UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2018

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

darébioscience

DARÉ BIOSCIENCE, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**Commission File No. 001-36395**	**20-4139823**
(State or Other Jurisdiction of Incorporation)		(IRS Employer Identification No.)
3655 Nobel Drive, Suite 260 San Diego, CA	**(858) 926-7655**	**92122**
(Address of Principal Executive Offices)	(Registrant's telephone number, including area code)	(Zip Code)

11119 North Torrey Pines Road, Suite 200, La Jolla, CA 92037
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). ☒ Yes ☐ No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company, or emerging growth 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	☐	Accelerated filer	☐
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	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 pursuant to Section 13(a) of the Exchange Act. ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

As of August 9, 2018, 11,422,161 shares of the Registrant's Common Stock, par value $0.0001, were issued and outstanding.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, in particular "Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations," of Part I. Financial Information, and the information incorporated by reference herein contains forward-looking statements that involve substantial risks and uncertainties. All statements, other than statements of historical facts, contained in this report, including statements regarding our strategy, future operations, future financial position, projected costs, prospects, plans and objectives of management, are forward-looking statements. Forward-looking statements include all statements that are not historical facts and, in some cases, can be identified by terms such as "believe," "may," "will," "estimate," "continue," "anticipate," "design," "intend," "expect," "could," "plan," "potential," "predict," "seek," "should," "would," "contemplate," project," "target," "tend to," or the negative version of these words and similar expressions.

Forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements, including those factors described in Part II, Item 1A, "Risk Factors," in this report, and elsewhere in this report. Given these uncertainties, you should not place undue reliance on any forward-looking statement. The following factors are among those that may cause such differences:

- *Inability to raise additional capital, under favorable terms or at all;*
- *Inability to successfully attract partners and enter into collaborations on acceptable terms;*
- *Failure to select or capitalize on the most scientifically, clinically or commercially promising or profitable indications or therapeutic areas for our product candidates due to limited financial resources;*
- *Inability to develop and commercialize our product candidates;*
- *Failure or delay in starting, conducting and completing clinical trials or obtaining United States Food and Drug Administration (FDA) or foreign regulatory approval for our product candidates in a timely manner;*
- *A change in the FDA's primary oversight responsibility;*
- *A change in regulatory requirements for our product candidates, including the development pathway pursuant to the FDA's Section 505(b)(2);*
- *Unsuccessful clinical trials stemming from clinical trial designs, failure to enroll a sufficient number of patients, higher than anticipated patient dropout rates, failure to meet established clinical endpoints, undesirable side effects and other safety concerns;*
- *Negative publicity concerning the safety and efficacy of our product candidates, or of product candidates being developed by others that share characteristics similar to our candidates;*
- *Inability to demonstrate sufficient efficacy of our product candidates;*
- *Loss of our licensed rights to develop and commercialize a product candidate as a result of the termination of the underlying licensing agreement;*
- *Monetary obligations and other requirements in connection with our exclusive, in-license agreements covering the critical patents and related intellectual property related to our product candidates;*
- *Developments by our competitors that make our product candidates less competitive or obsolete;*
- *Dependence on third parties to conduct clinical trials and to manufacture product candidates;*
- *Dependence on third parties to supply, market and distribute products;*

- *Failure of our product candidates, if approved, to gain market acceptance or obtain adequate coverage for third party reimbursement;*
- *A reduction in demand for contraceptives caused by an elimination of current requirements that health insurance plans cover and reimburse FDA-cleared or approved contraceptive products without cost sharing;*
- *Lack of precedent to help assess whether health insurance plans will cover our product candidates;*
- *The reimbursement environment relating to our product candidates at the time we obtain regulatory approval, if ever;*
- *Difficulty in introducing branded products in a market made up of generic products;*
- *Inability to adequately protect or enforce our, or our licensor's, intellectual property rights;*
- *Lack of patent protection for the active ingredients in certain of our product candidates which could expose our products to competition from other formulations using the same active ingredients.*
- *Higher risk of failure associated with product candidates in preclinical stages of development that may lead investors to assign them little to no value and make these assets difficult to fund;*
- *Disputes or other developments concerning our intellectual property rights;*
- *Actual and anticipated fluctuations in our quarterly or annual operating results;*
- *Price and volume fluctuations in the stock market, and in our stock in particular, which could subject us to securities class-action litigation;*
- *Litigation or public concern about the safety of our potential products;*
- *Strict government regulations on our business, including various fraud and abuse laws, including, without limitation, the U.S. federal Anti-Kickback Statute, the U.S. federal False Claims Act and the U.S. Foreign Corrupt Practices Act;*
- *Regulations governing the production or marketing of our product candidates;*
- *Loss of, or inability to attract, key personnel; and*
- *Increased costs as a result of operating as a public company, and substantial time devoted by our management to compliance initiatives and corporate governance practices.*

All forward-looking statements in this report are current only as of the date of this report. We do not undertake any obligation to publicly update any forward-looking statement to reflect events or circumstances after the date on which any statement is made or to reflect the occurrence of unanticipated events, except as required by law.

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PART I. FINANCIAL INFORMATION

Item 1. Consolidated Financial Statements (Unaudited).

Daré Bioscience, Inc. and Subsidiaries
Consolidated Balance Sheets

	June 30, 2018 (unaudited)	December 31, 2017
Assets		
Current assets		
Cash and cash equivalents	$ 12,446,524	$ 7,559,846
Other receivables	24,644	284,206
Prepaid expenses	347,409	311,571
Other current assets	—	193,495
Total current assets	12,818,577	8,349,118
Property and equipment, net	7,910	—
Goodwill	—	5,187,519
Other non-current assets	657,031	723,191
Total assets	$ 13,483,518	$ 14,259,828
Liabilities and stockholders' equity		
Current liabilities		
Accounts payable and accrued expenses	$ 1,265,238	$ 966,653
Total current liabilities	1,265,238	966,653
Deferred rent	317	392
Total liabilities	1,265,555	967,045
Commitments and contingencies (Note 8)		
Stockholders' equity (deficit)		
Preferred stock, $0.01 par value, 5,000,000 shares authorized		
None issued and outstanding	—	—
Common stock: $0.0001 par value, 120,000,000 shares authorized, 11,422,161 and 6,047,161 shares issued and outstanding at June 30, 2018 and December 31, 2017, respectively	1,142	605
Accumulated other comprehensive loss	(59,311)	(18,080)
Additional paid-in capital	35,754,872	25,541,210
Accumulated deficit	(23,478,740)	(12,230,952)
Total stockholders' equity	12,217,963	13,292,783
Total liabilities and stockholders' equity	$ 13,483,518	$ 14,259,828

See accompanying notes to interim consolidated financial statements.

Daré Bioscience, Inc. and Subsidiaries
Consolidated Statements of Operations and Comprehensive Loss
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2018	2017	2018	2017
Operating expenses:				
General and administrative	$ 1,157,174	$ 476,047	$ 2,460,363	$ 676,711
Research and development expenses	2,217,622	3,576	3,304,275	31,376
License expenses	250,000	—	350,000	—
Impairment of goodwill	—	—	5,187,519	—
Total operating expenses	3,624,796	479,623	11,302,157	708,087
Loss from operations	(3,624,796)	(479,623)	(11,302,157)	(708,087)
Other income (expense)	42,626	(18,570)	54,370	(33,970)
Net loss	$ (3,582,170)	$ (498,193)	$ (11,247,787)	$ (742,057)
Foreign currency translation adjustments	$ (27,485)	$ —	$ (41,231)	$ —
Comprehensive loss	$ (3,609,655)	$ (498,193)	$ (11,289,018)	$ (742,057)
Loss per common share - basic and diluted	$ (0.32)	$ (0.55)	$ (1.13)	$ (0.82)
Weighted average number of common shares outstanding:				
Basic	11,422,161	910,000	10,031,249	910,000

See accompanying notes to interim consolidated financial statements.

The operations presented in the interim consolidated financial statements and accompanying notes for the three and six months ended June 30, 2018 represent the operations of the Company following the Cerulean/Private Daré stock purchase transaction, and for the three and six months ended June 30, 2017 represent the operations of the Company when it was private, making a comparison between periods difficult. See Note 1, “Organization of the Business,” of the Notes to the Interim Consolidated Financial Statements (Unaudited) appearing in this report for a discussion of the Cerulean/Private Daré stock purchase transaction.

Daré Bioscience, Inc. and Subsidiaries
Consolidated Statements of Cash Flows
(Unaudited)

	Six months ended June 30,	
	2018	**2017**
Operating activities:		
Net loss	$ (11,247,787)	$ (742,057)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	288	—
Stock-based compensation	18,547	6
Acquired in-process research and development	452,000	
Impairment of goodwill	5,187,519	—
Changes in operating assets and liabilities, net impact of acquisition:		
Other receivables	259,562	—
Prepaid expenses	(35,838)	—
Other current assets	193,495	—
Other assets and deferred charges	66,160	—
Accounts payable and accrued expenses	298,585	550,666
Interest payable	—	33,976
Deferred rent	(75)	(2,800)
Net cash used in operating activities	(4,807,544)	(160,209)
Investing activities:		
Purchases of property and equipment	(8,200)	—
Acquisition of Pear Tree	(452,000)	—
Net cash used in investing activities	(460,200)	—
Financing activities:		
Net proceeds from issuance of common stock and warrants	10,195,653	—
Proceeds from issuance of convertible promissory notes	—	155,000
Net cash provided by financing activities	10,195,653	155,000
Effect of exchange rate changes on cash and cash equivalents	(41,231)	—
Net change in cash and cash equivalents	4,886,678	(5,209)
Cash and cash equivalents, beginning of period	7,559,846	44,614
Cash and cash equivalents, end of period	$ 12,446,524	$ 39,405

See accompanying notes to interim consolidated financial statements.

The operations presented in the interim consolidated financial statements and accompanying notes for the six months ended June 30, 2018 represent the operations of the Company following the Cerulean/Private Daré stock purchase transaction, and for the six months ended June 30, 2017 represent the operations of the Company when it was private, making a comparison between periods difficult. See Note 1, “Organization of the Business,” of the Notes to the Interim Consolidated Financial Statements (Unaudited) appearing in this report for a discussion of the Cerulean/Private Daré stock purchase transaction.

1. Organization and Description of the Business

Daré Bioscience, Inc., a Delaware corporation, was formed on November 28, 2005. Daré Bioscience, Inc. and its wholly owned subsidiaries, Daré Bioscience Operations, Inc., Daré Bioscience Australia Pty LTD, and Pear Tree Pharmaceuticals, Inc., operate in one segment. The term the "Company" as used herein refers collectively to Daré Bioscience, Inc. and its wholly owned subsidiaries, unless otherwise stated or the context otherwise requires.

The Company is a clinical-stage biopharmaceutical company committed to the advancement of innovative products for women's reproductive health. The Company is driven by a mission to identify, develop and bring to market a diverse portfolio of differentiated therapies that expand treatment options, improve outcomes and facilitate convenience for women, primarily in the areas of contraception, vaginal health, sexual health and fertility. The Company's business strategy is to license or otherwise acquire the rights to differentiated reproductive health product candidates, some of which have existing clinical proof-of-concept data, and to take those candidates through advanced stages of clinical development.

On July 19, 2017, the Company completed its business combination with Daré Bioscience Operations, Inc., a privately held Delaware corporation, or Private Daré, in accordance with the terms of the Stock Purchase Agreement dated as of March 19, 2017, or the Daré Stock Purchase Agreement, by and among the Company, Private Daré and the holders of capital stock and securities convertible into capital stock of Private Daré named therein, or the Private Daré Stockholders. Pursuant to the Daré Stock Purchase Agreement, each Private Daré Stockholder sold their shares of capital stock in Private Daré to the Company in exchange for newly issued shares of the Company's common stock, and as a result, Private Daré became a wholly owned subsidiary of the Company and the Private Daré Stockholders became majority shareholders of the Company. That transaction is referred to as the Cerulean/Private Daré stock purchase transaction. In accordance with the terms of the Daré Stock Purchase Agreement, the Company changed its name from "Cerulean Pharma Inc." to "Daré Bioscience, Inc." References in this report to "Cerulean" refer to Cerulean Pharma Inc. prior to the closing of the Cerulean/Private Daré stock purchase transaction.

Since July of 2017, the Company has assembled a portfolio of clinical-stage and preclinical-stage candidates addressing unmet needs in women's reproductive health. The Company has used a variety of transaction structures to license, acquire, or obtain an option to acquire, the rights to these assets. The Company's two clinical-stage assets were obtained through product license and development agreements. The first, Ovaprene®, is a non-hormonal monthly contraceptive candidate that was licensed in July of 2017; and the second, Topical 5% Sildenafil Citrate Cream, is a potential treatment for Female Sexual Arousal Disorder that was licensed in February of 2018. The Company has also assembled a portfolio of preclinical candidates. In March of 2018, the Company entered into a collaboration and option agreement covering new injectable contraceptive product candidates; in April of 2018, the Company licensed the worldwide rights to a portfolio of preclinical intravaginal rings; in May of 2018, the Company acquired a company that owns the rights to a proprietary vaginal tamoxifen tablet for the treatment of vulvar and vaginal atrophy; and in July of 2018, the Company acquired certain assets related to a novel target for non-hormonal contraceptives for both men and women.

The operations presented in the accompanying interim consolidated financial statements and in these notes for the three and six months ended June 30, 2018 represent the operations of the Company after giving effect to the Cerulean/Private Daré stock purchase transaction and as a public company. The interim consolidated financial statements and accompanying notes for the three and six months ended June 30, 2017 represent the operations of Private Daré, making a comparison between periods difficult.

The Company's primary operations have consisted of, and are expected to continue to consist of, product research and development and advancing its portfolio of product candidates through late-stage clinical development or regulatory approval.

The Company has not generated any revenue related to its primary business purpose to date and is subject to a number of risks common to other clinical-stage biopharmaceutical companies, including dependence on key individuals, competition from other companies, the need to develop commercially viable products in a timely and cost effective manner, and the need to obtain adequate additional financing to fund the development of product candidates. The Company is also subject to a number of risks similar to other companies in the industry, including rapid technology change, regulatory approval of products, uncertainty of market acceptance of products, competition from substitute products and larger companies, compliance with government regulations, protection of proprietary technology, dependence on third parties, and product liability.

2. Liquidity

The Company has a history of losses from operations and anticipates that it will continue to incur losses for at least the next several years. For the six months ended June 30, 2018, the Company incurred a net loss of $11.2 million. At June 30, 2018, the Company had an accumulated deficit of approximately $23.5 million and had cash and cash equivalents of approximately $12.4 million. The Company also had negative cash flow from operations of approximately $4.8 million during the six months ended June 30, 2018.

On January 4, 2018, the Company entered into an at-the-market, or ATM, sales agreement, under which the Company may sell stock from time to time up to an aggregate of $10.0 million in gross proceeds. During January and February 2018, the Company generated gross proceeds of approximately $1.1 million, resulting in net proceeds of approximately $803,000 on sales of 375,000 shares of common stock under this agreement. In February 2018, the Company also generated gross proceeds of approximately $10.3 million, resulting in net proceeds of $9.4 million from an underwritten offering of 5.0 million shares of common stock and warrants to purchase up to 3.5 million shares of common stock. All of the financing transactions completed during the first quarter of 2018 were registered pursuant to the Company's effective shelf registration statement on Form S-3 and the related base prospectus included in that registration statement, as supplemented by the prospectus supplements dated January 4, 2018 and February 14, 2018.

The Company will need to raise additional capital to further fund the development of, and seek regulatory approvals for, its current product candidates and any future candidates it may license or otherwise acquire, as well as to commercialize any products, if approved. If additional funding is not available on a timely basis, on terms favorable to the Company and its stockholders, or at adequate levels, the Company will need to reevaluate its operating plans. The interim consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

The Company is currently focused primarily on the development and commercialization of innovative products in women's reproductive health and believes such activities will result in the Company's continued incurrence of significant research and development and other expenses related to these programs. If the clinical trials for any of the Company's product candidates fail to produce successful results such that those product candidates do not advance in clinical development, then the Company's business and prospects may suffer. Even if the product candidates advance in clinical development, they may fail to gain regulatory approval. Even if the product candidates are approved, they may fail to achieve market acceptance, and the Company may never become profitable. Even if the Company becomes profitable, it may not be able to sustain profitability. The Company intends to cover its future operating expenses through cash and cash equivalents on hand and through a combination of equity offerings, debt financings, government or other grant funding, collaborations and strategic alliances. The Company cannot be sure that additional financing will be available when needed or that, if available, it will be obtained on terms favorable to the Company or its stockholders.

As of the date of this report and based on current business plan estimates, the Company believes it has sufficient cash to fund its operating expenses over at least the next twelve months from issuance of these condensed consolidated financial statements. In the event the Company acquires, licenses or develops any new products or product candidates that are not contemplated in its current business plan, or if the clinical development plans for its existing product candidates materially change, then the amount required to fund future operations could increase, possibly materially. In order to acquire or develop additional products and product candidates, the Company will require additional capital over time.

The Company expects that its net losses will continue for at least the next several years as it seeks to acquire, license or develop additional products and product candidates. Such losses may fluctuate, the fluctuations may be substantial, and the Company may never become profitable.

3. Significant Accounting Policies

The Company's significant accounting policies are described in Note 1 to the interim consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2017, filed with the Securities and Exchange Commission, or SEC on March 28, 2018. Since the date of those financial statements, there have been no material changes to the Company's significant accounting policies.

Basis of Presentation

The accompanying interim consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States, or GAAP, as defined by the Financial Accounting Standards Board, or FASB, for interim financial information and the instructions to Form 10-Q and Article 8 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In management's opinion, the accompanying interim consolidated financial statements reflect all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation of the results of the interim periods presented.

Interim financial results are not necessarily indicative of results anticipated for any other interim period or for the full year. The accompanying interim consolidated financial statements should be read in conjunction with the audited financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2017.

Reverse Stock Split

On July 20, 2017, the Company effected a 1-for-10 reverse stock split of its common stock. All share and per share amounts of common stock, options and warrants in these notes and those amounts included in the accompanying interim consolidated financial statements, have been restated for all periods to give retroactive effect to the reverse stock split.

Use of Estimates

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Significant estimates include the fair value of stock-based compensation, goodwill impairment and purchase accounting. Actual results could differ from those estimates and could materially affect the reported amounts of assets, liabilities and future operating results.

Principles of Consolidation

The interim consolidated financial statements of the Company are stated in U.S. dollars and are prepared using GAAP. These financial statements include the accounts of the Company and its wholly owned subsidiaries, Daré Bioscience Operations, Inc., Daré Bioscience Australia Pty LTD, and Pear Tree Pharmaceuticals, Inc. The financial statements of the Company's wholly owned subsidiaries are recorded in their functional currency and translated into the reporting currency. The cumulative effect of changes in exchange rates between the foreign entity's functional currency and the reporting currency is reported in accumulated other comprehensive loss in the interim consolidated balance sheets. All significant intercompany transactions and accounts have been eliminated in consolidation.

Recent Pronouncements Not Yet Adopted

In February 2016, FASB issued ASU 2016-02, *Leases (Topic 842)*, which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e., lessees and lessors). The new standard requires lessees to apply a dual approach classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less will be accounted for similar to existing guidance for operating leases. The new standard requires lessors to account for leases using an approach that is substantially equivalent to existing guidance for sales-type leases, direct financing leases and operating leases. The new standard is effective for public companies for fiscal years beginning after December 15, 2018, with early adoption permitted. The Company is currently assessing the potential impact of this accounting standard and the effect it might have on its financial statements.

Recently Adopted Accounting Standards

In May 2014, FASB issued Accounting Standards Update, or ASU, 2014-09, *Revenue from Contracts with Customers*, which impacts the way in which some entities recognize revenue for certain types of transactions. The new standard became effective beginning in 2018 for public companies. Because the Company does not currently have any contracts with customers, the Company's adoption of this accounting standard did not impact the Company.

In August 2016, FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*, which intended to add or clarify guidance on the classification of certain cash receipts and payments on the statement of cash flows. The new guidance addresses cash flows related to the following: debt prepayment or extinguishment costs, settlement of zero-coupon bonds, contingent consideration payments made after a business combination, proceeds from the settlement of insurance claims, proceeds from the settlement of corporate-owned life insurance policies and bank-owned life insurance policies, distributions received from equity method investees, beneficial interest in securitization transactions, and the application of predominance principle to separately identifiable cash flows. The standard became effective on January 1, 2018. The Company's adoption of this standard on January 1, 2018 did not have a material impact on the Company's interim consolidated financial statements.

In January 2017, FASB issued ASU 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business*, which intended to clarify the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The standard became effective for the Company on January 1, 2018. The Company's early adoption of this standard did not have a material impact on the Company's consolidated financial statements.

In January 2017, FASB issued ASU 2017-04, *Simplifying the Test for Goodwill Impairment (Topic 350)*. The guidance removes Step 2 of the goodwill impairment test, which requires a hypothetical purchase price allocation. A goodwill impairment will now be the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. The guidance should be adopted on a prospective basis for the annual or any interim goodwill impairment tests beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company's adoption of this standard on September 30, 2017 did not have a material impact on the Company's consolidated financial statements.

In May 2017, FASB issued ASU 2017-09, *Compensation – Stock Compensation (Topic 718): Scope of Modification Accounting*, which intended to provide clarity when to account for a change to the terms or conditions of a share-based payment award as a modification. Under the new guidance, modification accounting is required only if the fair value, the vesting conditions, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The standard became effective for the Company on January 1, 2018. The Company's adoption of this standard did not have a material impact on the Company's consolidated financial statements.

In July 2017, FASB issued ASU 2017-11, *Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815): (I) Accounting for Certain Financial Instruments with Down Round Features, (II) Replacement for the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception.* This update was issued to provide additional clarity related to accounting for certain financial instruments that have characteristics of both liabilities and equity. In particular, this update addresses freestanding and embedded financial instruments with down round features and whether they should be treated as a liability or equity instrument. Part II simply replaces the indefinite deferral for certain mandatorily redeemable non-controlling interests and mandatorily redeemable financial instruments of nonpublic entities contained within the ASC Topic 480 with a scope exception and does not impact the accounting for these mandatorily redeemable instruments. For public business entities, the amendments in this Update are effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. The Company has early adopted ASU 2017-11. As a result, the Company has not recognized the fair value of the warrants containing down round features that were issued in the underwritten offering in February 2018 (see Note 7) as liabilities.

Fair Value Measurements

U.S. generally accepted accounting principles define fair value as the price that would be received for an asset or the exit price that would be paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants on the measurement date, and also establishes a fair value hierarchy which requires an entity to maximize the use of observable inputs, where available. The three-level hierarchy of valuation techniques established to measure fair value is defined as follows:

- Level 1: inputs are unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2: inputs other than level 1 that are observable, either directly or indirectly, such as quoted prices in active markets for similar assets and liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of assets or liabilities.
- Level 3: unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Cash and cash equivalents of $12.4 million and $7.6 million measured at fair value as of June 30, 2018 and December 31, 2017, respectively, are classified within Level 1 of the fair value hierarchy. Other receivables are financial assets with carrying values that approximate fair value due to the short-term nature of these assets. Accounts payable and accrued expenses and other liabilities are financial liabilities with carrying values that approximate fair value due to the short-term nature of these liabilities.

4. Acquisitions

Cerulean/Private Dare Stock Purchase Transaction

As further discussed in Note 1, on July 19, 2017, the Cerulean/Private Daré stock purchase transaction closed. The Cerulean/Private Daré stock purchase transaction was accounted for as a reverse merger under the acquisition method of accounting whereby Private Daré was considered to have acquired Cerulean for financial reporting purposes because immediately upon completion of the transaction, Private Daré stockholders held a majority of the voting interest of the combined company. Pursuant to business combination accounting, the Company applied the acquisition method, which requires the assets acquired and liabilities assumed be recorded at fair value with limited exceptions. The excess of the purchase price over the assets acquired and liabilities assumed represents goodwill. The goodwill is primarily attributable to the cash and cash equivalents at closing of the transaction of approximately $9.9 million and the impact of the unamortized fair value of stock options that were granted by Cerulean and outstanding prior to the closing of the transaction of approximately $3.7 million. The unamortized fair value of such stock options relates to an option modification approved on March 19, 2017 that provided for an acceleration of vesting of such options upon a change in control event. Such modification became effective upon the closing of the Cerulean/Private Daré stock purchase transaction. Hence, the unamortized fair value of such stock options is deemed to be part of total purchase consideration and goodwill. Transaction costs associated with the Cerulean/Private Daré stock purchase transaction of $0.96 million are included in general and administrative expense. The total purchase price consideration of approximately $24.3 million represents the fair value of the shares of Cerulean stock issued in connection with the Cerulean/Private Daré stock purchase transaction and the unamortized fair value of the stock options that were granted by Cerulean and outstanding prior to the closing of the transaction that were assumed on July 19, 2017 in connection with the closing of the transaction, which was allocated as follows:

Purchase Consideration		**(in thousands)**
Fair value of shares issued	$	20,625
Unamortized fair value of Cerulean options		3,654
Fair value of total consideration	$	24,279
Assets acquired and liabilities assumed		
Cash and cash equivalents	$	9,918
Prepaid expense and other current assets		1,915
Accounts payable		(233)
Total assets acquired and liabilities assumed		11,600
Goodwill		**$ 12,679**

The final allocation of the purchase price was dependent on the finalization of the valuation of the fair value of assets acquired and liabilities assumed and may have differed from the amounts included in the interim consolidated financial statements. The Company retrospectively recorded purchase price adjustments at the acquisition date to increase current liabilities by $23,609 and increase current assets by $225,778, resulting in a $202,169 reduction to the original goodwill amount of approximately $12.9 million.

The Company tests its goodwill for impairment at least annually as of December 31 and between annual tests if it becomes aware of an event or change in circumstance that would indicate the carrying value may be impaired. The Company tested goodwill for impairment at the entity level because it operates on the basis of a single reporting unit. A goodwill impairment is the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. When impaired, the carrying value of goodwill is written down to fair value. Any excess of the reporting unit goodwill carrying value over the fair value is recognized as impairment loss.

The Company assessed goodwill at December 31, 2017, determined there was an impairment and recognized an impairment charge of approximately $7.5 million in the consolidated statement of operations and comprehensive loss for the year ended December 31, 2017. Further, it reduced the

carrying value of goodwill from approximately $12.7 million to $5.2 million on its consolidated balance sheet as of December 31, 2017.

The Company assessed goodwill at March 31, 2018, determined that there was an impairment and recognized an impairment charge of approximately $5.2 million in the interim consolidated statement of operations and comprehensive loss for the three months ended March 31, 2018. As of March 31, 2018, the carrying value of goodwill on the Company's consolidated balance sheet was written off in its entirety.

Pear Tree Merger

On April 30, 2018, the Company entered into an Agreement and Plan of Merger, the Merger Agreement, with Pear Tree Pharmaceuticals, Inc., or Pear Tree, Daré Merger Sub, Inc., a wholly-owned subsidiary of the Company, or Merger Sub, and two individuals in their respective capacities as Pear Tree stockholders' representatives. The transactions contemplated by the Merger Agreement closed on May 16, 2018, and as a result, Pear Tree became the Company's wholly owned subsidiary. The Company acquired Pear Tree to secure the rights to develop PT-101, a proprietary vaginal formulation of tamoxifen, as a potential treatment for vulvar and vaginal atrophy.

The Company determined that the acquisition of Pear Tree should be accounted for as an asset acquisition instead of a business combination since substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, and therefore, the asset is not considered a business.

Under the Merger Agreement, upon the closing of the merger, if the Positive Consideration Amount (as defined below) exceeded the Negative Consideration Amount (as defined below), certain former and continuing Pear Tree service providers and former holders of Pear Tree's capital stock, or the Holders, would have been entitled to receive an amount of cash equal to such excess, and if the Negative Consideration Amount exceeded the Positive Consideration Amount, then the Company would be able to offset such excess from future payments that would otherwise be due to the Holders, including the potential payment of $75,000 due on the one-year anniversary of the closing of the merger. The Negative Consideration Amount exceeded the Positive Consideration Amount by approximately $132,000 at the time of the closing of the merger. As such, approximately $132,000 will be offset from future payments that would otherwise be due to the Holders. Under the Merger Agreement, Positive Consideration Amount means the sum of $75,000, and the cash and cash equivalents held by Pear Tree at closing, and Negative Consideration Amount means the sum of (i) certain Pear Tree indebtedness and transaction expenses, (ii) transaction expenses of the stockholders' representatives, and (iii) amounts payable under Pear Tree's management incentive plan.

Under the Merger Agreement, the Holders will be eligible to receive, subject to certain offsets, tiered royalties, including customary provisions permitting royalty reductions and offset, based on percentages of annual net sales of certain products subject to license agreements assumed by the Company and a percentage of sublicense revenue. The Company must also make payments to the Holders that are contingent on achieving certain clinical, regulatory and commercial milestones, and may be paid, in the Company's sole discretion, in cash or shares of the Company's common stock. The parties made customary representations, warranties, and covenants in the Merger Agreement, including provisions regarding indemnification. Transaction costs associated with the merger of approximately $452,000 are included in the Company's research and development expense.

5. Convertible Promissory Notes

Prior to the Cerulean/Private Daré stock purchase transaction, Private Daré financed its operations through the sale of convertible promissory notes that entitled the holder to accrued interest at an annual rate of 8%. In the event of a preferred stock financing by Private Daré, all outstanding principal and unpaid interest under the convertible promissory notes would have converted into the shares of Private Daré's preferred stock issued in such financing at the price per share paid by the purchasers of such shares and an additional number of shares equal to, depending on the time of purchase, 20% to 40% of the outstanding principal and unpaid interest, or the conversion benefit. Private Daré issued a convertible promissory note in the principal amount of $100,000 in February 2017, and between April 1, 2017 and June 6, 2017, Private Daré issued additional convertible promissory notes in the aggregate principal amount of $55,000.

In connection with the Cerulean/Private Daré stock purchase transaction, all outstanding convertible promissory notes were amended such that the principal amount of each note plus accrued interest thereon and taking into account the conversion benefit of such note, would convert into shares of common stock of Private Daré immediately prior to the closing of the Cerulean/Private Daré stock purchase transaction. The number of shares of Private Daré common stock issued upon conversion of the convertible promissory notes issued prior to March 31, 2017 was equal to (i) their outstanding principal amount plus accrued interest through March 31, 2017 multiplied by the respective conversion benefit, which ranged from 125% to 140%, divided by (ii) $0.18727. The number of shares of Private Daré common stock issued upon conversion of the convertible promissory notes issued after March 31, 2017 was equal to (i) 120% of their outstanding principal amount, divided by (ii) $0.38.

In connection with the closing of the Cerulean/Private Daré stock purchase transaction, all the outstanding shares of common stock of Private Daré, including the shares issued upon conversion of the above described convertible promissory notes, were exchanged for shares of common stock of the Company at the exchange ratio specified in the Daré Stock Purchase Agreement.

The Company recognized interest expense of $0 and $18,570 at June 30, 2018 and June 30, 2017, respectively, relating to the convertible promissory notes.

6. Stock-based Compensation

The 2015 Employee, Director and Consultant Equity Incentive Plan

Prior to the Cerulean/Private Daré stock purchase transaction, the 2015 Employee, Director and Consultant Equity Incentive Plan of Private Daré, or the 2015 Private Daré Plan, governed the issuance of incentive stock options, non-qualified stock options, stock grants and other stock-based awards to individuals who were then employees, officers, non-employee directors or consultants of Private Daré. Options granted under the 2015 Private Daré Plan have terms of ten years from the date of grant unless earlier terminated and generally vest over a three-year period. Upon closing of the Cerulean/Private Daré stock purchase transaction, the 2015 Private Daré Plan was assumed by the Company and each outstanding option to acquire stock of Private Daré that was not exercised prior to such closing was assumed on the same terms and conditions as were applicable under the 2015 Private Daré Plan, and became an option to acquire such number of shares of the Company's common stock as was equal to the number of Private Daré shares subject to such unexercised option multiplied by the exchange ratio specified in the Daré Stock Purchase Agreement, at a correspondingly adjusted exercise price. There were outstanding unexercised options to purchase 50,000 shares of Private Daré stock that were assumed in connection with the closing of the Cerulean/Private Daré stock purchase transaction, and which, based on the exchange ratio and after giving effect to the reverse stock split effected in connection with the closing of the Cerulean/Private Daré stock purchase transaction were replaced with options to purchase 10,149 shares of the Company's common stock, all of which were outstanding as of June 30, 2018.

Private Daré issued 900,000 and 200,000 shares of fully vested restricted stock to non-employees under the 2015 Private Daré Plan during the years ended December 31, 2016 and December 31, 2015, respectively. On July 19, 2017, these shares were assumed by the Company and were replaced with 223,295 restricted shares of the Company's common stock (after giving effect to the reverse stock split effected in connection with the closing of the Cerulean/Private Daré stock purchase transaction), all of which were outstanding as of June 30, 2018.

No options or restricted stock were granted under the 2015 Private Daré Plan during the six months ended June 30, 2017, and no further awards may be granted under the 2015 Private Daré Plan following the closing of the Cerulean/Private Daré stock purchase transaction on July 19, 2017.

2014 Employee Stock Purchase Plan

In March 2014, the Company's board of directors adopted, and its stockholders approved the 2014 Employee Stock Purchase Plan, or the ESPP, which became effective in April 2014. The ESPP permits eligible employees to enroll in a six-month offering period whereby participants may purchase shares of the Company's common stock, through payroll deductions, at a price equal to 85% of the closing price of the common stock on the first day of the offering period or on the last day of the offering period, whichever is lower. Purchase dates under the ESPP occur on or about June 30 and December 31 each year. The board of directors decided against initiating a new offering period beginning January 1, 2017. There was no stock-based compensation related to the ESPP for the six months ended June 30, 2018 or June 30, 2017.

2014 Stock Incentive Plan

The Company also maintains the Company's 2014 Stock Incentive Plan, or the 2014 Plan. When the 2014 Plan was initially adopted, 240,000 shares of common stock were reserved for issuance under the 2014 Plan. In addition, "returning shares" that may become available from time to time are added back to the 2014 Plan. "Returning shares" are shares that are subject to outstanding awards granted under the 2014 Plan and the Company's 2007 Stock Incentive Plan that expire or terminate prior to exercise or settlement, are forfeited because of failure to vest, or are repurchased. Options granted under the 2014 Plan have terms of no more than ten years from the date of grant unless earlier terminated.

