paper |
| Amendment Submission | | | Paper |
| SAE Notification | | | Paper |
| Other HREC Notification | | | Paper |
| Approval Forms | | | Paper |
| Composition/ Membership List | | | Paper |
| Approved Advertisements | | | Paper |
| Annual &/ or Closure Report | | | Paper |
| Regulatory | | | |
| Initial Submission | | | Paper |
| Amendment Submission | | | Paper |
| SAE Notification | | | Paper |
| Approval Forms | | | Paper |
| Annual &/ or Closure Report | | | Paper |
| Patient Information Sheet and Informed Consent Form | | | |
| All approved versions | | | Paper |
| Site Personnel | | | |



| | | | |
|---|---|---|---|
| | Site Signature & Responsibilities Log | No | Paper |
| | PI and Sub -Investigators Curriculum Vitaes & Medical Registrations | No/Yes | Paper |
| | Study Specific Training Attendance Record | | Paper |
| Laboratory | | | Paper |
| | SGH Certification/Normal Ranges | | Paper |
| | Other Laboratory procedures/product Inserts | Yes | Paper |
| Investigational Product (IP) Management | | | |
| | IP Sample Lable/Checklist | | Paper |
| | IP Shipment Records | | Paper |
| | IP Certificate of Analysis | | Paper |
| | Temperature/ Storage Logs | | Paper |
| | IP Accountability | | Paper |
| | IP Destruction | | Paper |
| | Correspondence | | Paper |
| Subject Information & Tracking | | | |
| | Enrolment Logs | | Paper |
| | Randomisation Confirmation | | Paper |
| Protocol Deviations | | | Paper |
| Notes to File | | | Paper |
| Site Visit Documentation | | | |
| | Reports | | Paper |
| | Confirmation/Follow Up Correspondence | | Paper |
| | Site Visit Log | | Paper |
| Serious Adverse Event Reporting | | | |
| | Completed SAEs | | Paper |
| Site Correspondence with SCRI | | | |
| | Status Reports | | Paper |
| | newsletters | | Paper |
| | Meetings (agendas/minutes) | | Paper |
| | Important correspondence | | Paper |

**CONFIDENTIAL**

**SCHEDULE 5**

**LIST OF COUNTRIES CONSIDERED "HIGH INCOME" BY WORLD BANK IN 2012**

- Andorra (1990-2012)
- Antigua and Barbuda (2002, 2005–08, 2012)
- Aruba (1987–90, 94-2012)
- Australia (1987-2012)
- Austria (1987-2012)
- The Bahamas (1987-2012)
- Bahrain (1987–89, 2001–12)
- Barbados (1989, 2000, 2002, 2006–12)
- Belgium (1987-2012)
- Bermuda (1987-2012)
- Brunei (1987, 1990-2012)
- Canada (1987-2012)
- Cayman Islands (1993-2012)
- Channel Islands (1987-2012)
- Chile (2012)
- Croatia (2008–12)
- Curaçao (2010–12)
- Cyprus (1988-2012)
- Czech Republic (2006–12)
- Denmark (1987-2012)
- Equatorial Guinea (2007–12)
- Estonia (2006–
- Germany (1987-2012)
- Greece (1996-2012)
- Greenland (1987-2012)
- Guam (1987–89, 95-2012)
- Hong Kong (1987-2012)
- Iceland (1987-2012)
- Ireland (1987-2012)
- Isle of Man (1987–89, 2002–12)
- Israel (1987-2012)
- Italy (1987-2012)
- Japan (1987-2012)
- South Korea (1995–97, 2001–12)
- Kuwait (1987-2012)
- Latvia (2009, 2012)
- Liechtenstein (1994-2012)
- Lithuania (2012)
- Luxembourg (1987-2012)
- Macao (1994-2012)
- Malta (1989, 1998, 2000, 2002–12)
- Monaco (1994-2012)
- Netherlands (1987-2012)
- New Caledonia (1995-2012)
- New Zealand (1987-2012)
- Northern Mariana Islands (1995-2001, 2007–12)
- Norway (1987-2012)
- Oman (2007–12)
- Poland (2009–12)
- Portugal (1994-2012)
- Puerto Rico (1989, 2002–12)
- Qatar (1987-2012)
- Russia (2012)
- Saint Kitts and Nevis (2012)
- Saint Martin (2010–12)
- San Marino (1991–93, 2000–12)
- Saudi Arabia (1987–89, 2004–12)
- Singapore (1987-2012)
- Sint Maarten (2010–12)
- Slovakia (2007–12)
- Slovenia (1997-2012)
- Spain (1987-2012)
- Sweden (1987-2012)
- Switzerland (1987-2012)
- Taiwan[1] (1987-2012)
- Trinidad and Tobago (2006–12)
- Turks and Caicos Islands (2009–12)
- United Arab Emirates (1987-2012)
- United Kingdom (1987-2012)
- United States

12)
- Faroe Islands (1987-2012)
- Finland (1987-2012)
- France (1987-2012)
- French Polynesia (1990-2012)

(1987-2012)
- Uruguay (2012)
- U.S. Virgin Islands (1987-2012)

**Exhibit 10.35**

**60 DEGREES PHARMACEUTICALS, INC.**

**2022 EQUITY INCENTIVE PLAN**

1. **Purposes of the Plan**. The purposes of this Plan are:

· to attract and retain the best available personnel for positions of substantial responsibility,

· to provide additional incentive to Employees, Directors and Consultants, and

· to promote the success of the Company's business.

The Plan permits the grant of Incentive Stock Options, Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units and Performance Awards.

2. **Definitions**. As used herein, the following definitions will apply:

2.1 "**Administrator**" means the Board or any of its Committees as will be administering the Plan, in accordance with Section 4 of the Plan.

2.2 "**Applicable Laws**" means the legal and regulatory requirements relating to the administration of equity-based awards, including but not limited to the related issuance of shares of Common Stock, including but not limited to, under U.S. federal and state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any non-U.S. country or jurisdiction where Awards are, or will be, granted under the Plan.

2.3 "**Award**" means, individually or collectively, a grant under the Plan of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, or Performance Awards.

2.4 "**Award Agreement**" means the written or electronic agreement setting forth the terms and provisions applicable to each Award granted under the Plan. The Award Agreement is subject to the terms and conditions of the Plan.

2.5 "**Board**" means the Board of Directors of the Company.

2.6 "**Change in Control**" means the occurrence of any of the following events:

(a) **Change in Ownership of the Company**. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group ("**Person**"), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than fifty percent (50%) of the total voting power of the stock of the Company; provided, however, that for purposes of this subsection (a), the acquisition of additional stock by any one Person, who is considered to own more than fifty percent (50%) of the total voting power of the stock of the Company will not be considered a Change in Control; provided, further, that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board also will not be considered a Change in Control. Further, if the stockholders of the Company immediately before such change in ownership continue to retain immediately after the change in ownership, in substantially the same proportions as their ownership of shares of the Company's voting stock immediately prior to the change in ownership, direct or indirect beneficial ownership of fifty percent (50%) or more of the total voting power of the stock of the Company or of the ultimate parent entity of the Company, such event will not be considered a Change in Control under this subsection (a). For this purpose, indirect beneficial ownership will include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company, as the case may be, either directly or through one or more subsidiary corporations or other business entities; or

(b) **Change in Effective Control of the Company**. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, 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. For purposes of this subsection (b), if any Person 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 a Change in Control; or

(c) **Change in Ownership of a Substantial Portion of the Company's Assets**. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such Person or Persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (c), the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (i) a transfer to an entity that is controlled by the Company's stockholders immediately after the transfer, or (ii) a transfer of assets by the Company to: (A) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (B) an entity, fifty percent (50%) or more of the total value or voting power of which is owned, directly or indirectly, by the Company, (C) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the total value or voting power of all the outstanding stock of the Company, or (D) an entity, at least fifty percent (50%) of the total value or voting power of which is owned, directly or indirectly, by a Person described in this subsection (c)(ii)(C). For purposes of this subsection (c), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For purposes of this Section 2.6, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (x) its primary purpose is to change the jurisdiction of the Company's incorporation, or (y) its primary purpose is 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 transaction.

2.7 "**Code**" means the U.S. Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder will include such section or regulation, any valid regulation or other formal guidance of general or direct applicability promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

2.8 "**Committee**" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board, or by a duly authorized committee of the Board, in accordance with Section 4 hereof.

2.9 "**Common Stock**" means the common stock of the Company.

2.10 "**Company**" means 60 Degrees Pharmaceuticals, Inc., a Delaware corporation, or any successor thereto.

2.11 "**Consultant**" means any natural person, including an advisor, engaged by the Company or any of its Parent or Subsidiaries to render bona fide services to such entity, provided the services (a) are not in connection with the offer or sale of securities in a capital-raising transaction, and (b) do not directly promote or maintain a market for the Company's securities, in each case, within the meaning of Form S-8 promulgated under the Securities Act, and provided further, that a Consultant will include only those persons to whom the issuance of Shares may be registered under Form S-8 promulgated under the Securities Act.

2.12 "**Director**" means a member of the Board.

2.13 "**Disability**" means total and permanent disability as defined in Code Section 22(e)(3), 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.

2.14 "**Employee**" means any person, including Officers and Directors, 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.

2.15 "**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended, including the rules and regulations promulgated thereunder.

2.16 "**Exchange Program**" means a program under which (a) outstanding Awards are surrendered or cancelled in exchange for awards of the same type (which may have higher or lower exercise prices and different terms), awards of a different type, and/or cash, (b) Participants would have the opportunity to transfer any outstanding Awards to a financial institution or other person or entity selected by the Administrator, and/or (c) the exercise price of an outstanding Award is reduced or increased. The Administrator will determine the terms and conditions of any Exchange Program in its sole discretion.