On March 19, 2017, the Company's board of directors approved two modifications to outstanding stock options granted under the 2014 Plan to participants who were providing services to the Company

as of that date. One modification extended the exercise period of such stock options to two years after such participant's termination date, unless the exercise period absent such modification would be longer. The other modification provided for accelerated vesting of such stock options upon a change in control event. These modifications resulted in unamortized fair value expense of approximately $3.7 million and was recorded as part of the total consideration in the Cerulean/Private Daré stock purchase transaction and discussed in Note 4.

At June 30, 2018, 138,804 shares of common stock were reserved for future issuance under the 2014 Plan, and options to purchase 537,422 shares of the Company's common stock granted under the 2014 Plan were outstanding.

On May 28, 2018, the Company's board of directors approved the Amended and Restated 2014 Plan, or the Amended 2014 Plan, which was subsequently approved by the Company's stockholders on July 10, 2018. The number of shares authorized for issuance of awards under the Amended 2014 Plan was increased from 621,841 to 2,046,885, which is the sum of (a) 1,509,463 shares of common stock plus (b) 537,422 shares of common stock subject to awards granted under the 2014 Plan. An annual increase is to be added on the first day of each fiscal year until, and including, the fiscal year ending December 31, 2024, equal to the least of (i) 2,000,000 shares of common stock, (ii) 4% of the number of outstanding shares of common stock on such date or (iii) an amount determined by the Company's board of directors.

Summary of Stock Option Activity

A summary of stock option activity with regard to the 2015 Private Daré Plan and the 2014 Plan, and related information for the six months ended June 30, 2018 is set forth in the table below. The exercise price of all options granted during the six months ended June 30, 2018 and 2017 was equal to the market value of the Company's common stock on the date of the grant. As of June 30, 2018, unamortized stock-based compensation expense of $35,123 will be amortized over a weighted average period of 2.33 years.

	Number of Shares	Weighted Average Exercise Price
Outstanding at December 31, 2017 (1)	539,896	$ 31.40
Granted	7,675	1.68
Exercised	—	—
Cancelled/expired	—	—
Outstanding at June 30, 2018 (unaudited)	547,571	$ 30.98
Exercisable at June 30, 2018 (unaudited)	529,721	$ 31.89

(1) Includes 10,149 shares subject to options granted under the 2015 Private Daré Plan that were assumed in connection with the Cerulean/Private Daré stock purchase transaction.

Compensation Expense

Total stock-based compensation expense related to the issuance of stock option awards to employees that was recognized in the consolidated statement of operations is as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
Research and development	$ —	$ —	$ —	$ —
General and administrative	9,423	3	18,547	6
Total	$ 9,423	$ 3	$ 18,547	$ 6

There were no stock options granted during the six months ended June 30, 2017. The assumptions used in the Black-Scholes option-pricing model for stock options granted to employees and to directors in respect of board services during the six months ended June 30, 2018 are as follows:

	Six months ended June 30, 2018
Expected life in years	10.0
Risk-free interest rate	2.76%
Expected volatility	124%
Forfeiture rate	0.0%
Dividend yield	0.0%
Weighted-average fair value of options granted	$ 1.61

Restricted Stock After the Cerulean/Private Daré Stock Purchase Transaction

The 3.14 million shares of common stock issued in connection with the Cerulean/Private Daré stock purchase transaction to the shareholders of Private Daré have not been registered with the SEC and may only be sold if registered under the Securities Act of 1933, as amended, or pursuant to an exemption from the SEC's registration requirements. The shares held by non-affiliates became eligible for sale pursuant to Rule 144 beginning six months after the closing date of the Cerulean/Private Daré stock purchase transaction.

7. Stockholders' Equity

ATM Sales Agreement

On January 4, 2018, the Company entered into a common stock sales agreement pursuant to which the Company may sell up to an aggregate of $10 million in gross proceeds through the sale of shares of common stock from time to time in "at-the-market" equity offerings (as defined in Rule 415 promulgated under the Securities Act of 1933, as amended), including in sales made directly on the Nasdaq Capital Market, or Nasdaq, to or through a market maker or, subject to our prior approval, in negotiated transactions. The Company agreed to pay a commission of up to 3% of the gross proceeds of any common stock sold under this agreement plus certain legal expenses.

During the six months ended June 30, 2018, the Company generated gross proceeds of approximately $1.1 million and incurred issuance costs of $270,000 under this agreement on sales of an aggregate of 375,000 shares of the Company's common stock, all of which were sold during January and February 2018.

Underwritten Public Offering

On February 15, 2018, the Company closed an underwritten public offering of 5.0 million shares of its common stock and warrants to purchase up to 3.5 million shares of its common stock. Each share of common stock was sold together with a warrant to purchase up to 0.70 of a share of the Company's common stock, at an exercise price of $3.00 per share. The offering, including shares issued upon exercise of the underwriter's overallotment option, generated gross proceeds of $10.3 million, and after the payment of expenses, the Company received net proceeds of approximately $9.4 million. The warrants are exercisable immediately and for a period of five years from the date of issuance. The warrants include a price-based anti-dilution provision, which provides that, subject to certain limited exceptions, the exercise price of the warrants will be adjusted downward if the Company issues or sells (or is deemed to issue or sell) securities at a price that is less than the exercise price in effect immediately prior to such issuance or sale (or deemed issuance or sale), before the expiration of the warrant term. In that case, the new exercise price of the warrants would equal the price at which the new securities are issued or sold (or are deemed to have been issued or sold). In addition, subject to certain exceptions, if the Company issues, sells or enters into any agreement to issue or sell securities at a price which varies or may vary with the

market price of the shares of the Company's common stock, the holders of the warrants shall have the right to substitute such variable price for the exercise price of the warrant then in effect. The warrants are exercisable only for cash, unless the registration statement of which the prospectus registering the offering was part is not effective for the issuance of the shares underlying the warrants, in which case the warrants may be exercised on a cashless basis. The Company granted the underwriters a 30-day option to purchase up to an additional 750,000 shares of its common stock and warrants to purchase up to 525,000 shares of its common stock directly from the Company at a price of $2.05 per common share and accompanying warrant. The Company received an overallotment notice from the underwriter for warrants to purchase up to 220,500 shares of its common stock, which were issued on February 15, 2018.

The Company has estimated the fair value of the warrants as of February 15, 2018 to be approximately $3.0 million which has been recorded in equity as of the grant date. As described above at Note 3, Recently Adopted Accounting Standards, the Company early adopted ASU 2017-11 and as a result has recorded the fair value of the warrants as equity.

Common Stock Warrants

No warrants were exercised during the six months ended June 30, 2018 or 2017. As of June 30, 2018, the Company had the following warrants outstanding:

Shares Underlying Outstanding Warrants		Exercise Price	Expiration Date
169	$	177.00	August 8, 2018
2,906	$	120.40	December 1, 2021
3,737	$	120.40	December 6, 2021
17,190	$	60.50	January 8, 2020
6,500	$	10.00	April 4, 2026
3,720,500	$	3.00	February 15, 2023
3,751,002			

8. Commitments and Contingencies

License and Research Agreements

ADVA-Tec License Agreement

On March 19, 2017, the Company entered into a license agreement, or the ADVA-Tec Agreement, with ADVA-Tec, Inc., or ADVA-Tec, under which the Company was granted the exclusive right to develop and commercialize Ovaprene for human contraceptive use worldwide. The ADVA-Tec Agreement became effective once the Company secured the initial funding required in accordance with its terms. ADVA-Tec and its affiliates own issued patents or patent applications covering Ovaprene and control proprietary trade secrets covering the manufacture of Ovaprene. As of the date of these interim consolidated financial statements, this patent portfolio includes 12 issued patents worldwide, along with 8 patent applications, all of which in accordance with the terms of the ADVA-Tec Agreement are exclusively licensed to the Company for the human contraceptive use of Ovaprene. The Company also has a right of first refusal to license these patents and patent applications for purposes of additional indications for Ovaprene. Under the ADVA-Tec Agreement, ADVA-Tec will conduct certain research and development work as necessary to allow the Company to seek a Premarket Approval, or PMA, from the United States Food and Drug Administration, or the FDA, and will supply the Company with its requirements of Ovaprene for clinical and commercial use on commercially reasonable terms.

Under the ADVA-Tec Agreement, the Company is required to make payments of up to $14.6 million in the aggregate to ADVA-Tec based on the achievement of specified development and regulatory milestones, which include the completion of a successful Postcoital Clinical Trial Study (as defined in the ADVA-Tec Agreement); approval by the FDA to commence the Phase 3 pivotal human clinical trial; successful completion of the Phase 3 pivotal human clinical trial; the FDA's acceptance of the filing of a

PMA for Ovaprene; the FDA's approval of the PMA for Ovaprene; obtaining Conformité Européenne Marking of Ovaprene in at least three designated European countries; obtaining regulatory approval in at least three designated European countries; and obtaining regulatory approval in Japan. In addition, after the commercial launch of Ovaprene, the Company is also required to make royalty payments to ADVA-Tec based on aggregate annual net sales of Ovaprene in specified regions, which percentage royalty rate will vary between 1% and 10% and will increase based on various net sales thresholds. Finally, the Company is also required to make up to $20 million in the aggregate in commercial milestone payments to ADVA-Tec upon reaching certain worldwide net sales milestones.

The Company is obligated to use commercially reasonable efforts to develop and commercialize Ovaprene, and must meet certain minimum spending amounts per year, such amounts totaling $5.0 million in the aggregate over the first three years, to cover such activities until a final PMA is filed, or until the first commercial sale of Ovaprene, whichever occurs first.

The license the Company received under the ADVA-Tec Agreement continues on a country-by-country basis until the later of the life of the licensed patents or the Company's last commercial sale of Ovaprene. The ADVA-Tec Agreement includes customary termination rights for both parties and provides the Company the right to terminate with or without cause in whole or on a country-by-country basis upon 60 days prior written notice. In addition, ADVA-Tec may terminate the ADVA-Tec Agreement if the Company fails to do any of the following: (i) satisfy the annual spending obligation described above, (ii) use commercially reasonable efforts to complete all necessary pre-clinical and clinical studies required to support and submit a PMA, (iii) conduct clinical trials as set forth in the development plan that is agreed by the Company and ADVA-Tec, and as may be modified by a joint research committee, where such failure is not caused by events outside of the Company's reasonable control, or (iv) enroll a patient in the first non-significant risk medical device study or clinical trial as allowed by an institutional review board within six months of the production and release of Ovaprene, where non-enrollment is not caused by events outside of its reasonable control. In addition, ADVA-Tec may terminate the ADVA-Tec Agreement if the Company develops or commercializes any non-hormonal ring-based vaginal contraceptive device that is deemed competitive to Ovaprene or, in certain limited circumstances, if the Company fails to commercialize Ovaprene in certain designated countries within three years of the first commercial sale of Ovaprene.

Under the ADVA-Tec Agreement, the Company is required to make payments to ADVA-Tec of up to $14.6 million in aggregate based on the achievement of specified development and regulatory milestones and is also required to make payments of up to $20 million in the aggregate based on the achievement of specified commercial milestones. Because these payments are dependent upon the successful progress of the Company's product development programs, the Company is unable to estimate with certainty when these milestone payments will occur, if ever.

SST License and Collaboration Agreement

On February 11, 2018, the Company entered into a license and collaboration agreement, or the SST License Agreement, with Strategic Science & Technologies-D, LLC and Strategic Science & Technologies, LLC, referred to collectively as SST, pursuant to which the Company was required to secure an investment of at least $10 million by March 31, 2018. The Company announced that it had met this funding requirement on February 15, 2018. The SST License Agreement provides the Company with an exclusive, royalty-bearing, sublicensable license to develop and commercialize, in all countries and geographic territories of the world, for all indications for women related to female sexual dysfunction and/or female reproductive health, including treatment of female sexual arousal disorder, or the Field of Use, SST's topical formulation of Topical 5% Sildenafil Citrate Cream as it exists as of the effective date of the SST License Agreement, or any other topically applied pharmaceutical product containing sildenafil or a salt thereof as a pharmaceutically active ingredient, alone or with other active ingredients, but specifically excluding any product containing ibuprofen or any salt derivative of ibuprofen, or the Licensed Products.

Under the terms of the SST License Agreement, the Company retains rights to inventions made by its employees, SST retains rights to inventions made by its employees, and each party shall own a 50% undivided interest in all joint inventions. Each party has agreed to collaborate through a Joint

Development Committee, or JDC, which shall be responsible for determining the strategic objectives for, and generally overseeing, the development efforts of both parties under the SST License Agreement. Further, the Company has agreed to use commercially reasonable efforts to develop the Licensed Products in the Field of Use in accordance with a development plan contained in the SST License Agreement, and to commercialize the Licensed Products in the Field of Use.

The SST License Agreement provides that, in consideration of the rights to be granted to the Company, SST will be eligible to receive tiered royalties based on percentages of annual net sales of Licensed Products in the single digits to the mid double digits, including customary provisions permitting royalty reductions and offset, and a percentage of sublicense revenue. The Company is also responsible for all reasonable internal and external costs and expenses incurred by SST in its performance of the development activities it is required to perform under the SST License Agreement. Further, the SST License Agreement provides that the Company shall make milestone payments to SST ranging from $0.5 million to $18.0 million on achieving certain clinical and regulatory milestones in the U.S. and worldwide, and an additional $10.0 million to $100 million upon achieving certain commercial milestones. Should the Company enter into strategic development or distribution partnerships related to the Licensed Products, additional milestone payments would be due to SST.

The Company's license received under the SST License Agreement continues on a country-by-country basis until the later of 10 years from the date of the first commercial sale of such Licensed Product or the expiration of the last valid claim of patent rights covering the Licensed Product in the Field of Use. The SST License Agreement provides that each party will have customary rights to terminate the SST License Agreement in the event of material uncured breach by the other party, and, (i) prior to receipt of approval by a regulatory authority necessary for commercialization of a Licensed Product in the corresponding jurisdiction, including New Drug Application Approval, or NDA Approval, the Company will have the right to terminate the SST License Agreement without cause upon 90 days prior written notice to SST, and (ii) following receipt of approval by a regulatory authority necessary for commercialization of a Licensed Product in the corresponding jurisdiction, including NDA Approval, the Company will have a right to terminate the SST License Agreement without cause upon one 180 days prior written notice. In addition, the SST License Agreement provides SST with the right to terminate the SST License Agreement with respect to the applicable Licensed Product(s) in the applicable country(ies) upon 30 days' notice to the Company if the Company fails to use commercially reasonable efforts to perform development activities in substantial accordance with the development plan and does not cure such failure within 60 days of receipt of SST's notice thereof.

Upon expiration (but not termination) of the SST License Agreement in a particular country, the Company shall have a fully paid-up license under the licensed intellectual property to develop and commercialize the applicable Licensed Products in the applicable country on a non-exclusive basis.

Orbis Development and Option Agreement

On March 12, 2018, the Company entered into an exclusive development and option agreement, or the Orbis Agreement, with Orbis Biosciences, or Orbis, for the development of long-acting injectable etonogestrel contraceptive with 6- and 12-month durations (ORB-204 and ORB-214, respectively). The Company has agreed to pay Orbis $300,000 to conduct the first stage of development work, Stage 1, as follows: $150,000 upon signing the Orbis Agreement, $75,000 at the 50% completion point, not later than 6 months following the date the Orbis Agreement was signed, and $75,000 upon delivery by Orbis of the 6-month batch, not later than 11 months following the date the Orbis Agreement was signed. Upon Orbis successfully completing Stage 1 of the development program and achieving the predetermined target milestones for Stage 1, the Company will have 90 days to instruct Orbis whether to commence the second stage of development work, Stage 2. Should the Company execute its option to proceed to Stage 2, it will be obligated to provide additional funding to Orbis for such activities.

The initial development on Orbis's long-acting injectable contraceptive program was carried out under a subcontract funded by Family Health International, or FHI 360, through a grant from the Bill and Melinda Gates Foundation, or the Gates Foundation. The Gates Foundation and FHI 360 are world leaders in the funding and development of novel contraceptive products and programs. In July of 2017, the Gates Foundation announced a commitment of $375 million over three years in support of Family Planning 2020, a global public/private partnership aimed at providing access to contraception.

An injectable contraceptive is designed to provide discreet, non-implanted, protection over periods of months. Limitations of the currently marketed injectable contraceptive is that it provides contraceptive protection for only three months and can delay the ability to get pregnant for up to ten months after receiving the injection. The target product profiles of ORB-204 and ORB-214 include prolonged duration (6 to 12 months), improved ease of use, with an improved side effect profile and predictable return to fertility.

Pre-clinical studies for the 6- and 12-month formulations have been completed to date, including establishing pharmacokinetics and pharmacodynamics profiles. The collaboration with Orbis will continue to advance the program through formulation optimization with the goal of achieving sustained release over the target time period.

The Orbis Agreement provides the Company with an option to enter into a license agreement for ORB-204 and ORB-214 should upcoming development efforts be successful.

Juniper Pharmaceuticals - License Agreement

On April 24, 2018, the Company entered into an Exclusive License Agreement, or the Juniper License Agreement, with Juniper Pharmaceuticals, Inc., or Juniper, pursuant to which Juniper granted the Company (a) an exclusive, royalty-bearing worldwide license under certain patent rights, either owned by or exclusively licensed to Juniper, to make, have made, use, have used, sell, have sold, import and have imported products and processes; and (b) a non-exclusive, royalty-bearing worldwide license to use certain technological information owned by Juniper to make, have made, use, have used, sell, have sold, import and have imported products and processes. The Company is entitled to sublicense the rights granted to it under the Juniper License Agreement.

The following is a summary of the material terms of the Juniper License Agreement:

- *Upfront Fee*. The Company paid a $250,000 non-creditable upfront license fee to Juniper in connection with the execution of the Juniper License Agreement.

- *Annual Maintenance Fee*. The Company will pay an annual license maintenance fee to Juniper on each anniversary of the date of the Juniper License Agreement, the amount of which will be $50,000 for the first two years and $100,000 thereafter, and which will be creditable against royalties and other payments due to Juniper in the same calendar year but may not be carried forward to any other year.

- *Milestone Payments*. The Company is required to make potential future development and sales milestone payments of up to $43.8 million (up to $13.5 million in clinical and regulatory milestones and up to $30.3 million in sales milestones) for each product or process covered by the licenses granted under the Juniper License Agreement.

- *Royalty Payments*. During the royalty term, the Company will pay Juniper mid-single-digit to low double-digit royalties based on worldwide net sales of products and processes covered by the licenses granted under the Juniper License Agreement. In lieu of such royalty payments, the Company will pay Juniper a low double-digit percentage of all sublicense income that the Company receives for the sublicense of rights under the Juniper License Agreement to a third party. The royalty term, which is determined on a country-by-country basis and product-by-product basis (or process-by-process basis), begins with the first commercial sale of a product or process in a country and terminates on the latest of (1) the expiration date of the last valid claim within the licensed patent rights with respect to such product or process in such country, (2) 10 years following the first commercial sale of such product or process in such country, and (3) when one or more generic products for such product or process are commercially available in such country, except that if there is no such generic product by the 10th year following the first commercial sale in such country, then the royalty term will terminate on the 10-year anniversary of the first commercial sale in such country.

- *Efforts*. The Company is required to use commercially reasonable efforts to develop and make at least one product or process available to the public, which efforts include achieving specific diligence requirements by specific dates specified in the Juniper License Agreement.

- *Term*. Unless earlier terminated, the term of the Juniper License Agreement will continue on a country-by-country basis until the later of (1) the expiration date of the last valid claim within such country, or (2) 10 years from the date of first commercial sale of a product or process in such country.

Upon expiration (but not early termination) of the Juniper License Agreement, the licenses granted thereunder will convert automatically to fully-paid irrevocable licenses. Juniper may terminate the Juniper License Agreement (1) upon 30 days' notice for the Company's uncured breach of any payment obligation under the Juniper License Agreement, (2) if the Company fails to maintain required insurance, (3) immediately upon the Company's insolvency or the making of an assignment for the benefit of the Company's creditors or if a bankruptcy petition is filed for or against the Company, which petition is not dismissed within 90 days, or (4) upon 60 days' notice for any uncured material breach by the Company of any of its other obligations under the Juniper License Agreement. The Company may terminate the Juniper License Agreement on a country-by-country basis for any reason by giving 180 days' notice (or 90 days' notice if such termination occurs prior to receipt of marketing approval in the United States). If Juniper terminates the Juniper License Agreement for the reason described in clause (4) above or if the Company terminates the Juniper License Agreement, Juniper will have full access including the right to use and reference all product data generated during the term of the Juniper License Agreement that is owned by the Company.

Pear Tree Acquisition

The Company must also make certain royalty and milestone payments under the Merger Agreement. See the discussion under the "Pear Tree Merger" heading in Note 4, "Acquisitions," above.

Funding Award from the National Institutes of Health

On April 30, 2018, the Company announced that it received a Notice of Award for the first $224,665 of the anticipated $1.9 million in grant funding from the Eunice Kennedy Shriver National Institute of Child Health and Human Development, a division of the National Institutes of Health. The award will be applied to important clinical development efforts supporting the Company's lead product candidate, Ovaprene. The balance of the award is contingent upon, among other matters, assessment of the results of the first phase of the research and availability of funds. The Company must incur and track expenses eligible for reimbursement under the award and submit a detailed accounting of such expenses in order to receive payment.

9. Net Loss Per Share

The Company computes basic net loss per share using the weighted average number of common shares outstanding during the period. Diluted net income per share is based upon the weighted average number of common shares and potentially dilutive securities (common share equivalents) outstanding during the period. Common share equivalents outstanding, determined using the treasury stock method, are comprised of shares that may be issued under outstanding options and warrants to purchase shares of the Company's common stock. Common share equivalents are excluded from the diluted net loss per share calculation if their effect is anti-dilutive.

The following potentially dilutive outstanding securities were excluded from diluted net loss per common share for the period indicated because of their anti-dilutive effect:

	Three months ended June 30,		Six months ended June 30,	
	2018	2017	2018	2017
Stock options	547,571	10,519	547,571	10,519
Warrants	3,751,002	—	3,751,002	—
Total	4,298,573	10,519	4,298,573	10,519

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of financial condition and results of operations should be read in conjunction with our interim consolidated financial statements and notes thereto included in this Quarterly Report on Form 10-Q and our audited financial statements and notes thereto for the year ended December 31, 2017 included in our Annual Report on Form 10-K filed with the Securities and Exchange Commission, or SEC, on March 28, 2018. Past operating results are not necessarily indicative of results that may occur in future periods.

The following discussion includes forward-looking statements. See "CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS," above. Forward-looking statements are not guarantees of future performance and our actual results may differ materially from those currently anticipated and from historical results depending upon a variety of factors, including, but not limited to, those discussed in Part II, Item 1A of this report under the heading "Risk Factors," which are incorporated herein by reference.

References in this report: (a) to "Cerulean" refer to Cerulean Pharma, Inc. prior to the closing of the Cerulean/Private Daré stock purchase transaction (as described in the "2017 Business Combination and Related Transactions" section below); and (b) to "we," "us," "our," "Daré" or the "Company" refer collectively to Daré Bioscience, Inc. and its wholly owned subsidiaries, unless otherwise stated or the context otherwise requires. All information presented in this report is based on our fiscal year. Unless otherwise stated, references to particular years, quarters, months or periods refer to our fiscal years ending December 31 and the associated quarters, months and periods of those fiscal years.

Daré Bioscience® is a registered trademark of Daré Bioscience, Inc. Ovaprene® is a registered trademark licensed to Daré Bioscience, Inc. All other trademarks, service marks or trade names appearing in this report are the property of their respective owners. Use or display by us of other parties' trademarks, service marks or trade names is not intended to and does not imply a relationship with, or endorsements or sponsorship of, us by the trademark, service mark or trade name owners.

Business Overview

We are a clinical-stage biopharmaceutical company committed to the advancement of innovative products for women's reproductive health. We are driven by a mission to identify, develop and bring to market a diverse portfolio of differentiated therapies that expand treatment options, improve outcomes and facilitate convenience for women, primarily in the areas of contraception, vaginal health, sexual health and fertility. Our business strategy is to license or otherwise acquire the rights to differentiated product candidates in such areas, some of which have existing clinical proof-of-concept data, and to take those candidates through advanced stages of clinical development.

Since July of 2017, we have assembled a portfolio of clinical-stage and preclinical-stage candidates addressing unmet needs in women's reproductive health. We have used a variety of transaction structures to license, acquire, or obtain an option to acquire the rights to these assets.

Our two clinical-stage assets were obtained through product license and development agreements:

- Ovaprene, a non-hormonal monthly contraceptive candidate, was licensed in July of 2017 from ADVA-Tec, Inc.;
- Topical 5% Sildenafil Citrate Cream, a potential treatment for Female Sexual Arousal Disorder, or FSAD, was licensed in February of 2018 from Strategic Science & Technologies-D, LLC and Strategic Science & Technologies, LLC, or referred to collectively as SST.

Our preclinical candidates were obtained through the following agreements:

- In March of 2018, we entered into a collaboration and option agreement with Orbis Biosciences Inc., or Orbis, covering new injectable contraceptive product candidates;

- in April of 2018, we licensed the worldwide rights to a portfolio of preclinical intravaginal rings from Juniper Pharmaceuticals, Inc., or Juniper;
- in May of 2018, we acquired Pear Tree Pharmaceuticals, Inc., or Pear Tree, a company that owns the rights to a proprietary vaginal tamoxifen tablet for the treatment of vulvar and vaginal atrophy; and
- in July of 2018, we acquired certain assets from Hydra Bioscience, Inc., or Hydra, related to a novel target for non-hormonal contraceptives for both men and women.

We expect that the bulk of our development expenses over the next two years will support the advancement of our two clinical-stage product candidates, Ovaprene and Topical 5% Sildenafil Citrate Cream. We initiated a postcoital test, or PCT, clinical trial of Ovaprene in May 2018. We intend to commence various clinical and other studies related to Topical 5% Sildenafil Citrate Cream in the second half of 2018. We are in the process of seeking guidance from the FDA regarding the design of our Phase 2b clinical trial for Topical 5% Sildenafil Citrate Cream. The timing of when we initiate any clinical studies related to Topical 5% Sildenafil Citrate Cream, including our Phase 2b clinical trial, will be influenced by such guidance. In addition to our clinical-stage programs, we also intend to fund a portion of the development expenses of our other preclinical stage assets. Any additional product candidates we may obtain in the future will also require cash to fund their development.

The Ovaprene intravaginal ring, if approved for marketing, requires no intervention at the time of intercourse, does not use hormones and would be intended to provide protection over multiple weeks of use. Ovaprene consists of a silicone-reinforced ring with a soft, absorbable scaffolding that encircles a fluid-permeable barrier. A non-braided, multi-filament mesh in the center of the ring functions as a physical barrier to sperm. The silicone ring also releases two ingredients—ascorbic acid and ferrous gluconate—that act together to create a spermiostatic environment within the vagina.

Ovaprene is a combination product that previously underwent a request for designation process within the Office of Combination Products at the U.S. Food and Drug Administration, or FDA. The FDA designated Center for Devices and Radiological Health, or CDRH, as the lead agency FDA program center for premarket review and product regulation; it also provided notice that CDRH has determined that a Premarket Approval, or PMA, will be required. We intend to develop Ovaprene based on PMA guidelines. If approved, Ovaprene would represent a new category of birth control. In a PCT pilot study conducted in 20 women and published in *The Journal of Reproductive Medicine*® in 2009, Ovaprene demonstrated the ability to immobilize sperm and prevent their progression into the cervical mucus.

The ongoing PCT clinical trial of Ovaprene is designed to assess general safety, acceptability, and effectiveness in preventing progressively motile sperm from reaching the cervical canal following intercourse. The study is enrolling 50 couples, with the woman to be evaluated over the course of five menstrual cycles, with a target of having at least 25 women complete a total of 21 visits. Each woman's cervical mucus will be measured at several points during the study, including a baseline measurement at menstrual cycle 1 that excludes the use of any product. Subsequent cycles and visits will include the use of a diaphragm (menstrual cycle 2) and the Ovaprene non-hormonal vaginal ring (menstrual cycles 3, 4 and 5). Data from the PCT clinical trial is expected to be available in the second half of 2019. If there is demonstration of feasibility in the PCT clinical trial, we intend to prepare and file an Investigational Device Exemption, or IDE, with the FDA to commence a pivotal clinical trial to support marketing approvals of Ovaprene in the United States, Europe and other countries worldwide.

Our Topical 5% Sildenafil Citrate Cream, which incorporates sildenafil, the same active ingredient in male erectile dysfunction drug Viagra®, if approved, could be the first FDA-approved FSAD treatment option for women. FSAD is characterized primarily by an inability to attain or maintain sufficient physical sexual arousal, frequently resulting in distress or interpersonal difficulty. Topical 5% Sildenafil Citrate Cream is specifically designed to increase blood flow locally to the vulvar-vaginal tissue in women, leading to a potential improvement in genital arousal response and overall sexual experience.

We plan to pursue the 505(b)(2) regulatory pathway for Topical 5% Sildenafil Citrate Cream in the U.S. to leverage the existing data and established safety profile of the Viagra® brand. We intend to

commence various clinical and other studies related to Topical 5% Sildenafil Citrate Cream in the second half of 2018. We are in the process of seeking guidance from the FDA regarding the design of our Phase 2b clinical trial for Topical 5% Sildenafil Citrate Cream. The timing of when we initiate any clinical studies related to Topical 5% Sildenafil Citrate Cream, including our Phase 2b clinical trial, will be influenced by such guidance. Currently, the planned Phase 2b study is expected to evaluate the product candidate under real-life conditions in women with FSAD. Clinical endpoints are expected to include patient reported outcomes (PROs) using validated questionnaires, and we are seeking input from the FDA on the proposed PROs and questionnaire tools as well.

Financial Overview

We incurred losses of approximately $11.5 million for the year ended December 31, 2017. As of December 31, 2017, we had an accumulated deficit of approximately $12.2 million and cash and cash equivalents of $7.6 million. We also had negative cash flow from operations of approximately $2.5 million for the year ended December 31, 2017. As of June 30, 2018, we had (a) an accumulated deficit of approximately $23.5 million and (b) cash and cash equivalents of approximately $12.4 million. We also had negative cash flow from operations of approximately $4.8 million during the six months ended June 30, 2018. As further discussed below, in “Recent Events – Capital Raising,” we received net proceeds of approximately $10.2 million in the aggregate in early 2018 through the sale of equity securities. We will need to raise substantial additional capital to continue to fund our operations. The amount and timing of future funding requirements will depend on many factors, including the pace and results of our clinical development efforts. If we do not raise capital as and when needed, we will not be able to continue development of our product candidates or we will be required to delay, scale back or eliminate some or all of our development programs or cease operations.

2017 Business Combination and Related Transactions

Until July 20, 2017, our corporate name was Cerulean Pharma Inc., or Cerulean. Cerulean was incorporated in Delaware in December 2005. On July 19, 2017, Cerulean and Daré Bioscience Operations, Inc., a privately held Delaware corporation, or Private Daré, completed a transaction in which the holders of capital stock and securities convertible into capital stock of Private Daré, which holders are collectively referred to as the Private Daré Stockholders, sold their shares of capital stock of Private Daré to Cerulean in exchange for newly issued shares of Cerulean common stock. As a result of that transaction, Private Daré became a wholly owned subsidiary of Cerulean. As of immediately following the closing of that transaction: (i) the Private Daré Stockholders owned approximately 51% of the outstanding common stock of Cerulean, and (ii) the equity holders of Cerulean immediately prior to the closing, collectively, owned approximately 49% of the outstanding common stock of Cerulean. In connection with the transaction, Cerulean changed its name from “Cerulean Pharma, Inc.” to “Daré Bioscience, Inc.” We refer to the transaction described above as the Cerulean/Private Daré stock purchase transaction.

On July 19, 2017, Cerulean also completed the sale of its proprietary Dynamic Tumor Targeting™ Platform to Novartis Institutes for BioMedical Research, Inc. for $6.0 million.

We and our wholly owned subsidiaries, Private Daré, Daré Bioscience Australia Pty LTD, and Pear Tree Pharmaceuticals, Inc. operate in one business segment.

On July 20, 2017, we effected a 1-for-10 reverse stock split of our common stock. All share and per share amounts of common stock, options and warrants in this report, including those amounts included in the accompanying interim consolidated financial statements, have been restated for all periods to give retroactive effect to the reverse stock split

Recent Events

Capital Raising

On January 4, 2018, we entered into a common stock sales agreement pursuant to which we may sell up to an aggregate of $10 million worth of shares of our common stock from time to time in “at-the-

market" offerings (as defined in Rule 415 promulgated under the Securities Act of 1933, as amended), including in sales made directly on Nasdaq, to or through a market maker or, subject to our prior approval, in negotiated transactions. We will pay an aggregate commission rate of up to 3% of the gross proceeds of any common stock sold under this agreement. In January and February 2018, we generated gross proceeds of approximately $1.1 million resulting in net proceeds of an aggregate of approximately $803,000 on sales of 375,000 shares of our common stock under this agreement.

On February 15, 2018, we closed an underwritten public offering of 5.0 million shares of our common stock and warrants to purchase up to 3.5 million shares of common stock. Each share of common stock was sold together with a warrant to purchase up to 0.70 of a share of common stock, at an exercise price of $3.00 per share. We generated gross proceeds of approximately $10.3 million, resulting in net proceeds of approximately $9.4 million. The warrants are exercisable immediately and for a period of five years from the date of issuance. The warrants include a price-based anti-dilution provision, which provides that the exercise price of the warrants will be adjusted downward if we issue or sell (or are deemed to issue or sell) securities at a price that is less than the exercise price in effect immediately prior to such issuance or sale (or deemed issuance or sale), before the expiration of the warrant term. In that case, the new exercise price of the warrants would equal the price at which the new securities are issued or sold (or are deemed to have been issued or sold). In addition, if we issue, sell or enter into any agreement to issue or sell securities at a price which varies or may vary with the market price of the shares of our common stock, the holders of the warrants shall have the right to substitute such variable price for the exercise price of the warrant then in effect. The warrants are exercisable only for cash, unless the registration statement of which the prospectus registering the offering was part is not effective for the issuance of the shares underlying the warrants, in which case the warrants may be exercised on a cashless basis. We granted the underwriters a 30-day option to purchase up to an additional 750,000 shares of our common stock and warrants to purchase up to 525,000 shares of our common stock directly from us at a price of $2.05 per common share and accompanying warrant. We received an overallotment notice from the underwriter for warrants to purchase up to 220,500 shares of our common stock, which shares were issued on February 15, 2018.