2.17 "**Fair Market Value**" means, as of any date and unless the Administrator determines otherwise, the value of Common Stock determined as follows:

(a) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the New York Stock Exchange or the Nasdaq Global Select Market, the Nasdaq Global Market, or the Nasdaq Capital Market of The Nasdaq Stock Market, its Fair Market Value will be the closing sales price for such stock (or, if no closing sales price was reported on that date, as applicable, on the last Trading Day such closing sales price was reported) as quoted on such exchange or system on the date of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(b) 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 (or, if no bids and asks were reported on that date, as applicable, on the last Trading Day such bids and asks were reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or

(c) For purposes of any Awards granted on the Registration Date, the Fair Market Value will be the initial price to the public as set forth in the final prospectus included within the registration statement on Form S-1 filed with the Securities and Exchange Commission for the initial public offering of the Common Stock; or

(d) 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 addition, for purposes of determining the fair market value of shares for any reason other than the determination of the exercise price of Options or Stock Appreciation Rights, fair market value will be determined by the Administrator in a manner compliant with Applicable Laws and applied consistently for such purpose. The determination of fair market value for purposes of tax withholding may be made in the Administrator's sole discretion subject to Applicable Laws and is not required to be consistent with the determination of fair market value for other purposes.

2.18 "**Fiscal Year**" means the fiscal year of the Company.

2.19 "**Incentive Stock Option**" means an Option that by its terms qualifies and is otherwise intended to qualify as an incentive stock option within the meaning of Code Section 422 and the regulations promulgated thereunder.

2.20 "**Nonstatutory Stock Option**" means an Option that by its terms does not qualify or is not intended to qualify as an Incentive Stock Option.

2.21 "**Officer**" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

2.22 "**Option**" means a stock option granted pursuant to the Plan.

2.23 "**Outside Director**" means a Director who is not an Employee.

2.24 "**Parent**" means a "parent corporation," whether now or hereafter existing, as defined in Code Section 424(e).

2.25 "**Participant**" means the holder of an outstanding Award.

2.26 "**Performance Awards**" means an Award which may be earned in whole or in part upon attainment of performance goals or other vesting criteria as the Administrator may determine and which may be cash- or stock-denominated and may be settled for cash, Shares or other securities or a combination of the foregoing under Section 10.

2.27 "**Performance Period**" means Performance Period as defined in Section 10.1.

2.28 "**Period of Restriction**" means the period (if any) 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. Such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events as determined by the Administrator.

2.29 "**Plan**" means this 60 Degrees Pharmaceuticals, Inc. 2022 Equity Incentive Plan, as may be amended from time to time.

2.30 "**Registration Date**" means the effective date of the first registration statement that is filed by the Company and declared effective pursuant to Section 12(b) of the Exchange Act, with respect to any class of the Company's securities.

2.31 "**Restricted Stock**" means Shares issued pursuant to an Award of Restricted Stock under Section 8 of the Plan, or issued pursuant to the early exercise of an Option.

2.32 "**Restricted Stock Unit**" means a bookkeeping entry representing an amount equal to the Fair Market Value of one Share, granted pursuant to Section 9. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.

2.33 "**Rule 16b-3**" means Rule 16b-3 of the Exchange Act or any successor to Rule 16b-3, as in effect when discretion is being exercised with respect to the Plan.

2.34 "**Section 16b**" means Section 16(b) of the Exchange Act.

2.35 "**Section 409A**" means Code Section 409A and the U.S. Treasury Regulations and guidance thereunder, and any applicable state law equivalent, as each may be promulgated, amended or modified from time to time.

2.36 "**Securities Act**" means the U.S. Securities Act of 1933, as amended, including the rules and regulations promulgated thereunder.

2.37 "**Service Provider**" means an Employee, Director or Consultant.

2.38 "**Share**" means a share of the Common Stock, as adjusted in accordance with Section 15 of the Plan.

2.39 "**Stock Appreciation Right**" means an Award, granted alone or in connection with an Option, that pursuant to Section 7 is designated as a Stock Appreciation Right.

2.40 "**Subsidiary**" means a "subsidiary corporation," whether now or hereafter existing, as defined in Code Section 424(f).

2.41 "**Trading Day**" means a day that the primary stock exchange, national market system, or other trading platform, as applicable, upon which the Common Stock is listed (or otherwise trades regularly, as determined by the Administrator, in its sole discretion) is open for trading.

2.42 "**U.S. Treasury Regulations**" means the Treasury Regulations of the Code. Reference to a specific Treasury Regulation or Section of the Code will include such Treasury Regulation or Section, 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.

3. **Stock Subject to the Plan**.

3.1 **Stock Subject to the Plan**. Subject to adjustment upon changes in capitalization of the Company as provided in Section 15 of the Plan and the automatic increase set forth in Section 3.2 of the Plan, the maximum aggregate number of Shares that may be subject to Awards and sold under the Plan will be equal to 238,601 Shares, In addition, Shares may become available for issuance under Sections 3.2 and 3.2 of the Plan. The Shares may be authorized but unissued, or reacquired Common Stock.

3.2 **Automatic Share Reserve Increase**. Subject to adjustment upon changes in capitalization of the Company as provided in Section 15, the number of Shares available for issuance under the Plan will be increased on the first day of each Fiscal Year beginning with the 2023 Fiscal Year, in an amount equal to the least of (a) a number of Shares equal to four percent (4%) of the total number of shares of all classes of common stock of the Company outstanding on the last day of the immediately preceding Fiscal Year, or (b) such number of Shares determined by the Administrator no later than the last day of the immediately preceding Fiscal Year.

3.3 **Lapsed Awards**. If an Award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an Exchange Program, or, with respect to Restricted Stock, Restricted Stock Units, or Performance Awards is forfeited to or repurchased by the Company due to the failure to vest, the unpurchased Shares (or for Awards other than Options or Stock Appreciation Rights the forfeited or repurchased Shares) which were subject thereto will become available for future grant or sale under the Plan (unless the Plan has terminated). With respect to Stock Appreciation Rights, only Shares actually issued (i.e., the net Shares issued) pursuant to a Stock Appreciation Right will cease to be available under the Plan; all remaining Shares under Stock Appreciation Rights will remain available for future grant or sale under the Plan (unless the Plan has terminated). Shares that actually have been issued under the Plan under any Award will not be returned to the Plan and will not become available for future distribution under the Plan; provided, however, that if Shares issued pursuant to Awards of Restricted Stock, Restricted Stock Units or Performance Awards are repurchased by the Company or are forfeited to the Company due to the failure to vest, such Shares will become available for future grant under the Plan. Shares used to pay the exercise price of an Award or to satisfy the tax liabilities or withholdings related to an Award will become available for future grant or sale under the Plan. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not result in reducing the number of Shares available for issuance under the Plan. Notwithstanding the foregoing and, subject to adjustment as provided in Section 15, the maximum number of Shares that may be issued upon the exercise of Incentive Stock Options will equal the aggregate Share number stated in Section 3.1, plus, to the extent allowable under Code Section 422 and the U.S. Treasury Regulations promulgated thereunder, any Shares that become available for issuance under the Plan pursuant to Sections 3.2 and 3.3.

3.4 **Share Reserve**. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as will be sufficient to satisfy the requirements of the Plan.

4. **Administration of the Plan**.

4.1 **Procedure**.

4.1.1 **Multiple Administrative Bodies**. Different Committees with respect to different groups of Service Providers may administer the Plan.

4.1.2 **Rule 16b-3**. To the extent desirable to qualify transactions hereunder as exempt under Rule 16b-3, the transactions contemplated hereunder will be structured to satisfy the requirements for exemption under Rule 16b-3.

4.1.3 **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 comply with Applicable Laws.

4.2 **Powers of the Administrator**. Subject to the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator will have the authority, in its discretion:

(a) to determine the Fair Market Value;

(b) to select the Service Providers to whom Awards may be granted hereunder;

(c) to determine the number of Shares or dollar amounts to be covered by each Award granted hereunder;

(d) to approve forms of Award Agreements for use under the Plan;

(e) 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 Awards 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 (including but not limited to, temporarily suspending the exercisability of an Award if the Administrator deems such suspension to be necessary or appropriate for administrative purposes or to comply with Applicable Laws, provided that such suspension must be lifted prior to the expiration of the maximum term and post-termination exercisability period of an Award), based in each case on such factors as the Administrator will determine;

(f) to institute and determine the terms and conditions of an Exchange Program, including, subject to Section 20.3, to unilaterally implement an Exchange Program without the consent of the applicable Award holder;

(g) to construe and interpret the terms of the Plan and Awards granted pursuant to the Plan;

(h) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of facilitating compliance with applicable non-U.S. laws, easing the administration of the Plan and/or for qualifying for favorable tax treatment under applicable non-U.S. laws, in each case as the Administrator may deem necessary or advisable;

(i) to modify or amend each Award (subject to Section 20.3), including but not limited to the discretionary authority to extend the post-termination exercisability period of Awards and to extend the maximum term of an Option or Stock Appreciation Right (subject to Sections 6.4 and 7.5);

(j) to allow Participants to satisfy withholding tax obligations in a manner prescribed in Section 16;

(k) 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;

(l) to allow a Participant to defer the receipt of the payment of cash or the delivery of Shares that otherwise would be due to such Participant under an Award; and

(m) to make all other determinations deemed necessary or advisable for administering the Plan.

4.3 **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 and will be given the maximum deference permitted by Applicable Laws.

5. **Eligibility**. Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units and Performance Awards may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. **Stock Options**.

6.1 **Grant of Options**. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Options to Service Providers in such amounts as the Administrator, in its sole discretion, will determine.

6.2 **Option Agreement**. Each Award of an Option will be evidenced by an Award Agreement that will specify the exercise price, the term of the Option, the number of Shares subject to the Option, the exercise restrictions, if any, applicable to the Option, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

6.3 **Limitations**. Each Option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. Notwithstanding such designation, however, 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 6.3, 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 time the Option with respect to such Shares is granted, and calculation will be performed in accordance with Code Section 422 and the U.S. Treasury Regulations promulgated thereunder.

6.4 **Term of Option**. The term of each Option will be stated in the Award Agreement; provided, however, that the term will be no more than ten (10) years from the date of grant thereof. 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 of the Company, 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.

6.5 **Option Exercise Price and Consideration**.

6.5.1 **Exercise Price**. The per Share exercise price for the Shares to be issued pursuant to the exercise of an Option will be determined by the Administrator, but will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. In addition, in the case of an Incentive Stock Option granted to an Employee who 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 of the Company, 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. Notwithstanding the foregoing provisions of this Section 6.5.1, 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, Code Section 424(a).

6.5.2 **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.