Topical 5% Sildenafil Citrate Cream License and Collaboration Agreement

On February 11, 2018, we entered into a license and collaboration agreement, or the SST License Agreement, with SST. Under the SST License Agreement, subject to our securing an investment of at least $10.0 million by March 31, 2018, which we secured as a result of the underwritten public offering that closed on February 15, 2018 discussed above, we obtained a worldwide exclusive, royalty-bearing, sublicensable license to develop and commercialize in all countries and geographic territories of the world, for all indications for women related to female sexual dysfunction and/or female reproductive health, including treatment of female sexual arousal disorder, or the Field of Use, SST's topical formulation of Topical 5% Sildenafil Citrate Cream as it exists as of the effective date of the SST License Agreement, or any other topically applied pharmaceutical product containing sildenafil or a salt thereof as a pharmaceutically active ingredient, alone or with other active ingredients, but specifically excluding any product containing ibuprofen or any salt derivative of ibuprofen, or the SST Licensed Products.

We agreed to use commercially reasonable efforts to develop the SST Licensed Products in the Field of Use in accordance with a development plan contained in the SST License Agreement, and to commercialize the SST Licensed Products in the Field of Use.

SST will be eligible to receive tiered royalties based on percentages of annual net sales of the SST Licensed Products in the single digits to the mid-double digits, including customary provisions permitting royalty reductions and offset, and a percentage of sublicense revenue. We are responsible for all reasonable internal and external costs and expenses incurred by SST in its performance of the development activities it is required to perform under the SST License Agreement. Further, the SST License Agreement provides that we shall make base milestone payments to SST ranging from $0.5 million to $18.0 million on achieving certain clinical and regulatory milestones in the U.S. and worldwide, and an additional $10.0 million to $100 million upon achieving certain commercial milestones. Should we enter into strategic development or distribution partnerships related to the SST Licensed Products, additional milestone payments would be due to SST.

Orbis Development and Option Agreement

On March 12, 2018, we entered into an exclusive development and option agreement, or the Orbis Agreement, with Orbis, for the development of long-acting injectable etonogestrel contraceptive with 6- and 12-month durations (ORB-204 and ORB-214, respectively). The collaboration represents our first partnership that leverages funds and development work supported to date by investment from a donor and non-profit development community devoted to improving options in women's reproductive health, positioning us as a committed industry partner to advance innovation that addresses global gaps in therapeutic options. We have agreed to pay Orbis $300,000 to conduct the first stage of development work, Stage 1, as follows: $150,000 upon signing the Orbis Agreement, $75,000 at the 50% completion point, not later than 6 months following the date the Orbis Agreement was signed, and $75,000 upon delivery by Orbis of the 6-month batch, not later than 11 months following the date the Orbis Agreement was signed. Upon Orbis successfully completing Stage 1 of the development program and achieving the predetermined target milestones for Stage 1, we will have 90 days to instruct Orbis whether to commence the second stage of development work, Stage 2. Should we execute our option to proceed to Stage 2, we will be obligated to provide additional funding to Orbis for such activities.

The initial development on Orbis's long-acting injectable contraceptive program was carried out under a subcontract funded by Family Health International, or FHI 360, through a grant from the Bill and Melinda Gates Foundation, or the Gates Foundation. The Gates Foundation and FHI 360 are world leaders in the funding and development of novel contraceptive products and programs. In July of 2017, the Gates Foundation announced a commitment of $375 million over three years in support of Family Planning 2020, a global public/private partnership aimed at providing access to contraception.

An injectable contraceptive is designed to provide discreet, non-implanted protection over periods of months. Limitations of the currently marketed injectable contraceptive is that it provides contraceptive protection for only three months and can delay the ability to get pregnant for up to ten months after receiving the injection. The target product profiles of ORB-204 and ORB-214 include prolonged duration (6 to 12 months), improved ease of use, with an improved side effect profile and predictable return to fertility.

Pre-clinical studies for the 6- and 12-month formulations have been completed to date, including establishing pharmacokinetics and pharmacodynamics profiles. The collaboration with Orbis will continue to advance the program through formulation optimization with the goal of achieving sustained release over the target time period.

The Orbis Agreement provides us with an option to enter into a license agreement for ORB-204 and ORB-214 should upcoming development efforts be successful.

Juniper Exclusive License Agreement

On April 24, 2018, we entered into an Exclusive License Agreement, or the Juniper License Agreement, with Juniper, pursuant to which Juniper granted us (a) an exclusive, royalty-bearing worldwide license under certain patent rights, either owned by or exclusively licensed to Juniper, to make, have made, use, have used, sell, have sold, import and have imported products and processes; and (b) a non-exclusive, royalty-bearing worldwide license to use certain technological information owned by Juniper to make, have made, use, have used, sell, have sold, import and have imported products and processes. We are entitled to sublicense the rights granted to us under the Juniper License Agreement.

The following is a summary of the material terms of the Juniper License Agreement:

- *Upfront Fee*. We paid a $250,000 non-creditable upfront license fee to Juniper in connection with the execution of the Juniper License Agreement.

- *Annual Maintenance Fee*. We will pay an annual license maintenance fee to Juniper on each anniversary of the date of the Juniper License Agreement, the amount of which will be $50,000 for the first two years and $100,000 thereafter, and which will be creditable against royalties and other payments due to Juniper in the same calendar year but may not be carried forward to any other year.

- *Milestone Payments*. We are required to make potential future development and sales milestone payments of up to $43.8 million (up to $13.5 million in clinical and regulatory milestones and up to $30.3 million in sales milestones) for each product or process covered by the licenses granted under the Juniper License Agreement.

- *Royalty Payments*. During the royalty term, we will pay Juniper mid-single-digit to low double-digit royalties based on worldwide net sales of products and processes covered by the licenses granted under the Juniper License Agreement. In lieu of such royalty payments, we will pay Juniper a low double-digit percentage of all sublicense income that we receive for the sublicense of rights under the Juniper License Agreement to a third party. The royalty term, which is determined on a country-by-country basis and product-by-product basis (or process-by-process basis), begins with the first commercial sale of a product or process in a country and terminates on the latest of (1) the expiration date of the last valid claim within the licensed patent rights with respect to such product or process in such country, (2) 10 years following the first commercial sale of such product or process in such country, and (3) when one or more generic products for such product or process are commercially available in such country, except that if there is no such generic product by the 10th year following the first commercial sale in such country, then the royalty term will terminate on the 10 year anniversary of the first commercial sale in such country.

- *Efforts*. We are required to use commercially reasonable efforts to develop and make at least one product or process available to the public, which efforts include achieving specific diligence requirements by specific dates specified in the Juniper License Agreement.

- *Term*. Unless earlier terminated, the term of the Juniper License Agreement will continue on a country-by-country basis until the later of (1) the expiration date of the last valid claim within such country, or (2) 10 years from the date of first commercial sale of a product or process in such country. Upon expiration (but not earlier termination) of the Juniper License Agreement, the licenses granted thereunder will convert automatically to fully-paid irrevocable licenses. Juniper may terminate the Juniper License Agreement (1) upon 30 days' notice for our uncured breach of any payment obligation under the Juniper License Agreement, (2) if we fail to maintain required insurance, (3) immediately upon our insolvency or the making of an assignment for the benefit of our creditors or if a bankruptcy petition is filed for or against us, which petition is not dismissed within 90 days, or (4) upon 60 days' notice for any uncured material breach by us of any of our other obligations under the Juniper License Agreement. We may terminate the Juniper License Agreement on a country-by-country basis for any reason by giving 180 days' notice (or 90 days' notice if such termination occurs prior to receipt of marketing approval in the United States). If Juniper terminates the Juniper License Agreement for the reason described in clause (4) above or if we terminate the Juniper License Agreement, Juniper will have full access including the right to use and reference all product data generated during the term of the Juniper License Agreement that is owned by us.

Pear Tree Pharmaceuticals Acquisition

On April 30, 2018, we entered into an Agreement and Plan of Merger, the Merger Agreement, with Pear Tree, Daré Merger Sub, Inc., our wholly-owned subsidiary, or Merger Sub, and Pear Tree stockholders' representatives. The transactions contemplated by the Merger Agreement closed on May 16, 2018, and as a result, Pear Tree became our wholly owned subsidiary. We acquired Pear Tree to secure the rights to develop PT-101, a proprietary vaginal formulation of tamoxifen, as a potential treatment for vulvar and vaginal atrophy.

Under the Merger Agreement, upon the closing of the merger, if the Positive Consideration Amount (as defined below) exceeded the Negative Consideration Amount (as defined below), certain former and continuing Pear Tree service providers and former holders of Pear Tree's capital stock, or the Holders, would have been entitled to receive an amount of cash equal to such excess, and if the Negative Consideration Amount exceeded the Positive Consideration Amount, then we would be able to offset such excess from future payments that would otherwise be due to the Holders, including the potential payment of $75,000 due on the one-year anniversary of the closing. The Negative Consideration Amount exceeded the Positive Consideration Amount by approximately $132,000. As such, approximately $132,000 will be offset from future payments that would otherwise be due to the Holders. Under the Merger Agreement, Positive Consideration Amount means the sum of $75,000 and the cash and cash equivalents held by Pear Tree at closing, and Negative Consideration Amount means the sum of (i) certain Pear Tree indebtedness and transaction expenses, (ii) transaction expenses of the stockholders' representatives, and (iii) amounts payable under Pear Tree's management incentive plan.

Under the Merger Agreement, the Holders will be eligible to receive, subject to certain offsets, tiered royalties, including customary provisions permitting royalty reductions and offset, based on percentages of annual net sales of certain products subject to license agreements we assumed, and a percentage of sublicense revenue. We must also make payments to the Holders that are contingent on achieving certain clinical, regulatory and commercial milestones, and may be paid, in our sole discretion, in cash or shares of our common stock. The parties made customary representations, warranties, and covenants in the Merger Agreement, including provisions regarding indemnification.

Financial Operations Overview

The results of our operations discussed in this section and the operations presented in the interim consolidated financial statements and accompanying notes for the three and six months ended June 30, 2018 represent our operations after giving effect to the Cerulean/Private Daré stock purchase transaction. The interim consolidated financial statements and accompanying notes for the three and six months ended June 30, 2017 represent the operations of Private Daré, making a comparison between periods difficult.

Revenue

To date we have not generated any revenue and do not expect to generate any revenue for the foreseeable future. In the future, we may generate revenue from a combination of product sales, license fees, milestone and research and development payments in connection with strategic partnerships, and royalties resulting from the sales of products developed under licenses of intellectual property. Any revenue generated is expected to fluctuate from quarter to quarter as a result of the timing and amounts of any such payments. Our ability to generate product revenue will depend on the successful clinical development of our product candidates, the receipt of regulatory approvals to market such products and the eventual successful commercialization of product candidates. If we fail to complete the development of product candidates in a timely manner or to obtain regulatory approval for such product candidates, our ability to generate future revenue and our results of operations would be materially adversely affected.

Research and Development Expenses

Research and development expenses primarily represent costs incurred to conduct research and development of our product candidates. Also, included in research and development expenses are transaction costs related to the Pear Tree acquisition, which we acquired to secure the rights to develop PT-101, a proprietary vaginal formulation of tamoxifen, as a potential treatment for vulvar and vaginal atrophy. We recognize all research and development expenses as they are incurred. Research and development expenses consist primarily of:

- expenses incurred under agreements with consultants and clinical trial sites that conduct research and development activities on our behalf;
- laboratory and vendor expenses related to the execution of clinical trials;
- contract manufacturing expenses, primarily for the production of clinical supplies;
- transaction costs related to the Pear Tree acquisition; and
- internal costs that are associated with activities performed by our research and development organization and generally benefit multiple programs.

We expect research and development expenses to increase in the future as we invest in the development of Ovaprene, Topical 5% Sildenafil Citrate Cream, an intravaginal hormonal ring, vaginal tamoxifen and any other potential product candidates that we may choose to develop are advanced into and through clinical trials in the pursuit of regulatory approvals. Such activities will require a significant increase in investment in regulatory support, clinical supplies, and inventory build-up related costs and the payment of success-based milestones. In addition, we continue to evaluate opportunities to acquire or in-license other product candidates and technologies, which may result in higher research and development expenses due to, among other factors, license fee and/or milestone payments.

The process of conducting clinical trials necessary to obtain regulatory approval is costly and time consuming. We may not obtain regulatory approval for any product candidate on a timely and cost-effective basis or at all. The probability of success of our product candidates may be affected by numerous factors, including clinical results and data, competition, intellectual property rights, manufacturing capability and commercial viability. As a result, we are unable to accurately determine the duration and completion costs of development projects or when and to what extent we will generate revenue from the commercialization of any of our product candidates.

General and Administrative Expense

General and administrative expenses consist of personnel costs, facility expenses, expenses for outside professional services, including legal, audit and accounting services. Personnel costs consist of salaries, benefits and stock-based compensation. Facility expenses consist of rent and other related costs. We expect to continue to incur additional expenses because of additional costs associated with being a public company, including expenses related to compliance with SEC and Nasdaq rules and regulations, additional insurance, investor relations, and other administrative expenses and professional services.

Critical Accounting Policies and Significant Judgments and Estimates

Management's discussion and analysis of financial condition and results of operations is based on our interim consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States, or GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses. On an ongoing basis, we evaluate these estimates and judgments. We base our estimates on historical experience and on various assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities and the recording of expenses that are not readily apparent from other sources. Actual results may differ materially from these estimates. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management's judgments and estimates.

Results of Operations

Comparison of Three Months Ended June 30, 2018 and 2017 (Unaudited)

The following table summarizes our results for the periods indicated, together with the changes in those items in dollars:

	Three months ended June 30,		Change
	2018	2017	Dollars
Operating expenses:			
General and administrative expense	$ 1,157,174	$ 476,047	681,127
Research and development expenses	2,217,622	3,576	2,214,046
License expenses	250,000	—	250,000
Total operating expenses	3,624,796	479,623	3,145,173
Loss from operations	(3,624,796)	(479,623)	(3,145,173)
Other income (expense)	42,626	(18,570)	61,196
Net loss	$ (3,582,170)	$ (498,193)	(3,083,977)
Other comprehensive loss:			
Foreign currency translation adjustments	$ (27,485)	$ —	(27,485)
Comprehensive loss	$ (3,609,655)	$ (498,193)	(3,111,462)

Revenues

We did not recognize any revenue for the three months ended June 30, 2018 or 2017.

General and administrative expenses

The increase of $681,127 in general and administrative expenses for the three months ended June 30, 2018 as compared to the three months ended June 30, 2017 was primarily attributable to an increase in personnel costs of approximately $384,000 due to salary expense in the current period, including bonuses, with no comparable expense in the same period of the prior year, an increase in legal and professional services of approximately $57,000 related to the costs of being a public company, an increase in insurance costs of approximately $93,000 related to directors and officers insurance policies and employee benefits with no comparable expense in the prior period, and an increase in taxes and licenses of approximately $29,000 with no comparable expense in the prior period. Following the Cerulean/Private Daré stock purchase transaction and based upon the recommendation of our compensation consultant and approval of the Compensation Committee of our Board of Directors, we began paying our newly appointed executive officers compensation at a level in line with market rates for executive officers of early stage, pre-commercial biopharmaceutical public companies.

Research and development expenses

The increase of $2,214,046 in research and development expenses for the three months ended June 30, 2018 as compared to the three months ended June 30, 2017 was primarily attributable to approximately $1,475,000 of development costs associated with our lead product candidates, Ovaprene and Topical 5% Sildenafil Citrate Cream, approximately $452,000 of transaction costs associated with our acquisition of Pear Tree, and approximately $233,000 of payroll and related expense.

License expenses

The increase of $250,000 in license expenses for the three months ended June 30, 2018 as compared to the three months ended June 30, 2017 was entirely related to the $250,000 non-creditable upfront license fee payment to Juniper in connection with the execution of the Juniper License Agreement. For further discussion, see Note 8, “Commitments and Contingencies” of the Notes to the Interim Consolidated Financial Statements (Unaudited).

Other income (expense)

The increase of $61,196 in other income (expense) for the three months ended June 30, 2018 as compared to the three months ended June 30, 2017 was primarily due to dividends earned on cash balances in the current period.

Comparison of Six Months Ended June 30, 2018 and 2017 (Unaudited)

The following table summarizes our results for the periods indicated, together with the changes in those items in dollars:

	Six months ended June 30,		Change
	2018	2017	Dollars
Operating expenses:			
General and administrative	$ 2,460,363	$ 676,711	1,783,652
Research and development expenses	3,304,275	31,376	3,272,899
License expenses	350,000	—	350,000
Impairment of goodwill	5,187,519	—	5,187,519
Total operating expenses	11,302,157	708,087	10,594,070
Loss from operations	(11,302,157)	(708,087)	(10,594,070)
Other income (expense)	54,370	(33,970)	88,340
Net loss	$ (11,247,787)	$ (742,057)	(10,505,730)
Other comprehensive loss:			
Foreign currency translation adjustments	$ (41,231)	$ —	(41,231)
Comprehensive loss	$ (11,289,018)	$ (742,057)	(10,546,961)

Revenues

We did not recognize any revenue for the six months ended June 30, 2018 or 2017.

General and administrative expenses

The increase of $1,783,652 in general and administrative expenses for the six months ended June 30, 2018 as compared to the six months ended June 30, 2017 was primarily attributable to an increase in legal and professional services of approximately $625,000 related to being a public company, the completion of two financings and multiple product acquisition transactions, an increase in personnel costs of approximately $642,000 due to salary expense in the current period, including bonuses, with no comparable expense in the same period of the prior year, an increase in insurance costs of approximately $221,000 related to directors and officers insurance policies and employee benefits, with no comparable expense in the prior period, and an increase in taxes and licenses of approximately $71,000 with no comparable expense in the prior period. Following the Cerulean/Private Daré stock purchase transaction and based upon the recommendation of our compensation consultant and approval of the Compensation Committee of our Board of Directors, we began paying our newly appointed executive officers compensation at a level in line with market rates for executive officers of early stage, pre-commercial biopharmaceutical public companies.

Research and development expenses

The increase of $3,272,899 in research and development expenses for the six months ended June 30, 2018 as compared to the six months ended June 30, 2017 was primarily attributable to approximately $2,273,000 of development costs associated with our lead product candidates, Ovaprene and Topical 5% Sildenafil Citrate Cream, approximately $452,000 of transaction costs associated with our acquisition of Pear Tree, approximately $338,000 of payroll and related expense, and $150,000 related to the execution of the Orbis Agreement.

License expenses

The increase of $350,000 in license expenses for the six months ended June 30, 2018 as compared to the six months ended June 30, 2017 was related to the $250,000 non-creditable upfront license fee payment to Juniper in connection with the execution of the Juniper License Agreement and to the $100,000 in license fees paid to SST. For further discussion, see Note 8, “Commitments and Contingencies” of the Notes to the Interim Consolidated Financial Statements (Unaudited).

Goodwill impairment expense

We incurred an impairment loss of $5,187,519 for the six months ended June 30, 2018 due to our determination that the carrying amount of our goodwill exceeded its estimated fair value at March 31, 2018. See Note 4, “Acquisitions,” of the Notes to the Interim Consolidated Financial Statements (Unaudited) appearing in this report for a discussion of our goodwill analysis.

Other income (expense)

The increase of $88,340 in other income (expense) for the six months ended June 30, 2018 as compared to the six months ended June 30, 2017 was primarily due to dividends earned on cash balances in the current period.

Liquidity and capital resources

We have a history of annual losses from operations, and we anticipate that we will continue to incur losses for at least the next several years. As of June 30, 2018, we had incurred a net loss from operations of $11.2 million, our accumulated deficit was $23.5 million, we had $12.4 million in cash and cash equivalents and working capital of $11.6 million.

We have not generated any revenue to date, and we cannot anticipate if, and when we will generate any revenue. We must obtain regulatory approvals in order to sell any of our products in the future. We will need to generate sufficient safety and efficacy data on our product candidates in order for them to be attractive assets for potential strategic partners to license or for pharmaceutical companies to acquire, and for us to generate cash and other license fees related to such product candidates. At the same time, we expect our expenses to increase in connection with the PCT clinical trial of Ovaprene, clinical and other studies related to Topical 5% Sildenafil Citrate Cream, other efforts to advance our portfolio, and any other development activities we may undertake in the future. We also expect to continue to incur additional costs given the requirements of operating as a public company.

Our primary uses of capital are, and we expect will continue to be, staff-related expenses, the cost of clinical trials and regulatory activities related to our product candidates, costs associated with contract manufacturing services and third-party clinical research and development services, milestone payments due upon the successful advancement of our product candidates, legal expenses, other regulatory expenses and general overhead costs.

We believe our existing cash balances will be sufficient to satisfy our working capital needs and other liquidity requirements associated with our planned operations for at least the next 12 months.

Based on our current plans and existing cash balances, we believe that our available funds will be sufficient for us to complete the PCT clinical trial of Ovaprene that commenced in mid-2018 and to advance Topical 5% Sildenafil Citrate Cream into a Phase 2b clinical trial. We have based this estimate on assumptions that may prove to be wrong, and we could deplete our available cash resources sooner than we currently expect.

We will continue to require additional capital to continue to fund our operations and to successfully execute our current operating plan, including the development of our current product portfolio, and we are currently evaluating a variety of financing options. Our operating expenses will increase as we advance into later stages of product development, including a pivotal contraceptive study, and expand our product portfolio. If we obtain regulatory approval for any of our product candidates, we will need additional funds to commercialize them. The amount and timing of our future funding requirements will depend on many factors, including the pace and results of clinical development efforts.

We intend to cover our future operating expenses through cash and cash equivalents on hand and through a combination of equity offerings, debt financings, government or other grant funding, collaborations and strategic alliances. To the extent that we raise additional capital through the issuance of additional equity or convertible debt securities, the ownership interest of our current stockholders will be diluted. There can be no assurance that we will be able to raise additional capital when needed or on terms favorable to us and our stockholders. If we are unable to raise additional capital when needed, on favorable terms or at all, we will not be able to continue development of our product candidates or we will be required to delay, scale back or eliminate some or all of our development programs or cease operations, any of which would have a negative impact on our financial condition.

Cash Flows

The following table shows a summary of our cash flows for the periods indicated:

	Six months ended June 30,	
	2018	**2017**
Net cash used in operating activities	$ (4,807,544)	$ (160,209)
Net cash used in investing activities	(460,200)	—
Net cash provided by financing activities	10,195,653	155,000
Effect of exchange rate changes on cash and cash equivalents	(41,231)	—
Net increase (decrease) in cash	$ 4,886,678	$ (5,209)

Net cash used in operating activities

Cash used in operating activities for the six months ended June 30, 2018 included the net loss of $11.2 million, decreased by non-cash impairment of goodwill of $5,187,519, acquired in-process research and development expense of approximately $452,000 and non-cash stock-based compensation expense of $18,547. Major components providing operating cash in this period were a $298,585 increase of accounts payable and accrued expenses, a $259,562 decrease in other receivables and a $193,495 decrease in other current assets.

Cash used in operating activities for the six months ended June 30, 2017 included the net loss of $742,057. A component reducing operating cash in this period was a $2,800 increase in other current liabilities. Major components providing operating cash included a $550,666 increase in accounts payable and accrued expenses.

Net cash used in investing activities

Cash used in investing activities for the six months ended June 30, 2018 consisted of approximately $452,000 of transaction costs associated with our acquisition of Pear Tree and approximately $8,200 related to the purchase of property and equipment, with no comparable expense in the same period of the prior year.

Net cash provided by financing activities

Cash provided by financing activities for the six months ended June 30, 2018 consisted of proceeds from the underwritten public offering completed in February 2018 and sales under the common stock sales agreement completed in January and February 2018.

Cash provided by financing activities for the six months ended June 30, 2017 consisted of proceeds from the issuance of convertible promissory notes.

License and Royalty Agreements

We may be required to make various royalty and milestone payments under the product license and development agreements related to our two clinical-stage assets, Ovaprene and Topical 5% Sildenafil Citrate Cream, and under the various other agreements related to our preclinical candidates. For further discussion of these potential payments, see Note 8, “Commitments and Contingencies,” of the Notes to the Interim Consolidated Financial Statements (Unaudited).

Other Contracts

We enter into contracts in the normal course of business with various third parties for research studies, clinical trials, testing and other services. These contracts generally provide for termination upon notice, and we do not believe that our non-cancelable obligations under these agreements are material.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined under applicable SEC rules.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Under SEC rules and regulations, as a smaller reporting company we are not required to provide the information required by this item.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) that are designed to provide reasonable assurance that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) were effective as of June 30, 2018 at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting identified in connection with the evaluation required by Rules 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the quarter ended June 30, 2018 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

From time to time, we may become involved in various claims and legal proceedings. Regardless of outcome, litigation and other legal and administrative proceedings can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors. There are no material pending legal proceedings, other than ordinary routine litigation incidental to our business, to which we are a party or of which any of our property is in the subject.

Item 1A. Risk Factors

An investment in shares of our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described in our Annual Report on Form 10-K for the year ended December 31, 2017, or our 2017 10-K, and in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2018, or our 2018 Q1 10Q, in addition to other information included in this report, including the information below and our financial statements and related notes thereto, before deciding to invest in our common stock. The occurrence of any of these risks could have a material adverse effect on our business, financial condition, results of operations and future growth prospects. In these circumstances, the market price of our common stock could decline, and you may lose all or part of your investment. There have been no material changes from the risk factors disclosed in Part I, Item 1A. Risk Factors in our 2017 10-K and in Part II, Item 1A. Risk Factors in our 2018 Q1 10-Q other than as described below.

Risks Related to Our Business

We have incurred significant losses since our inception and expect to incur continued losses in the future due to the active expansion of our portfolio of product candidates. We must raise additional funds to finance our operations and remain a going concern.

Since inception, we have incurred significant operating losses. We incurred a net loss of approximately $11.2 million for the six months ended June 30, 2018. At June 30, 2018, our accumulated deficit was approximately $23.5 million. Negative cash flows from our operations are expected to continue for the foreseeable future. Based on our current operating plan, our current cash reserves are sufficient to fund operations for at least the next 12 months.

Our utilization of cash has been and will continue to be highly dependent on the product development programs we choose to pursue, particularly our programs for Ovaprene and Topical 5% Sildenafil Citrate Cream , the progress of these programs, the results of our preclinical studies and clinical trials, the cost, timing and outcomes of regulatory decisions regarding a potential approval for any one or more of our current or future product candidates we may choose to develop, the terms and conditions of our contracts with service providers and license partners, and the rate of recruitment of patients in our clinical trials. In addition, the continuation of our clinical trials, and possibly our entire business, will depend on results of upcoming analyses and our financial resources at that time. Should our product development efforts be successful, we will need to develop a commercialization plan for each product developed, which would also require significant resources to develop and implement.

We will need to raise additional capital through public or private equity financings, debt financings, strategic partnerships or other types of arrangements in order to successfully execute our current operating plan and to continue the development of our current product candidates. See also “—We expect to be heavily reliant on our ability to raise capital through capital market transactions. Due to our small public float, low market capitalization, limited operating history and lack of revenue, it may be difficult and expensive for us to raise additional funds.” If we raise capital through strategic partnerships or other similar types of arrangements, we may be required to relinquish, on terms that are not favorable to us, rights to some of our technologies or product candidates that we would otherwise seek to develop or commercialize. There can be no assurance that we will be able to raise additional capital when needed. If we are unable to raise additional capital when needed, we will not be able to continue development of our

product candidates or we will be required to delay, scale back or eliminate some or all of our development programs or cease operations.

Risks Related to Clinical Development, Manufacturing and Commercialization

Delays in the commencement or completion of clinical testing of our current and any other future product candidates we may seek to develop could result in increased costs and longer timelines and could impact our ability to ever become profitable. Clinical testing is time consuming and expensive and its outcome is uncertain.

We commenced a PCT clinical trial in May 2018 to assess the safety and preliminary efficacy of Ovaprene. We intend to commence various clinical and other studies related to Topical 5% Sildenafil Citrate Cream in the second half of 2018. We are in the process of seeking guidance from the FDA regarding the design of our Phase 2b clinical trial for Topical 5% Sildenafil Citrate Cream. The timing of when we initiate any clinical studies related to Topical 5% Sildenafil Citrate Cream, including our Phase 2b clinical trial, will be influenced by such guidance. All of our IVR product candidates have only been tested in preclinical studies, and we will need to obtain authorizations from the FDA as well as from the institutional review boards of universities and clinics, as appropriate, in order to commence clinical testing of those candidates in humans. The initiation and completion of these and other clinical trials for our product candidates may vary dramatically due to factors within and outside of our control, and the results from early clinical trials may not necessarily be predictive of results obtained in later clinical trials; even if results from early clinical trials are positive, we may not be able to confirm those results in future clinical trials. Further, clinical trials may not ever demonstrate sufficient safety and effectiveness to obtain the requisite regulatory approvals for our product candidates. Any change in, or termination of, clinical trials could materially harm our business, financial condition, and results of operations.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

(a) None.
(b) None.
(c) None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

(a) None.
(b) None.

Item 6. Exhibits

Exhibit Number	Description of Exhibit	Incorporated by Reference				Filed Herewith
		Form	File Number	Date of Filing	Exhibit Number	
3.1	Second Amended and Restated By-Laws (as amended through May 28, 2018)					X
10.1Δ	Exclusive License Agreement made as April 24, 2018 by and between Juniper Pharmaceuticals, Inc., and Daré Bioscience, Inc.					X
10.2@	Non-Employee Director Compensation Policy (as amended through April 9, 2018)					X
10.3@	Form of Incentive Stock Option Agreement for grants under the Daré Bioscience, Inc. Amended and Restated 2014 Stock Incentive Plan					X
10.4@	Form of Nonstatutory Stock Option Agreement for grants under the Daré Bioscience, Inc. Amended and Restated 2014 Stock Incentive Plan					X
10.5Δ	Amended and Restated Exclusive License Agreement, dated as of July 14, 2006, by and between Fred Mermelstein, Ph.D. and Janet Chollet, M.D., and Pear Tree Women's Health Care, Inc.					X
10.6Δ	Amendment No. 1 to the Amended and Restated Exclusive License Agreement, dated as of October 10, 2007, by and among Fred Mermelstein, Ph.D. and Janet Chollet, M.D., and Pear Tree Pharmaceuticals, Inc.					X
10.7Δ	Amendment No. 2 to the Amended and Restated Exclusive License Agreement, dated as of February 13, 2017, by and among Fred Mermelstein, Ph.D., and Janet Chollet, M.D., Pear Tree Pharmaceuticals, Inc. and Bernadette Klamerus					X

Exhibit Number	Description of Exhibit	Incorporated by Reference				Filed Herewith
		Form	File Number	Date of Filing	Exhibit Number	
10.8Δ	Exclusive License Agreement, dated as of February 13, 2017, by and between GYN Holdings, Inc., a wholly owned subsidiary of Pear Tree Pharmaceuticals, Inc. and Bernadette Klamerus					X
10.9Δ	Exclusive License Agreement, dated as of September 15, 2017, by and between Fred Mermelstein, Ph.D., Janet Chollet, M.D., Pear Tree Pharmaceuticals, Inc., and Stephen C. Rocamboli					X
10.10Δ	Agreement and Plan of Merger, dated as of April 30, 2018, by and among Daré Bioscience, Inc., Daré Merger Sub, Inc., Pear Tree Pharmaceuticals, Inc., and Fred Mermelstein and Stephen C. Rocamboli, as Holders' Representatives					X
31.1	Certification of principal executive officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended					X
31.2	Certification of principal financial officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended					X
32.1#	Certification of principal executive officer pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					X
32.2#	Certification of principal financial officer pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					X
101.INS	XBRL Instance Document					X
101.SCH	XBRL Taxonomy Extension Schema Document					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					X

Exhibit Number	Description of Exhibit	Incorporated by Reference				Filed Herewith
		Form	File Number	Date of Filing	Exhibit Number	
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					X

Δ Portions of this document are subject to a confidential treatment request submitted to the SEC
@ Management contract or compensatory plan or arrangement.
# Furnished herewith. This certification is being furnished solely to accompany this report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated herein by reference into any filing of the registrant whether made before or after the date hereof, regardless of any general incorporation in such filing.

Signatures

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Daré Bioscience, Inc.

Date: August 13, 2018

By: /s/ Sabrina Martucci Johnson
Sabrina Martucci Johnson
President and Chief Executive Officer
(Principal Executive Officer)

Date: August 13, 2018

By: /s/ Lisa Walters-Hoffert
Lisa Walters-Hoffert
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 3.1

SECOND AMENDED AND RESTATED BY-LAWS

OF

DARÉ BIOSCIENCE, INC.

(as amended as of May 28, 2018)

Table of Contents

ARTICLE I

STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President or, if not so designated, at the principal office of the corporation. *The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized under General Corporation Law of the State of Delaware*.[1]

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President (which date shall not be a legal holiday in the place where the meeting is to be held).

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by only the Board of Directors, the Chairman of the Board or the Chief Executive Officer, and may not be called by any other person or persons. The Board of Directors may postpone or reschedule any previously scheduled special meeting of stockholders. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

1.4 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Voting List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least 10 days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information

[1] Italics added to show amendment effective May 28, 2018.

required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. The list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, the holders of a majority in voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of capital stock is required by law or the Certificate of Incorporation, the holders of a majority in voting power of the shares of such class or classes or series of the capital stock of the corporation issued and outstanding and entitled to vote on such matter, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to the vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these By-laws by the chairman of the meeting or by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Secretary of the corporation. No such proxy shall be voted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented at the meeting and voting affirmatively or negatively on such matter (or if there are two or more classes or series of

stock entitled to vote as separate classes, then in the case of each such class or series, the holders of a majority in voting power of the shares of stock of that class or series present or represented at the meeting and voting affirmatively or negatively on such matter), except when a different vote is required by law, the Certificate of Incorporation or these By-laws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

1.10 Nomination of Directors.

(a) Except for (1) any directors entitled to be elected by the holders of preferred stock, (2) any directors elected in accordance with Section 2.9 hereof by the Board of Directors to fill a vacancy or newly-created directorship or (3) as otherwise required by applicable law or stock exchange regulation, at any meeting of stockholders, only persons who are nominated in accordance with the procedures in this Section 1.10 shall be eligible for election as directors. Nomination for election to the Board of Directors at a meeting of stockholders may be made (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the corporation who (x) timely complies with the notice procedures in Section 1.10 (b), (y) is a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such meeting and (z) is entitled to vote at such meeting.