6.5.3 **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 may consist entirely of: (a) cash (including cash equivalents); (b) check; (c) promissory note, to the extent permitted by Applicable Laws, (d) 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 further that accepting such Shares will not result in any adverse accounting consequences to the Company, as the Administrator determines in its sole discretion; (e) consideration received by the Company under a cashless exercise program (whether through a broker or otherwise) implemented by the Company in connection with the Plan; (f) by net exercise; (g) such other consideration and method of payment for the issuance of Shares to the extent permitted by Applicable Laws, or (h) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator will consider if acceptance of such consideration may be reasonably expected to benefit the Company.

6.6 **Exercise of Option**.

6.6.1 **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: (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 (b) full payment for the Shares with respect to which the Option is exercised (together with applicable tax withholdings). 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 or, if requested by the Participant, in the name of the Participant and his or her spouse. 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 15 of the Plan.

Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

6.6.2 **Termination of Relationship as a Service Provider**. If a Participant ceases to be a Service Provider, other than upon such cessation as the result of the Participant's death or Disability, the Participant may exercise his or her Option within three (3) months of such cessation, or such shorter or longer period of time, as is specified in the Award Agreement, in no event later than the expiration of the term of such Option as set forth in the Award Agreement or Section 6.4. Unless otherwise provided by the Administrator or set forth in the Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable, if on such date of cessation 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 immediately. If after such cessation 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.

6.6.3 **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 six (6) months of such cessation, or such longer or shorter period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement or Section 6.4, as applicable) to the extent the Option is vested on such date of cessation. Unless otherwise provided by the Administrator or set forth in the Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable, if on the date of such cessation 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 immediately. If after such cessation 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.

6.6.4 **Death of Participant**. If a Participant dies while a Service Provider, the Option may be exercised within six (6) months following the Participant's death, or within such longer or shorter period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement or Section 6.4, as applicable), by the Participant's designated beneficiary, provided such beneficiary has been designated prior to the Participant's death in a form (if any) acceptable to the Administrator. If the Administrator has not permitted the designation of a beneficiary or 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 (each, a "**Legal Representative**"). If the Option is exercised pursuant to this Section 6.6.4, Participant's designated beneficiary or Legal Representative shall be subject to the terms of this Plan and the Award Agreement, including but not limited to the restrictions on transferability and forfeitability applicable to the Service Provider. Unless otherwise provided by the Administrator or set forth in the Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable, if at the time of death 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 immediately. 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.

6.6.5 **Tolling Expiration**. A Participant's Award Agreement may also provide that:

(a) if the exercise of the Option following the cessation of Participant's status as a Service Provider (other than upon the Participant's death or Disability) would result in liability under Section 16b, then the Option will terminate on the earlier of (i) the expiration of the term of the Option set forth in the Award Agreement, or (ii) the tenth ($10^{th}$) day after the last date on which such exercise would result in liability under Section 16b; or

(b) if the exercise of the Option following the cessation of the Participant's status as a Service Provider (other than upon the Participant's death or Disability) would be prohibited at any time solely because the issuance of Shares would violate the registration requirements under the Securities Act, then the Option will terminate on the earlier of (i) the expiration of the term of the Option or (ii) the expiration of a period of thirty (30) days after the cessation of the Participant's status as a Service Provider during which the exercise of the Option would not be in violation of such registration requirements.

7. **Stock Appreciation Rights**.

7.1 **Grant of Stock Appreciation Rights**. Subject to the terms and conditions of the Plan, a Stock Appreciation Right may be granted to Service Providers at any time and from time to time as will be determined by the Administrator, in its sole discretion.

7.2 **Number of Shares**. The Administrator will have complete discretion to determine the number of Shares subject to any Award of Stock Appreciation Rights.

7.3 **Exercise Price and Other Terms**. The per Share exercise price for the Shares that will determine the amount of the payment to be received upon exercise of a Stock Appreciation Right as set forth in Section 7.6 will be determined by the Administrator and will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. Otherwise, the Administrator, subject to the provisions of the Plan, will have complete discretion to determine the terms and conditions of Stock Appreciation Rights granted under the Plan.

7.4 **Stock Appreciation Right Agreement**. Each Stock Appreciation Right grant will be evidenced by an Award Agreement that will specify the exercise price, the term of the Stock Appreciation Right, the conditions of exercise, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

7.5 **Expiration of Stock Appreciation Rights**. A Stock Appreciation Right granted under the Plan will expire upon the date determined by the Administrator, in its sole discretion, and set forth in the Award Agreement. Notwithstanding the foregoing, the rules of Section 6.4 relating to the maximum term and Section 6.6 relating to exercise also will apply to Stock Appreciation Rights.

7.6 **Payment of Stock Appreciation Right Amount**. Upon exercise of a Stock Appreciation Right, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying:

(a) The difference between the Fair Market Value of a Share on the date of exercise over the exercise price; times

(b) The number of Shares with respect to which the Stock Appreciation Right is exercised.

At the discretion of the Administrator, the payment upon Stock Appreciation Right exercise may be in cash, in Shares of equivalent value, or in some combination thereof.

**8. Restricted Stock**.

8.1 **Grant of Restricted Stock**. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Shares of Restricted Stock to Service Providers in such amounts as the Administrator, in its sole discretion, will determine.

8.2 **Restricted Stock Agreement**. Each Award of Restricted Stock will be evidenced by an Award Agreement that will specify the Period of Restriction (if any), 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. The Administrator, in its sole discretion, may determine that an Award of Restricted Stock will not be subject to any Period of Restriction and consideration for such Award is paid for by past services rendered as a Service Provider.

8.3 **Transferability**. Except as provided in this Section 8 or as the Administrator determines, 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.

8.4 **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.

8.5 **Removal of Restrictions**. Except as otherwise provided in this Section 8, 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.

8.6 **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.

8.7 **Dividends and Other Distributions**. During the Period of Restriction, Service Providers holding Shares of Restricted Stock will be entitled to receive all dividends and other distributions paid with respect to such Shares, unless the Administrator provides otherwise. If any such dividends or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

8.8 **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 revert to the Company and again will become available for grant under the Plan.

9. **Restricted Stock Units**.

9.1 **Grant**. Restricted Stock Units 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 Units, it will advise the Participant in an Award Agreement of the terms, conditions, and restrictions related to the grant, including the number of Restricted Stock Units.

9.2 **Vesting Criteria and Other Terms**. The Administrator will set vesting criteria in its discretion, which, depending on the extent to which the criteria are met, will determine the number of Restricted Stock Units that will be paid out to the Participant. The Administrator may set vesting criteria based upon the achievement of Company-wide, divisional, business unit, or individual goals (including, but not limited to, continued employment or service), applicable federal or state securities laws or any other basis determined by the Administrator in its discretion.

9.3 **Earning Restricted Stock Units**. Upon meeting the applicable vesting criteria, the Participant will be entitled to receive a payout as determined by the Administrator. Notwithstanding the foregoing, at any time after the grant of Restricted Stock Units, the Administrator, in its sole discretion, may reduce or waive any vesting criteria that must be met to receive a payout.

9.4 **Form and Timing of Payment**. Payment of earned Restricted Stock Units will be made at the time(s) determined by the Administrator and set forth in the Award Agreement. The Administrator, in its sole discretion, may settle earned Restricted Stock Units in cash, Shares, or a combination of both.

9.5 **Cancellation**. On the date set forth in the Award Agreement, all unearned Restricted Stock Units will be forfeited to the Company.

10. **Performance Awards**.

10.1 **Award Agreement**. Each Performance Award will be evidenced by an Award Agreement that will specify any time period during which any performance objectives or other vesting provisions will be measured ("Performance Period"), and such other terms and conditions as the Administrator determines. Each Performance Award will have an initial value that is determined by the Administrator on or before its date of grant.

10.2 **Objectives or Vesting Provisions and Other Terms.** The Administrator will set any objectives or vesting provisions that, depending on the extent to which any such objectives or vesting provisions are met, will determine the value of the payout for the Performance Awards. The Administrator may set vesting criteria based upon the achievement of Company-wide, divisional, business unit, or individual goals (including, but not limited to, continued employment or service), applicable federal or state securities laws, or any other basis determined by the Administrator in its discretion.

10.3 **Earning Performance Awards**. After an applicable Performance Period has ended, the holder of a Performance Award will be entitled to receive a payout for the Performance Award earned by the Participant over the Performance Period. The Administrator, in its discretion, may reduce or waive any performance objectives or other vesting provisions for such Performance Award.

10.4 **Form and Timing of Payment**. Payment of earned Performance Awards will be made at the time(s) determined by the Administrator and set forth in the Award Agreement. The Administrator, in its sole discretion, may settle earned Performance Awards in cash, Shares, or a combination of both.

10.5 **Cancellation of Performance Awards**. On the date set forth in the Award Agreement, all unearned or unvested Performance Awards will be forfeited to the Company, and again will be available for grant under the Plan.

11. **Outside Director Award Limitations**. No Outside Director may be granted, in any Fiscal Year, equity awards (including any Awards granted under this Plan), the value of which will be based on their grant date fair value determined in accordance with U.S. generally accepted accounting principles, and be provided any other compensation (including without limitation any cash retainers or fees) in amounts that, in the aggregate, exceed $500,000, provided that such amount is increased to $750,000 in the Fiscal Year of such individual's initial service as an Outside Director. Any Awards granted or other compensation provided to an individual (a) for such individual's services as an Employee, or for such individual's services as a Consultant (other than as an Outside Director), or (b) prior to the Registration Date, will be excluded for purposes of this Section 11.

12. **Compliance With 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 Section 409A such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Section 409A, except as otherwise determined in the sole discretion of the Administrator. The Plan and each Award Agreement under the Plan is intended to be exempt from or meet the requirements of Section 409A and will be construed and interpreted in accordance with such intent (including with respect to any ambiguities or ambiguous terms), 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 Section 409A the Award will be granted, paid, settled or deferred in a manner that will meet the requirements of Section 409A, such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Section 409A. In no event will the Company or any of its Parent or Subsidiaries have any responsibility, liability, or obligation to reimburse, indemnify, or hold harmless a Participant (or any other person) in respect of Awards, for any taxes, penalties or interest that may be imposed on, or other costs incurred by, Participant (or any other person) as a result of Section 409A.

13. **Leaves of Absence/Transfer Between Locations**. Unless the Administrator provides otherwise or as otherwise required by Applicable Laws, vesting of Awards granted hereunder will be suspended during any unpaid leave of absence. A Participant will not cease to be an Employee in the case of (a) any leave of absence approved by the Company or (b) transfers between locations of the Company or between the Company, its Parent, or any of its Subsidiaries. For purposes of Incentive Stock Options, no such leave may exceed three (3) months, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then six (6) months following the first ($1^{st}$) day of such leave, any Incentive Stock Option held by the Participant will cease to be treated as an Incentive Stock Option and will be treated for tax purposes as a Nonstatutory Stock Option.

14. **Limited Transferability of Awards**. Unless determined otherwise by the Administrator, Awards may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent and distribution (which, for purposes of clarification, shall be deemed to include through a beneficiary designation if available in accordance with Section 6.6.4), and may be exercised, during the lifetime of the Participant, only by the Participant. If the Administrator makes an Award transferable, such Award will contain such additional terms and conditions as the Administrator deems appropriate.

15. **Adjustments; Dissolution or Liquidation; Merger or Change in Control**.

15.1 **Adjustments**. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, reclassification, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs (other than any ordinary dividends or other ordinary distributions), the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will adjust the number and class of shares of stock that may be delivered under the Plan and/or the number, class, and price of shares of stock covered by each outstanding Award, and numerical Share limits in Section 3.

15.2 **Dissolution or Liquidation**. In the event of the proposed 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.

15.3 **Merger or Change in Control**. In the event of a merger of the Company with or into another corporation or other entity or a Change in Control, each outstanding Award will be treated as the Administrator determines (subject to the provisions of the following paragraph) without a Participant's consent, including, without limitation, that (a) Awards will be assumed, or substantially equivalent awards will be substituted, by the acquiring or successor corporation (or an affiliate thereof) with appropriate adjustments as to the number and kind of shares and prices; (b) upon written notice to a Participant, that the Participant's Awards will terminate upon or immediately prior to the consummation of such merger or Change in Control; (c) outstanding Awards will vest and become exercisable, realizable, or payable, or restrictions applicable to an Award will lapse, in whole or in part prior to or upon consummation of such merger or Change in Control, and, to the extent the Administrator determines, terminate upon or immediately prior to the effectiveness of such merger or Change in Control; (d) (i) the termination of an Award in exchange for an amount of cash and/or property, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Participant's rights as of the date of the occurrence of the transaction (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the Administrator determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment), or (ii) the replacement of such Award with other rights or property selected by the Administrator in its sole discretion; or (e) any combination of the foregoing. In taking any of the actions permitted under this Section 15.3, the Administrator will not be obligated to treat all Awards, all Awards held by a Participant, all Awards of the same type, or all portions of Awards, similarly.

In the event that the acquiring or successor corporation (or an affiliate thereof) does not assume the Award (or portion thereof) as described below or substitute for the Award (or portion thereof) as described above, then the Participant will fully vest in and have the right to exercise his or her outstanding Options and Stock Appreciation Rights (or portions thereof) not assumed or substituted for, including Shares as to which such Awards would not otherwise be vested or exercisable, all restrictions on Restricted Stock, Restricted Stock Units, or Performance Awards (or portions thereof) not assumed or substituted for will lapse, and, with respect to Awards with performance-based vesting (or portions thereof) not assumed or substituted for, all performance goals or other vesting criteria will be deemed achieved at one hundred percent (100%) of target levels and all other terms and conditions met, in each case, unless specifically provided otherwise under the applicable Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable. In addition, unless specifically provided otherwise under the applicable Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable, if an Option or Stock Appreciation Right (or portion thereof) is not assumed or substituted in the event of a merger or Change in Control, the Administrator will notify the Participant in writing or electronically that the Option or Stock Appreciation Right (or its applicable portion) will be exercisable for a period of time determined by the Administrator in its sole discretion, and the Option or Stock Appreciation Right (or its applicable portion) will terminate upon the expiration of such period.

For the purposes of this Section 15.3 and Section 15.4 below, an Award will be considered assumed if, following the merger or Change in Control, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit or Performance Award, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the merger or Change in Control.

Notwithstanding anything in this Section 15.3 to the contrary, an Award that vests, is earned or paid-out upon the satisfaction of one or more performance goals will not be considered assumed if the Company or its successor modifies any of such performance goals without the Participant's consent, in all cases, unless specifically provided otherwise under the applicable Award Agreement or other written agreement authorized by the Administrator between the Participant and the Company or any of its Subsidiaries or Parents, as applicable; provided, however, a modification to such performance goals only to reflect the successor corporation's post-Change in Control corporate structure will not be deemed to invalidate an otherwise valid Award assumption.

Notwithstanding anything in this Section 15.3 to the contrary, and unless otherwise provided in an Award Agreement, if an Award that vests, is earned or paid-out under an Award Agreement is subject to Section 409A and if the change in control definition contained in the Award Agreement (or other agreement related to the Award, as applicable) does not comply with the definition of "change in control" for purposes of a distribution under Section 409A, then any payment of an amount that is otherwise accelerated under this Section 15.3 will be delayed until the earliest time that such payment would be permissible under Section 409A without triggering any penalties applicable under Section 409A.

15.4 **Outside Director Awards**. With respect to Awards granted to an Outside Director, in the event of a Change in Control, the Participant will fully vest in and have the right to exercise Options and/or Stock Appreciation Rights as to all of the Shares underlying such Award, including those Shares which would not be vested or exercisable, all restrictions on Restricted Stock and Restricted Stock Units will lapse, and, with respect to Awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at 100% of target levels and all other terms and conditions met, unless specifically provided otherwise under the applicable Award Agreement or other written agreement between the Participant and the Company or any of its Subsidiaries or Parents, as applicable.

16. **Tax Withholding**.

16.1 **Withholding Requirements**. Prior to the delivery of any Shares or cash pursuant to an Award (or exercise thereof) or such earlier time as any tax withholdings are due, the Company (or any of its Parent, Subsidiaries, or affiliates employing or retaining the services of a Participant, as applicable) will have the power and the right to deduct or withhold, or require a Participant to remit to the Company (or any of its Parent, Subsidiaries, or affiliates, as applicable) or a relevant tax authority, an amount sufficient to satisfy U.S. federal, state, local, non-U.S., and other taxes (including the Participant's FICA or other social insurance contribution obligation) required to be withheld or paid with respect to such Award (or exercise thereof).

16.2 **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 tax liability or withholding obligation, in whole or in part by such methods as the Administrator shall determine, including, without limitation, (a) paying cash, check or other cash equivalents, (b) electing to have the Company withhold otherwise deliverable cash or Shares having a fair market value equal to the minimum statutory amount required to be withheld or such greater amount as the Administrator may determine if such amount would not have adverse accounting consequences, as the Administrator determines in its sole discretion, (c) delivering to the Company already-owned Shares having a fair market value equal to the minimum statutory amount required to be withheld or such greater amount as the Administrator may determine, in each case, provided the delivery of such Shares will not result in any adverse accounting consequences, as the Administrator determines in its sole discretion, (d) selling a sufficient number of Shares otherwise deliverable to the Participant through such means as the Administrator may determine in its sole discretion (whether through a broker or otherwise) equal to the amount required to be withheld or paid, (e) such other consideration and method of payment for the meeting of tax liabilities or withholding obligations as the Administrator may determine to the extent permitted by Applicable Laws, or (f) any combination of the foregoing methods of payment. The amount of the withholding obligation will be deemed to include any amount which the Administrator agrees may be withheld at the time the election is made, not to exceed the amount determined by using the maximum federal, state or local marginal income tax rates applicable to the Participant with respect to the Award on the date that the amount of tax to be withheld is to be determined or such greater amount as the Administrator may determine if such amount would not have adverse accounting consequences, as the Administrator determines in its sole discretion. The fair market value of the Shares to be withheld or delivered will be determined as of the date that the taxes are required to be withheld.

17. **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 its Subsidiaries or Parents, as applicable, nor will they interfere in any way with the Participant's right or the right of the Company and its Subsidiaries or Parents, as applicable, to terminate such relationship at any time, free from any liability or claim under the Plan.

18. **Date of Grant**. The date of grant of an Award will be, for all purposes, the date on which the Administrator makes the determination granting such Award, or such other later date as is determined by the Administrator. Notice of the determination will be provided to each Participant within a reasonable time after the date of such grant.

19. **Effective Date; Term of Plan**. Subject to Section **Error! Reference source not found.**3 of the Plan, the Plan will become effective upon the later to occur of (i) its adoption by the Board or (ii) the business day immediately prior to the Registration Date. It will continue in effect until terminated under Section 20, but no Incentive Stock Options may be granted after 10 years from the date adopted by the Board and Section 3.2 will operate only until the $10^{th}$ anniversary of the date the Plan is adopted by the Board.

20. **Amendment and Termination of the Plan**.

20.1 **Amendment and Termination**. The Administrator, in its sole discretion, may amend, alter, suspend or terminate the Plan, or any part thereof, at any time and for any reason.

20.2 **Stockholder Approval**. The Company will obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

20.3 **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.

21. **Conditions Upon Issuance of Shares**.

21.1 **Legal Compliance**. Shares will not be issued pursuant to 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.

21.2 **Investment Representations**. As a condition to the exercise or vesting of an Award, the Company may require the person exercising or vesting in such Award to represent and warrant at the time of any such exercise or vesting that the Shares are being acquired 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.

22. **Inability to Obtain Authority**. If the Company determines it to be impossible or impractical to obtain authority from any regulatory body having jurisdiction or to complete or comply with the requirements of any registration or other qualification of the Shares under any U.S. state or federal law or non-U.S. law or under the rules and regulations of the U.S. Securities and Exchange Commission, the stock exchange on which Shares of the same class are then listed, or any other governmental or regulatory body, which authority, registration, qualification or rule compliance is deemed by the Company's counsel to be necessary or advisable for the issuance and sale of any Shares hereunder, the Company will be relieved of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority, registration, qualification or rule compliance will not have been obtained.

23. **Intentionally Omitted**.