(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation as follows: (i) in the case of an election of directors at an annual meeting of stockholders, not less than 90 days nor more than 120 days 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 by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs; or (ii) in the case of an election of directors at a special meeting of stockholders, provided that the Board of Directors, the Chairman of the Board or the Chief Executive Officer has determined, in accordance with Section 1.3, that directors shall be elected at such special meeting and provided further that the nomination made by the stockholder is for one of the director positions that the Board of Directors, the Chairman of the Board or the Chief Executive Officer, as the case may be, has determined will be filled at such special meeting, not earlier than the 120th day prior to such special meeting and not later than the close of business on the later of (x) the 90th day prior to such special meeting and (y) the tenth day following the day on which notice of the date of such special meeting was mailed or public disclosure of the date of such special meeting was made, whichever first occurs. In no event shall the adjournment or postponement of a meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each proposed nominee (1) such person's name, age, business address and, if known, residence address, (2) such person's principal occupation or employment, (3) the class and series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such person, (4) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among (x) the stockholder, the beneficial owner, if any,

on whose behalf the nomination is being made and the respective affiliates and associates of, or others acting in concert with, such stockholder and such beneficial owner, on the one hand, and (y) each proposed nominee, and his or her respective affiliates and associates, or others acting in concert with such nominee(s), on the other hand, including all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made or any affiliate or associate thereof or person acting in concert therewith were the "registrant" for purposes of such Item and the proposed nominee were a director or executive officer of such registrant, and (5) any other information concerning such person that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is being made (1) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (2) the class and series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any agreement, arrangement or understanding between or among such stockholder and/or such beneficial owner and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are being made or who may participate in the solicitation of proxies in favor of electing such nominee(s), (4) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder or such beneficial owner, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner with respect to shares of stock of the corporation, (5) any other information relating to such stockholder and such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (6) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the person(s) named in its notice and (7) a representation whether such stockholder and/or such beneficial owner intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock reasonably believed by such stockholder or such beneficial owner to be sufficient to elect the nominee (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies from stockholders in support of such nomination (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the information required by Items (A)(1)-(5) and (B)(1)-(5) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. In addition, to be effective, the stockholder's notice must be accompanied by the written consent of the proposed nominee to serve as a director if elected. The corporation may require any proposed nominee to furnish such other information as the corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the corporation or whether such nominee would be independent under applicable Securities and Exchange Commission and stock exchange rules and the corporation's publicly disclosed corporate governance guidelines. A stockholder shall not have complied with this Section 1.10(b) if the stockholder (or beneficial owner, if any, on whose behalf the nomination is made) solicits or does not solicit, as the case may be, proxies in support of such stockholder's nominee in contravention of the representations with respect thereto required by this Section 1.10.

(c) The chairman of any meeting shall have the power and duty to determine whether a nomination was made in accordance with the provisions of this Section 1.10 (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee in compliance with the representations with respect thereto required by this Section 1.10), and if the chairman should determine that a nomination was not made in accordance with the provisions of this Section 1.10, the chairman shall so declare to the meeting and such nomination shall not be brought before the meeting.

(d) Except as otherwise required by law, nothing in this Section 1.10 shall obligate the corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the corporation or the Board of Directors information with respect to any nominee for director submitted by a stockholder.

(e) Notwithstanding the foregoing provisions of this Section 1.10, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting to present a nomination, such nomination shall not be brought before the meeting, notwithstanding that proxies in respect of such nominee may have been received by the corporation. For purposes of this Section 1.10, to be considered a "qualified representative of the stockholder", a person must be authorized by a written instrument executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such written instrument or electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, at the meeting of stockholders.

(f) For purposes of this Section 1.10, "public disclosure" shall include 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 pursuant to Section 13, 14 or 15(d) of the Exchange Act.

1.11 Notice of Business at Annual Meetings.

(a) At any annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (1) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (2) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (3) properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, (i) if such business relates to the nomination of a person for election as a director of the corporation, the procedures in Section 1.10 must be complied with and (ii) if such business relates to any other matter, the business must constitute a proper matter under Delaware law for stockholder action and the stockholder must (x) have given timely notice thereof in writing to the Secretary in accordance with the procedures in Section 1.11(b), (y) be a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such annual meeting and (z) be entitled to vote at such annual meeting.

(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation not less than 90 days nor more than 120 days 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 by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each matter the stockholder proposes to bring before the annual meeting (1) a brief description of the business desired to be brought before the annual meeting, (2) the text of the proposal (including the exact text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the By-laws, the exact text of the proposed amendment), and (3) the reasons for conducting such business at the annual meeting, and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is being made (1) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (2) the class and series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any material interest of such stockholder or such beneficial owner and the respective affiliates and associates of, or others acting in concert with, such stockholder or such beneficial owner in such business, (4) a description of any agreement, arrangement or understanding between or among such stockholder and/or such beneficial owner and any other person or persons (including their names) in connection with the proposal of such business or who may participate in the solicitation of proxies in favor of such proposal, (5) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder or such beneficial owner, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner with respect to shares of stock of the corporation, (6) any other information relating to such stockholder and such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the business proposed pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (7) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting and (8) a representation whether such stockholder and/or such beneficial owner intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock required to approve or adopt the proposal (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies from stockholders in support of such proposal (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the

information required by Items (A) (3) and (B)(1)-(6) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. Notwithstanding anything in these By-laws to the contrary, no business shall be conducted at any annual meeting of stockholders except in accordance with the procedures in this Section 1.11; provided that any stockholder proposal which complies with Rule 14a-8 of the proxy rules (or any successor provision) promulgated under the Exchange Act and is to be included in the corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the notice requirements of this Section 1.11. A stockholder shall not have complied with this Section 1.11(b) if the stockholder (or beneficial owner, if any, on whose behalf the proposal is made) solicits or does not solicit, as the case may be, proxies in support of such stockholder's proposal in contravention of the representations with respect thereto required by this Section 1.11.

(c) The chairman of any annual meeting shall have the power and duty to determine whether business was properly brought before the annual meeting in accordance with the provisions of this Section 1.11 (including whether the stockholder or beneficial owner, if any, on whose behalf the proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's proposal in compliance with the representation with respect thereto required by this Section 1.11), and if the chairman should determine that business was not properly brought before the annual meeting in accordance with the provisions of this Section 1.11, the chairman shall so declare to the meeting and such business shall not be brought before the annual meeting.

(d) Except as otherwise required by law, nothing in this Section 1.11 shall obligate the corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the corporation or the Board of Directors information with respect to any proposal submitted by a stockholder.

(e) Notwithstanding the foregoing provisions of this Section 1.11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting to present business, such business shall not be considered, notwithstanding that proxies in respect of such business may have been received by the corporation.

(f) For purposes of this Section 1.11, the terms "qualified representative of the stockholder" and "public disclosure" shall have the same meaning as in Section 1.10.

1.12 Conduct of Meetings.

(a) Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence, by the President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) The chairman of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) In advance of any meeting of stockholders, the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law. Every vote taken by ballots shall be counted by a duly appointed inspector or duly appointed inspectors.

1.13 No Action by Consent in Lieu of a Meeting. Stockholders of the corporation may not take any action by written consent in lieu of a meeting.

ARTICLE II

DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number, Election and Qualification. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the corporation shall be established by the Board of Directors. Election of directors need not be by written ballot. Directors need not be stockholders of the corporation.

2.3 Chairman of the Board; Vice Chairman of the Board. The Board of Directors may appoint from its members a Chairman of the Board and a Vice Chairman of the Board, neither of whom need be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.7 of these By-laws. If the Board of Directors appoints a Vice Chairman of the Board, such Vice Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors. Unless otherwise provided by the Board of Directors, the Chairman of the Board or, in the Chairman's absence, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board of Directors.

2.4 Classes of Directors. Subject to the rights of holders of any series of Preferred Stock to elect directors, the Board of Directors shall be and is divided into three classes: Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The allocation of directors among classes shall be determined by resolution of the Board of Directors.

2.5 Terms of Office. Subject to the rights of holders of any series of Preferred Stock to elect directors, each director shall serve for a term ending on the date of the third annual meeting of stockholders following the annual meeting of stockholders at which such director was elected; provided that each director initially assigned to Class I shall serve for a term expiring at the corporation's first annual meeting of stockholders held after the effectiveness of these By-laws; each director initially assigned to Class II shall serve for a term expiring at the corporation's second annual meeting of stockholders held after the effectiveness of these By-laws; and each director initially assigned to Class III shall serve for a term expiring at the corporation's third annual meeting of stockholders held after the effectiveness of these By-laws; provided further, that the term of each director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal.

2.6 Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors established by the Board of Directors pursuant to Section 2.2 of these By-laws shall constitute a quorum of the Board of Directors. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.7 Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number is required by law or by the Certificate of Incorporation.

2.8 Removal. Subject to the rights of holders of any series of Preferred Stock, directors of the corporation may be removed only for cause and only by the affirmative vote of the holders of at least 75% of the votes which all the stockholders would be entitled to cast in any annual election of directors or class of directors.

2.9 Vacancies. Subject to the rights of holders of any series of Preferred Stock, any vacancy or newly-created directorship on the Board of Directors, however occurring, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. A director elected to fill a vacancy shall hold office until the next election of the class for which such director shall have been chosen, subject to the election and qualification of a successor or until such director's earlier death, resignation or removal.

2.10 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at some later time or upon the happening of some later event.

2.11 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.12 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

2.13 Notice of Special Meetings. Notice of the date, place and time of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person or by telephone at least 24 hours in advance of the meeting, (b) by sending written notice by reputable overnight courier, telecopy, facsimile or electronic transmission, or delivering written notice by hand, to such director's last known business, home or electronic transmission address at least 48 hours in advance of the meeting, or (c) by sending written notice by first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.14 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.15 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.16 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation with such lawfully delegable powers and duties as the Board of Directors thereby confers, to serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-laws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these By-laws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

2.17 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

ARTICLE III

OFFICERS

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these By-laws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a written resignation to the corporation at its principal office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event. Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 President; Chief Executive Officer. Unless the Board of Directors has designated another person as the corporation's Chief Executive Officer, the President shall be the Chief Executive Officer of the corporation. The Chief Executive Officer shall have general charge and supervision of the business of the corporation subject to the direction of the Board of Directors, and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to such officer by the Board of Directors. The President shall perform such other duties and shall have such other powers as the Board of Directors or the Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

3.8 Vice Presidents. Each Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.9 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give

notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.10 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these By-laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.11 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.12 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

ARTICLE IV

CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation’s treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Stock Certificates; Uncertificated Shares. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the corporation's stock shall be uncertificated shares. Every holder of stock of the corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, representing the number of shares held by such holder registered in certificate form. Each such certificate shall be signed in a manner that complies with Section 158 of the General Corporation Law of the State of Delaware.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these By-laws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of each certificate representing shares of such class or series of stock, provided that in lieu of the foregoing requirements there may be set forth on the face or back of each certificate representing shares of such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to Sections 151, 202(a) or 218(a) of the General Corporation Law of the State of Delaware or, with respect to Section 151 of General Corporation Law of the State of Delaware, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Shares of stock of the corporation shall be transferable in the manner prescribed by law and in these By-laws. Transfers of shares of stock of the corporation shall be made only on the books of the corporation or by transfer agents designated to transfer shares of stock of the corporation. Subject to applicable law, shares of stock represented by certificates shall be transferred only on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-laws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these By-laws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not precede the date on which the resolution fixing the record date is adopted, and such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

4.6 Regulations. The issue, transfer, conversion and registration of shares of stock of the corporation shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE V

GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these By-laws, a written waiver signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time of the event for which notice is to be given, shall be deemed equivalent to notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in any such waiver. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, the President or the Treasurer may waive notice of, vote, or appoint any person or persons to vote, on behalf of the corporation at, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation. All references in these By-laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability. Any determination that any provision of these By-laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-laws.

5.8 Pronouns. All pronouns used in these By-laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

5.9 Forum Selection By-law. 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: (a) any derivative action or proceeding brought on behalf of the corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee, agent or stockholder of the corporation to the corporation or the corporation's stockholders, including, without limitation, a claim alleging the aiding and abetting of such a breach of fiduciary duty, (c) any action asserting a claim arising pursuant to any provision of the General Corporation Law of the State of Delaware, the Certificate of Incorporation or these By-laws (as each may be amended from time to time) or as to which the General Corporation Law of the State of Delaware confers jurisdiction on the Court of Chancery of the State of Delaware, or (d) any action asserting a claim governed by the internal affairs doctrine or other "internal corporate claim" as that term is defined in Section 115 of the General Corporation Law of the State of Delaware. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the corporation shall be deemed to have notice of and consented to the provisions of this Section 5.9.

ARTICLE VI

AMENDMENTS

These By-laws may be altered, amended or repealed, in whole or in part, or new By-laws may be adopted by the Board of Directors or by the stockholders as provided in the Certificate of Incorporation.

CERTAIN CONFIDENTIAL PORTIONS OF THIS EXHIBIT WERE OMITTED AND REPLACED WITH "[***]". A COMPLETE VERSION OF THIS EXHIBIT HAS BEEN FILED SEPARATELY WITH THE SECRETARY OF THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO AN APPLICATION REQUESTING CONFIDENTIAL TREATMENT PURSUANT TO RULE 24B-2 PROMULGATED UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit 10.1

EXCLUSIVE LICENSE AGREEMENT

This Exclusive License Agreement (this "Agreement") is made as April 24, 2018 ("Effective Date"), by and between Juniper Pharmaceuticals, Inc., a Delaware corporation, ("Juniper"') and Daré Bioscience, Inc., a Delaware corporation ("Licensee"), each referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Juniper owns or has the exclusive rights to certain patent rights and owns or has non-exclusive rights to certain technical information and desires to grant licenses of those patent rights and technical information to Licensee;

WHEREAS, Licensee desires to license such patent rights and technical information and has the capability to commercially develop, manufacture, distribute and use Products (as defined below) and Processes (as defined below).

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context requires otherwise.

1.1 "Affiliate" with respect to either Party shall mean any corporation or other legal entity other than that Party in whatever country organized, controlling, controlled by or under common control with that Party. The term "control" shall mean (i) the direct or indirect ownership of fifty percent (50%) or more of the voting securities having the right to elect directors, or (ii) the power, direct or indirect, to elect or appoint fifty percent (50%) or more of the directors, or to cause direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

1.2 "Commercially Reasonable Efforts" shall mean with respect to the efforts to be expended by Licensee with respect to the objective that is the subject of such efforts, reasonable, good faith efforts and resources to accomplish such objective that a US-based pharmaceutical company of similar size and market capitalization would normally use to accomplish a similar objective under similar circumstances when developing a women's health product, it being understood and agreed that with respect to the development or commercialization of a Product or Process, such efforts shall be similar to those efforts and resources consistent with the usual practice of such US-based pharmaceutical company in pursuing the development or commercialization of a potential women's health medical product owned by it or to which it has exclusive rights, with similar product characteristics as the relevant Product or Process. Without limiting the foregoing, but for

the sake of clarity, the determination as to whether or not Licensee has met the foregoing requirement shall take into account all relevant factors with respect to a Product or Process, including without limitation market potential, profit potential, strategic value, stage of development, mechanism of action, efficacy and safety relative to competitive products in the marketplace, actual or anticipated approved labeling, expected and actual competitiveness of alternative products (including generic products) in the market, the nature and extent of market exclusivity (including patent coverage and regulatory exclusivity), cost and likelihood of obtaining regulatory approval, and availability of manufacture and supply for commercial sale

1.3 "Distributor" shall mean any third party entity to whom Licensee, an Affiliate of Licensee or a Sublicensee has granted, express or implied, the right to distribute any Product or Process pursuant to Section 2.1(b)(ii).

1.4 "First Commercial Sale" shall mean the initial Sale by Licensee or an Affiliate of Licensee or a Sublicensee in an arms-length transaction to a third party anywhere in the applicable License Territory after obtaining necessary marketing and pricing approval, to the extent both are required, from regulatory authorities of a specific Product or Process, but excluding any Sale of a reasonable quantity of Products for clinical trial purposes or marketing samples.

1.5 "Generic Competition" shall mean, with respect to a Product or Process in a given country, one or more Generic Products are commercially available in such country.

1.6 "Generic Product" shall mean, as to a Product or Process, any product (including a "generic product" approved by way of an Abbreviated New Drug Application or approved under a section 505(b)(2) application, by the FDA (or equivalent regulatory mechanism for another regulatory authority)) that is sold by a third party and (a) in the United States, is "therapeutically equivalent," "comparable," "biosimilar," or "interchangeable," as evaluated by the FDA, applying the definition of "therapeutically equivalent" set forth in the preface to the then-current edition of the FDA publication "Approved Drug Products With Therapeutic Equivalence Evaluations" or any other definitions set forth in the U.S. Code, FDA regulations, or other source of U.S. Law or (b) outside the United States, meets such equivalent determination by the applicable regulatory authorities (including a determination that the product is "comparable," "interchangeable," "bioequivalent," or "biosimilar" with respect to the Product or Process).

1.7 "License Field" shall mean all human and animal pharmaceutical, therapeutic, preventative, diagnostic and palliative uses, including, without limitation vaginal delivery of pharmaceuticals and shall not include any other field not specifically set forth herein.

1.8 "License Territory'' shall mean worldwide.

1.9 "Net Sales" shall be calculated as set forth in this Section 1.9, all in accordance with U.S. Generally Accepted Accounting Principles, applied on a consistent basis ("GAAP"). Subject to the conditions set forth below, "Net Sales" shall mean the gross amount invoiced, or if no invoice is issued, the amount received by Licensee and its Affiliates for or on account of Sales of Products and Processes on a country-by-country basis following First Commercial Sale in such country, less

the following amounts to the extent separately stated on the invoice or actually paid or credited by Licensee and its Affiliates in effecting such Sale:

(1) amounts repaid or credited by reason of charge-backs, retroactive price reductions, billing errors, rejection or return of applicable Products or Processes, and cash, credit or free goods allowances;

(2) reasonable and customary trade, quantity or cash rebates (including without limitation, government mandated and managed care rebates) or discounts to the extent allowed and taken;

(3) amounts for outbound transportation, insurance, packaging, handling and shipping, but only to the extent separately invoiced; and

(4) import, export, excise and sales taxes, customs duties, value added taxes, and other governmental charges levied on or measured by Sales of Products or Processes, whether paid by or on behalf of Licensee, but not franchise or income taxes of any kind whatsoever.

(a) Specifically excluded from the definition of "Net Sales" are amounts attributable to any Sale of any Product or Process between or among Licensee and any Licensee Affiliate and/or Sublicensee, unless the transferee is the end purchaser, user or consumer of such Product or Process.

(b) No deductions shall be made for any commissions paid to any individuals or for any costs or expenses of collections.

(c) Net Sales shall be deemed to have occurred and the applicable Product or Process Sold on the earliest of the date of billing, invoicing, delivery or payment or the due date for payment.

(d) If any Product or Process is Sold at a discounted price that is substantially lower than the customary non-discounted and discounted price charged, or for non-cash consideration (whether or not at a discount), Net Sales for such Product or Process shall be calculated based on the non-discounted cash amount charged to an independent third party for the Product or Process during the same Reporting Period or, in the absence of such transaction, on the fair market value of the Product or Process. Non-cash consideration received for a Product or Process that could materially reduce any royalty payment due to Licensee hereunder shall not be accepted without the prior written consent of Licensee.

(e) In the event Licensee or a Licensee Affiliate or Sublicensee (as used in this Section 1.9(e) each a "Combination Product Seller") uses a functionally active component or ingredient (for clarity, functionally active components and ingredients shall exclude routine components including without limitation common buffers and

standard cell culture media) not licensed by Juniper to Licensee hereunder ("Other Components") to form a product that is a combination of a Product and/or Process and Other Component(s) (a "Combination Product"), Net Sales for the purposes of calculating the royalty owed to Juniper on Sales of such Product and/or Process shall be calculated as described in the subsections below:

(i) If all Products and/or Processes and Other Components contained in the Combination Product(s) are Sold separately, Net Sales for Sales of Products and/or Processes for the purposes of calculating royalty payments shall be determined by multiplying [***], or if no [***] (for the purposes of this Section 1.9(e), the "Gross Sales Price") by [***], in which [***] is [***], and [***] is [***]. For clarity, a Product or Process that delivers a drug either sold separately by Licensee or acquired from a third party shall not be considered a Combination Product with respect to such drug being included in such Product or Process.

(ii) If the Combination Product contains Products and/or Processes or Other Components not sold separately in any given country (and thus the Gross Sales Price is not available for such Products and/or Processes or Other Components), then Net Sales for purposes of determining royalty payments will be calculated as above, but the [***] in the above equation for such country shall be determined by mutual agreement reached in good faith by the Parties prior to the end of the accounting period in question based on [***]. If the Parties are unable to reach such an agreement prior to the end of the applicable accounting period, then the Parties will refer such matter for dispute resolution pursuant to Section 12.13.

1.10 "Patent Rights" shall mean all patents and patent applications that are listed on Exhibit A, including all provisionals, substitutions, continuations, continuations-in-part, divisionals, supplementary protection certificates, renewals, all letters patent granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, patents of addition thereof, PCTs, and foreign equivalents to all of the foregoing.

1.11 "Phase 1 Clinical Trial" shall mean, as to a specific Product or Process, in connection with obtaining regulatory approval in the United States, the first clinical study conducted in humans to obtain preliminary information on a Product's safety, tolerability, pharmacodynamic activity, pharmacokinetics, drug metabolism and mechanism of action, as well as early evidence of effectiveness if possible, as described more fully in 21 C.F.R. § 312.21(a); or an equivalent clinical study in a country other than the United States in connection with obtaining regulatory approval therein.

1.12 "Phase 2 Clinical Trial" shall mean, as to a specific Product or Process, in connection with obtaining regulatory approval in the United States, a clinical study in humans designed with the principal purpose of determining initial efficacy and dosing of such Licensed Product in patients for the indication(s) being studied, as described more fully in 21 C.F.R. § 312.21(b); or an

equivalent clinical study in a country other than the United States in connection with obtaining regulatory approval therein.

1.13 "Phase 3 Clinical Trial" shall mean, as to a specific Product or Process, in connection with obtaining regulatory approval in the United States, a clinical study in humans with a defined dose or set of defined doses of such Product or Process, after successful completion of one or more Phase 2 Clinical Studies, of the efficacy and safety of such Product or Process which is prospectively designed to demonstrate statistically whether such Product is effective and safe for use in a particular indication in a manner sufficient to file an application to obtain marketing approval to market and sell that Product or Process in the United States, as described more fully in 21 C.F.R. § 312.21(c); or an equivalent clinical study in a country other than the United States in connection with obtaining regulatory approval therein.

1.14 "Process" shall mean any process, method or service, the performance of which, in whole or in part:

(a) absent the license granted hereunder would infringe, or is covered by, one or more Valid Claims of Patent Rights ("Patented Process"); or

(b) does not meet the requirements of the foregoing clause " (a) " but incorporates or is based upon Technological Information ("Unpatented Process").

1.15 "Product" shall mean any article, device or composition, the manufacture, use, or sale of which, in whole or in part:

(a) absent the license granted hereunder would infringe, or is covered by, one or more Valid Claims of Patent Rights; ("Patented Product"); or

(b) does not meet the requirements of the foregoing clause " (a) " but incorporates or is based upon Technological Information ("Unpatented Product").

1.16 "Reporting Period" shall mean each three month period ending March 31, June 30, September 30 and December 31.

1.17 "Royalty Term" shall mean, on a country-by-country basis in the License Territory, the period of time beginning with the First Commercial Sale in such country, and ending upon the latest to occur of (a) expiration of the last-to-expire Valid Claim in such country, (b) ten (10) years from the date of First Commercial Sale in such country, and (c) a Product or Process becoming subject to Generic Competition in such country, provided, however, if there is no Generic Competition in a country for a Product or a Process by the tenth year following the date of First Commercial Sale in such country, the Royalty Term shall terminate on the tenth year following the date of the First Commercial Sale in such country.

1.18 "Sell" (and "Sale" and "Sold" as the case may be) shall mean to sell or have sold, to lease or have leased, to import or have imported, in each case for valuable consideration (in the form of

cash or otherwise) a Product or Process, or otherwise to transfer or have transferred a Product or Process for valuable consideration (in the form of cash or otherwise), and further in the case of a Process, to use or perform such Process for the benefit of a third party.

1.19 "Sublicense Income" shall mean consideration in any form received by Licensee and/or Licensee's Affiliate(s) in consideration for and directly attributable to a grant of a sublicense under the license grant in Section 2.1 to the Patent Rights and/or Technological Information (regardless of whether such grantee is a "Sublicensee" as defined in this Agreement) to make, have made, use, have used, Sell or have Sold Products or Processes. Sublicense Income shall include without limitation any license signing fee, license maintenance fee, milestone payment (other than for a milestone event for which Licensee or its Affiliate receives a milestone payment from such Sublicensee and where such milestone event corresponds to a milestone event under Section 4.3), unearned portion of any minimum royalty payment, distribution or joint marketing fee if they include sublicense rights , research and development funding in excess of the cost of performing such research and development (such costs to include reasonable overhead charges), and any consideration received for an equity interest in, extension of credit to or other investment in Licensee or Licensee's Affiliates to the extent such consideration exceeds the fair market value of the equity or other interest received as determined by agreement of the Parties or by an independent appraiser mutually agreeable to the Parties.

Sublicense Income shall not include payments made to reimburse direct costs such as (i) payments or reimbursement for documented sponsored research and/or development activities, valued at the actual cost of such activities plus reasonable overhead charges; or (ii) payment or reimbursement of reasonable patent expenses actually incurred or paid by Licensee and not otherwise reimbursed, or payment of patent expenses required to be paid by Licensee hereunder. Sublicense Income shall also not include (iii) payments received with respect to a change of control of the Licensee; and (iv) equity in Sublicensee purchased at the fair market value of such equity , and if Licensee or any of its Affiliates makes an equity investment in the Sublicensee at a price that is less than fair market value (as determined in the manner specified above), then the difference between the purchase price and the fair market value on the date that such payment is to be made multiplied by the total number of shares or securities purchased shall be deemed Sublicense Income.

1.20 "Sublicensee" shall mean any sublicensee of rights granted under Section 2.1(a)(iii). For purposes of this Agreement, neither a Distributor of a Product or Process nor a contract manufacturer shall be included in the definition of Sublicensee unless such Distributor or contractor manufacturer (i) is granted any right to make, have made, use or have used Products or Processes in accordance with Section 2.1 (a)(iii), or (ii) has agreed to pay to Licensee or its Affiliate(s) royalties on such Distributor's or contractor manufacturer's sales of Products or Processes, in which case such Distributor or contract manufacturer shall be a Sublicensee for all purposes of this Agreement. For clarity, a clinic that is granted the right to use or have used Products or Processes to treat patients shall not be considered a Sublicensee if Licensee or its Affiliate(s) do not receive royalties or other payments (other than the price paid for the Product or Process) related to such clinic's use of Products or Processes.

1.21 "Technological Information" shall mean proprietary discoveries, know-how and technical information known, licensed, owned, controlled or developed by Juniper or its Affiliates related to intravaginal ring for all indications as of the Effective Date, including for the sake of clarity, Technological Information licensed to Juniper pursuant to the Underlying Agreement and any subsequent improvements thereto, as set forth on Exhibit B attached hereto.

1.22 "Underlying Agreement" shall mean that certain License Agreement, dated as of March 25, 2015, by and between Juniper and The General Hospital Corporation ("MGH"), as amended, and as may be amended or restated from time to time.

1.23 "Valid Claim" shall mean a claim in an issued, unexpired patent or in a pending patent application within Patent Rights that (a) has not been finally cancelled, withdrawn, abandoned or rejected by any administrative agency or other body of competent jurisdiction, (b) has not been revoked, held invalid, or declared unpatentable or unenforceable in a decision of a court or other body of competent jurisdiction that is unappealable or unappealed within the time allowed for appeal, (c) has not been rendered unenforceable through disclaimer or otherwise, and (d) is not lost through an interference proceeding. Notwithstanding the foregoing, if a claim of a pending patent application within Patent Rights in the United States has not issued as a claim of a patent within the seven (7) years after the PCT filing date (or the first national filing date if no PCT was filed), such claim shall not be a Valid Claim for the purposes of this Agreement, unless and until such claim issues as a claim of an issued patent (from and after which time the same shall be deemed a Valid Claim subject to paragraphs (a) and (b) above). For territories outside of the United States the Parties will negotiate in good faith, on a country-by-country basis, the period during which a claim of a pending patent must issue in order for it to be considered a Valid Claim for the purpose of the Agreement.

2.LICENSE

2.1 Grant of License.

(a) Subject to the terms of this Agreement and any retained rights of MGH or the Massachusetts Institute of Technology ("MIT") under the Underlying Agreement, Juniper hereby grants to Licensee in the License Field in the License Territory:

(i) an exclusive, royalty-bearing license under the Patent Rights to make, have made, use, have used, sell, have sold, import and have imported Products and Processes;

(ii) a non-exclusive, royalty-bearing license to use the Technological Information to make, have made, use, have used, sell, have sold, import and have imported Products and Processes; and

(iii) the right to grant sublicenses under the rights granted in Sections 2.1(a)(i) and 2(a)(ii) to Sublicensees (including the right for Sublicensees to grant further sublicenses consistent with these terms), provided that in each case

Licensee shall be responsible for the performance of any obligations of Sublicensees relevant to this Agreement as if such performance were carried out by Licensee itself, including, without limitation, the payment of any royalties or other payments provided for hereunder, regardless of whether the terms of any sublicense provide for such amounts to be paid by the Sublicensee directly to Licensee.

(b) The license granted in Section 2.1(a) includes:

(i) The right to grant to the final purchaser, user or consumer of Products the right to use such purchased Products within the License Field and License Territory; and

(ii) the right to grant a Distributor the right to sell, have sold, use, have used, import and have imported (but not to make and have made) such Products and/or Processes for its own benefit in a manner consistent with this Agreement.

Licensee acknowledges that this Agreement does not confer by implication, estoppel, or otherwise, any license or rights to any intellectual property rights, whether belonging to Juniper or any third party, other than those rights expressly stated herein.

(c) Licensee may permit its Affiliates to exercise all rights granted to Licensee hereunder such that such Affiliates shall have the same license rights granted to Licensee hereunder. Licensee shall secure all appropriate covenants, obligations and rights from any such Affiliate so that such Affiliate is subject to, and Licensee can comply with, all of Licensee's covenants and obligations to Juniper under this Agreement. Licensee shall be responsible for any failure of any of its Affiliates to comply with this Agreement.

2.2 Sublicenses. Each sublicense granted hereunder shall be consistent with and comply with all relevant terms of this Agreement and the Underlying Agreement, shall incorporate terms and conditions sufficient to enable Licensee to comply with this Agreement, shall provide that Licensee shall be responsible for performance of all such obligations and for compliance with all such terms and conditions by Sublicensees. Licensee shall provide to Juniper a fully signed redacted (to remove content unrelated to obligations due Juniper) copy of all sublicense agreements and amendments thereto, including all exhibits, attachments and related documents, within thirty (30) days of executing the same. Upon termination of this Agreement or any license granted hereunder for any reason, any Sublicenses shall be addressed in accordance with Section 10.7.

2.3 Retained Rights; Requirements. Any and all licenses granted hereunder are subject to the retained rights and requirements specified in Section 2.3 of the Underlying Agreement.

2.4 Technology Transfer. Juniper shall, within thirty (30) days of the Effective Date, deliver to Licensee all Technological Information in Juniper's possession or control, in a form and format as reasonably agreed by the Parties.

3.DUE DILIGENCE OBLIGATIONS

3.1 Diligence Requirements. Licensee shall use, and shall cause its Affiliates and Sublicensees, as applicable, to use, Commercially Reasonable Efforts to develop and make available to the public at least one Product or Processes in the License Territory in the License Field Such efforts shall include achieving the requirements set forth in the table below by the dates specified in the table below.

Diligence Requirements	Time for Completion
(i) Apply for an NDA (as defined below) or PMA on a Product or Process	[***]
(ii) Make a First Commercial Sale or file a second IND on a Product or Process	Within [***] of satisfying Diligence Requirement (i)

Licensee may elect to extend the time period for a particular diligence requirement set forth in the table above by [***] upon written notice to Juniper and payment of a non-refundable extension payment of [***] U.S. dollars ($[***]). The extension of time, once elected and paid for, shall have the effect of extending all subsequent diligence requirements set forth in the table above. Licensee may exercise the extension of time no more than [***] times over the life of this Agreement (not per diligence requirement).

3.2 Diligence Failures. In the event Licensee has materially failed to fulfill any of its obligations under Section 3.1, and subject to resolution under the dispute resolution provisions of Section 12.13 and failure to cure as permitted in Section 10.4, then Juniper may treat such material failure as a default and may terminate this Agreement and/or any license granted to Licensee hereunder in accordance with Section 10.4.

3.3 Diligence Reports. Licensee shall provide all reports with respect to its obligations under Section 3.1 as set forth in Section 5.

4. PAYMENTS AND ROYALTIES

4.1 Upfront License Fee. On the Effective Date, Licensee will make a non-creditable upfront license payment of $250,000 to Juniper.

4.2 Annual License Fee. On the first and second anniversary of the Effective Date, Licensee will make annual an license maintenance fee payment of fifty thousand dollars $50,000 to Juniper.

On the third anniversary of the Effective Date and each anniversary date thereafter, Licensee will make an annual license maintenance fee payment of $100,000 to Juniper. The annual license maintenance fees shall be creditable against royalties and other payments due to Juniper in the same calendar year (including milestone payments and Sublicense Income), but may not be carried forward to any other year.

4.3 Milestone Payments. In addition to the payments set forth in Sections 4.1 and 4.2, Licensee shall make milestone payments to Juniper within [***] of the achievement of the milestone events set forth in the table below by Licensee, its Affiliates, or its Sublicensees. Milestone payments are due only once on a Product-by-Product or Process-by-Process basis.

Milestone Event	**Milestone Payment**
Completion of a successful Phase 1 Clinical Trial of a Product or Process, completion which shall be deemed to have occurred when the data base for such clinical trial has been locked	$[***]
Completion of a successful Phase 2 Clinical Trial of a Product or Process, completion which shall be deemed to have occurred when the data base for such clinical trial has been locked	$[***]
Completion of first Phase 3 Clinical Trial of a Product or Process that meets criteria required for submission of a New Drug Application ("NDA"), to the United States Food and Drug Administration ("FDA")	$[***]
NDA filing acceptance by the FDA for a Product or Process	$[***]
NDA approval by the FDA for a Product or Process	$[***]
Regulatory approval for a Product or Process in the European Union	$[***]
First regulatory approval for a Product or Process outside of United States or European Union	$[***]
First Commercial Sale	$[***]

Achievement of aggregate Net Sales of $[***]	$[***]
Achievement of aggregate Net Sales of $[***]	$[***]

For the avoidance of doubt, each of the milestones payments shall be paid only once on a Product-by-Product or Process-by-Process basis, regardless of the number of disease indications for a Product or Process developed under this Agreement.