24. **Forfeiture Events**. The Administrator may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award will be subject to the reduction, cancellation, forfeiture, recoupment, reimbursement, or reacquisition upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include, without limitation, termination of such Participant's status as an employee and/or other service provider for cause or any specified action or inaction by a Participant, whether before or after such termination of employment and/or other service, that would constitute cause for termination of such Participant's status as an employee and/or other service provider. Notwithstanding any provisions to the contrary under this Plan, all Awards granted under the Plan will be subject to reduction, cancellation, forfeiture, recoupment, reimbursement, or reacquisition under 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 Dodd-Frank Wall Street Reform and Consumer Protection Act or other Applicable Laws (the "**Clawback Policy**"). The Administrator may require a Participant to forfeit, or return to the Company, or reimburse the Company for, all or a portion of the Award and any amounts paid thereunder pursuant to the terms of the Clawback Policy or as necessary or appropriate to comply with Applicable Laws, including without limitation any reacquisition right regarding previously acquired Shares or other cash or property. Unless this Section 24 specifically is mentioned and waived in an Award Agreement or other document, no recovery of compensation under a Clawback Policy or otherwise will constitute an event that triggers or contributes to any right of a Participant to resign for "good reason" or "constructive termination" (or similar term) under any agreement with the Company or any Parent or Subsidiary of the Company.

* * *

**Exhibit 21.1**

**List of Subsidiaries of 60 Degrees Pharmaceuticals, Inc.**

| Name of Subsidiary | Jurisdiction of Organization |
|---|---|
| 60 Degrees Pharmaceuticals, LLC | District of Columbia |
| 60P Australia Pty Ltd | Australia |
| 60P Singapore PTE, LTD | Singapore |

**Exhibit 23.1**

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation in the Registration Statement of 60 Degrees Pharmaceuticals, Inc. (F/K/A 60 Degrees Pharmaceuticals, LLC) on Form S-1 Amendment No. 2 of our report dated April 3, 2023 which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audits of the financial statements of 60 Degrees Pharmaceuticals, Inc. as of December 31, 2022 and 2021, and for the each of the two years in the period ended December 31, 2022.

We also consent to the reference to us under the heading "Experts" in the Prospectus, which is part of this Registration Statement.

/s/ RBSM LLP

Las Vegas, Nevada
April 28, 2023

**Exhibit 99.1**

**Consent of Director Nominee**

60 Degrees Pharmaceuticals, Inc. is filing a Registration Statement on Form S-1 (Registration No. 333-269483) with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), in connection with the initial public offering of common stock of 60 Degrees Pharmaceuticals, Inc. In connection therewith, I hereby consent, pursuant to Rule 438 of the Securities Act, to being named as a nominee to the Board of Directors of 60 Degrees Pharmaceuticals, Inc. in the Registration Statement, as may be amended from time to time. I also consent to the filing of this consent as an exhibit to such Registration Statement and any amendments thereto.

/s/ Charles Allen

Name: Charles Allen

**Exhibit 99.2**

**Consent of Director Nominee**

60 Degrees Pharmaceuticals, Inc. is filing a Registration Statement on Form S-1 (Registration No. 333-269483) with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), in connection with the initial public offering of common stock of 60 Degrees Pharmaceuticals, Inc. In connection therewith, I hereby consent, pursuant to Rule 438 of the Securities Act, to being named as a nominee to the Board of Directors of 60 Degrees Pharmaceuticals, Inc. in the Registration Statement, as may be amended from time to time. I also consent to the filing of this consent as an exhibit to such Registration Statement and any amendments thereto.

/s/ Cheryl Xu

Name: Cheryl Xu

**Exhibit 99.3**

**Consent of Director Nominee**

60 Degrees Pharmaceuticals, Inc. is filing a Registration Statement on Form S-1 (Registration No. 333-269483) with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), in connection with the initial public offering of common stock of 60 Degrees Pharmaceuticals, Inc. In connection therewith, I hereby consent, pursuant to Rule 438 of the Securities Act, to being named as a nominee to the Board of Directors of 60 Degrees Pharmaceuticals, Inc. in the Registration Statement, as may be amended from time to time. I also consent to the filing of this consent as an exhibit to such Registration Statement and any amendments thereto.

/s/ Stephen Toovey

Name: Stephen Toovey
07/12/2022

**Exhibit 99.4**

**Consent of Director Nominee**

60 Degrees Pharmaceuticals, Inc. is filing a Registration Statement on Form S-1 (Registration No. 333-269483) with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), in connection with the initial public offering of common stock of 60 Degrees Pharmaceuticals, Inc. In connection therewith, I hereby consent, pursuant to Rule 438 of the Securities Act, to being named as a nominee to the Board of Directors of 60 Degrees Pharmaceuticals, Inc. in the Registration Statement, as may be amended from time to time. I also consent to the filing of this consent as an exhibit to such Registration Statement and any amendments thereto.

/s/ Paul Field

Name: Paul Field

**Exhibit 99.5**

**AUDIT COMMITTEE CHARTER OF**
**60 DEGREES PHARMACEUTICALS, INC.**

## I. Purpose

The purpose of the Audit Committee (the "Committee") is to assist the Board of Directors (the "Board") of 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), in fulfilling its oversight responsibilities with respect to:

- the Corporation's financial statements;
- the integrity of the Corporation's internal control over financial reporting and management information systems;
- the qualifications and independence of the Corporation's external auditor;
- the investigation and enforcement of the code of conduct of the Corporation;
- the performance of the Corporation's internal audit function and external auditor; and
- any other matters assigned to the Committee by the Board or as mandated by applicable laws, rules, and regulations, as well as listing standards of The Nasdaq Stock Market LLC ("Nasdaq").

Although the Committee has the powers and responsibilities set forth in this Charter of the Audit Committee (this "Charter"), the role of the Committee is an oversight. The members of the Committee (the "Members") are not full-time employees of the Corporation and may or may not be accountants or auditors by profession or experts in the fields of accounting or auditing and, in any event, do not serve in such capacity. Consequently, it is not the duty of the Committee to conduct audits or to determine that the Corporation's financial statements and disclosures are complete and accurate and are in accordance with applicable financial reporting standards and other applicable regulatory requirements. These are the responsibilities of management and the Corporation's external auditor. The Members shall review this Charter at least annually and recommend any proposed changes to the Board for approval.

## II. Composition and Membership

2.1. Independence. The Committee shall consist of three (3) or more members of the Board, and the Chairman of the Board in an ex-officio role. Each Member the Board has selected and determined to be "independent" for purposes of the Committee membership in accordance with the applicable listing standards of Nasdaq and other applicable laws, rules, and regulations of the Securities and Exchange Commission (the "SEC"); *provided*, *however*, that one person who is not considered to be deemed "independent" pursuant to this Section 2.1 may serve as a Member on the Committee if certain criteria are met pursuant to the Nasdaq listing rules. The Committee will evaluate its Members for compliance with these standards on an annual basis.

2.2. Financial Literacy. All Members shall meet the financial literacy requirements of the Nasdaq, including being able to read and understand fundamental financial statements (e.g., balance sheet, income statement, and cash flow statement), and at least one (1) Member shall be an "audit committee financial expert" as such term is defined under applicable rules of the SEC, and at least one (1) Member of the Committee must meet the "financial sophistication" requirement set forth in the Nasdaq listing standards (a person who satisfies the definition of "audit committee financial expert" will be presumed to have financial sophistication). No Member can have participated in the preparation of the Corporation's or any of its subsidiaries' financial statements at any time during the past three (3) years.

2.3. Serving on Multiple Audit Committees. No Member may serve on the audit committee of more than three (3) public companies, inclusive of the Corporation, unless the Board has determined that such simultaneous service would not impair the ability of such Member to effectively serve on the Committee.

2.4. Tenure. Except as otherwise directed by the Board, a director selected as a Committee member shall continue to be a Member for as long as he or she remains a director or until his or her earlier resignation from the Committee. Any Member may be removed from the Committee by the Board, with or without cause, at any time.

2.5 Committee Chairman. The Chairman of the Committee (the "Chairman"), who shall be appointed from among the Committee members by, and serve at the pleasure of, the Board, shall preside at meetings of the Committee and shall have authority to convene meetings, set agendas for meetings, and determine the Committee's information needs, except as otherwise provided by action of the Committee. In the absence of the Chairman at a duly convened meeting, the Committee shall select a temporary substitute from among its Members to serve as chairman of the meeting.

**III. Meetings**

3.1. Number and Notice of Meetings; Place of Attendance. The Committee shall meet with the Chief Executive Officer and the Chief Financial Officer of the Corporation at least quarterly to review the financial affairs of the Corporation. The Committee will also meet with the independent auditor of the Corporation at least once quarterly, including upon the completion of the annual audit, outside the presence of management and at such other times as the Committee deems appropriate to review the independent auditor's examination and management report. The Chairman will meet with the internal auditor of the Corporation at least once quarterly outside the presence of management, and at such other times as the Chairman deems appropriate to review the internal auditor's reports. The Committee or Chairman may also meet separately periodically with management, the internal auditors, the independent auditors, and counsel to discuss issues and concerns warranting the Committee's attention. Twenty-four (24) hours' advance notice of each meeting will be given to each Member orally, by telephone, by facsimile, or e-mail, unless all Members are present and waive notice, or if those absent waive notice before or after a meeting. Members may attend all meetings either in person or by electronic communications.

3.2. Chairman of Meetings. The Chairman, if present, will act as the chairman of meetings of the Committee. If the Chairman is not present at a meeting of the Committee, the Members in attendance may select one of their Members to act as chairman of the meeting.

3.3. Secretary of Meetings. The Committee will appoint any person in attendance at the meeting, who may, but need not, be a Member to act as the secretary of that meeting, and such person will maintain minutes of the meeting and deliberations of the Committee. The secretary of the meeting will circulate minutes of each meeting of the Committee to the members of the Board.

3.4. Quorum; Voting. A majority of Members will constitute a quorum for a meeting of the Committee. Each Member will have one vote and decisions of the Committee will be made by an affirmative vote of the majority. The Chairman will not have a deciding or casting vote in the case of an equality of votes. Powers of the Committee may also be exercised by written resolutions signed by all Members.

3.5. Others Attending. The Committee may invite from time to time such persons as it sees fit to attend its meetings and to take part in the discussion and consideration of the affairs of the Committee.

3.6. Agenda of Matters. In advance of every regular meeting of the Committee, the Chairman will prepare and distribute to the Members and others as deemed appropriate by the Chairman, an agenda of matters to be addressed at the meeting together with appropriate briefing materials. The Committee may require officers and employees of the Corporation to produce such information and reports as the Committee may deem appropriate in order for it to fulfill its duties.

**IV. Powers and Responsibilities**

4.1. Reliance. In fulfilling exercising its powers hereunder, the Committee will be entitled to rely reasonably on the integrity of those persons within the Corporation and the professionals and experts (such as the Corporation's external auditor) from whom it receives information, the accuracy of the financial and other information provided to the Committee by such persons, and representations made by the Corporation's external auditor as to any services provided by such firm to the Corporation.