4.4 Royalties and Sublicense Income.

(a) During the Royalty Term, Licensee shall pay Juniper royalties based on worldwide Net Sales in each calendar year in accordance with the table below:

Royalty Rate	**Annual Worldwide Net Sales**
[***]%	<$[***]
[***]%	Portion of Annual Worldwide Net Sales from $[***] but less than $[***]
[***]%	Portion of Annual Worldwide Net Sales from $[***] but less than $[***]
[***]%	Portion of Annual Worldwide Net Sales from $[***] but less than $[***]
[***]%	Portion of Annual Worldwide Net Sales that is $[***] or greater

For an Unpatented Process or Unpatented Product, the applicable royalty rate set forth in the table above will be reduced by [***]%.

(b) In the event Licensee is responsible for the payment of any royalties to third parties (i) in respect of the manufacture, use, sale or import of Patented Products or Patented Processes, Licensee may reduce royalties payable hereunder by up to [***]percent ([***]%) of royalties owed by Licensee to such third parties, but in no event shall royalties payable to Juniper under this Agreement for Patented Products or Patented Processes be reduced by more than [***] percent ([***]%) and (ii) in respect of the manufacture, use, sale or import of Unpatented Products or Unpatented Processes, Licensee may reduce royalties payable hereunder by royalties owed by to such third parties, but in no event shall royalties payable to Juniper under this Agreement for Unpatented Products or Unpatented Processes be reduced by more than [***] percent ([***]%), and provided further that in no event shall the royalty payable to Juniper with respect to Net Sales of Unpatented Patents and Unpatented Processes be less than [***]%.

(c) With respect to Sublicensees, Licensee shall pay to Juniper [***] percent ([***]%) of all Sublicense Income received, in lieu of receipt of royalty payments specified above.

(d) All payments due to Juniper under this Section 4.4 shall be due and payable by Licensee within [***] after the end of each Reporting Period, and shall be accompanied by a report as set forth in Sections 5.3 and 5.4.

(e) Upon the expiration of a Royalty Term for a Patented Product or Patented Process in a country, the licenses granted to Licensee under Section 2 with respect to such Patented Product and Patented Process in such country shall be converted into fully paid-up, royalty-free, irrevocable licenses.

4.5 Form of Payment. All payments due under this Agreement shall be drawn on a United States bank and shall be payable in United States dollars. Each payment shall reference this Agreement and identify the obligation under this Agreement that the payment satisfies. In respect of Net Sales, conversion by Licensee of foreign currency to U.S. dollars shall be made at the conversion rate existing in the United States, as reported in The Wall Street Journal, on the last working day of the applicable Reporting Period, consistent with GAAP. Such payments shall be without deduction of exchange, collection or other charges. Payments shall be made by wire transfer to a bank account designated by Juniper.

4.6 Withholding. If any applicable law requires Licensee to withhold taxes with respect to any payment to be made by Licensee to Juniper pursuant to this Agreement, Licensee will notify Juniper of such withholding requirement prior to making the payment to Juniper and provide such assistance to Juniper, including the provision of such standard documentation as may be required by a tax authority, as may be reasonably necessary in Juniper's efforts to claim an exemption from or reduction of such taxes. Licensee will, in accordance with such law, withhold taxes from the amount due, remit such taxes to the appropriate tax authority, and furnish Juniper with proof of payment of such taxes within thirty (30) days following the payment. If taxes are paid to a tax authority, Licensee shall provide reasonable assistance to Juniper to obtain a refund of taxes withheld, or obtain a credit with respect to taxes paid.

4.7 Overdue Payments. The payments due under this Agreement shall, if overdue, bear interest beginning on the first day following the due date to which such payment was incurred and until payment thereof at a per annum rate equal to [***] above the prime rate in effect on the due date as reported by The Wall Street Journal, such interest rate being compounded on the last day of each Reporting Period, not to exceed the maximum permitted by law. Any such overdue payments when made shall be accompanied by all interest so accrued. Said interest and the payment and acceptance thereof shall not preclude Juniper from exercising any other rights it may have as a consequence of the lateness of any payment.

5. REPORTS AND RECORDS

5.1 Diligence Reports. Within thirty (30) days after the end of each calendar year, Licensee shall report in writing to Juniper on progress made toward achieving the objectives set forth in the Research Plan.

5.2 Milestone Achievement Notification. Licensee shall report to Juniper the dates on which it achieves the milestone events set forth in Section 4.3 within thirty (30) days of each such occurrence.

5.3 Sales Reports. Licensee shall report to Juniper the date of the First Commercial Sale in each country of the License Territory within thirty (30) days after such occurrence in a country. For each country, following the First Commercial Sale in any country, Licensee shall deliver a sales report to Juniper within thirty (30) days after the end of each Reporting Period with respect to Sales made during such Reporting Period. Each report under this Section 5.3 shall be certified as correct by an officer of Licensee and shall contain at least the following information as may be pertinent to a royalty accounting hereunder for such Reporting Period:

(a) the number of Products and Processes Sold by Licensee, its Affiliates and Sublicensees in each country, including breakdown between Patented Products and Unpatented Products and Patented Processes and Unpatented Processes;

(b) the amounts billed, invoiced and received by Licensee, its Affiliates and Sublicensees for each Product and Process, in each country, and total billings or payments due or made for all Products and Processes;

(c) calculation of Net Sales for the applicable Reporting Period in each country, including an itemized listing of permitted offsets and deductions; and

(d) total royalties payable on Net Sales in U.S. dollars, together with the exchange rates used for conversion.

If no amounts are due to Licensee for any Reporting Period, the report shall so state.

5.4 Sublicense Income Reports. Licensee shall, along with delivering payment as set forth in Section 4.4(c), report to Juniper within thirty (30) days of receipt, the amount of all Sublicense Income received by Licensee, and Licensee's calculation of the amount due and paid to Juniper from such income, including an itemized listing of the source of income comprising such consideration, and the name and address of each entity making such payments.

5.5 Audit Rights. Licensee shall maintain, and shall cause each of its Affiliates and Sublicensees to maintain, complete and accurate records relating to Sales of Products and Processes and Sublicense Income, and the rights and obligations under Section 4 of this Agreement and any amounts payable to Juniper in relation to this Agreement, which records shall contain sufficient information to permit Juniper to confirm the accuracy of any payments and reports delivered to Juniper. Licensee shall retain and make available, and shall cause each of its Affiliates and Sublicensees to retain and make available as set forth below, such records for at least [***] ([***]) years following the end of the calendar year to which they pertain, to Juniper upon at least thirty (30) days' advance written notice, for examination during normal business hours, by independent certified public accountants hired by Juniper and reasonably acceptable to Licensee, its Affiliates and Sublicensees, as the case may be, to verify any reports and payments made and/or

compliance in other respects under Section 4 of this Agreement. Licensee may require such accountants to enter into a reasonably acceptable confidentiality agreement, and in no event shall such accountants disclose to Juniper any information, other than such as relates to the accuracy of the corresponding reports pursuant to Section 5. Such confidentiality agreement shall permit such accountants to perform all activities typically associated with an audit of a license agreement. The foregoing right of examination may be exercised only once in relation to each twelve (12)-month period during the Term, and no period may be audited more than once, except in the event Juniper has cause for such audit, in which case, the for cause audit shall not count as an audit under this Section 5.5. If any examination conducted by such independent certified public accountants pursuant to the provisions of this Section certifies an underreporting or underpayment of [***] percent ([***]%) or more in any payment due to Juniper hereunder, Licensee shall reimburse Juniper for the reasonable cost of such audit and shall remit any amounts due to Juniper (including interest due in accordance with Section 4.5) within thirty (30) days of receiving a copy of the auditor's report. This Section shall survive for [***] ([***]) years from expiration or termination of this Agreement.

6.PATENT PROSECUTION AND MAINTENANCE

6.1 Prosecution. MGH shall be responsible for the preparation, filing, prosecution and maintenance of all patent applications and patents included in Patent Rights that are subject to the Underlying Agreement (the "Underlying Patent Rights") and Licensee shall be responsible for the preparation, filing, prosecution and maintenance of all patent applications and patents included in Patent Rights that are not Underlying Patent Rights. Licensee shall reimburse Juniper (or if requested by Juniper, MGH directly) for [***] costs incurred in the preparation, filing, maintenance of the patent applications and patents included in the Underlying Patent Rights within thirty (30) days of receipt of an invoice for such costs. Licensee shall [***] any costs associated with the preparation, filing, maintenance of the patent applications and patents included in the Patent Rights that are not Underlying Patent Rights. If requested by Licensee, Juniper shall communicate to MGH (or request that MGH allow Licensee to communicate directly with MGH) Licensee's requests to seek patent protection of any Underlying Patent Rights in any country within the License Territory in which MGH is not prosecuting such Patent Rights (including seeking patent term adjustments, patent term extensions, supplemental patent protection or related extension of rights), and shall use commercially reasonable efforts to advocate on Licensee's behalf with respect to such requests, if applicable.

6.2 Copies of Documents. With respect to any Underlying Patent Right licensed hereunder, Juniper shall notify MGH in writing of its request that MGH instruct the patent counsel prosecuting such Underlying Patent Right to (i) promptly copy Licensee on all patent prosecution documents that are received from or filed with the United States Patent and Trademark Office and foreign equivalent, as applicable; (ii) promptly provide Licensee with copies of all draft submissions to the patent office prior to filing with reasonably sufficient time for Licensee and its patent counsel to review and provide comments for incorporation into such submission; and (iii) keep Licensee reasonably informed with respect to the preparation, prosecution and maintenance of the Underlying Patent Rights and consult with Licensee, and take any of Licensee's or its patent

counsel's comments and requests into good faith consideration, with respect to the preparation, prosecution and maintenance of the Underlying Patent Rights. If requested by Licensee, Juniper shall use commercially reasonable efforts to facilitate communications between Licensee and MGH with respect to the Underlying Patent Rights, or shall request that MGH communicate directly with Licensee with respect to the Underlying Patent Rights.

6.3 Licensee's Election Not to Proceed. Licensee may elect to surrender any patent or patent application in Patent Rights in any country upon sixty (60) days advance written notice to Juniper ("Waived Patent Rights"). Such notice shall relieve Licensee from the obligation to pay for future patent costs related to such Waived Patent Rights but shall not relieve Licensee from responsibility to pay patent costs incurred prior to the expiration of the sixty (60) day notice period:

(a) If the Waived Patent Rights are in the [***], such patent application or patent in such country shall thereupon cease to be a Patent Right hereunder and Juniper shall be free to license its rights to that particular U.S. or foreign patent application or patent to any other party on any terms.

(b) If the Waived Patent Rights are in any other country (i.e., other than a country set forth above in clause (a) above), the licenses granted with respect to such patent application or patent in such other country under Section 2.1(a)(i) shall thereupon become non-exclusive. For the avoidance of doubt, in the event of a conversion to a nonexclusive license in any such other country, such conversion shall not excuse Licensee from paying royalties on Unpatented Products and Unpatented Processes in such countries at the rates set forth in Section 4.4, and Juniper shall be free to license its rights non-exclusively to that particular patent application or patent in such other country to any other party on any terms.

7.THIRD PARTY INFRINGEMENT AND LEGAL ACTIONS

7.1 Licensee Right to Prosecute. Each Party agrees to immediately notify the other Party in writing upon becoming aware of any infringement of the Patent Rights in the License Field and provide to the other Party all reasonably-available evidence of such infringement. Licensee shall have the first right, but not the obligation, to protect Patent Rights from infringement and prosecute infringers in the License Field in the License Territory, at its own expense. Subject to any consent and other requirements set forth in the Underlying Agreement, before commencing such action, Licensee and, as applicable, any Affiliate, shall reasonably consult with Juniper, concerning, among other things, Licensee's standing to bring suit, the advisability of bringing suit, the selection of counsel and the jurisdiction for such action, and shall use commercially reasonable efforts to accommodate the views of Juniper regarding the proposed action. If Licensee commences any such action, but is not recognized by the applicable court or other relevant body as having the requisite standing to pursue such action, then at Licensee's request, Juniper shall join, and if necessary, shall use commercially reasonable efforts to cause MGH to join, in as party-plaintiff or commence such action in its own name and, in either event, cooperate with Licensee, at Licensee's expense; *provided*, *however*, that Licensee shall indemnify and hold

Juniper, MGH and MIT harmless from and against any costs and expenses they incur in connection with the defense of any counterclaims filed against them, except for the expense of any independent counsel retained by Juniper, MGH, or MIT in accordance with Section 7.3.

7.2 MGH Right to Prosecute. In the event Licensee notifies Juniper that Licensee does not intend to prosecute infringement identified under Section 7.1, or in the event that Licensee is unsuccessful in persuading the alleged infringer to desist, MGH shall have the right, but not the obligation to prosecute such infringement, as specified in the Underlying Agreement.

7.3 Juniper, MGH and MIT Joined as Party-Plaintiff. If Licensee elects to commence an action as described in Section 7.1, Juniper, MGH and MIT shall each have, in its sole discretion, the option to join such action as party-plaintiffs. If Juniper, MGH and MIT are required by law to join such action as party-plaintiffs, Juniper, MGH, or MIT may either (i) in their joint discretion, permit themselves to be joined as party-plaintiffs at the sole expense of Licensee, or (ii) assign to Licensee all of Juniper's, MGH's, or MIT's right, title and interest in and to the Patent Right which is the subject of such action (subject to any government rights under law and any other rights that others may have in such Patent Right). If Juniper, MGH and MIT make such an assignment, such action by Licensee shall thereafter be brought or continued without Juniper, MGH, or MIT as a party; provided, however, that Juniper, MGH and MIT shall continue to have all rights of prosecution and maintenance with respect to the Patent Rights and Licensee shall continue to meet all of its obligations under this Agreement as if the assigned Patent Right were still licensed to Licensee hereunder. For the sake of clarity, MGH's and MIT's rights specified in this Section only relate to the Underlying Patent Rights.

7.4 Notice of Actions; Settlement; Cooperation. The provisions of Sections 7.4 and 7.5 of the Underlying Agreement regarding notice of actions, settlements and cooperation shall apply this Agreement and are herein incorporated by reference.

7.5 Recovery. Any award paid by third parties as the result of proceedings brought by Licensee under Section 7.1 (whether by way of settlement or otherwise) shall first be applied to reimbursement of any reasonable legal fees and out of pocket costs and expenses incurred by Licensee, then to reimbursement of any reasonable legal fees and out of pocket costs and expenses incurred by Juniper, MGH, or MIT; and any remainder [***].

8.INDEMNIFICATION AND INSURANCE

8.1 Indemnification.

(a) Licensee shall indemnify, defend and hold harmless Juniper and its Affiliates and their directors, officers, employees, agents and their respective successors, heirs and assigns (the "Indemnitees") from and against any third party claims, actions, demands and proceedings brought or alleged against any of the Indemnitees (each a "Claim"), and shall pay all damages, losses and expenses (including reasonable attorney's fees and expenses of litigation) (collectively, "Losses") incurred by or imposed upon an Indemnitee, to the extent such Claim is arising out of or related to

the exercise of any rights granted to Licensee under this Agreement, including without limitation any theory of product liability (including, but not limited to, actions in the form of contract, tort, warranty, or strict liability) concerning any product, process or service made, used, or sold or performed pursuant to any right or license granted under this Agreement, except to the extent such Losses arise from the breach of this Agreement or gross negligence or willful misconduct of an Indemnitee.

(b) An Indemnitee that intends to claim indemnification under this Section 8.1 shall promptly notify Licensee of any Claim in respect of which the Indemnitee intends to claim such indemnification reasonably promptly after the Indemnitee is aware thereof (and in any event reasonably before any formal deadline for responding to a such claim has passed), and shall permit Licensee to assume the control of the defense and settlement of such Claim. Licensee shall assume the defense of such Claim with counsel reasonably satisfactory to Juniper; provided, however, that an Indemnitee shall have the right to retain its own counsel and participate in the defense thereof at its own cost and expense, and further provided, that any Indemnitee shall have the right to retain its own counsel, at the expense of Licensee, if representation of such Indemnitee by counsel retained by Licensee would be inappropriate because of a direct adverse conflict of interests of such Indemnitee and any other party represented by such counsel in such action or a related action.

(c) No Indemnitee may consent to any settlement or judgment of a Claim without the consent of Licensee. The Indemnitees under this Section 8.1 shall cooperate fully with Licensee and its legal representatives in the investigation and defense of any matter covered by this indemnification. Licensee agrees to keep Juniper informed of the progress in the defense and disposition of such claim and to reasonably consult with Juniper prior to any proposed settlement.

(d) This Section 8.1 shall survive expiration or termination of this Agreement.

8.2 Insurance.

(a) Licensee shall, at its sole cost and expense, procure and maintain commercial general liability and products-completed operations liability insurance policy(ies) in amounts set forth below which shall be issued by an insurer licensed to practice in the Commonwealth of Massachusetts, and Juniper shall qualify as a "loss payee" thereunder. Such insurance shall provide (i) product liability coverage (ii) errors and omissions liability coverage and (iii) contractual liability coverage. The limits of such insurance shall not be less than [***] Dollars ($[***]) per occurrence with an annual aggregate of [***] Dollars ($[***]) for bodily injury including death; and [***] Dollars ($[***]) per occurrence with an annual aggregate of [***] Dollars ($[***]) for property damage. If Licensee desires to self-insure all or part of the limits described above (including deductibles or retentions which are in excess of

$[***] annual aggregate) such self-insurance program must be acceptable to Juniper. The minimum amounts of insurance coverage required under this Section 8.2 shall not be construed to create a limit of Licensee's liability with respect to its indemnification under Section 8.1 of this Agreement.

(b) Licensee shall provide Juniper with written evidence of such insurance upon written request of Juniper. Licensee shall provide Juniper with written notice at least fifteen (15) days prior to the cancellation, non-renewal or material change in such insurance; if Licensee does not obtain replacement insurance providing comparable coverage prior to the expiration of such fifteen (15) day period, Juniper shall have the right to terminate this Agreement effective at the end of such fifteen (15) day period without notice or any additional waiting periods.

(c) Licensee shall maintain such commercial general liability insurance beyond the expiration or termination of this Agreement during (i) the period that any such product, process, or service is being commercially distributed, sold, leased or otherwise transferred, or performed or used (other than for the purpose of obtaining regulatory approvals), by Licensee or an Affiliate, Sublicensee, or agent of Licensee and (ii) a reasonable period after the period referred to in (c) (i) above which in no event shall be less than [***] ([***]) [***].

(d) This Section 8.2 shall survive expiration or termination of this Agreement.

9.WARRANTIES; DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY

9.1 Juniper Warranties. To the best actual knowledge of Juniper on the Effective Date, Juniper represents and warrants that Juniper is the exclusive licensee of the Underlying Patent Rights. Juniper represents and warrants that, as of the Effective Date, (i) it owns all right, title and interest in and to the patents and patent applications in the Patent Rights that are not Underlying Patent Rights, and that it has not granted any rights to any third party to such Patent Rights; (ii) Juniper has not received any written notice of any current claims, liens or encumbrances with respect to the Patent Rights, (iii) Juniper has received no current written claims of a third party to rights in the Patent Rights, (iv) to its best actual knowledge the Patent Rights are subsisting; (v) Juniper has not received any written claim or notice that the Patent Rights are invalid or unenforceable, and (vi) Juniper has not received any notice of any current claims, liens or encumbrances with respect to the rights and licenses to the Patent Rights granted to Licensee hereunder. Additionally, Juniper represents and warrants to Licensee that (a) Juniper has made available to Licensee all Technological Information in Juniper's possession and control pursuant to Section 2.4, (b) Juniper has not intentionally withheld any information in its control that is material to the Patent Rights and Technological Information, and (c) to Juniper's best actual knowledge, all information disclosed to Licensee prior to the Effective Date by Juniper relating to the Patent Rights and Technological Information is true and accurate as of the date of disclosure.

9.2 Mutual Warranties. Each Party represents and warrants to the other Party that:

(a) this Agreement has been duly executed and delivered by and on behalf of such Party and constitutes a legal, valid, and binding obligation of such Party and is enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity;

(b) such Party has taken all corporate action necessary to authorize the execution and delivery of this Agreement; and

(c) such Party's execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not conflict with or violate any requirement of applicable law or any provision of the articles of incorporation, bylaws, limited partnership agreement, or any similar instrument of such Party, as applicable, in any material way, and (ii) do not conflict with, violate, or breach or constitute a default or require any consent under, any applicable law or any contractual obligation or court or administrative order by which such Party is bound.

9.3 No Warranties. EXCEPT WITH RESPECT TO THE EXPRESS WARRANTIES MADE IN SECTION 9.1 AND SECTION 9.2, JUNIPER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE PATENT RIGHTS AND THE RIGHTS GRANTED HEREUNDER, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF PATENT RIGHTS CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AND HEREBY DISCLAIMS THE SAME. SPECIFICALLY, AND NOT TO LIMIT THE FOREGOING, JUNIPER MAKES NO WARRANTY OR REPRESENTATION (i) REGARDING THE VALIDITY OR SCOPE OF ANY OF THE CLAIM(S), WHETHER ISSUED OR PENDING, OF ANY OF THE PATENT RIGHTS, AND (ii) THAT THE EXPLOITATION OF THE PATENT RIGHTS OR ANY PRODUCT OR PROCESS WILL NOT INFRINGE ANY PATENTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

9.4

Limitation of Liability. IN NO EVENT SHALL JUNIPER OR LICENSEE OR ANY OF THEIR AFFILIATES OR ANY OF THEIR DIRECTORS, OFFICERS, MEDICAL OR EMPLOYEES, CONSULTANTS AND AGENTS BE LIABLE HEREUNDER FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING IN ANYWAY OUT OF THIS AGREEMENT OR THE LICENSE OR RIGHTS GRANTED HEREUNDER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION ECONOMIC DAMAGES OR INJURY TO PROPERTY OR LOST PROFITS, REGARDLESS OF WHETHER SUCH PARTY SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING; PROVIDED HOWEVER THAT NOTHING IN THIS SECTION 9.4

SHALL BE CONSTRUED TO LIMIT LICENSEE'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8 WITH RESPECT TO THIRD PARTY CLAIMS.

10.TERM AND TERMINATION

10.1 Term. The term of the Agreement will commence upon the Effective Date and continue on a country-by-country basis until the later of (a) expiration of the last-to-expire Valid Claim in such country, or (b) ten (10) years from the date of first commercial sale of a Product or Process in such country, unless this Agreement is terminated earlier in accordance with any of the other provisions of Section 10. Upon expiration per this Section 10.1, the licenses granted herein shall convert automatically to fully-paid irrevocable licenses. For clarity, the grant conversion of this Section 10.1 shall not apply if the Agreement is terminated pursuant to Sections 10.2, 10.3 or 10.4.

10.2 Termination for Failure to Pay. If Licensee fails to make any payment due hereunder, Juniper shall have the right to terminate this Agreement upon thirty (30) days written notice, unless, subject to Licensee's right to dispute such payment under the provisions of Section 12.13, Licensee makes such payments plus any interest due, as set forth in Section 4.7, within said thirty (30) day notice period. If undisputed payments are not made, Juniper may immediately terminate this Agreement at the end of said thirty (30) day period. Licensee shall be entitled to two (2) such cure periods in a calendar year; for a third failure to make an undisputed payment on time in such calendar year, Juniper shall have the right to terminate this Agreement immediately upon written notice.

10.3 Termination for Insurance and Insolvency.

(a) Insurance. Juniper shall have the right to terminate this Agreement in accordance with Section 8.2(b) if Licensee fails to maintain the insurance required by Section 8.2(b).

(b) Insolvency and other Bankruptcy Related Events. Juniper shall have the right to terminate this Agreement immediately upon written notice to Licensee with no further notice obligation or opportunity to cure if Licensee: (i) shall become insolvent; (ii) shall make an assignment for the benefit of creditors; or (iii) or shall have a petition in bankruptcy filed for or against it, which petition is not dismissed within ninety (90) days.

10.4 Termination for Non-Financial Default. If Licensee or any of its Affiliates materially breaches any of its obligations under this Agreement not otherwise covered by the provisions of Section 10.2 and 10.3, and if such material breach has not been cured within sixty (60) days after notice by Juniper in writing of such breach, or if Licensee has not undertaken a plan to cure such breach that is reasonably acceptable to Juniper, then Juniper may immediately terminate this Agreement and/or any license granted hereunder at the end of said sixty (60) day cure period. If Juniper notifies Licensee of a material breach as described herein, the Parties shall promptly meet in an effort to resolve any good faith dispute with respect to such breach in accordance with Section 12.13.

10.5 Challenging Validity. During the term of this Agreement, Licensee shall not Challenge, and shall restrict its Affiliates and Sublicensees from Challenging, the Patent Rights and in the event of any breach of this provision, Juniper shall have the right to terminate this Agreement and any license (and sublicense in the case of a challenge from a Sublicensee) granted hereunder immediately. In addition, if the Patent Rights are upheld as a result of the Challenge Licensee shall reimburse Juniper for its reasonable legal costs and expenses incurred in defending any such challenge. Licensee or its Affiliate or a Sublicensee will be deemed to have made a "Challenge" of the Patent Rights if such entity: (a) institutes or voluntarily joins as a party to, or causes its counsel to institute on Licensee's or its Affiliate's or Sublicensee's behalf, any interference, opposition, re-examination, post-grant review or similar proceeding with respect to any Patent Right with the U.S. Patent and Trademark Office or any foreign patent office; or (b) makes any filing or institutes or voluntarily joins as a party to any legal proceeding, or causes its counsel to make any filing or institute or voluntarily join as a party to any legal proceeding on Licensee's or its Affiliate's or Sublicensee's behalf, with a court or other governmental body having authority to determine the validity, enforceability or scope of the Patent Rights, in which one or more claims or allegations challenges the validity or enforceability of any Patent Rights. Notwithstanding the foregoing, any response by Licensee, its Affiliates or Sublicensee in response to any suit, proceeding, or other action brought directly or indirectly by Juniper or any of its Affiliates or MGH against Licensee, its Affiliates or Sublicensee shall not be deemed a Challenge.

10.6 Termination by Licensee. Licensee shall have the right to terminate this Agreement on a country-by-country basis by giving one hundred eighty (180) days advance written notice to Juniper (but if such termination occurs prior to receipt of marketing approval in the United States, then such notice period shall be ninety (90) days'), and upon such termination shall immediately cease all use and Sales of Products and Processes in such country, subject to Section 10.9.

10.7 Effect of Termination.

(a) In the event the Agreement is terminated by Licensee in accordance with Section 10.6, and in the event of termination of this Agreement by Juniper in the event of material uncured breach by Licensee pursuant to Section 10.4, Juniper will have a full access, including the right to use and reference all Product data generated during the term of the Agreement that is owned by Licensee. Upon the termination of this Agreement, any and all sublicenses granted pursuant to Section 2.1 to a Sublicensee that has operations directed to the research and development of pharmaceutical drug products or is a distributor of such products shall remain in effect and be assigned on substantially the same terms with Juniper deemed for all purposes to be the licensor thereunder provided that (i) Sublicensee is in good standing under its sublicense agreement at the time of termination; (ii) the sublicense is consistent with the terms of this Agreement; (iii) Juniper shall have no obligations under such sublicenses other than to preserve the effectiveness, scope, and validity of the licenses granted therein under the Patent Rights and Technological Information; (iv) the relevant sublicense(s), when taken together, provide Juniper with similar benefits as this Agreement, (v) Juniper shall not

assume any obligation of Licensee to such Sublicensee pursuant to any representation, warranty or indemnification provision; and (vi) further provided that such Sublicensee enters into an agreement directly with Juniper to effectuate such assignment. Juniper shall be entitled to all payments due to Licensee (but excluding any duplicate payments) from each Sublicensee under any such sublicense in accordance with the terms of such sublicense; and such sublicense shall be deemed assigned to Juniper if necessary to ensure continued payments.

(b) In the event the Underlying Agreement is terminated, this Agreement shall remain in effect and be assigned on substantially the same terms to MGH, with MGH deemed for all purposes to be the licensor hereunder provided that (i) Licensee is in good standing under this Agreement at the time of termination; (ii) this Agreement is consistent with the terms of the Underlying Agreement; (iii) MGH shall have no obligations under this Agreement other than to preserve the effectiveness, scope, and validity of the licenses granted therein under the Patent Rights and Technological Information; (iv) this Agreement provides MGH with similar or greater benefits than under the Underlying Agreement, including without limitation, with respect to reimbursement of patent costs; (v) neither MGH nor MIT (as defined in the Underlying Agreement) shall assume any obligation of Juniper to Licensee pursuant to any representation, warranty or indemnification provision; and (vi) further provided that Licensee enters into an agreement directly with MGH to effectuate such assignment. MGH shall be entitled to all payments due Juniper and MGH (but excluding any duplicate payments) from Licensee under this Agreement in accordance with the terms of this Agreement.

10.8 Effects of Termination of Agreement. Upon termination of this Agreement or any of the licenses hereunder for any reason, final reports in accordance with Section 5 shall be submitted to Juniper and all royalties and other payments, accrued or due to Juniper as of the termination date shall become immediately payable. Licensee shall cease, and shall cause its Affiliates and Sublicensees to cease under any sublicense granted by Licensee, all Sales and uses of Products and Processes upon such termination, subject to Sections 10.7 and 10.9. The termination or expiration of this Agreement or any license granted hereunder shall not relieve Licensee, its Affiliates or Sublicensees of obligations arising before such termination or expiration.

10.9 Inventory. Upon early termination of this Agreement other than pursuant to Section 10.4, Licensee and its Affiliates and Sublicensees, subject to Section 10.7, may complete and sell any work-in-progress and inventory of Products that exist as of the effective date of termination provided that (i) Licensee pays Juniper the applicable running royalty or other amounts due on such Net Sales in accordance with the terms and conditions of this Agreement, and (ii) Licensee and its Affiliates and Sublicensees, subject to Section 10.7, shall complete and sell all work-in-progress and inventory of Products within [***] ([***]) [***] after the effective date of termination. Upon expiration of this Agreement, Licensee shall pay to Juniper the royalties set forth in Section 4.4 for Sales of any Product that was in inventory or was a work-in progress on the date of expiration of the Agreement.

10.10 Section 365(n) of the Bankruptcy Code. All rights and licenses granted under or pursuant to any section of this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101(35A) of the U.S. Bankruptcy Code to the extent permitted thereunder, and as a licensee of such rights under this Agreement, Licensee shall retain and may fully exercise all of its rights and elections under the United States Bankruptcy Code or any applicable foreign equivalent thereof. The parties shall retain and may fully exercise all of their respective rights and elections under the U.S. Bankruptcy Code. Upon the bankruptcy of any party, the non-bankrupt party shall further be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property, and such, if not already in its possession, shall be promptly delivered to the non-bankrupt party, unless the bankrupt party elects to continue, and continues, to perform all of its obligations under this Agreement.

11.COMPLIANCE WITH LAW

11.1 Compliance. Licensee shall have the sole obligation for compliance with, and shall ensure that any Affiliates and Sublicensees comply with, all government statutes and regulations that govern Products and Processes, including, but not limited to, those of the Food and Drug Administration and the Export Administration, as amended, and any applicable laws and regulations of any other country in the License Territory. Licensee agrees that it shall be solely responsible for obtaining any necessary licenses to export, re-export, or import Products or Processes covered by Patent Rights and/or Confidential Information. Licensee shall indemnify and hold harmless Juniper (in accordance with Section 8) for any breach of Licensee's obligations under this Section 11.1.

11.2 Patent Numbers. To the extent required by applicable law , Licensee shall use commercially reasonable efforts to properly mark all Products or their packaging in accordance with the applicable patent marking laws.

12.MISCELLANEOUS

12.1 Confidentiality. Each Party shall treat all information received from the other Party in connection with this Agreement in accordance with the provisions of Exhibit C. Licensee agrees to treat all information related to prosecution and maintenance of Patent Rights as Confidential Information in accordance with the provisions of Exhibit C. Juniper agrees to treat all information received by in reports delivered under Section 5 as Licensee's Confidential Information in accordance with the provisions of Exhibit C.

12.2 Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof.

12.3 Notices. Any notices, waivers, or other legal or formal communications required under or pertaining to this Agreement shall be in writing and shall be delivered by hand, or sent by a reputable overnight mail service (e.g., Federal Express), or by first class mail (certified or registered), or by facsimile confirmed by one of the foregoing methods, to the other party. Notices

will be deemed effective (a) three (3) working days after deposit, postage prepaid, if mailed, (b) the next day if sent by overnight mail, or (c) the same day if sent by facsimile and confirmed as set forth above or delivered by hand. Unless changed in writing in accordance with this Section, the notice address for Licensee shall be as follows:

If to Licensee:
Daré Bioscience, Inc.
11119 North Torrey Pines Road
La Jolla, California 92037
Attention: Chief Executive Officer

If to Juniper:
Juniper Pharmaceuticals, Inc.
33 Arch Street
Boston, MA 02110
Attn: Chief Financial Officer

12.4 Amendment; Waiver. This Agreement may be amended and any of its terms or conditions may be waived only by a written instrument executed by an authorized signatory of the Parties or, in the case of a waiver, by the Party waiving compliance. The failure of either Party at any time or times to require performance of any provision hereof shall in no matter affect its rights at a later time to enforce the same. No waiver by either Patty of any condition or term shall be deemed as a further or continuing waiver of such condition or term or of any other condition or term.

12.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties hereto and their respective permitted successors and assigns.

12.6 Assignment. This Agreement may not be assigned by either Party without the other Party's written consent, *provided that* no such consent of the other Party will be required for assignment of the Agreement (a) in connection with the transfer or sale of all or substantially all of the assets or business of such Party to which this Agreement relates to a third party, whether by merger, sale of stock, sale of assets or otherwise, or (b) to any Affiliate.

12.7 Force Majeure. Neither Party shall be responsible for delays resulting from causes beyond the reasonable control of such Party (which shall not relate to delays in payment), including without limitation fire, explosion, flood, war, sabotage, terrorism, strike or riot, provided that the nonperforming Party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

12.8 Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts, excluding with respect to conflict of laws, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted.

12.9 U.S. Manufacturing. Licensee agrees that any Products or Processes used or sold in the United States will be manufactured substantially in the United States to the extent required by law and to the extent not subject to a waiver granted under applicable law.

12.10 Severability. If any provision(s) of this Agreement are or become invalid, are ruled illegal by any court of competent jurisdiction or are deemed unenforceable under then current applicable law from time to time in effect during the term hereof, it is the intention of the parties that the remainder of this Agreement shall not be effected thereby. It is further the intention of the parties that in lieu of each such provision which is invalid, illegal or unenforceable, there be substituted or added as part of this Agreement a provision which shall be as similar as possible in economic and business objectives as intended by the parties to such invalid, illegal or enforceable provision, but shall be valid, legal and enforceable.

12.11 Survival. In addition to any specific survival references in this Agreement, Sections 2.3, 5.5, 8, 9.4, 10.7, 10.8, 10.9, 10.10 and 12 shall survive termination or expiration of this Agreement. Any other rights, responsibilities, obligations, covenants and warranties which by their nature should survive this Agreement shall similarly survive and remain in effect.

12.12 Interpretation. The parties hereto are sophisticated, have had the opportunity to consult legal counsel with respect to this transaction and hereby waive any presumptions of any statutory or common law rule relating to the interpretation of contracts against the drafter.

12.13 Headings. All headings are for convenience only and shall not affect the meaning of any provision of this Agreement.

12.13 Dispute Resolution.

(a) Any dispute or issue relating to or in connection with this Agreement (a "Dispute") shall initially be referred to Licensee's CEO and Juniper's CEO to resolve the Dispute. However, notwithstanding any of the terms of this Section 12.13 and without limiting any other remedies that may be available, each Party shall have the light to seek immediate injunctive relief and other equitable relief from any court of competent jurisdiction to enjoin any breach or violation of this Agreement concerning confidential information or any other intellectual property licensed under this Agreement, without any obligation to undertake extra-judicial dispute resolution of any such Dispute or claim or otherwise to comply with this Section 12.13. It is understood and agreed that during the pendency of a Dispute pursuant to this Section 12.13, the terms and conditions of this Agreement shall remain in effect and the Parties shall continue to perform all of their respective obligations hereunder.

(b) If Licensee's CEO and Juniper's CEO are unable to resolve the Dispute within forty-five (45) days after such referral, then each Party shall have the right to seek other relief, including equitable relief, from any court of competent jurisdiction.

(c) Each Party shall bear its own costs in obtaining the dispute resolution, as outlined above.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Juniper Pharmaceuticals, Inc.		Daré Bioscience, Inc.	
By:	/s/ Alicia Secor	By:	/s/ Sabrina Martucci Johnson
Name:	Alicia Secor	Name:	Sabrina Martucci Johnson
Title:	CEO	Title:	President and CEO
Date:	April 24, 2018	Date:	April 24, 2018

CERTAIN CONFIDENTIAL PORTIONS OF THIS EXHIBIT WERE OMITTED AND REPLACED WITH "[***]". A COMPLETE VERSION OF THIS EXHIBIT HAS BEEN FILED SEPARATELY WITH THE SECRETARY OF THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO AN APPLICATION REQUESTING CONFIDENTIAL TREATMENT PURSUANT TO RULE 24B-2 PROMULGATED UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit A

PATENT RIGHTS

[***]

Exhibit B

Technological Information

1. Documents provided by Juniper Pharmaceuticals to Dare Bioscience including: reports, data summaries, Certificate of Analysis, test methods, protocols, data, product and test specifications, manufacturing records and data, equipment specifications, know-how, and other information or intellectual property for which no patent has been filed whether or not patentable, pertaining to the vaginal ring technology platform that is required to manufacture said product to the required standards and specifications required by global regulatory authorities

2. Use of alternative EVA sources which have demonstrated comparable performance within the IVR configurations developed to date.

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Exhibit C

CONFIDENTIALITY TERMS AND CONDITIONS

1. Definition of Confidential Information. "Confidential Information" shall mean any information, whether written or oral, including but not limited to data, techniques, protocols or results, or business, financial, commercial or technical information, disclosed or made available by one Party (each a "Discloser" as applicable) to the other Party (each a "Recipient" as applicable) in connection with the terms of that certain Exclusive License Agreement dated April ___, 2018, as the same may be amended or restated from time to time (the "License Agreement"). Juniper's Confidential Information shall also include all information disclosed by Juniper to Licensee in connection with the Patent Rights. Capitalized terms used in this Exhibit that are not otherwise defined herein have the meanings ascribed in the License Agreement to which this Exhibit is attached and made a part thereof.

2. Exclusions. Confidential Information under this Agreement shall not include any information that (i) is or becomes publicly available through no wrongful act of Recipient; (ii) was known by Recipient prior to disclosure by Discloser, as evidenced by records kept in the ordinary course of Recipient's business; (iii) becomes known to Recipient after disclosure from a third party having an apparent bona fide right to disclose it without duty of obligation to the Discloser; or (iv) is independently developed or discovered by Recipient without use of Discloser's Confidential Information, as evidenced by records kept in the ordinary course of Recipient's business.

   Specific Confidential Information disclosed to the Recipient shall not be deemed to be within any of the foregoing exceptions merely because it is (a) embraced by more general information in the public domain or in the Recipient's possession; (b) a combination of features or data that can be pieced together by combining individual features or data from multiple sources in the public domain or in the Recipient's possession to reconstruct the Confidential Information, but none of which shows the entire combination; and/or (c) a selection or part of a document or embodiment where other information in the same document or embodiment becomes part of the public domain or in the Recipient's possession.

3. Permitted Purpose. Recipient shall have the right to, and agrees that it will, use Discloser's Confidential Information, solely to perform its obligations and exercise its rights under the License Agreement.

4. Restrictions. For the term of the License Agreement and a period of ten (10) years thereafter (and indefinitely with respect to any individually identifiable health information), each Recipient agrees that: (i) it will not use such Confidential Information for any purpose other than as specified herein, including without

limitation for its own benefit or the benefit of any other person or entity; and (ii) it will use reasonable efforts (but no less than the efforts used to protect its own confidential and/or proprietary information of a similar nature) not to disclose such Confidential Information to any other person or entity except as expressly permitted hereunder. Recipient may disclose Discloser's Confidential Information only on a need-to-know basis to its and its Affiliates' employees and agents ("Receiving Individuals") who are informed of the confidential nature of such information, provided Recipient shall be responsible for compliance by Receiving Individuals with the terms of this Agreement and any breach thereof. Notwithstanding the foregoing, either Party may disclose Confidential Information regarding the existence and content of the License Agreement, to the extent applicable, to investors, potential institutional investors, Sublicensees, potential Sublicensees, partners, potential partners, bankers, financial institutions, and acquirers and potential acquirers of the Licensee, or as required under applicable law.

Each Party further agrees not to use the name of the other party or any of its Affiliates or any of their respective directors, officers, employees, consultants or agents in any advertising, promotional or sales literature, publicity or in any document employed to obtain funds or financing without the prior written approval of the party or individual whose name is to be used . Notwithstanding the foregoing, each Party may use the name of the other Party and its Affiliates in a non-misleading and factual manner, including in accordance with security laws and regulations, and Licensee may disclose the existence of this Agreement in furtherance of its business purposes.

Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit the Recipient from disclosing Confidential Information to the extent required in order for the Recipient to comply with applicable laws and regulations (including, without limitation, stock exchange rules or the rules of any regulatory or self-regulatory authority), provided that the Recipient provides prior written notice of such required disclosure to the Discloser and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.

5. Right to Disclose. Discloser represents that to the best of its knowledge it has the right to disclose to the Recipient all of Discloser's Confidential Information that is disclosed hereunder.

6. Ownership. All Confidential Information disclosed pursuant to this Agreement, including without limitation all written and tangible forms thereof, shall be and remain the property of the Discloser. Upon termination of this Agreement, if requested by Discloser in writing, Recipient shall return or destroy at Discloser's

discretion all of Discloser's Confidential Information, provided that Recipient shall be entitled to keep one copy of such Confidential Information in a secure location solely for the purpose of determining Recipient's legal obligations hereunder.

DARÉ BIOSCIENCE, INC.

NON-EMPLOYEE DIRECTOR COMPENSATION POLICY[1]

The board of directors (the "Board") of Daré Bioscience, Inc. (the "Company") has approved a non-employee director compensation policy (this "Policy").

Cash Compensation

Under this Policy, the Company will pay its non-employee directors retainers in cash, unless a director elects to receive his or her retainer for a given calendar year in the form of awards of unrestricted shares of the Company's common stock, as described below. Each non-employee director will receive a retainer for service on the Board and for service on each committee of which the director is a member. The chairmen of the Board and of each committee will receive higher retainers for such service. The amounts of the retainers are as follows:

		Annual Retainer ($)
Board of Directors		
Chairman		65,000
Member		35,000
Committees of the Board of Directors		
Audit	Chair	20,000
	Member	7,500
Compensation	Chair	15,000
	Member	5,000
Nominating and Corporate Governance	Chair	10,000
	Member	3,500
Clinical Advisory	Chair	20,000
	Member	10,000

These retainers are payable in arrears in four equal quarterly installments on the last day of each quarter, provided that the amount of such payment shall be prorated for any portion of such quarter during which the director was not serving. The Company will also reimburse its non-employee directors for reasonable travel and other expenses incurred in connection with attending Board and committee meetings.

Each non-employee director may elect to receive up to 100% of these retainers in the form of awards of unrestricted shares of the Company's common stock, issued on the first trading day of the quarter following the quarter to which the retainer relates, for a number of shares of the Company's common stock equal to (x) the amount of the cash retainer that would otherwise have been payable to such director on the date of grant divided by (y) the fair market value of the Company's common stock on the date of grant. Directors wishing to make this election for a given calendar year must make the election on or before the last day of the prior calendar year, except that the election with respect to calendar year 2016 and in any year in which a director is newly elected must be made on or before June 30th of such year or such other date as determined by the Board.

Equity Compensation

Initial Grants. Each director elected to the Board at the Company's annual meeting of stockholders in fiscal year 2018 will receive an option to purchase 45,000 shares of the Company's common stock (each, an "Initial Grant"). Each director newly elected to the Board thereafter will receive

[1] As approved by the Board on April 9, 2018.

an Initial Grant. Each Initial Grant will vest as to one-third of the shares of the Company's common stock underlying such option on each anniversary of the grant date until the third anniversary of the grant date, subject to the director's continued service as a director, and will become exercisable in full upon a Change in Control (as defined below).

Annual Grants. Beginning with the annual meeting of stockholders held in fiscal year 2019, each director elected to the Board at an annual meeting of stockholders and that has served on the Board for at least six months will receive an option to purchase 15,000 shares of the Company's common stock (each, an "Annual Grant"). Each Annual Grant will vest in full on the earlier of the first anniversary of the date of grant or immediately prior to the Company's first annual meeting of stockholders occurring after the date of grant, subject to the director's continued service as a director, and will become exercisable in full upon a Change in Control.

Exercise Price. The exercise price of each option granted under this Policy will equal the fair market value of the Company's common stock on the date of grant.

Change in Control. For purposes of this Policy, "Change in Control" means the occurrence, in a single transaction or in a series of related transactions occurring after the date of grant of the applicable equity award, of any one or more of the following events: (1) any person or persons acting together becomes the owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction; (2) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not own, directly or indirectly, either (A) outstanding voting securities representing more than fifty percent (50%) of the combined outstanding voting power of the surviving entity in such merger, consolidation or similar transaction or (B) more than fifty percent (50%) of the combined outstanding voting power of the parent of the surviving entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their ownership of the outstanding voting securities of the Company immediately prior to such transaction; or (3) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company during any twelve month period, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company to an entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are owned by stockholders of the Company in substantially the same proportions as their ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition. Notwithstanding the above, to the extent that any interpretation of this definition would otherwise cause the option on or following a Change in Control to constitute deferred compensation that is subject to Section 409A of the Internal Revenue Code, and not otherwise exempt from complying with the provisions of the statute, then a Change in Control shall only be deemed to occur if the Change in Control also qualifies as a change in the ownership or effective control of a corporation, or a change in the ownership of a substantial portion of a corporation's assets as defined in Treasury Regulation Section 1.409A-3(i)(5). No Change in Control will be deemed to occur because of a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company.

Daré Bioscience, Inc.

Incentive Stock Option Agreement
Granted Under the Amended and Restated 2014 Stock Incentive Plan

1. Grant of Option.

This agreement evidences the grant by Daré Bioscience, Inc., a Delaware corporation (the "**Company**"), on **###GRANT_DATE###** (the "**Grant Date**") to **###PARTICIPANT_NAME###** (the "**Participant**"), of an option to purchase, in whole or in part, on the terms provided herein and in the Company's Amended and Restated 2014 Stock Incentive Plan (the "**Plan**"), a total of **###TOTAL_AWARDS###** shares (the "**Shares**") of common stock, par value $0.0001 per share, of the Company ("**Common Stock**") at a price of **###GRANT_PRICE###** per Share. Unless earlier terminated, this option shall expire at 5:00 p.m., Eastern Time on **###EXPIRY_DATE###** (the "**Final Exercise Date**").

It is intended that the option evidenced by this agreement shall be an incentive stock option as defined in Section 422 of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "**Code**"). Except as otherwise indicated by the context, the term "Participant", as used in this option, shall be deemed to include any person who acquires the right to exercise this option validly under its terms.

2. Vesting Schedule.

This option will become exercisable ("**vest**") as follows:

###VEST_SCHEDULE_TABLE###

The right of exercise shall be cumulative so that to the extent the option is not exercised in any period to the maximum extent permissible it shall continue to be exercisable, in whole or in part, with respect to all Shares for which it is vested until the earlier of the Final Exercise Date or the termination of this option under Section 3 hereof or the Plan.

3. Exercise of Option.

(a) Form of Exercise. Each election to exercise this option shall be in writing in the Form of Notice of Stock Option Exercise attached hereto, signed by the Participant, and received by the Company at its principal office, accompanied by this agreement, or by such other method as shall be approved by the Company, in any case together with payment in full in the manner provided in the Plan. The Participant may exercise this option for less than the number of shares covered hereby, provided that no partial exercise of this option may be for any fractional share.

(b) Continuous Relationship with the Company Required. Except as otherwise provided in this Section 3, this option may not be exercised unless the Participant, at the time he or she exercises this option, is, and has been at all times since the Grant Date, an employee or officer or director of, or consultant or advisor (as such terms are defined and interpreted for purposes of Form S-8 under the Securities Act of 1933, as amended) to, the Company or any parent or subsidiary of the Company as defined in Section 424(e) or (f) of the Code (an "**Eligible Participant**").

(c) Termination of Relationship with the Company. If the Participant ceases to be an Eligible Participant for any reason, then, except as provided in paragraphs (d) and (e) below, the right to exercise this option shall terminate three months after such cessation (but in no event after the Final Exercise Date), provided that this option shall be exercisable only to the extent that the Participant was entitled to exercise this option on the date of such cessation. Notwithstanding the foregoing, if the Participant, prior to the Final Exercise Date, violates the non-competition or confidentiality provisions of any employment contract, confidentiality and nondisclosure agreement or other agreement between the Participant and the Company, the right to exercise this option shall terminate immediately upon written notice to the Participant from the Company describing such violation.

(d) Exercise Period Upon Death or Disability. If the Participant dies or becomes disabled (within the meaning of Section 22(e)(3) of the Code) prior to the Final Exercise Date while he or she is an Eligible Participant and the

Company has not terminated such relationship for "cause" as specified in paragraph (e) below, this option shall be exercisable, within the period of one year following the date of death or disability of the Participant, by the Participant (or in the case of death by an authorized transferee), provided that this option shall be exercisable only to the extent that this option was exercisable by the Participant on the date of his or her death or disability, and further provided that this option shall not be exercisable after the Final Exercise Date.

(e) Termination for Cause. If, prior to the Final Exercise Date, the Participant's employment is terminated by the Company for Cause (as defined below), the right to exercise this option shall terminate immediately upon the effective date of such termination of employment. If, prior to the Final Exercise Date, the Participant is given notice by the Company of the termination of his or her employment by the Company for Cause, and the effective date of such employment termination is subsequent to the date of delivery of such notice, the right to exercise this option shall be suspended from the time of the delivery of such notice until the earlier of (i) such time as it is determined or otherwise agreed that the Participant's employment shall not be terminated for Cause as provided in such notice or (ii) the effective date of such termination of employment (in which case the right to exercise this option shall, pursuant to the preceding sentence, terminate upon the effective date of such termination of employment). If the Participant is party to an employment or severance agreement with the Company that contains a definition of "cause" for termination of employment, "Cause" shall have the meaning ascribed to such term in such agreement. Otherwise, "Cause" shall mean willful misconduct by the Participant or willful failure by the Participant to perform his or her responsibilities to the Company (including, without limitation, breach by the Participant of any provision of any employment, consulting, advisory, nondisclosure, non-competition or other similar agreement between the Participant and the Company), as determined by the Company, which determination shall be conclusive. The Participant's employment shall be considered to have been terminated for Cause if the Company determines, within 30 days after the Participant's resignation, that termination for Cause was warranted.

4. Tax Matters.

(a) Withholding. No Shares will be issued pursuant to the exercise of this option unless and until the Participant pays to the Company, or makes provision satisfactory to the Company for payment of, any federal, state or local withholding taxes required by law to be withheld in respect of this option.

(b) Disqualifying Disposition. If the Participant disposes of Shares acquired upon exercise of this option within two years from the Grant Date or one year after such Shares were acquired pursuant to exercise of this option, the Participant shall notify the Company in writing of such disposition.

5. Transfer Restrictions.

This option may not be sold, assigned, transferred, pledged or otherwise encumbered by the Participant, either voluntarily or by operation of law, except by will or the laws of descent and distribution, and, during the lifetime of the Participant, this option shall be exercisable only by the Participant.

6. Provisions of the Plan.

This option is subject to the provisions of the Plan (including the provisions relating to amendments to the Plan), a copy of which is furnished to the Participant with this option.

[*Remainder of page intentionally left blank.*]

IN WITNESS WHEREOF, the Company has caused this option to be executed under its corporate seal by its duly authorized officer. This option shall take effect as a sealed instrument.

DARÉ BIOSCIENCE, INC.

By: ###**SMJSIGNATURE###**

Name: Sabrina Martucci Johnson

Title: Chief Executive Officer

PARTICIPANT'S ACCEPTANCE

The undersigned hereby accepts the foregoing option and agrees to the terms and conditions thereof. The undersigned hereby acknowledges receipt of a copy of the Company's Amended and Restated 2014 Stock Incentive Plan.

PARTICIPANT:

_____

Address:

_____

_____

Daré Bioscience, Inc.

Nonstatutory Stock Option Agreement
Granted Under the Amended and Restated 2014 Stock Incentive Plan

1. Grant of Option.

This agreement evidences the grant by Daré Bioscience, Inc., a Delaware corporation (the "**Company**"), on **###GRANT_DATE###** (the "**Grant Date**") to **###PARTICIPANT_NAME###** (the "**Participant**"), of an option to purchase, in whole or in part, on the terms provided herein and in the Company's Amended and Restated 2014 Stock Incentive Plan (the "**Plan**"), a total of **###TOTAL_AWARDS###** shares (the "**Shares**") of common stock, $0.0001 par value per share, of the Company ("**Common Stock**") at a price of **###GRANT_PRICE###** per Share. Unless earlier terminated, this option shall expire at 5:00 p.m., Eastern Time, on **###EXPIRY_DATE###** (the "**Final Exercise Date**").

It is intended that the option evidenced by this agreement shall not be an incentive stock option as defined in Section 422 of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "**Code**"). Except as otherwise indicated by the context, the term "Participant", as used in this option, shall be deemed to include any person who acquires the right to exercise this option validly under its terms.

2. Vesting Schedule.

This option will become exercisable ("**vest**") as follows:

###VEST_SCHEDULE_TABLE###

The right of exercise shall be cumulative so that to the extent the option is not exercised in any period to the maximum extent permissible it shall continue to be exercisable, in whole or in part, with respect to all Shares for which it is vested until the earlier of the Final Exercise Date or the termination of this option under Section 3 hereof or the Plan.

3. Exercise of Option.

(a) Form of Exercise. Each election to exercise this option shall be in writing in the Form of Notice of Stock Option Exercise attached hereto, signed by the Participant, and received by the Company at its principal office, accompanied by this agreement, or by such other method as shall be approved by the Company, in any case together with payment in full in the manner provided in the Plan. The Participant may purchase less than the number of shares covered hereby, provided that no partial exercise of this option may be for any fractional share.

(b) Continuous Relationship with the Company Required. Except as otherwise provided in this Section 3, this option may not be exercised unless the Participant, at the time he or she exercises this option, is, and has been at all times since the Grant Date, an employee, officer or director of, or consultant or advisor (as such terms are defined and interpreted for purposes of Form S-8 under the Securities Act of 1933, as amended) to, the Company or any other entity the employees, officers, directors, consultants, or advisors of which are eligible to receive option grants under the Plan (an "**Eligible Participant**").

(c) Termination of Relationship with the Company. If the Participant ceases to be an Eligible Participant for any reason, then, except as provided in paragraphs (d) and (e) below, the right to exercise this option shall terminate three months after such cessation (but in no event after the Final Exercise Date), provided that this option shall be exercisable only to the extent that the Participant was entitled to exercise this option on the date of such cessation. Notwithstanding the foregoing, if the Participant, prior to the Final Exercise Date, violates the non-competition or confidentiality provisions of any employment contract, confidentiality and nondisclosure agreement or other agreement between the Participant and the Company, the right to exercise this option shall terminate immediately upon written notice to the Participant from the Company describing such violation.

(d) Exercise Period Upon Death or Disability. If the Participant dies or becomes disabled (within the meaning of Section 22(e)(3) of the Code) prior to the Final Exercise Date while he or she is an Eligible Participant and the Company has not terminated such relationship for "cause" as specified in paragraph (e) below, this option shall be exercisable, within the period of one year following the date of death or disability of the Participant, by the Participant (or in the case of death by an authorized transferee), provided that this option shall be exercisable only to the extent that this option was exercisable by the Participant on the date of his or her death or disability, and further provided that this option shall not be exercisable after the Final Exercise Date.

(e) Termination for Cause. If, prior to the Final Exercise Date, the Participant's employment or other relationship with the Company is terminated by the Company for Cause (as defined below), the right to exercise this option shall terminate immediately upon the effective date of such termination of employment or other relationship. If, prior to the Final Exercise Date, the Participant is given notice by the Company of the termination of his or her employment or other relationship by the Company for Cause, and the effective date of such employment or other termination is subsequent to the date of the delivery of such notice, the right to exercise this option shall be suspended from the time of the delivery of such notice until the earlier of (i) such time as it is determined or otherwise agreed that the Participant's employment or other relationship shall not be terminated for Cause as provided in such notice or (ii) the effective date of such termination of employment or other relationship (in which case the right to exercise this option shall, pursuant to the preceding sentence, terminate immediately upon the effective date of such termination of employment or other relationship). If the Participant is party to an employment, consulting or severance agreement with the Company that contains a definition of "cause" for termination of employment or other relationship, "Cause" shall have the meaning ascribed to such term in such agreement. Otherwise, "Cause" shall mean willful misconduct by the Participant or willful failure by the Participant to perform his or her responsibilities to the Company (including, without limitation, breach by the Participant of any provision of any employment, consulting, advisory, nondisclosure, non-competition or other similar agreement between the Participant and the Company), as determined by the Company, which determination shall be conclusive. The Participant's employment or other relationship shall be considered to have been terminated for "Cause" if the Company determines, within 30 days after the Participant's resignation, that termination for Cause was warranted.

4. Withholding.

No Shares will be issued pursuant to the exercise of this option unless and until the Participant pays to the Company, or makes provision satisfactory to the Company for payment of, any federal, state or local withholding taxes required by law to be withheld in respect of this option.

5. Transfer Restrictions.

This option may not be sold, assigned, transferred, pledged or otherwise encumbered by the Participant, either voluntarily or by operation of law, except by will or the laws of descent and distribution, and, during the lifetime of the Participant, this option shall be exercisable only by the Participant.

6. Provisions of the Plan.

This option is subject to the provisions of the Plan (including the provisions relating to amendments to the Plan), a copy of which is furnished to the Participant with this option.

[*Remainder of page intentionally left blank.*]

IN WITNESS WHEREOF, the Company has caused this option to be executed under its corporate seal by its duly authorized officer. This option shall take effect as a sealed instrument.

DARÉ BIOSCIENCE, INC.

By: ###**SMJSIGNATURE###**

Name: Sabrina Martucci Johnson

Title: Chief Executive Officer

PARTICIPANT'S ACCEPTANCE

The undersigned hereby accepts the foregoing option and agrees to the terms and conditions thereof. The undersigned hereby acknowledges receipt of a copy of the Company's Amended and Restated 2014 Stock Incentive Plan.

PARTICIPANT:

_____

Address:

_____

_____

CONFIDENTIAL TREATMENT REQUESTED

AMENDED AND RESTATED EXCLUSIVE LICENSE AGREEMENT
FOR
ATROPHIC VAGINITIS TECHNOLOGY

This Amended and Restated Exclusive License Agreement (hereinafter referred to as this "Agreement"), effective as of July 14, 2006 (the "Effective Date"), is entered into by and between Fred Mermelstein, Ph.D. and Janet Chollet, M.D., (collectively referred to as the "Licensors") and Pear Tree Women's Health Care, Inc., a corporation duly organized and existing under the laws of the State of Delaware (the "Licensee") on this August 15, 2007.

WHEREAS, the Licensors, are together the sole owners, applicants and inventors of United States Provisional Patent No. 60/810,715 filed June 2, 2006 entitled Method of Treating Atrophic Vaginitis with Triphenylethylene Derivatives" (the "AVT").

WHEREAS, on or about July 14, 2006 the Licensors and the Licensee entered into an exclusive license agreement whereby each of the Licensors their entire right, title and interest for the United States and all foreign countries in the above AVT and related patents to the Licensee the ("Original Agreement"),

WHEREAS, the Licensors and the Licensee now desire to amend and restate the Original Agreement pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, it is agreed as follows:

ARTICLE 1 - DEFINITIONS

For the purposes of this License Agreement, the following words and phrases shall have the following meanings:

1.1 "Licensors" shall mean Fred Mermelstein, Ph.D. and Janet Chollet, M.D. the exclusive inventors and owners of United States Provisional Patent Nos. 60/810,715 filed June 2, 2006 and 60/917,800 filed May 14, 2007, U.S. Patent Application No. 11/757,787 filed June 4, 2007, and International Patent Application No. PCT/US07/70323, filed June 4, 2007, entitled "Method of Treating Atrophic Vaginitis";

1.2 "Licensee" shall mean Pear Tree Women's Health Care, Inc., a corporation duly organized and existing under the laws of the State of Delaware, having its principal offices at 125 Cambridge Park Drive, Cambridge, MA 02140.

1.3 "Affiliate" shall mean, with respect to any Entity (as hereinafter defined), any Entity that directly or indirectly controls, is controlled by, or is under common control with such Entity.

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.3.1 "Control" shall mean, for this purpose, direct or indirect control of more than fifty percent (50%) of the voting securities of an Entity or, if such Entity does not have outstanding voting securities, more than 50% of the directorships or similar positions with respect to such Entity.

1.3.2 "Entity" shall mean any corporation, association, joint venture, partnership, trust, university, business, individual, government or political subdivision thereof, including an agency, or any other organization that can exercise independent legal standing

1.4 "Patent Rights" shall mean:

1.4.1 All U.S. and foreign patents and patent applications set forth in Appendix I;

1.4.2 Any later-filed United States and/or foreign patent applications based on the patent applications and/or patents listed in Appendix I, or corresponding thereto, including any continuations, continuations-in-part, divisional, reissues, reexaminations, or extensions thereof; and

1.4.3 Any subsequent patent applications and/or patents relating to the use of AVT, including any continuations, continuations-in-part, divisional, reissues, reexaminations, or extensions thereof;

1.4.4 Any patent applications and/or patents filed during the Term relating to any Improvement, including any continuations, continuations in part, divisional, reissues, reexaminations, or extensions thereof.

1.5 "Know-how" shall mean all information (other than that contained in the Patent Rights) whether patentable or not (but which has not been patented) related to AVT or to Licensed Products and Licensed Processes (as defined below), including but not limited to formulations, materials, data, drawings and sketches, designs, testing and test results, regulatory information of a like nature, owned by the Licensors, which the Licensors has the right to disclose and license to the Licensee.

1.6 "Licensed Product(s)" shall mean:

1.6.1 Any product which is covered in whole or in part by a claim contained in the Patent Rights;

1.6.2 Any product which is made and, or manufactured using a Licensed Process as defined below under 1.7.

1.6.3 Any product used to treat atrophic vaginitis via vaginal administration of triphenylethylene derivatives, including but not limited to Tamoxifen.

1.7 "Licensed Process(es)" shall mean any process or method, which is covered, in whole, or in part, by a claim contained in the Patent Rights.

1.8 "Net Sales" shall mean:

1.8.1 The amount billed, invoiced or received (whichever occurs first) for sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or the practice of the Licensed Processes, occurring anywhere in the world, including countries and jurisdictions in which there are no Patent Rights underlying such Licensed Products or Licensed Processes, less the sum of Authorized Deductions (as defined in paragraph 1.9) in connection therewith;

1.8.2 The fair market value of any non-cash consideration received for sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or the practice of the Licensed Processes, occurring anywhere in the world, including countries and jurisdictions in which there are no Patent Rights underlying such Licensed Products or Licensed Processes, less the sum of Authorized Deductions) in connection therewith.

1.8.3 On sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or Licensed Processes to Licensee's Affiliates or related parties that are end users of such Licensed Products or Licensed Processes, Net Sales means the consideration that would have been received in an arms-length transaction, based on sales of like quantity and quality products or processes at or about the time of such transaction, less the sum of Authorized Deductions in connection therewith;

1.8.4 Net Sales shall not include the sale or transfer of a Licensed Product to an Affiliate for the purpose of resale and shall not include a transfer solely for indigent or public support or compassionate use programs.

1.9 "Authorized Deductions" in connection with Net Sales shall mean the following:

1.9.1 Usual trade discounts to customers;

1.9.2 Sales, tariff duties and/or use taxes directly imposed with reference to particular sales;

1.9.3 Outbound transportation prepaid or allowed and transportation insurance;

1.9.4 Amounts allowed or credited on returns;

1.9.5 Bad debt deductions actually written off during the accounting period;

1.9.6 government chargebacks; and

1.9.7 Packaging and freight charges.

1.10 "Improvements" means any modification, enhancement, or improvement of a Licensed Product or Licensed Process, or any inventions, discoveries, improvements (whether patentable or not), information, and data, owned or controlled by Licensors any time during the Term, which would be useful or necessary in the manufacture, use, or sale of any Licensed Product and the practice of which would infringe an issued or pending claim within the Patent Rights or other intellectual property rights owned or controlled by the Company directly relating to the AVT or a Licensed Product.

1.11 "Governmental Approval(s)" means any and all permits, licenses, approvals, and authorizations required by any competent authority, government regulatory agency, including but not limited to the FDA, MHLW, and the EMEA and their successor organizations, as a prerequisite to the development, manufacturing, packaging, marketing, and selling of a Licensed Product.

1.12 "Valid Claim" means an issued claim included within the Patent Rights that has been filed in good faith and has not been withdrawn, permanently revoked, abandoned nor deemed unenforceable, unpatentable, or invalid by a decision of a court or other governmental agency of competent jurisdiction that is unappealable or unappealed in the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise.

ARTICLE 2 - GRANT

2.1 The Licensors hereby grant to the Licensee and the Licensee accepts, subject to the terms and conditions of this Agreement, an exclusive, worldwide commercial license in all fields of use under the Patent Rights, and a license to make, have made, use, lease and/or sell Licensed Products, to practice Licensed Processes, and to utilize the Know-how (collectively referred to as the "License").

2.2 The Licensors grant to the Licensee the right to grant sublicenses to third parties under the License granted hereunder, provided that

2.2.1 Within thirty (30) days of the execution or receipt thereof, as applicable, the Licensee shall provide the Licensors with a copy of each sublicense issued hereunder and shall promptly deliver copies of all royalty reports received by the Licensee from such sublicensees.

2.2.2 Any and all valid and effective sublicenses shall survive termination of this Agreement and be assigned to the Licensors, provided, however, the Licensors shall have no obligation to incur any obligations

in excess of those of Licensors contained herein. Notwithstanding the foregoing, the Licensee shall remain obligated to the Licensors for Licensee's obligations under this Agreement without regard to the terms of any sublicense.

2.3 The Licensee will own all Marketing Authorizations for each country in the Territory for Licensed Products. Without limiting the generality of the foregoing, the Licensee shall prepare and submit in its own name and at its expense NDAs with the FDA in the U.S. and any other equivalent application with the competent authorities in other countries in the Territory.

2.3.1 The Licensee shall secure and maintain in good standing, at its sole cost and expense, any and all governmental approvals (including, Marketing Authorizations, licenses, permits and consents, facility licenses and permits required by applicable laws or by the applicable competent authorities) necessary and/or required for the Licensee to perform its obligations under this Agreement and use commercially reasonable efforts at its cost and expense to secure and maintain any variations and renewals thereof.

2.3.2 Licensors shall grant and hereby grant the Licensee a free-of-charge right to reference and use and have full access to all preclinical and clinical data, information, and results, Governmental Approvals, and all other regulatory documents relating to or necessary (from a commercial perspective) for the development of Licensed Products, including but not limited to any IND, IDE, PMA, 510(k), NDA, DMF (whether as an independent document or as part of any Governmental Approval), and all chemistry, manufacturing and controls information, and any supplements, amendments or updates to the foregoing, where such regulatory documents are owned, licensed, or controlled by Licensors (for the purposes of this Article, the "Right of Reference"). The Licensee may license the Right of Reference to Affiliates and to Sublicensees.

ARTICLE 3 - DUE DILIGENCE

3.1 The Licensee shall use its reasonable best efforts to bring Licensed Products and Licensed Processes to market through a thorough, vigorous and diligent development program for commercial exploitation of the Patent Rights and Know-how, including compliance with the milestones set forth in Exhibit A. The Licensee shall continue active, diligent product development (preclinical and clinical) and marketing efforts for the Licensed Products and Licensed Processes throughout the life of this Agreement. Failure to comply with the milestones set forth in Exhibit A shall not be a material breach of this Agreement if the Licensee can demonstrate that (i) it is using

is reasonable best efforts to bring the Licensed Product and Licensed Process to market and (ii) such delays are due to written requirements of the FDA in order for the Company to receive a Marketing Authorization.

ARTICLE 4 - ROYALTIES AND OTHER CONSIDERATION

4.1 In consideration of the rights, privileges and the license granted hereunder, the Licensee shall pay to the Licensors as set forth in, and in accordance with the provisions of, this Article 4 until termination of this Agreement as hereinafter provided.