4.2. External Auditor. The Corporation's external auditor is required to report directly to the Committee. The Committee is responsible for:

- the appointment, compensation, retention, and oversight of the work of any external auditor engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review, or attest services for the Corporation;

- overseeing the work of the external auditor engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review, or attest services for the Corporation, including the resolution of disagreements between management and the external auditor regarding financial reporting;

- reviewing and approving the proposed audit scope, focus areas, timing, and key decisions underlying the audit plan by the Corporation's external auditor;

- establishing and overseeing procedures for the receipt, retention, and treatment of complaints received by the Corporation regarding accounting, internal accounting controls, or auditing matters and the confidential submission by the Corporation employees of concerns regarding questionable accounting or auditing matters;

- monitoring and reporting to the Board with regards to the qualifications, independence, and performance of the external auditor, including the lead audit partner, on an annual basis or more frequently as determined by the Committee, including obtaining a written statement noting all relationships between the external auditor and the Corporation or any of its subsidiaries;

- receiving and reviewing reports from the external auditor on the progress against the approved audit plan, important findings, recommendations for improvements, and the auditors' final report;

- pre-approving (which may be pursuant to pre-approval policies and procedures) all audit and non-audit services to be provided to the Corporation or its subsidiaries by the Corporation's external auditor as permitted under applicable regulatory requirements and to approve all related fees and other terms of engagement;

- reviewing and discussing with management and the external auditor the Corporation's annual audited financial statements, management's discussion and analysis (the "MD&A"), and annual and interim earnings press releases, as well as financial information and earnings guidance, if applicable, provided to analysts and rating agencies, before the Corporation publicly discloses this information;

- reviewing public disclosure of financial information and being satisfied that adequate procedures are in place for the review of the Corporation's public disclosure of financial information extracted or derived from the Corporation's financial statements and periodically assessing the adequacy of those procedures;

- recommending to the Board whether the Corporation's annual audited financial statements should be included in the Corporation's annual report for filing with the SEC and timely prepare the report required by the SEC to be included in the Corporation's annual proxy statement, if applicable, and other reports of the Committee required by regulatory requirement;

- reviewing and discussing with management and the Corporation's external auditor (i) major issues regarding, or significant changes in, the Corporation's accounting principles and financial statement presentations, (ii) analyses prepared by management or the Corporation's external auditor concerning significant financial reporting issues and judgments made in connection with the preparation of the financial statements, (iii) the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the Corporation, and (iv) the type and presentation of information to be included in earnings press releases and any financial information and earnings guidance, if applicable, provided to analysts and rating agencies;

- reviewing, approving, and overseeing any transaction between the Corporation and any related person (as defined in Item 404 of Regulation S-K) on an ongoing basis, and to develop policies and procedures for the Committee's approval of related party transactions; and

- reviewing and discussing with management all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the Corporation with unconsolidated entities or other persons.

**V. Reporting**

The Chairman shall report to the Board at Board meetings on the Committee's activities.

**VI. Access to Information**

The Committee will be granted unrestricted access to all information regarding the Corporation that is necessary or desirable to fulfill its duties and all directors, officers, and employees will be directed to cooperate as requested by Members.

The Committee has the sole authority:

- to engage or terminate independent counsel and other advisors as it determines necessary or advisable to carry out its duties and shall be directly responsible for overseeing the work of such advisors;

- to set and pay compensation for any advisors employed by the Committee; and

- to communicate directly with the internal and external auditors.

In discharging its oversight role, the Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Corporation.

**VII. Funding**

The Corporation shall provide for appropriate funding, as determined by the Committee, for payment of:

- compensation to any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review, or attest services for the listed issuer;

- compensation to any advisers employed by the Committee; and

- ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

**COMPENSATION COMMITTEE CHARTER OF**
**60 DEGREES PHARMACEUTICALS, INC.**

## I. Adoption of Charter

The Board of Directors (the "Board") of 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), has adopted this Charter of the Compensation Committee (this "Charter") of the Board (the "Committee").

## II. Organization

1. Committee Structure and Membership.

The Committee shall consist of at least two (2) directors of the Corporation (the "Members"), as determined from time to time by the Board. Each Member shall be "independent" in accordance with the standards of The Nasdaq Stock Market LLC (the "Exchange Rules"), as well as guidelines set forth by the Board from time to time, which guidelines the Board will base on, among other things, the provisions of Rule 10C1(b)(1) under Securities Exchange Act of 1934, as amended (the "Exchange Act"); *provided*, *however*, that a person who is not considered to be deemed "independent" pursuant to this Section 1 may serve as a Member on the Committee if certain criteria are met pursuant to the Exchange Rules.

The Board must consider all factors relevant to determining whether a director has a relationship to the Corporation which is material to that director's ability to be independent from management in connection with the duties of a Committee member, including, but not limited to:

- the source of compensation of such director, including any consulting, advisory, or other compensatory fee paid by the Corporation to such director; and

- whether such director is affiliated with the Corporation, a subsidiary of the Corporation, or an affiliate of a subsidiary of the Corporation.

Each Member must further qualify as a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act, and as an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code of 1986, as amended.

2. Appointment.

The Members shall be appointed by the Board. Candidates to fill subsequent vacancies shall be recommended by the Nominating and Corporate Governance Committee of the Board and thereafter appointed by the Board. The Members shall serve until their successors are elected and qualified, or until their earlier resignation or death. The Board may remove any Member from the Committee at any time with or without cause.

Unless a Chairman of the Committee (the "Chairman") is elected by the full Board, the Members shall designate a Chairman by the majority vote of the full Committee membership. The Chairman will chair all regular sessions of the Committee and set agendas for Committee meetings.

3. Committee Meetings.

The Committee shall meet as often as it deems necessary. The Committee shall be governed by the same rules regarding meetings (including meetings in person or by telephone or other similar communications equipment), action without meetings, notice, waiver of notice, and quorum and voting requirements as are applicable to the Board. The Committee may invite such members of management to its meetings as it deems appropriate.

4. Resources and Authority.

The Committee shall have the resources and authority appropriate to discharge its duties and responsibilities, including the authority to select, retain, terminate, and approve the fees and other retention terms of special counsel or other experts or consultants, as it deems appropriate, without having to seek the approval of the Board. The Committee shall have authority to elect, retain, terminate, and approve the fees and other retention terms of consultants or search firms used to identify director candidates and to assist in the evaluation of director compensation.

5. Reports to the Board.

The Committee shall take written minutes of its meetings and activities and submit such minutes to the recording secretary of the Corporation for filing. The Chairman shall report to the Board following meetings of the Committee and as otherwise requested by the chairman of the Board.

**III. Purpose and Responsibilities**

1. Purpose.

The purpose of the Committee is to carry out the responsibilities delegated by the Board relating to the review and determination of executive compensation.

2. Responsibilities.

The Committee shall have the following authority and responsibilities:

- to review and determine, or recommend to the Board to determine, annually, the corporate goals and objectives applicable to the compensation of the Chief Executive Officer ("CEO"), evaluate at least annually the CEO's performance in light of those goals and objectives, and determine or recommend to the Board to determine, the CEO's compensation level based on this evaluation. The Committee's decisions regarding performance goals and objectives and the compensation of the CEO are to be reviewed and ratified by the Corporation's full Board, provided, however, the CEO shall not be present during voting or deliberations regarding his or her compensation;

- to review, approve, and determine, or make recommendations to the Board to determine, the compensation of all other executive officers of the Corporation;

- to review, approve, and determine, or make recommendations to the Board regarding incentive compensation plans and equity-based plans, as applicable;

- to administer the Corporation's incentive compensation plans and equity-based plans, except as reserved or otherwise delegated by the Board, as applicable;

- to review the Corporation's incentive compensation arrangements to determine whether they encourage excessive risk-taking, to review and discuss the relationship between risk management policies and practices and compensation, and to evaluate compensation policies and practices that could mitigate any such risk;

- to make recommendations to the Board regarding director compensation;

- to review with management and approve the Corporation's disclosures under the caption "Compensation Discussion and Analysis" in the Corporation's periodic reports or proxy statements to be filed with the Securities and Exchange Commission (the "SEC"); and

- to establish and review general policies relating to compensation and benefits of the employees.

**IV. Outside Advisors**

The Committee shall have the authority, in its sole discretion, to select, retain, and obtain the advice of a compensation consultant as necessary to assist with the execution of its duties and responsibilities as set forth in this Charter. The Committee shall set the compensation, and oversee the work, of the compensation consultant. The Committee shall have the authority, in its sole discretion, to retain and obtain the advice and assistance of outside counsel and such other advisors as it deems necessary to fulfil its duties and responsibilities under this Charter. The Committee shall set the compensation, and directly oversee the work, of its outside counsel and other advisors. The Committee shall receive appropriate funding from the Corporation, as determined by the Committee in its capacity as a committee of the Board, for the payment of reasonable compensation to its compensation consultants, outside counsel, and any other advisors. Nothing in this Charter shall limit the Committee's ability or obligation to exercise its own judgment in fulfilment of its duties, nor shall any provision of this Charter require the Committee to implement or act consistently with the advice or recommendations of the compensation consultant, legal counsel, or other adviser to the Committee.

The Committee may select or receive advice from, a compensation consultant, legal counsel, or other adviser to the Committee, other than in-house legal counsel, only after taking into consideration the following factors:

- the provision of other services to the Corporation by the person that employs the compensation consultant, legal counsel, or other adviser;
- the amount of fees received from the Corporation by the person that employs the compensation consultant, legal counsel, or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel, or other adviser;
- the policies and procedures of the person that employs the compensation consultant, legal counsel, or other adviser that are designed to prevent conflicts of interest;
- any business or personal relationship of the compensation consultant, legal counsel, or other adviser with a Member;
- any stock of the Corporation owned by the compensation consultant, legal counsel, or other adviser; and
- any business or personal relationship of the compensation consultant, legal counsel, or other adviser, or the person employing the adviser with an executive officer of the Corporation.

Subject to applicable Exchange Rules, the Committee shall conduct the same "independence" assessment as set forth in Article II, Section 1 of this Charter for each compensation consultant, outside counsel, and any other advisors retained by the Committee.