4.2 The Licensee shall pay to Licensors:

4.2.1 a non-refundable semi-annual royalty in an amount equal to [***] percent ([***]%) of Net Sales by the Licensee, or any Affiliate of the Licensee, of the Licensed Products or Licensed Processes;

4.2.2 With respect to any royalties received by Licensee or its Affiliate from sales by any sublicensee of Licensed Products or Licensed Processes ("Sublicense Royalties"), Licensee shall remit to Licensors a non-refundable semi-annual royalties in an amount equal to the greater of (a) [***] percent ([***]%) of the Sublicense Royalties and (b) [***] percent ([***]%) of Net Sales by any such sublicense.

4.3 The Licensee agrees to pay to the Licensors, or its designee(s) the following additional consideration:

4.3.1 The Milestone Payments set forth on Exhibit A attached hereto; and

4.3.2 [***] percent ([***]%) of all sublicensing fees or other lump sum payments or other compensation received by the Licensee or an Affiliate from its sublicensees for the use, lease or sale of Licensed Products and Licensed Processes, excluding (i) payments used or reimbursed for research and development and (ii) payments received as a result of the issuance of debt or equity securities of the Licensee.

4.4 No multiple royalties shall be payable because the use, lease or sale of any Licensed Product or Licensed Process is, or shall be, covered by more than one Valid Claim contained in the Patent Rights. Additionally, royalties shall be paid to Licensors for the sale of a Licensed Product based upon only one of Articles 4.2.1 or 4.2.2 above, but in no case both (that is, royalties due to Licensors on direct sales of a Licensed Product by the Licensee or its Affiliates to a Third Party shall be based only on Article 4.2.1, while royalties on sales of a Licensed Product by the Licensee's Sublicensees to a Third Party shall be based only on Article 4.2.2, so as to avoid double counting).

4.5 In the event that a Licensed Product is sold in the form of a combination product, containing one or more products or technologies that are themselves not a Licensed Product, the Net Sales for such combination product shall be calculated by multiplying the sales price of such combination product by the fraction A/(A+B) where A is the invoice price of the Licensed Product (or, if sold to an Affiliate, the Fair Market Value of the Licensed Product) and B is the total invoice price of the other products or technologies (or, if purchased from an Affiliate, the Fair Market Value of the other products or technologies). In the case of a combination product which includes one or more Licensed Products, the Net Sales for such combination product upon which the royalty due to the Licensors is based shall not be less than the normal aggregate Net Sales for such Licensed Product.

4.6 Royalty payments shall be paid in United States dollars in Cambridge, Massachusetts or at such other place as the Licensors may reasonably designate consistent with the laws and regulations controlling in any foreign country. Any withholding taxes that the Licensee, its affiliate or any sublicensee shall be required by law to withhold on remittance of the royalty payments shall be deducted from such royalty payment to the Licensors. The Licensee shall furnish the Licensors with the original copies of all official receipts for such taxes. If any currency conversion shall be required in connection with the payment of royalties hereunder, such conversion shall be made by using the exchange rate prevailing at Citibank, N.A. in New York, New York on the last business day of the calendar quarterly reporting period to which such royalty payments relate.

4.7 Royalties payable to the Licensors shall be paid semi-annually on or before the thirtieth (30th) day of June and the thirty-first (31st) day of December of each calendar year. Each such payment shall be for unpaid royalties which accrued within or prior to the Licensee's two most recently completed fiscal quarters.

4.8 To the extent that the Licensee or any Affiliate of the Licensee is required, by order or judgment of any court to obtain in any jurisdiction any license from a third-party in order to make, use or sell any Licensed Product or Licensed Process ("Third-Party License Fee"), then up to [***] percent ([***]%) of the Third-Party License Fee in such jurisdiction may be deducted from royalties otherwise payable to the Licensors hereunder, provided that in no event shall the aggregate royalties payable to the Licensors in any semi-annual period in such jurisdiction be reduced by more than [***] percent ([***]%) as a result of any such deduction, and provided further that any excess allowable deduction remaining as a result of such limitation may be carried forward to subsequent periods.

4.9 Amounts owed under this Article 4 that are not paid when due shall accrue interest from the due date until paid, at a rate equal to the then prevailing prime rate of Citibank, N.A., plus [***] percent ([***]%).

4.10 On a country-by-country and Licensed Product-by-Licensed Product basis, upon the later of (i) 20 years and (ii) the date of the last to expire Valid Claim contained in the Patent Rights covering a Licensed Product or Licensed Process in such country (such expiration including, for purposes hereof, the date upon which no Valid Claims remain with respect to a particular country, even if such date occurs prior to patent issuance), the Licensee's obligation to remit royalty payments to Licensors pursuant to this Article 4 shall be reduced by [***] ([***]%) percent.

ARTICLE 5 - REPORTS AND RECORDS

5.1 The Licensee shall keep full, true and accurate books of account containing all particulars that may be necessary for the purpose of showing the amounts payable to the Licensors by way of Article 4 as aforesaid. Said books of account shall be kept at the Licensee's principal place of business and up to two times per year the supporting data for the three (3) prior calendar years shall, upon reasonable notice to the Licensee, be open for inspection by an auditor selected by the Licensors, except one to whom the Licensee has reasonable objection, for the purpose of verifying the Licensee's royalty statement or compliance in other respects with this License Agreement. If an inspection shows an under reporting or underpayment in excess of the greater of [***] dollars ($[***]) or [***] percent ([***]%) of royalties payable for any twelve (12) month period, then the Licensee shall reimburse the Licensors for the cost of the inspection at the time the Licensee pays the unreported royalties, including any late charges as required by paragraph 5.4 of this Agreement. All payments required under this Article 5 shall be due within sixty (60) days of the date the Licensors provide the Licensee notice of the payment due.

5.2 Within sixty (60) days from the end of each quarter of each calendar year, the Licensee shall deliver to the Licensors complete and accurate reports, giving such particulars of the business conducted by the Licensee during the preceding quarter under this License Agreement as shall be pertinent to a royalty accounting hereunder. These shall include at least the following:

5.2.1 All Licensed Products and Licensed Processes used, leased or sold, by or for the Licensee, its Affiliates or any sublicensees.

5.2.2 Total amounts invoiced for Licensed Products and Licensed Processes used, leased or sold, by or for the Licensee, its Affiliates or any sublicensees.

5.2.3 Deductions applicable in computed "Net Sales" as defined in Paragraph 1.9.

5.2.4 Total royalties due based on Net Sales by or for the Licensee, its Affiliates or any sublicensee, any lump sum payment due to the Licensors, if any, pursuant to paragraph 4.3.2.

5.2.5 Names and addresses of all sublicensees and Affiliates of the Licensee.

5.3 The Licensee agrees to forward to the Licensors semi-annually a copy of any report, which is in substance similar to the report required by this Article 5, received from any sublicensee and other documents received from any sublicensee as the Licensors may reasonably request, as may be pertinent to an accounting of royalties.

5.4 The Licensors agrees to hold in confidence each report delivered by the Licensee pursuant to this Article 5 until the termination of this Agreement. Notwithstanding the foregoing, the Licensors may disclose any such information required to be disclosed pursuant to any judicial, administrative or governmental request, subpoena, requirement or order, provided that the Licensors takes reasonable steps to provide the Licensee with the opportunity to contest or seek an appropriate order of protection in connection with such request, subpoena, requirement or order.

ARTICLE 6 - PATENT PROSECUTION AND MAINTENANCE

6.1 The Licensee shall assume all future patent expenses.

6.2 The Licensee shall diligently prosecute and maintain the Patent Rights as set forth in Appendix I hereto (as the same may be amended or supplemented from time to time after the date hereof), including, but not limited to, the filing of patent applications for inventions and Improvements, utilizing such patent counsel as may be mutually agreed upon by the parties hereto. Licensee agrees to diligently file, prosecute and maintain the Patent Rights in at least the [***]. Licensors shall notify Licensee immediately upon the creation or invention of any Improvement. The Licensee agrees to keep the Licensors reasonably well informed with respect to the status and progress of any such applications, prosecutions and maintenance activities including and to consult in good faith with the Licensors and take into account the Licensors' comments and requests with respect thereto. Both parties agree to provide reasonable cooperation to each other to facilitate the application and prosecution of patents pursuant to this Agreement.

6.3 The Licensee may, in its discretion, elect to abandon any patent application or issued patent comprising the Patent Rights. Prior to any such abandonment, the Licensee shall give the Licensors at least sixty

(60) days notice and a reasonable opportunity to take over prosecution of such Patent Rights. In such event, the Licensors shall have the right, but not the obligation, to commence or continue such prosecution and to maintain any such Patent Rights under its own control and at its expense and the Licensee shall then make no further use of any such Patent Rights. The Licensee agrees to cooperate in such activities, including execution of any assignments or other documents necessary to enable the Licensors to obtain and retain sole ownership and control of such Patent Rights.

6.4 The Licensee shall promptly notify Licensors of the issuance of each Governmental Approval and, where reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to apply or enable Licensee to apply for a patent tend extension, adjustment or restoration, supplementary protection certificate, or other form of market exclusivity conferred by applicable laws (collectively, "Patent Term Extensions"). Licensors shall, to the extent reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to, if and as requested by the Licensee, obtain (or assist the Licensee in obtaining) all available Patent Term Extensions. The parties hereto shall cooperate with each other in obtaining Patent Term Extensions wherever and whenever applicable, reasonably possible to obtain, and reasonably useful or valuable in the commercialization of Licensed Products.

ARTICLE 7 - TERMINATION

7.1 Unless terminated pursuant to this Article 7, this Agreement shall remain in full force and effect for the later to occur of (i) twenty five (25) years or (ii) the last to expire Valid Claim contained in the Patent Rights.

7.2 If the Licensee shall become bankrupt, or shall file a petition in bankruptcy, or if the business of the Licensee shall be placed in the hands of a receiver, assignee or trustee for the benefit of creditors, whether by the voluntary act of the Licensee or otherwise, this License Agreement shall automatically terminate.

7.3 Subject to Article 8.3, in the event that the Licensee fails to make payment to the Licensors of royalties due in accordance with the terms of this Agreement, provided such failure to make payment is not as a result of a bona fide dispute between the Licensors and the Licensee, the Licensors shall have the right to terminate this License Agreement within [***] ([***]) days after giving said notice of termination unless the Licensee shall pay to the Licensors, within the [***]-day period, all such payments due and payable under Article 4. Subject to Article 8, upon the expiration of the [***]-day period, if the Licensee shall not have paid all such royalties due and

payable, the rights, privileges and the License granted hereunder shall, at the option of the Licensors, immediately terminate.

7.4 Subject to Article 8.3, upon any material breach or default of this License Agreement by the Licensee, other than as set forth in Paragraphs 7.2 and 7.3 hereinabove, the Licensors shall have the right to terminate this Agreement and the rights, privileges and license granted hereunder upon giving ninety (90) days notice to the Licensee. Such grounds for termination include, but shall not be limited to, [***]. Such termination shall become effective immediately upon the expiration of the ninety (90) day period referred to above, unless the Licensee shall have cured any such breach or default prior thereto.

7.5 The Licensee shall have the right at any time to terminate this Agreement in whole or as to any portion of the Patent Rights by giving sixty (60) days notice thereof in writing to the Licensors.

7.6 Upon termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination or obligations under Articles 4, 5, 8, 9, 10, 15 and 16. The Licensee and/or any sublicensee thereof may, however, at any time after the effective date of such termination and continuing for a period not to exceed six (6) months thereafter, sell all completed Licensed Products, and any Licensed Products in the process of manufacture at the time of such termination, and complete manufacturing and sell the same, provided that the Licensee shall pay or cause to be paid to the Licensors the royalties thereon as required by Article 4 of this License Agreement and shall submit the reports required by Article 5 hereof on the sales of Licensed Products.

7.7 Upon the expiration of the Term, the Licensee shall have a fully paid, royalty free license to the Licensed Products and Licensed Processes, AVT, Improvements and Know how.

7.8 Upon termination of this Agreement, except pursuant to 7.7 hereof, the Licensee shall have no future rights to the Patent Rights and Know-how granted hereunder, and shall make no further use thereof, including the manufacture, use or sale of Licensed Products or Licensed Processes, except as otherwise set forth herein.

ARTICLE 8 - ARBITRATION

8.1 Any dispute arising from or relating to this Agreement shall be determined before a tribunal of three (3) arbitrators in Cambridge or Boston, Massachusetts in accordance with the rules of the American Arbitration Association. One arbitrator shall be selected by the Licensors, one arbitrator shall be selected by the Licensee and the third arbitrator shall be selected by mutual agreement of the first two arbitrators.

8.2 The costs of such arbitration shall be borne proportionate to the finding of fault as determined by the Arbitrator. Judgment on the arbitration award may be entered by any court of competent jurisdiction.

8.3 Notwithstanding anything in this Agreement, if a good faith dispute is addressed by the parties hereto pursuant to this Article 8, this Agreement shall remain in full force and effect until such dispute is resolved. All applicable statues of limitations and time-based defenses shall be tolled while any good faith negotiation or mediation procedures are pending or ongoing.

ARTICLE 9 - INFRINGEMENT AND OTHER ACTIONS

9.1 The Licensee and the Licensors shall promptly provide written notice, to the other party, of any alleged infringement by a third party of the Patent Rights and provide such other party with any available evidence of such infringement.

9.2 During the Term, the Licensee shall have the right, but not the obligation, to prosecute and/or defend, at its own expense and utilizing counsel of its choice, any infringement of, and/or challenge to, the Patent Rights. No settlement, consent judgment or other voluntary final disposition of any such suit may be entered into without the consent of the Licensors, which consent shall not be unreasonably withheld. The Licensee shall indemnify and hold the Licensors harmless against any costs, expenses or liability that may be found or assessed against the Licensors in any such suit other than resulting from the Licensors' gross negligence, recklessness or willful misconduct.

9.3 Any recovery of damages by the Licensee, in any such suit, shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the Licensee relating to the suit and then to the Licensors for any credited royalties. The balance remaining from any such recovery shall be treated as royalties received by the Licensee from sublicensees and shared by the Licensors and the Licensee [***] percent ([***]%) to the Licensee and [***] percent ([***]%) to the Licensors.

9.4 If within ninety (90) days from receipt of notice by the Licensee of any alleged infringement, the Licensee shall have been unsuccessful in persuading the alleged infringer to desist, or shall not have brought and shall not be diligently prosecuting an infringement action, or if the Licensee shall notify the Licensors, at any time prior thereto, of its intention not to bring suit against the alleged infringer, then, and in those events only, the Licensors shall have the right, but not the obligation, to prosecute, at its own expense and utilizing counsel of its choice, any infringement of the Patent Rights, and the Licensors may, for such purposes, join the Licensee as a party

plaintiff. The total cost of any such infringement action commenced solely by the Licensors shall be borne by the Licensors and the Licensors shall keep any recovery or damages for infringement or otherwise derived therefrom and such shall not be applicable to any royalty obligation of the Licensee.

9.5 In any suit to enforce and/or defend the Patent Rights pursuant to this License Agreement, the party not in control of such suit shall, at the request and expense of the controlling party, cooperate in all respects and, to the extent possible, have its employees testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

ARTICLE 10 - LIMITATION OF LIABILITY, INDEMNITY, REPRESENTATIONS AND WARRANTIES

10.1 The Licensors, by this License Agreement, makes no representations or warranties as to the validity and/or breadth of the inventions contained in the Patent Rights and the Licensee so acknowledges. The Licensors, by this License Agreement makes no representations or warranties as to patents now held or which will be held by others in the field of the Licensed Products and/or Licensed Processes for a particular purpose.

10.2 EXCEPT AS MAY BE EXPRESSLY PROVIDED HEREIN, THE LICENSORS DOES NOT MAKE, AND EXPRESSLY DISCLAIMS ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10.3 The Licensee agrees to defend, indemnify and hold the Licensors harmless from and against all liability, demands, damages, including without limitation, expenses or losses including death, personal injury, illness or property damage (each a “Claim”) arising directly or indirectly: (a) out of use by the Licensee or its transferees of inventions licensed or information furnished under this License Agreement or (b) out of any use, sale or other disposition by the Licensee or its transferees of Patent Rights, Licensed Products or Licensed Processes, except to the extent, in each such case, that such Claim results from or arises out of the Licensors’ gross negligence, recklessness or willful misconduct. The Licensee agrees that any sublicense agreement it enters relative to the Licensed Products and/or Licensed Processes shall contain a covenant by such sublicensee providing for the indemnification of the Licensors as provided in this Article.

10.4 At such time when the Licensee has developed Licensed Products for sale, the Licensee shall obtain and carry in full force and effect commercial, general liability insurance, which shall protect the Licensee and the Licensors with respect to events covered by paragraph 10.3 above. Such insurance shall be written by a

reputable insurance company, shall list the Licensors as an additional named insured thereunder, shall be endorsed to include product liability coverage and shall require thirty (30) days written notice to be given to the Licensors prior to any cancellation or material change thereof. The limits of such insurance shall not be less than two million dollars ($2,000,000) per occurrence with an aggregate of five million dollars ($5,000,000) for personal injury or death, and one million dollars ($1,000,000) per occurrence with an aggregate of three million dollars ($3,000,000) for property damage. The Licensee shall provide the Licensors with Certificates of Insurance evidencing the same.

10.5 Notwithstanding the foregoing, if the requirements of paragraph 10.4 are not consistent with general industry norms or good business practices at the time, the Licensors and Licensee agree to negotiate in good faith to modify this paragraph 10.4; provided, however, that if the Licensee, using good-faith reasonable efforts, cannot obtain the insurance required by paragraph 10.4 at rates that are prudent given the Licensee's financial position as determined by the Board of Directors of the Licensee at the time such insurance is required then the Licensors agrees to waive the requirements of paragraph 10.4 until a determination by the Board of Directors of the Licensee that the Licensee's financial position permits it to obtain the insurance required by paragraph 10.4.

10.6 To the Licensors' knowledge and belief: (i) the Licensors has all right, title, and interest in and to the Patent Rights and AVT, including exclusive, absolute, irrevocable right, title and interest thereto, free and clear of all liens, charges, encumbrances or other restrictions or limitations of any kind whatsoever; (ii) the Licensors has not been notified of any claim, pending or threatened, of infringement, interference or invalidity regarding any part or all of the Patent Rights or Know-how or their use; and there are no inventors of Patent Rights other than those listed as inventors on applications filed for such Patent Rights. Notwithstanding the foregoing, the Licensors do not warrant that there are no third party rights which may reasonably lead, to a claim of infringement or invalidity regarding any part or all of the Patent Rights and their use as contemplated in the underlying patents.

ARTICLE 11 - ASSIGNMENT

11.1 This Agreement and the rights and duties appertaining hereto may not be assigned by either party without first obtaining the written consent of the other, which consent shall not be unreasonably withheld. Any such purported assignment, without the written consent of the other party, shall be null and of no effect. Notwithstanding the foregoing, the Licensee may assign this Agreement (i) to a purchaser, merging or consolidating corporation, or acquirer of substantially all of the Licensee's assets or business and/or pursuant to any reorganization qualifying

under section 368 of the Internal Revenue Code of 1986 as amended, as may be in effect at such time, or (ii) to an Affiliate of the Licensee subject to the consent of the Licensors which consent shall not be unreasonably withheld.

ARTICLE 12 - PAYMENT OF FEES AND EXPENSES

12.1 Each of the Licensee and the Licensors shall be responsible for their own expenses relating to the preparation and consummation of this Agreement and the agreements and transactions contemplated hereby.

ARTICLE 13 - USE OF NAMES

13.1 Nothing contained in this Agreement shall be construed as granting any right to the Licensee or its Affiliates to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of the Licensors or any of its units (including contraction, abbreviation or simulation of any of the foregoing) without the prior, written consent of the Licensors; provided, however, that the Licensors acknowledges and agrees that the Licensee may use the name of the Licensors in various documents used by the Licensee for capital raising and financing without such prior written consent and where the use of such names may be required by law. The Licensee agrees to promptly provide the Licensors with a copy of any documents used by the Licensee, which contain the name of the Licensors.

13.2 The Licensors may act as a consultant and scientific advisor to the Licensee with respect to the licenses granted to the Licensee hereunder, subject to the policies, if any, of the Licensors. However, nothing herein shall be deemed to establish a relationship of principal and agent between the Licensors and the Licensee, nor any of their agents or employees for any purpose whatsoever. This Agreement shall not be construed as creating a partnership between the Licensors and the Licensee, or as creating any other form of legal association or arrangement which would impose liability upon one party for the act or failure to act of the other party.

ARTICLE 14 - PAYMENTS, NOTICES AND OTHER COMMUNICATIONS

14.1 Any payment, notice or other communication required or permitted to be given pursuant to this Agreement shall be in writing and sent by certified first class mail, postage prepaid, by hand delivery or by facsimile if confirmed in writing, in each case effective upon receipt, at the addresses below or as otherwise designated by written notice given to the other party:

In the case of the Licensors:

Bymer, Inc. (Fred Mermelstein, Ph.D.)
30 Colbert Road E
Newton, MA

(617) 349-4511(Office)
(212) 844-9528 (Cell)

Janet Chollet, M.D.
[address]

In the case of the Licensee:

Pear Tree Women's Health Care, Inc.
125 Cambridge Park Drive
Cambridge, MA

ARTICLE 15 - CONFIDENTIALITY

15.1 Any proprietary or confidential information relating to the AVT (including but not limited to Know-how and patent prosecution documents relating to Patent Rights) collectively constitute the "Confidential Information." The Licensee and the Licensors agree that they will not use the Confidential Information for any purpose unrelated to this Agreement, and will hold it in confidence during the term of this Agreement and for a period of five (5) years after the termination or expiration date of this Agreement. The Licensee and the Licensors shall exercise with respect to such the Confidential Information the same degree of care as the Licensee and the Licensors exercise with respect to their own confidential or proprietary information of a similar nature, and shall not disclose it or permit its disclosure to any third party (except to those of its employees, consultants, or agents who are bound by the same obligation of confidentiality as the Licensee and the Licensors are bound pursuant to this Agreement). However, such undertaking of confidentiality by the Licensee or the Licensors shall not apply to any information or data which:

15.1.1 The receiving party receives at any time from a third party lawfully in possession of same and having the right to disclose same;

15.1.2 Is, as of the date of this Agreement, in the public domain, or subsequently enters the public domain through no fault of the receiving party;

15.1.3 Is independently developed by the receiving party as demonstrated by written evidence without reference to information disclosed to the receiving party;

15.1.4 Is disclosed pursuant to the prior written approval of the disclosing party; and

15.1.5 Is required to be disclosed pursuant to law or legal process (including, without limitation, to a governmental authority) provided, in the case of disclosure pursuant to legal process, reasonable notice of the

impending disclosure is provided to the disclosing party and disclosing party has agreed to such disclosure in writing or has exhausted its right to contest such disclosure.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

16.1 This License Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the State of Massachusetts, without regard to principles of conflicts of laws.

16.2 If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, the Licensee shall assume all legal obligations to do so and the costs in connection therewith.

16.3 The Licensee shall observe all applicable United States and foreign laws with respect to the use, sale manufacture and transfer of Licensed Products and related technical data to foreign countries, including, without limitation, the regulations of the Food and Drug Administration and its foreign equivalents, the International Traffic in Arms Regulations (ITAR), and the Export Administration Regulations.

16.4 The parties hereto acknowledge that this Agreement, including the Appendices and documents incorporated by reference, sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and shall not be subject to any change of modification except by the execution of a written instrument subscribed to by the parties hereto.

16.5 The provisions of this License Agreement are severable, and in the event that any provision of this License Agreement shall be determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

16.6 The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this License Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party.

16.7 The headings of the several articles are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

16.8 This Agreement will not be binding upon the parties until it has been signed below on behalf of each party, in which event, it shall be effective as of the date recited on page one.

16.9 This Agreement embodies the entire understanding of the parties and shall supersede all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof, including the Original Agreement. This Agreement shall hereby supersede the Original Agreement and the Original Agreement shall hereafter be null and void.

16.10 Each party hereto shall be excused from any breach of this Agreement which is proximately caused by governmental regulation, act of war, strike, act of God or other similar circumstance normally deemed outside the control of the parties.

APPENDIX I

1. United States Provisional Patent Nos. 60/810,715 filed June 2, 2006 and 60/917,800 filed May 14, 2007,
2. U.S. Patent Application No. 11/757,787 filed June 4, 2007
3. International Patent Application No. PCT/US07/70323, filed June 4, 2007

EXHIBIT A

PERFORMANCE MILESTONE PAYMENTS

To ensure that the Licensee is diligently pursuing the development and commercialization of the Licensed Products and Licensed Processes, in further consideration of the license and options granted herein, the Licensee shall make the following payments (the "Milestone Payments") in accordance with the following schedule:

MILESTONE	**AMOUNT**	**DATE**
Commencement of Phase II/III Phase III pivotal trial for each Licensed Product[1]	$[***]	Forty-two (42) Months following the Effective Date
New Drug Application (NDA) Filing[1,2] for each Licensed Product	$[***]	Sixty (60) Months From the Effective Date
NDA Approval for each Licensed Product[1,2]	$[***]	Seventy Eight (78) Months following execution the Effective Date
First Commercial Sale for each Licensed Product[1,2]	$[***]	Eighty Four (84) Months from the Effective Date

Any Milestone Payments made in accordance with the above shall be distributed as follows: (a) [***] percent ([***]%) to the Licensors.

[1] Payable in cash or equity at the discretion of the Licensee. The Licensee shall only be entitled to make payments in equity if the stock of the Licensee is publicly traded. Any equity payments payable hereunder shall be priced at the average closing price of the common stock of the Licensee for the ten (10) consecutive trading days immediately preceding the date of achievement of any such milestone or the date upon which any such payment becomes due, whichever is earlier.

[2] [***] percent ([***]%) of such Milestone Payment shall be creditable against royalties earned pursuant to articles 4.3 and/or 4.4; provided, however, that in no event shall royalties earned pursuant to articles 4.3 and/or 4.4 be reduced by more than [***] percent ([***]%) in any applicable semi-annual period.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement, in triplicate by proper persons thereunto duly authorized.

PEAR TREE WOMENS HEALTH CARE, INC.:

By: /s/ Fred Mermelstein
Name: Fred Mermelstein
Title: President
Date: August 15, 2007

LICENSORS:

/s/ Fred Mermelstein
Name: Fred Mermelstein, Ph.D.
Date: August 15, 2007

/s/ Janet Chollet
Name: Janet Chollet, M.D.
Date: August 15, 2007

Exhibit 10.6

CONFIDENTIAL TREATMENT REQUESTED

AMENDMENT NO. 1

TO THE

AMENDED AND RESTATED EXCLUSIVE LICENSE AGREEMENT

This Amendment No. 1 to the Amended and Restated Exclusive License Agreement (hereinafter referred to as this "Agreement") is entered into by and among **Fred Mermelstein, Ph.D.** and **Janet Chollet, MD** (the "Licensor") and **Pear Tree Pharmaceuticals, Inc.**, a corporation duly organized and existing under the laws of the State of Delaware (the "Licensee"), on this October 10, 2007.

WHEREAS, the Licensors, are together the sole owners, applicants and inventors of United States Provisional Patent No. 60/810,715 filed June 2, 2006 entitled Method of Treating Atrophic Vaginitis with Triphenylethylene Derivatives" (the "AVT");

WHEREAS, on or about July 14, 2006 the Licensors and the Licensee entered into an exclusive license agreement whereby each of the Licensors granted their entire right, title and interest for the United States and all foreign countries in the above AVT and related patents to the Licensee the ("Original Agreement"),

WHEREAS, on or about August 15, 2007, the Licensors and the Licensee agreed to certain amendments and modifications of the Original License (the "Amended License");

WHEREAS, the Licensors and the Licensee, for good and valuable consideration and valid business reasons, now desire to amend the Amended License as described herein.

NOW, THEREFORE, it is agreed as follows:

1. For One Dollar ($1.00) and good and valuable consideration, the receipt of which is hereby acknowledged by the Licensors, Article 4.2 of the Amended License (including Articles 4.2.1 and 4.2.2) shall be deleted entirely and replaced with the following provisions:

"4.2 The Licensee shall pay to Licensors:

4.2.1 a non-refundable semi-annual royalty in an amount equal to [***] percent ([***]%) of Net Sales by the Licensee, or any Affiliate of the Licensee, of the Licensed Products or Licensed Processes;

4.2.2 With respect to any royalties received by Licensee or its Affiliate from sales by any sublicensee of Licensed Products or Licensed Processes ("Sublicense Royalties"), Licensee shall remit to Licensor a non-refundable semi-annual royalties in an amount equal to the greater of (a) [***] percent ([***]%) of the Sublicense Royalties and (b) [***] percent ([***]%) of Net Sales by any such sublicensee."

2. Defined terms not defined herein shall have the meaning set forth in the Amended License.

3. This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the State of Massachusetts, without regard to principles of conflicts of laws.

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, by proper persons thereunto duly authorized.

PEAR TREE PHARMACEUTICALS, INC.

By: /s/ Martin Driscoll
Name: Martin Driscoll
Title: President & CEO
Date: October 10, 2007

LICENSORS:

/s/ Fred Mermelstein
Name: Fred Mermelstein
Date: October 10, 2007

/s/ Fred Mermelstein
Name: Janet Chollet, M.D
Date: October 10, 2007

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

AMENDMENT NO. 2

TO THE

AMENDED AND RESTATED EXCLUSIVE LICENSE AGREEMENT

This Amendment No. 2 to the Amended and Restated Exclusive License Agreement (hereinafter referred to as this "**Agreement**") is entered into by and among **Fred Mermelstein, Ph.D.** and **Janet Chollet, M.D.** (the "Licensors"), **Pear Tree Pharmaceuticals, Inc.**, a corporation duly organized and existing under the laws of the State of Delaware (the "Licensee") and **Bernadette Klamerus** ("Klamerus"), on this February 13, 2017.

WHEREAS, the Licensors, together filed United States Patent Application Ser. No. 11/757,787, filed June 4, 2007 and entitled "Method of Treating Atrophic Vaginitis" the ("**787 Utility Patent**");

WHEREAS, on or about July 14, 2006 the Licensors and the Licensee entered into an exclusive license agreement whereby each of the Licensors granted their entire right, title and interest for the United States and all foreign countries in the '787 Utility Patent and related patents to the Licensee the ("Original Agreement"),

WHEREAS, on or about August 15, 2007, the Licensors and the Licensee agreed to certain amendments and modifications of the Original License (the "Amended and Restated License");

WHEREAS, on or about October 10, 2007, Licensor and the Licensee agreed to certain additional amendments and modifications of the Amended and Restated License (the "Amendment" and collectively with the Amended and Restated License the "License Agreements");

WHEREAS, the Licensors have agreed to amend the 787 Utility Patent to add Bernadette Klamerus as an owner, inventor and applicant;

WHEREAS, the Licensors and the Licensee, for good and valuable consideration and valid business reasons, now desire to amend the License Agreements as described herein.

NOW, THEREFORE, it is agreed as follows:

For One Dollar ($1.00) and good and valuable consideration, the receipt of which is hereby acknowledged by the parties to this Agreement, as evidenced by the signatures below, the License Agreements shall hereafter be amended and restated as follows:

1. The definition of (i) "Licensor" as referred to in the License Agreements hereinafter means Fred Mermelstein, Ph.D., Janet Chollet, M.D., and Bernadette Klamerus, except, however, for the purposes of Article 2 of the License Agreements, in which case "Licensor" shall mean only Fred Mermelstein and Janet Chollet, provided, further, however, that the definition of "Licensor" for the purposes of Articles 4 and 5 of the License Agreements shall mean Bernadette Klamerus, Fred Mermelstein, Janet Chollet and Stephen Rocamboli; and (ii) "ATV" as referenced to in the License Agreements hereinafter means the 787 Utility Patent.

2. All payments due to Bernadette Klamerus under the License Agreements (i.e. [***] ([***]) of all payments due Licensors, subject to Article 9 of this Agreement) will remitted directly to Ms. Klamerus pursuant to her written instructions. Additionally, the (i) first $[***] due to Licensors under this Agreement shall be payable directly to Ms. Klamerus and (ii) thereafter all payments due shall be remitted to the Licensors [***] (i.e. [***], subject to Article 9 of this Agreement).

3. Article 3 shall be deleted and hereafter void, and replaced in its entirety by the following:

"3.1 The Licensee shall use its reasonable best efforts to bring Licensed Products and Licensed Processes to market through a thorough, vigorous and diligent development program for commercial exploitation of the Patent

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Rights and Know-how. The Licensee shall continue active, diligent product development (preclinical and clinical) and marketing efforts for the Licensed Products and Licensed Process throughout the life of this Agreement.

4. The Column entitled "Date" on Exhibit A shall be deleted and is hereafter void in its entirety.

5. Article 7.1 of the Amended License shall be deleted and hereinafter void, and replaced in its entirety by the following:

"7.1 Unless terminated pursuant to this Article 7, this Agreement shall remain in full force and effect until the last to expire Valid Claim contained in the Patent Rights."

6. Appendix I of the Amended License shall be deleted and hereinafter void, and replaced in its entirety with Appendix Ito this Agreement

7. Defined terms not defined herein shall have the meaning set forth in the License Agreements, as amended hereby.

8. From and after the execution of this Agreement,

(a) any extrinsic reference to the License Agreements shall mean and be a reference to the License Agreements, as amended hereby and any reference within the License Agreements to "this Agreement," "hereunder," "hereof," "herein" or words of like import, shall mean and be a reference to the License Agreements, as amended hereby; and

(b) the License Agreements may be amended and the observance of any term thereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument signed by the Licensee and each Licensor (including Ms. Klamerus and, if applicable, Mr. Rocamboli).

9. Articles 4.2.1 and 4.2.2 shall be deleted in their entirety and replaced with the following:

"4.2 The Licensee shall pay to Licensors:

4.2.1 a non-refundable semi-annual royalty in an amount equal to [***] percent ([***]%) of Net Sales by the Licensee, or any Affiliate of the Licensee, of the Licensed Products or Licensed Processes distributed as follows:

(i) [***] percent ([***]%) to Bernadette Klamerus
(ii) [***] percent ([***]%) to Fred Mermelstein
(iii) [***] percent ([***]%) to Janet Chollet
(iv) [***] percent ([***]%) to Stephen Rocamboli

4.2.2 With respect to any royalties received by Licensee or its Affiliate from sales by any sublicensee of Licensed Products or Licensed Processes ("Sublicense Royalties"), Licensee shall remit to Licensor a non-refundable semi-annual royalty in an amount equal to the greater of (a) [***] percent ([***]%) of the Sublicense Royalties and (b) [***] percent ([***]%) of Net Sales by any such sublicense, distributed among the Licensees as follows:

(i) [***] Percent ([***]%) to Bernadette Klamerus
(ii) [***] Percent ([***]%) to Fred Mermelstein
(iii) [***] Percent ([***]%) to Janet Chollet
(iv) [***] Percent ([***]%) to Stephen Rocamboli

10. Except as specifically amended by this Agreement, the License Agreements shall remain in full force and effect and are hereby ratified and confirmed by each of the parties hereto.