The compensation consultant, outside counsel, and any other advisors retained by the Committee shall be "independent" in accordance with guidelines set by the Board from time to time, which guidelines the Board will base, to the extent required or deemed appropriate, on the provisions of the Exchange Rules promulgated in response to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the applicable rules and regulations promulgated thereunder by the SEC.

The Committee shall evaluate whether any compensation consultant retained or to be retained by it has any conflict of interest in accordance with Item 407(e)(3)(iv) of Regulation S-K. Any compensation consultant retained by the Committee to assist with its responsibilities relating to executive compensation or director compensation shall not be retained by the Corporation for any compensation or other human resource matters.

**V. Delegation of Authority**

The Committee shall have the authority to delegate any of its responsibilities, along with the authority to take action in relation to such responsibilities, to one (1) or more subcommittees as the Committee may deem appropriate in its sole discretion.

**VI. Periodic Review and Amendment of Charter and Committee**

The Committee shall perform a periodic review and evaluation of the performance of the Committee and its Members, including by reviewing the compliance of the Committee with this Charter. In addition, the Committee shall review and reassess annually the adequacy of this Charter and recommend to the Board any improvements to this Charter that the Committee considers necessary or valuable. The Committee shall conduct such evaluations and reviews in such manner, and at such times, as it deems appropriate.

**NOMINATING AND CORPORATE GOVERNANCE COMMITTEE CHARTER**
**OF 60 DEGREES PHARMACEUTICALS, INC.**

## I. Adoption of Charter

The Board of Directors (the "Board") of 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), has adopted this Charter of the Nominating and Corporate Governance Committee (this "Charter") of the Board (the "Committee").

## II. Organization

1. Committee Structure and Membership.

The Committee shall consist of at least two (2) directors of the Corporation (the "Members"), as determined from time to time by the Board. Each Member shall be "independent" in accordance with the rules and regulations of The Nasdaq Stock Market, LLC (the "Exchange Rules"), as well as guidelines set forth by the Board from time to time, which guidelines the Board will base on, among other things, the provisions under the Securities Exchange Act of 1934, as amended; *provided*, *however*, that if the Committee consists of at least three (3) directors, one person who is not considered to be deemed "independent" pursuant to this Section 1 may serve as a Member on the Committee if certain criteria are met pursuant to the Exchange Rules.

2. Appointment.

The Committee members will be appointed by the Board. Candidates to fill subsequent vacancies shall be nominated by the Committee as set forth below and appointed by the Board. Each member of the Committee may be removed at any time, with or without cause, by a majority vote of the Board. The members of the Committee shall serve until their successors are elected and qualified, or until their earlier resignation or removal. Unless a Chairman of the Committee (the "Chairman") is elected by the full Board, the members of the Committee shall designate a Chairman by the majority vote of the full Committee membership. The Chairman will chair all regular sessions of the Committee and set agendas for Committee meetings.

3. Committee Meetings.

The Committee shall meet as often as it deems necessary. The Chairman or any member of the Committee may call meetings of the Committee. The Committee shall be governed by the same rules regarding meetings (including meetings in person or by telephone or other similar communications equipment), action without meetings, notice, waiver of notice, and quorum and voting requirements as are applicable to the Board.

The Committee may request any officer or employee of the Corporation, the Corporation's outside counsel, or independent auditor to attend a meeting of the Committee or to meet with any members of, or consultants to, the Committee. The Committee may also exclude from its meetings any persons it deems appropriate in order to carry out its responsibilities.

4. Resources and Authority.

The Committee shall have the resources and authority appropriate to discharge its duties and responsibilities, including the authority to select, retain, terminate, and approve the fees and other retention terms of special counsel or other experts or consultants, as it deems appropriate, without having to seek the approval of the Board. The Committee shall have authority to elect, retain, terminate, and approve the fees and other retention terms of consultants or search firms used to identify director candidates and to assist in the evaluation of director compensation. The Committee shall have the authority to conduct or authorize investigations into any matter within the scope of its responsibilities as it shall deem appropriate, including the authority to request any officer, employee, or advisor of the Corporation to meet with the Committee or any advisors engaged by the Committee.

5. Reports to the Board.

The Committee shall take written minutes of its meetings and activities and submit such minutes to the recording secretary of the Corporation for filing. The Chairman shall report to the Board following meetings of the Committee and as otherwise requested by the chairman of the Board.

## III. Purpose

The Committee is appointed by the Board for the purposes of:

- developing and recommending criteria for selecting new directors;
- identifying and recommending to the Board individuals qualified to become Board members and Committee members consistent with criteria approved by the Board;
- receiving communications from stockholders directed to the Board, including stockholder proposals regarding director nominees to the Board;
- recommending to the Board corporate governance principles, codes of conduct, and applicable compliance mechanisms;
- overseeing evaluations of the Board, individual Board members and the Committees of the Board; and
- performing such other activities consistent with this Charter, the Articles of Incorporation of the Corporation, as may be amended from time to time (the "Articles of Incorporation"), the Bylaws of the Corporation, as may be amended from time to time (the "Bylaws"), and governing law, as the Committee deems appropriate or necessary or as delegated to the Committee by the Board.

## IV. Function and Responsibilities

To fulfill its purpose and responsibilities, the Committee's functions will include the following with respect to the Corporation:

- review the size and composition of the Board;
- identify individuals believed to be qualified to become Board members, consistent with the corporate governance principles and any other factors deemed appropriate, and consider and recommend to the Board nominees for election as directors, including nominees recommended by members of the Board and stockholders of the Corporation, and consider the performance of incumbent directors whose terms are expiring in determining whether to nominate them to stand for reelection at the next annual meeting of the stockholders;
- in the event of a vacancy on the Board or any committee of the Board (including a vacancy created by an increase in the size of the Board or any committee of the Board), identify individuals qualified to fill such vacancy, consistent with any criterion set forth in the Corporation's corporate governance principles from time to time, as well as any other factors it deems appropriate;
- develop and recommend to the Board for approval standards for determining whether a director has a relationship with the Corporation that would impair its independence;
- establish procedures for, and administer periodic performance evaluations of the Board as deemed appropriate;
- review periodically the composition, structure, and function of the committees of the Board and recommend, as appropriate, changes in the number, function, or membership of such committees;
- develop and recommend to the Board from time to time corporate governance guidelines applicable to the Corporation; and
- perform any other activities consistent with this Charter, the Articles of Incorporation, the Bylaws, and governing law, as the Committee deems appropriate or necessary or as delegated to the Committee by the Board. Notwithstanding the foregoing, and subject to the Exchange Rules, Committee oversight of director nominations shall not apply in cases where the right to nominate a director legally belongs to a third party.

## V. Delegation of Authority

The Committee shall have the authority to delegate any of its responsibilities, along with the authority to take action in relation to such responsibilities, to one (1) or more subcommittees as the Committee may deem appropriate in its sole discretion.

## VI. Outside Advisors

The Committee shall have the authority, in its sole discretion, to select, retain, and obtain the advice of consultants as necessary to assist with the execution of its duties and responsibilities as set forth in this Charter. The Committee shall set the compensation, and oversee the work, of any such consultants. The Committee shall have the authority, in its sole discretion, to retain and obtain the advice and assistance of outside counsel and such other advisors as it deems necessary to fulfill its duties and responsibilities under this Charter. The Committee shall set the compensation, and oversee the work, of its outside counsel and other advisors. The Committee shall receive appropriate funding from the Corporation, as determined by the Committee in its capacity as a committee of the Board, for the payment of compensation to its compensation consultants, outside counsel, and any other advisors.

## VII. Periodic Review and Amendment of Charter and Committee

The Committee shall perform a periodic review and evaluation of the performance of the Committee and its members, including by reviewing the compliance of the Committee with this Charter. In addition, the Committee shall review and reassess periodically the adequacy of this Charter and recommend to the Board any improvements to this Charter that the Committee considers necessary or valuable. The Committee shall conduct such evaluations and reviews in such manner, and at such times, as it deems appropriate. Any amendment or other modification of this Charter shall be made and approved by the full Board.

**60 DEGREES PHARMACEUTICALS, INC.**
**CODE OF CONDUCT**

## I. Covered Persons and Purpose

This code of conduct (this "Code") for 60 Degrees Pharmaceuticals, Inc., a Delaware corporation (the "Corporation"), applies to the Corporation's directors, officers, controllers, consultants, and employees (collectively, the "Covered Persons") and shall be publicly available for the purpose of promoting:

- honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- full, fair, accurate, timely, and understandable disclosure in reports and documents that the Corporation files with, or submits to, the Securities and Exchange Commission (the "SEC") and the Nasdaq Capital Market ("Nasdaq") and in other public communications made by the Corporation;
- compliance with applicable laws and governmental rules and regulations;
- the prompt internal reporting of violations of this Code to an appropriate person or persons identified in this Code; and
- accountability for adherence to this Code.

Each Covered Person should adhere to a high standard of business ethics and should be sensitive to situations that may give rise to actual as well as apparent conflicts of interest. This Code is intended to comply with the requirements of SEC Regulation S-K, Item 406 as well as SEC Rule 10A-3(b)(3) and Nasdaq Listing Rule 5610.

## II. Compliance with Law

The Corporation requires that all Covered Persons strictly adhere to all applicable local, state, and federal laws. If a Covered Person has questions about what laws we are subject to, or about how to comply with certain laws, it is important that such Covered Person shall alert an officer of the Corporation regarding such question. The Corporation relies on Covered Persons not only to act ethically, but also to assist fellow Covered Persons in following the law.

When appropriate, the Corporation will provide information and training to promote compliance with laws, rules, and regulations, including insider-trading laws.

## III. Conflicts of Interest

The Corporation's Covered Persons are expected to make or participate in business decisions and actions based on the best interests of the Corporation as a whole, and not based on personal relationships or personal gain. A "conflict of interest" exists when a person's private interest interferes in any way with the interest of the Corporation, or even when a private interest creates an appearance of impropriety. A conflict situation can arise when Covered Persons have interests that make it difficult for Covered Persons to perform their work objectively, or when a Covered Person receives improper personal benefits as a result of his or her position with the Corporation.

- It is almost always a conflict of interest for a Covered Person to work simultaneously for a competitor, customer, or supplier.

- It is also almost always a conflict of interest for a full-time Corporation employee to have a second job elsewhere, whether or not with a competitor, customer, or supplier unless such employee has notified the president of Corporation of the second job, and the president approves.

Covered Persons should avoid any relationship that would cause a conflict of interest with their duties and responsibilities at the Corporation. All Covered Persons are expected to disclose to management any situations that may involve inappropriate or improper conflicts of interests affecting them personally or affecting other Covered Persons.

Members of the Corporation's Board of Directors (the "Board") have a special responsibility to the Corporation and the stockholders. To avoid conflicts of interest, directors are required to disclose to their fellow directors any personal interest they may have in a transaction being considered by the Board and, when appropriate, to recuse themselves from any decision involving a conflict of interest. Unless and until such responsibility is delegated to a committee of the Board, the Board as a whole is charged with reviewing and approving all related party transactions and potential conflict of interest situations. Waivers of a conflict of interest or this Code involving executive officers and directors require approval by the Board. Any such waiver will be disclosed to our stockholders within four (4) business days, along with the reasons for the waiver, through the filing of a Form 8-K.

Each Covered Person must not:

- use his personal influence or personal relationships improperly to influence decisions or financial reporting by the Corporation whereby the Covered Person would benefit personally to the detriment of the Corporation;

- cause the Corporation to take action, or fail to take action, for the individual personal benefit of the Covered Person rather than for the benefit of the Corporation; or

- use material non-public knowledge to trade personally, or cause others to trade personally, in contemplation of the market effect of such non-public knowledge.

Covered Persons should be aware that conflicts are also likely to exist where a member of his or her family engages in an act or has a relationship that would present a conflict for such Covered Person.

Any discovery of a potential or existing conflict of interest should be immediately disclosed to management.

**IV. Disclosure and Compliance**

Each Covered Person:

- should be familiar with the disclosure requirements generally applicable to the Corporation;
- should not knowingly misrepresent, or cause others to misrepresent, facts about the Corporation to others, whether within or outside the Corporation, including to the Corporation's directors and auditors, and to governmental regulators, and self-regulatory organizations;
- should, to the extent appropriate within his or her area of responsibility, consult with other officers and employees of the Corporation and the Corporation's investment adviser or sub-adviser with the goal of promoting full, fair, accurate, timely, and understandable disclosure in the reports and documents the Corporation files with, or submits to, the SEC or Nasdaq and in other public communications made by the Corporation; and
- has the responsibility to promote compliance with the standards and restrictions imposed by applicable laws, rules, and regulations.

Each Covered Person must:

- upon adoption of this Code (or thereafter as applicable, upon becoming a Covered Person), affirm in writing to the Board that he or she has received, read, and understands this Code;
- annually thereafter affirm in writing to the Board that he or she has complied with the requirements of this Code;
- not retaliate against any of the Corporation's or its Service Providers' employees or any other Covered Person or their affiliated persons for reports of potential violations of this Code that are made in good faith;
- notify the Audit Committee promptly if he or she knows or learns of any violation of this Code, and failure to do so is itself a violation of this Code; and
- report promptly any change in his or her affiliations.

The Audit Committee of the Board (the "Audit Committee") is responsible for granting waivers and determining sanctions, as appropriate, provided that any approvals, interpretations, or waivers sought by the Corporation's principal executive officers or directors will be considered by the Board.

The Corporation will follow these procedures in investigating and enforcing this Code:

- the Audit Committee will take any action it considers appropriate to investigate any actual or potential violations reported to it;

- if, after such investigation, the Audit Committee believes that no violation has occurred, the Audit Committee shall meet with or contact the person reporting the violation for the purposes of informing such person of the reason for not taking action;

- any matter that the Audit Committee concludes is a violation will be reported to the Board. If the Audit Committee concludes that a violation has occurred, it will inform and make a recommendation to the full Board, which will consider appropriate action, which may include review of, and appropriate modifications to: applicable policies and procedures; notification to appropriate personnel, Covered Person, or a third party; a recommendation to a third party to dismiss the Covered Person; or dismissal of the Covered Person as an officer of the Corporation;

- the Audit Committee will be responsible for granting waivers, as appropriate; and

- any changes to, or waivers of, this Code will, to the extent required, be disclosed as provided by SEC rules.

The Audit Committee, in determining whether waivers should be granted and whether violations have occurred, and the Board, in rendering decisions and interpretations and in conducting investigations of potential violations under this Code, may, at their discretion, consult with such other persons as they may determine to be appropriate, including a senior legal officer of the Corporation or its investment adviser, counsel to the Corporation, independent auditors, or other consultants, subject to any requirement to seek pre-approval from the Audit Committee for the retention of independent auditors to perform permissible non-audit services.

**V. Waivers**

A Covered Person may request a waiver of any of the provisions of this Code by submitting a written request for such waiver to the Audit Committee setting forth the basis for such request and explaining how the waiver would be consistent with the standards of conduct described herein. The Audit Committee shall review such request and make a determination thereon in writing, which shall be binding, and shall inform the Board of the granting of any waiver.

In determining whether to waive any provisions of this Code, the Audit Committee shall consider whether the proposed waiver is consistent with honest and ethical conduct.

The Audit Committee shall submit an annual report to the Board regarding waivers granted.

## VI. Other Policies and Procedures

This Code shall be the sole "code of ethics" adopted by the Corporation for purposes of Section 406 of the Sarbanes-Oxley Act of 2002, as amended, and the rules and forms applicable to it thereunder and the sole "code of conduct" adopted by the Corporation under Rule 5610 of the Nasdaq listing rules. Insofar as other policies or procedures of the Corporation govern or purport to govern the behavior or activities of the Covered Persons who are subject to this Code, they are superseded by this Code to the extent that they overlap or conflict with the provisions of this Code.

Any amendments to this Code must be approved or ratified by a majority vote of the Board, including a majority of independent directors.

This Code is intended solely for the internal use by the Corporation and does not constitute an admission, by or on behalf of any person, as to any fact, circumstance, or legal conclusion.

## VII. Confidentiality

All reports and records prepared or maintained pursuant to this Code will be considered confidential and shall be maintained and protected accordingly. Except as otherwise required by law, regulation, or this Code, such matters shall not be disclosed to anyone other than the Board and its counsel or independent auditors, attorneys, or other consultants retained by the Board.

**Exhibit 107**

**Calculation of Filing Fee Tables**
**Form S-1**
**60 Degrees Pharmaceuticals, Inc.**
(Exact Name of Registrant as Specified in its Charter)
Table 1: Newly Registered Securities

| | Security Type | Security Class Title | Fee Calculation Rule | Amount Registered (1) | Maximum Offering Price | Maximum Aggregate Offering (1) | Fee Rate | Amount of Registration Fee |
|---|---|---|---|---|---|---|---|---|
| Fees to Be Paid | Other | Units, consisting of one share of Common Stock, par value $0.0001 per share, and one Warrant to purchase one share of Common Stock | 457(o) | 1,415,095 | $ 6.30 | $ 8,915,099 | 0.0001102 | $ 982.44 |
| Fees to Be Paid | Equity | Common Stock, $0.0001 par value per share, included in the Units (3) | 457(g) | — | — | — | — | —(6) |
| Fees to Be Paid | Equity | Warrants included in the Units (3) | 457(g) | — | — | — | — | —(6) |
| Fees to Be Paid | Equity | Common Stock, $0.0001 par value per share, underlying the Tradeable Warrants included in the Units (4) | 457(o) | 1,415,095 | $ 7.245 | $ 10,252,364 | 0.0001102 | $ 1,129.81 |
| Fees to Be Paid | Equity | Common Stock, $0.0001 par value per share, underlying the Non-Tradeable Warrants included in the Units (4) | 457(o) | 1,415,095 | $ 7.56 | $ 10,698,119 | 0.0001102 | $ 1,178.93 |
| Fees to Be Paid | Equity | Overallotment Option Shares of Common Stock (2) | 457(o) | 212,265 | $ 6.30 | $ 1,337,270 | 0.0001102 | $ 147.37 |
| Fees to Be Paid | Equity | Overallotment Option Shares of Common Stock underlying the Tradeable Warrants (2) | 457(o) | 212,265 | $ 7.245 | $ 1,537,860 | 0.0001102 | $ 169.47 |
| Fees to Be Paid | Equity | Overallotment Option Shares of Common Stock underlying the Non-Tradeable Warrants (2) | 457(o) | 212,265 | $ 7.56 | $ 1,604,724 | 0.0001102 | $ 176.84 |
| Fees to Be Paid | Equity | Representative's Warrants (7) | 457(g) | — | — | — | — | —(6) |
| Fees to Be Paid | Equity | Common Stock, $0.0001 par value per share, underlying Representative Warrants (2) (5)(6) | 457(o) | 84,906 | $ 6.93 | $ 588,399 | 0.0001102 | $ 64.84 |
| Fees to Be Paid | Equity | Common Stock to be sold by Selling Stockholders | 457(o) | 1,856,580 | $ 6.30 | $ 11,696,454 | 0.0001102 | $ 1,288.95 |
| | | **Total Offering Amounts** | | | | $ 46,630,289 | 0.0001102 | $ 5,138.66 |
| | | **Total Fees Previously Paid** | | | | | | 3,405.28 |
| | | **Total Fee Offsets** | | | | | | - |
| | | **Net Fee Due** | | | | | | $ 1,733.38 |

(1) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457 under the Securities Act. Pursuant to Rule 416

under the Securities Act of 1933, as amended (the "Securities Act"), there is also being registered hereby such indeterminate number of additional shares of common stock as may be issued or issuable because of stock splits, stock dividends and similar transactions.

(2) Includes an additional 15% related to the exercise in full of the over-allotment option by the underwriters.

(3) These shares of Common Stock and Warrants are included in the Units.

(4) The Tradeable Warrants included in the Units are exercisable at 115% of the Unit offering price and the Non-tradeable Warrants included in the Units are exercisable at 120% of the Unit offering price.

(5) Includes shares that the underwriters have the option to purchase through exercise of the Underwriter Warrants.

(6) Represents common stock underlying the warrants (the "Underwriter Warrants") issuable to the representative of the underwriters to purchase up to an aggregate of 6.0% of the common stock sold in the offering at an exercise price equal to 110% of the public offering price per security. Assuming exercise in full of the over-allotment option, consists of 84,906 shares of common stock issuable to the representative of the underwriters.

(7) No additional registration fee is payable pursuant to Rule 457(g) under the Securities Act.