11. This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of laws.

12. By executing this Agreement, Bernadette Klamerus hereby agrees to become a party to the License Agreements as a Licensor thereunder, subject to the terms and conditions of this Agreement.

APPENDIX I

- US Patent Application Ser. No. 11/757,787, filed June 4, 2007
- the PCTUS07/70323 application and any national phase application derived from or corresponding to PCTUS07/70323
- US Patent Application Ser. No. 12/163,334, filed June 27, 2008

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, by proper persons thereunto duly authorized.

PEAR TREE PHARMACEUTICALS, INC.

By: /s/ Stephen Rocamboli
Stephen Rocamboli
President

By: /s/ Fred Mermelstein
Fred Mermelstein
Director

LICENSORS:

By: /s/ Fred Mermelstein
Fred Mermelstein

By: /s/Bernadette Klamerus
Bernadette Klamerus

By: /s/ Janet Chollet
Janet Chollet

Solely as to Articles 1 and 9 of this Agreement

By: /s/ Stephen Rocamboli
Stephen Rocamboli

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXCLUSIVE LICENSE AGREEMENT

THIS EXCLUSIVE LICENSE AGREEMENT (this "Agreement") dated as of Feb. 13, 2017 (the "Effective Date") is entered into between GYN Holdings, Inc. a Delaware corporation having a place of business at c/o Pear Tree Pharmaceuticals, Suite 4-200, 275 Grove Street, Newton, MA 02466 ("Company") and Bernadette Klamerus, an individual with a mailing address at P.O. Box 225 Carmichaels, PA 15320 (the "Licensor").

WHEREAS, Licensor owns or has rights in and to certain Patent Rights and Know-How (as defined below).

WHEREAS, Company desires to obtain an exclusive license under Licensor's rights in and to the Patent Rights and Know-How.

WHEREAS, the Licensor has become a party to the Amended and Restated Exclusive License Agreement dated as of July 14, 2006 and amended as of October 10, 2007 (together with all exhibits, schedules and as may be further amended from time to time after the date hereof, the "Master Agreement") with Pear Tree Pharmaceuticals, Inc. ("Pear Tree"), the sole equity holder of the Company, and the other parties named therein, as partial consideration for entering into this Agreement.

WHEREAS, the Company will sublicense all of its rights under this Agreement to Pear Tree.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, the parties hereby agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the terms defined in this Section 1 shall have the respective meanings set forth below:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, at least fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "Business" shall mean that portion of Pear Tree's business related to activities that require Pear Tree's exercise of its sublicense rights under this Agreement and/or its license rights under the Master Agreement, including without limitation the research, development and/or commercialization of Licensed Products as defined herein or therein.

1.3 "Field" shall mean all fields of use.

1.4 "Governmental Approval(s)" means any and all permits, licenses, approvals, and authorizations required by any competent authority, government regulatory agency, including but not limited to the FDA, MHLW, and the EMEA and their successor organizations, as a prerequisite to the development, manufacturing, packaging, marketing, and selling of a Licensed Product.

1.5 "Know-How" shall mean all trade secret and other know-how rights in and to all data, information, compositions and other technology (including, but not limited to, formulae, procedures, protocols, techniques and results of experimentation and testing) previously disclosed by Licensor to Pear Tree and which are necessary or useful for Company to make, use, develop, sell or seek regulatory approval to market a composition, or to practice any method or process, at any time claimed or disclosed in any issued patent or pending patent application within the Patent Rights.

1.6 "Licensed IP Rights" shall mean, collectively, the Patent Rights and the Know-How.

1.7 Licensed Product. Any product that is covered in whole or in part by a Valid Claim within the Patent Rights.

1.8 "Patent Rights" shall mean (a) the patents and patent applications listed on Exhibit A hereto, (b) all foreign counterparts to the patents and patent applications listed on Exhibit A, (c) all divisions, continuations, continuations-in-part, that claim priority to, or common priority with, the patent applications listed in clauses (a) - (b) above or the patent applications that resulted in the patents described in clauses (a) - (b) above, and (d) all patents that have issued or in the future issue from any of the foregoing patent applications, including utility, model and design patents and certificates of invention, together with any reissues, renewals, extensions or additions thereto.

1.9 "Person" shall mean an individual, corporation, partnership, limited liability company, trust, business trust, association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, governmental authority or any other form of entity not specifically listed herein.

1.10 "Territory" shall mean the world.

1.11 "Third Party" shall mean any Person other than Licensor, Company and their respective Affiliates.

1.12 "Valid Claim" shall mean a claim of an issued and unexpired patent included within the Patent Rights, which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise.

2. LICENSE GRANT

2.1 Licensed IP Rights. For good and valuable consideration, the receipt of which is hereby acknowledged by Licensor, Licensor hereby grants to Company an exclusive license, with the right to grant sublicenses through multiple tiers (subject to Section 2.2), under the Licensed IP Rights to conduct research and to develop, make, have made, use, offer for sale, sell and import Licensed Products in the Territory for use in the Field. These rights shall be exclusive even to Licensor, and Licensor shall hereafter, during the term of this Agreement and subject to the terms and conditions of this Agreement, no longer have the right to license or otherwise transfer the Licensed IP Rights to any Third Party or to exercise or exploit the Licensed IP Rights for any purpose.

2.2 Sublicenses. The parties hereby agree and acknowledge that, during the term of this Agreement, the Company shall sublicense its rights under this Agreement to Pear Tree pursuant to a written license agreement between the Company and Pear Tree substantially in the form attached hereto as Exhibit B (as amended from time to time, the "Pear Tree Sublicense") and Pear Tree shall have the right to further sublicense the Licensed IP rights through multiple tiers, [***]. Once executed, the Pear Tree Sublicense may not be amended, nor may any provision thereof be waived by the Company, without the prior written consent of Licensor.

3. FINANCIAL CONSIDERATIONS & REPORTS; WAIVER

3.1 As partial consideration for entering this Agreement, Pear Tree shall directly provide Licensor with all payments and reports due to her under the Master Agreement, including but not limited to those payments due under Article 4 and those reports due under Article 5 of such agreement. Any failure of on the part of Pear Tree to provide such payments and reports when and as due, subject to the terms of the Master Agreement, including but not limited to applicable cure periods and stay periods described Article 7 and Article 8 thereof, shall be deemed to be a material breach of this Agreement by the Company.

4. CONFIDENTIALITY

4.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration or earlier termination hereof, each party shall maintain in confidence all information of the other party that is disclosed by the other party and identified as, or acknowledged to be, confidential at the time of disclosure (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, affiliates, employees, permitted licensees, permitted assignees and agents, consultants, clinical investigators or contractors ("Representatives"), provided that (i) such disclosure is reasonably necessary in connection with performing such party's obligations or exercising its rights under this Agreement, (ii) such party informs its Representatives of the confidential nature of the Confidential Information being disclosed and (iii) each Representative is bound by a written agreement with the Company, corporate policy, or professional obligation that contains confidentiality and non-use provisions that are consistent with those set forth in this Section 4.1. The Recipient (defined below) shall be liable for any breaches of this Section 4.1 by its Representatives as if such breach was by the Recipient itself. For purposes of this Section 4, Pear Tree shall be deemed to be a Representative of Company. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information. The confidentiality obligations contained in Section 4.1 above shall not apply to the extent that (a) any receiving party (the "Recipient") is required (i) to disclose information by law, regulation or order of a governmental agency or a court of competent jurisdiction (provided that the Recipient shall provide prior written notice of such required disclosure to the disclosing party and, at the request and expense of disclosing party, take reasonable and lawful actions to avoid and/or minimize the extent of such disclosure), or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product; or (b) the Recipient can demonstrate that (i) the disclosed information was public knowledge at the time of such disclosure to the Recipient, or thereafter became public knowledge, other than as a result of actions of the Recipient in violation hereof; (ii) the disclosed information was rightfully known by the Recipient (as shown by its written records) prior to the date of disclosure to the Recipient by the other party hereunder; (iii) the disclosed information was disclosed to the Recipient on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party; or (iv) the disclosed information was independently developed by the Recipient without use of the Confidential Information disclosed by the other party. Notwithstanding any other provision of this Agreement, Company may disclose Confidential Information of the Licensor relating to information developed pursuant to this Agreement to any Person with whom Company has, or is proposing to enter into, a business relationship, provided that (i) the Company informs such Person of the confidential nature of the Confidential Information being disclosed, (ii) such Person is bound by a written agreement with the Company, corporate policy, or professional obligation that contains confidentiality and non-use provisions that are consistent with those set forth in this Section 4.1 and (iii) the Company shall be liable for any breaches of this Section 4.1 by such Person as if such breach was by the Company itself.

4.2 Terms of this Agreement. Except as otherwise provided in Section 4.1 above, Licensor and Company shall not disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party unless required by applicable law, as necessary for such party to enforce the terms of or exercise its rights under this Agreement. The Company may disclose the terms of this Agreement to potential investors and strategic partners of the Company under obligations of confidence substantially similar to those contained herein.

5. PATENT PROSECUTION AND MAINTENANCE; INFRINGEMENT AND OTHER ACTIONS

5.1 The Company shall assume all future patent expenses.

5.2 The Company shall diligently prosecute and maintain the Patent Rights as set forth in Exhibit A hereto (as the same may be amended or supplemented from time to time after the date hereof), including, but not limited to, the filing of patent applications for inventions, utilizing such patent counsel as may be mutually agreed upon by the parties hereto. Company agrees to diligently file, prosecute and maintain the Patent Rights in the United States. Licensor may request, in writing, that Licensor file, prosecute and

maintain Patent Rights in Canada, Japan, Australia, the United Kingdom, Germany, Spain, France and Italy ("Other Countries"); provided that, the Company shall have no obligation to comply with such request. Accordingly, should the Company choose not to comply with such request, then Licensor reserves the right to file, prosecute and maintain the Patent Rights in such Other Countries. The Company agrees to keep the Licensor reasonably well informed with respect to the status and progress of any such applications, prosecutions and maintenance activities including and to consult in good faith with the Licensor and take into account the Licensor's comments and requests with respect thereto. Both parties agree to provide reasonable cooperation to each other to facilitate the application and prosecution of patents pursuant to this Agreement.

5.3 The Company may, in its discretion, elect to abandon any patent application or issued patent comprising the Patent Rights. Prior to any such abandonment, the Company shall give the Licensor at least sixty (60) days' notice and a reasonable opportunity to take over prosecution of such Patent Rights. In such event, the Licensor shall have the right, but not the obligation, to commence or continue such prosecution and to maintain any such Patent Rights under its own control and at its expense and the Company shall then make no further use of any such Patent Rights. The Company agrees to cooperate in such activities (at Licensor's expense), including execution of any assignments or other documents necessary to enable the Licensor to obtain and retain sole ownership and control of such Patent Rights.

5.4 The Company shall promptly notify Licensor of the issuance of each Governmental Approval and, where reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to apply or enable Company to apply for a patent term extension, adjustment or restoration, supplementary protection certificate, or other form of market exclusivity conferred by applicable laws (collectively, "Patent Term Extensions"). Licensor shall, to the extent reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to, if and as requested by the Company, obtain (or assist the Company in obtaining) all available Patent Term Extensions. The parties hereto shall cooperate with each other in obtaining Patent Term Extensions wherever and whenever applicable, reasonably possible to obtain, and reasonably useful or valuable in the commercialization of Licensed Products.

5.5 The Company and the Licensor shall promptly provide written notice, to the other party, of any alleged infringement by a third party of the Patent Rights and provide such other party with any available evidence of such infringement.

5.6 During the Term, the Company shall have the right, but not the obligation, to prosecute and/or defend, at its own expense and utilizing counsel of its choice, any infringement of, and/or challenge to, the Patent Rights. No settlement, consent judgment or other voluntary final disposition of any such suit may be entered into without the consent of the Licensor, which consent shall not be unreasonably withheld. The Company shall indemnify and hold the Licensor harmless against any costs, expenses or liability that may be found or assessed against the Licensor in any such suit other than resulting from the Licensor's gross negligence, recklessness or willful misconduct.

5.7 Any recovery of damages by the Company, in any such suit, shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the Company relating to the suit and then to the Licensor for any credited royalties. The balance remaining from any such recovery shall be treated as royalties received by the Licensee from sublicenses and shared by the Licensors and the Licensee [***] percent ([***]%) to the Licensee and [***] ([***]%) percent to the Licensors.

5.8 If within ninety (90) days from receipt of notice by the Company of any alleged infringement, the Company shall have been unsuccessful in persuading the alleged infringer to desist, or shall not have brought and shall not be diligently prosecuting an infringement action, or if the Company shall notify the Licensor, at any time prior thereto, of its intention not to bring suit against the alleged infringer, then, and in those events only, the Licensor shall have the right, but not the obligation, to prosecute, at its own expense and utilizing counsel of its choice, any infringement of the Patent Rights, and the Licensor may, for such purposes, join the Company as a party plaintiff. The total cost of any such infringement action commenced solely by the Licensor shall be borne by the Licensor and the Licensor shall keep any recovery

or damages for infringement or otherwise derived therefrom and such shall not be applicable to any royalty obligation of the Company.

5.9 In any suit to enforce and/or defend the Patent Rights pursuant to this Agreement, the party not in control of such suit shall, at the request and expense of the controlling party, cooperate in all respects and, to the extent possible, have its employees testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

6. TERMINATION

6.1 Expiration. Subject to Sections 6.2 and 6.3 below, this Agreement shall expire on the expiration of Pear Tree's obligation to pay royalties to Licensor under the Master Agreement and thereafter the Company shall have a fully paid-up, non-exclusive license under the Know-How to make, have made, use, sell, offer for sale and import Licensed Products in the Territory for use in the Field.

6.2 Termination by Company. Company may terminate this Agreement, in its sole discretion, upon sixty (60) days prior written notice to Licensor.

6.3 Termination for Cause.

6.3.1 Except as otherwise provided in Section 8, Licensor may terminate this Agreement upon or after the breach of any material provision of this Agreement by Company if Company has not cured such breach within ninety (90) days after notice thereof by Licensor.

6.3.2 Licensor shall have the right, but not the obligation, to terminate this Agreement upon thirty (30) days written notice (i) [***] or (ii) the Master Agreement terminates for any reason other than upon its expiration.

6.3.3 This Agreement shall immediately terminate, without action of either party hereto, if Pear Tree is judicially declared bankrupt, or shall file a petition in bankruptcy, or if the business of Pear Tree shall be placed in the hands of a receiver, assignee or trustee for the benefit of creditors, whether by the voluntary act of Pear Tree or otherwise, provided, however, the Licensor or any of her agents or affiliates are not a party to any petition for bankruptcy or insolvency, or otherwise involved with or assist creditors of Pear Tree from pursuing such actions or like or similar actions.

6.4 Effect of Expiration or Termination. Expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination, and the provisions of Sections 1, 3, 4, 6.4, 7, 8 and 9 shall survive the expiration or termination of this Agreement according to their respective terms. For the avoidance of doubt, if this Agreement is terminated for any reason other than expiration pursuant to Section 6.1, then the Company, Licensor and Pear Tree hereby agree that (i) such termination shall not relieve or reduce Pear Tree's obligations to timely provide Licensor with all payments and reports required by the Master Agreement, (ii) the Company shall not be entitled to the fully-paid up license referenced in Section 6.1 upon the expiration of Pear Tree's obligation to pay royalties to Licensor under the Master Agreement; and (iii) all sublicenses of the Company, including without limitation, the Pear Tree Sublicense, shall terminate concurrently with this Agreement.

7. INDEMNIFICATION; WAIVER OF SPECIAL DAMAGES

7.1 Indemnification. Company shall defend, indemnify and hold Licensor harmless from all losses, liabilities, damages and expenses (including attorneys' fees and costs) incurred as a result of any claim, demand, action or proceeding arising out of any breach of this Agreement by Company, or the gross negligence or willful misconduct of Company in the performance of its obligations under this Agreement, except in each case to the extent arising from the gross negligence or willful misconduct of Licensor or the material breach of this Agreement by Licensor.

7.2 IN NO EVENT SHALL EITHER PARTY OR THEIR AFFILIATES BE LIABLE FOR SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY AND IRRESPECTIVE OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

8. NO IMPLIED WARRANTIES

8.1 EXCEPT AS SET FORTH IN THIS AGREEMENT, LICENSOR DOES NOT MAKE AND EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND VALIDITY OF PATENTED RIGHTS CLAIMS, ISSUED OR PENDING.

8.2 NOTHING HEREIN SHALL BE CONSTRUED AS A REPRESENTATION OR WARRANTY BY LICENSOR TO THE COMPANY THAT THE PATENT RIGHTS AND KNOW-HOW ARE NOT INFRINGED BY ANY THIRD PARTY, OR THAT THE PRACTICE OF SUCH RIGHTS DOES NOT INFRINGE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

9. MISCELLANEOUS

9.1 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one of the parties hereto to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Licensor: Bernadette Klamerus
P.O. Box 225
Carmichaels, PA 15320

with a copy to: Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
Phone: 617.526.6015
Attention: Mary Rose Scozzafava Ph.D.

If to Company: c/o Pear Tree Pharmaceuticals, Inc.
275 Grove Street
Suite 4-200
Newton, MA 02466

with a copy to: Wyrick Robbins Yates & Ponton, LLP
4101 Lake Boone Trail
Suite 300
Raleigh, NC 27607.7506
Phone: 919.781.4000
Attention: David Mannheim

9.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to the conflicts of law principles thereof.

9.3 Assignment. Company shall not assign its rights or obligations under this Agreement without the prior written consent of Licensor, provided, however, that Company may, without such consent,

assign this Agreement and its rights and obligations hereunder to an acquirer (i) in connection with the transfer or sale of all or substantially all of the Business, or (ii) in the event of its merger, consolidation, change in control or similar transaction in connection with the sale of (a) Pear Tree or (b) all or substantially all of the Business. For the avoidance of doubt, this Agreement shall "run with" the Business and the Master Agreement and the Company shall not assign its rights or obligations under this Agreement to an acquirer pursuant to the immediately preceding sentence unless such acquirer (i) acquires all or substantially all of the Business, including the Master Agreement and (ii) expressly agrees to assume this Agreement and the Master Agreement. Any attempted assignment in violation of this Section 9.3 shall be void ab initio. Any permitted assignee shall assume all obligations of its assignor under this Agreement. For the avoidance of doubt, no permitted assignment by the Company of this Agreement shall relieve or reduce Pear Tree's obligations under the Master Agreement.

9.4 Waivers and Amendments. No change, modification, extension, termination or waiver of this Agreement, or any of the provisions herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Company and Licensor.

9.5 Force Majeure. Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement to the extent, and for so long as, such failure or delay is caused by or results from causes beyond the reasonable control of the affected party including but not limited to fire, floods, embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority or the other party.

9.6 Entire Agreement. This Agreement and the Master Agreement (solely with respect to payment and reporting obligations) embodies the entire agreement between the parties and supersedes any prior representations, understandings and agreements between the parties regarding the subject matter hereof. There are no representations, understandings or agreements, oral or written, between the parties regarding the subject matter hereof that are not fully expressed herein.

9.7 Severability. Any of the provisions of this Agreement which are determined to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without rendering invalid or unenforceable the remaining provisions hereof and without affecting the validity or enforceability of any of the terms of this Agreement in any other jurisdiction.

9.8 Waiver. The waiver by either party hereto of any right hereunder or the failure to perform or of a breach by the other party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other party whether of a similar nature or otherwise.

9.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT A

Patent Rights

- US Patent Application Ser. No. 11/757,787, filed June 4, 2007
- the PCTUS07/70323 application and any national phase application derived from or corresponding to PCTUS07/70323
- US Patent Application Ser. No. 12/163,334, filed June 27, 2008

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT B

Pear Tree Sublicense

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

BERNADETTE KLAMERUS

By: /s/ Bernadetter Klamerus

Name: Bernadette Klamerus

Title: RPh

GYN HOLDINGS, INC.

By: /s/ Fred Mermelstein

Name: Fred Mermelstein

Title: President

Agreed and Acknowledged:

PEAR TREE PHARMACEUTICALS, INC.

By: /s/ Stephen Rocamboli

Name: Stephen Rocamboli

Title: President

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXCLUSIVE LICENSE AGREEMENT

This Exclusive License Agreement (hereinafter referred to as this "Agreement"), effective as of September 15, 2017 (the "Effective Date"), is entered into by and between Fred Mermelstein, Ph.D. and Janet Chollet, M.D., (collectively referred to as the "Licensors"), Pear Tree Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of the State of Delaware (the "Licensee"), and Stephen Rocamboli ("Rocamboli").

WHEREAS, the Licensors, are together the sole owners, applicants and inventors of United States Patent No. 9480662 entitled Compositions and methods for topical tamoxifen citrate therapy.

WHEREAS, on or about July 14, 2006 the Licensors and the Licensee entered into an exclusive license agreement whereby each of the Licensors licensed their entire right, title and interest for the United States and all foreign countries to certain other patent relating to the use of triphenylethylene derivatives to treat atrophic vaginitis, as such license has been amended from time to time, the last of such amendments on February 13, 2017 ("the Original License"),

WHEREAS, the Licensor's, with the assistance of Mr. Rocamboli, have created new inventions that will be useful to the Company and the Company wishes to acquire the rights to such new inventions embodied in the Patent Rights (defined herein),

NOW, THEREFORE, it is agreed as follows:

ARTICLE 1 - DEFINITIONS

For the purposes of this License Agreement, the following words and phrases shall have the following meanings:

1.1 "Licensors" shall mean Fred Mermelstein, Ph.D. and Janet Chollet, M.D. the exclusive inventors and owners of United States Patent No. 9480662 entitled Compositions and methods for topical tamoxifen citrate therapy. "Licensors" shall also include Stephen Rocamboli for the purposes of Articles 4, 5 and 15.

1.2 "Licensee" shall mean Pear Tree Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of the State of Delaware, having its principal offices at 275 Grove Street, Suite 2-400, Newton MA 02494.

1.3 "Affiliate" shall mean, with respect to any Entity (as hereinafter defined), any Entity that directly or indirectly controls, is controlled by, or is under common control with such Entity.

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.3.1 "Control" shall mean, for this purpose, direct or indirect control of more than fifty percent (50%) of the voting securities of an Entity or, if such Entity does not have outstanding voting securities, more than 50% of the directorships or similar positions with respect to such Entity.

1.3.2 "Entity" shall mean any corporation, association, joint venture, partnership, trust, university, business, individual, government or political subdivision thereof, including an agency, or any other organization that can exercise independent legal standing

1.4 "Patent Rights" shall mean:

1.4.1 All U.S. and foreign patents and patent applications set forth in Appendix I;

1.4.2 Any later-filed United States and/or foreign patent applications based on the patent applications and/or patents listed in Appendix I, or corresponding thereto, including any continuations, continuations-in-part, divisional, reissues, reexaminations, or extensions thereof; and

1.4.3 Any subsequent patent applications and/or patents relating to the use of tamoxifen or tamoxifen citrate to treat vaginal atrophy, including any continuations, continuations-in-part, divisional, reissues, reexaminations, or extensions thereof;

1.4.4 Any patent applications and/or patents filed during the Term relating to any Improvement, including any continuations, continuations in part, divisional, reissues, reexaminations, or extensions thereof.

1.5 "Know-how" shall mean all information (other than that contained in the Patent Rights) whether patentable or not (but which has not been patented) related to the use of tamoxifen to treat atrophic vaginitis or to Licensed Products and Licensed Processes (as defined below), including but not limited to formulations, materials, data, drawings and sketches, designs, testing and test results, regulatory information of a like nature, owned by the Licensors, which the Licensors has the right to disclose and license to the Licensee.

1.6 "Licensed Product(s)" shall mean:

1.6.1 Any product which is covered in whole or in part by a claim contained in the Patent Rights;

1.6.2 Any product which is made and, or manufactured using a Licensed Process as defined below under 1.7.

1.6.3 Any product used to treat atrophic vagintis via vaginal administration of triphenylethylene derivatives, including but not limited to Tamoxifen.

1.7 "Licensed Process(es)" shall mean any process or method, which is covered, in whole, or in part, by a claim contained in the Patent Rights.

1.8 "Net Sales" shall mean:

1.8.1 The amount billed, invoiced or received (whichever occurs first) for sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or the practice of the Licensed Processes, occurring anywhere in the world, including countries and jurisdictions in which there are no Patent Rights underlying such Licensed Products or Licensed Processes, less the sum of Authorized Deductions (as defined in Paragraph 1.9) in connection therewith;

1.8.2 The fair market value of any non-cash consideration received for sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or the practice of the Licensed Processes, occurring anywhere in the world, including countries and jurisdictions in which there are no Patent Rights underlying such Licensed Products or Licensed Processes, less the sum of Authorized Deductions) in connection therewith.

1.8.3 On sales, leases or other transfers, by or on behalf of the Licensee or any of its Affiliates of Licensed Products or Licensed Processes to Licensee's Affiliates or related parties that are end users of such Licensed Products or Licensed Processes, Net Sales means the consideration that would have been received in an arm's length transaction, based on sales of like quantity and quality products or processes at or about the time of such transaction, less the sum of Authorized Deductions in connection therewith;

1.8.4 Net Sales shall not include the sale or transfer of a Licensed Product to an Affiliate for the purpose of resale and shall not include a transfer solely for indigent or public support or compassionate use programs.

1.9 "Authorized Deductions" in connection with Net Sales shall mean the following:

1.9.1 Usual trade discounts to customers;

1.9.2 Sales, tariff duties and/or use taxes directly imposed with reference to particular sales;

1.9.3 Outbound transportation prepaid or allowed and transportation insurance;

1.9.4 Amounts allowed or credited on returns;
1.9.5 Bad debt deductions actually written off during the period;
1.9.6 Government chargebacks; and
1.9.7 Packaging and freight charges.

1.10 "Improvements" means any modification, enhancement, or improvement of a Licensed Product or Licensed Process, or any inventions, discoveries, improvements (whether patentable or not), information, and data, owned or controlled by Licensors any time during the Term, which would be useful or necessary in the manufacture, use, or sale of any Licensed Product and the practice of which would infringe an issued or pending claim within the Patent Rights or other intellectual property rights owned or controlled by the Company directly relating to the use of tamoxifen or tamoxifen citrate to treat atrophic vaginitis or a Licensed Product.

1.11 "Governmental Approval(s)" means any and all permits, licenses, approvals, and authorizations required by any competent authority, government regulatory agency, including but not limited to the FDA, MHLW, and the EMEA and their successor organizations, as a prerequisite to the development, manufacturing, packaging, marketing, and selling of a Licensed Product.

1.12 "Valid Claim" means an issued claim included within the Patent Rights that has been filed in good faith and has not been withdrawn, permanently revoked, abandoned nor deemed unenforceable, unpatentable, or invalid by a decision of a court or other governmental agency of competent jurisdiction that is unappealable or unappealed in the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise.

ARTICLE 2 - GRANT

2.1 The Licensors hereby grant to the Licensee and the Licensee accepts, subject to the terms and conditions of this Agreement, an exclusive, worldwide commercial license in all fields of use under the Patent Rights, and a license to make, have made, use, lease and/or sell Licensed Products, to practice Licensed Processes, and to utilize the Know-how (collectively referred to as the "License").

2.2 The Licensors grant to the Licensee the right to grant sublicenses to third parties under the License granted hereunder, provided that:

2.2.1 Within thirty (30) days of the execution or receipt thereof, as applicable, the Licensee shall provide the Licensors with a copy of each sublicense issued hereunder and shall promptly deliver copies of all royalty reports received by the Licensee from such sublicensees.

2.2.2 Any and all valid and effective sublicenses shall survive termination of this Agreement and be assigned to the Licensors, provided, however, the Licensors shall have no obligation to incur any obligations in excess of those of Licensors contained herein. Notwithstanding the foregoing, the Licensee shall remain obligated to the Licensors for Licensee's obligations under this Agreement without regard to the terms of any sublicense.

2.3 The Licensee will own all Marketing Authorizations for each country in the Territory for Licensed Products. Without limiting the generality of the foregoing, the Licensee shall prepare and submit in its own name and at its expense NDAs with the FDA in the U.S. and any other equivalent application with the competent authorities in other countries in the Territory.

2.3.1 The Licensee shall secure and maintain in good standing, at its sole cost and expense, any and all governmental approvals (including, Marketing Authorizations, licenses, permits and consents, facility licenses and permits required by applicable laws or by the applicable competent authorities) necessary and/or required for the Licensee to perform its obligations under this Agreement and use commercially reasonable efforts at its cost and expense to secure and maintain any variations and renewals thereof.

2.3.2 Licensors shall grant and hereby grant the Licensee a free of-charge right to reference and use and have full access to all preclinical and clinical data, information, and results, Governmental Approvals, and all other regulatory documents relating to or necessary (from a commercial perspective) for the development of Licensed Products, including but not limited to any IND, IDE, PMA, 510(k), NDA, DMF (whether as an independent document or as part of any Governmental Approval), and all chemistry, manufacturing and controls information, and any supplements, amendments or updates to the foregoing, where such regulatory documents are owned, licensed, or controlled by Licensors (for the purposes of this Article, the "Right of Reference"). The Licensee may license the Right of Reference to Affiliates and to Sublicensees.

ARTICLE 3 - DUE DILIGENCE

3.1 The Licensee shall use its reasonable best efforts to bring Licensed Products and Licensed Processes to market through a thorough, vigorous and diligent development program for commercial exploitation of the Patent Rights and Know-how.

ARTICLE 4 - ROYALTIES AND OTHER CONSIDERATION

4.1 *Subject to Article 4.12*, in consideration of the rights, privileges and the license granted hereunder, the Licensee shall pay to the Licensors as set forth in, and in accordance with the provisions of, this Article 4 until termination of this Agreement as hereinafter provided. For good and valuable consideration, the receipt of which is hereby acknowledged by both the Company and the Licensors, Mr. Rocamboli shall be considered a Licensor for the purposes of this Article 4.

4.2 The Licensee shall pay to Licensors:

4.2.1 a non-refundable semi-annual royalty in an amount equal to [***] percent ([***]%) of Net Sales by the Licensee, or any Affiliate of the Licensee, of the Licensed Products or Licensed Processes distributed as follows:

(i) [***] Percent ([***]%) to Fred Mermelstein
(ii) [***] Percent ([***]%) to Janet Chollet
(iii) [***] Percent ([***]%) to Stephen Rocamboli

4.2.2 With respect to any royalties received by Licensee or its Affiliate from sales by any sublicensee of Licensed Products or Licensed Processes ("Sublicense Royalties"), Licensee shall remit to Licensor a non-refundable semi-annual royalties in an amount equal to the greater of (a) [***] percent ([***]%) of the Sublicense Royalties and (b) [***] percent ([***]%) of Net Sales by any such sublicense, distributed among the Licensors as follows:

(i) [***] Percent ([***]%) to Fred Mermelstein
(ii) [***] Percent ([***]%) to Janet Chollet
(iii) [***] Percent ([***]%) to Stephen Rocamboli

4.3 The Licensee agrees to pay to the Licensors, or its designee(s) the following additional consideration:

4.3.1 The Milestone Payments set forth on Exhibit A attached hereto; and

4.3.2 [***] percent ([***]%) of all sublicensing fees or other lump sum payments or other compensation received by the Licensee or an Affiliate from its sublicensees for the use, lease or sale of Licensed

Products and Licensed Processes, excluding (i) payments used or reimbursed for research and development and (ii) payments received as a result of the issuance of debt or equity securities of the Licensee.

4.4 No multiple royalties shall be payable because the use, lease or sale of any Licensed Product or Licensed Process is, or shall be, covered by more than one Valid Claim contained in the Patent Rights. Additionally, royalties shall be paid to Licensors for the sale of a Licensed Product based upon only one of Articles 4.2.1 or 4.2.2 above, but in no case both (that is, royalties due to Licensors on direct sales of a Licensed Product by the Licensee or its Affiliates to a Third Party shall be based only on Article 4.2.1, while royalties on sales of a Licensed Product by the Licensee's Sublicensees to a Third Party shall be based only on Article 4.2.2, so as to avoid double counting).

4.5 In the event that a Licensed Product is sold in the form of a combination product, containing one or more products or technologies that are themselves not a Licensed Product, the Net Sales for such combination product shall be calculated by multiplying the sales price of such combination product by the fraction A/(A+B) where A is the invoice price of the Licensed Product (or, if sold to an Affiliate, the Fair Market Value of the Licensed Product) and B is the total invoice price of the other products or technologies (or, if purchased from an Affiliate, the Fair Market Value of the other products or technologies). In the case of a combination product which includes one or more Licensed Products, (i) the Net Sales for such combination product upon which the royalty due to the Licensors is based shall not be less than the normal aggregate Net Sales for such Licensed Product, (ii) the invoice price or Fair Market Value of each product must be set in good faith and (iii) the invoice price or Fair Market Value for a Licensed Product shall never be less than the greater of aggregate invoice price of the other products or technologies. Notwithstanding the foregoing, the royalties payable pursuant to this Article 4.5 shall never be less than [***]% of Net Sales and are payable among the Licensor and Rocamboli as set forth in Article 4.2.1.

4.6 Royalty payments shall be paid in United States dollars in Cambridge, Massachusetts or at such other place as the Licensors may reasonably designate consistent with the laws and regulations controlling in any foreign country. Any withholding taxes that the Licensee, its affiliate or any sublicensee shall be required by law to withhold on remittance of the royalty payments shall be deducted from such royalty payment to the Licensors. The Licensee shall furnish the Licensors with the original copies of all official receipts for such taxes. If any currency conversion shall be required in connection with the payment of royalties hereunder, such conversion shall be made by

using the exchange rate prevailing at Citibank, N.A. in New York, New York on the last business day of the calendar quarterly reporting period to which such royalty payments relate.

4.7 Royalties payable to the Licensors shall be paid semi-annually on or before the thirtieth (30th) day of June and the thirty-first (31st) day of December of each calendar year. Each such payment shall be for unpaid royalties which accrued within or prior to the Licensee's two most recently completed fiscal quarters.

4.8 To the extent that the Licensee or any Affiliate of the Licensee is required, by order or judgment of any court to obtain in any jurisdiction any license from a third-party in order to make, use or sell any Licensed Product or Licensed Process ("Third-Party License Fee"), then up to [***] percent ([***]%) of the Third-Party License Fee in such jurisdiction may be deducted from royalties otherwise payable to the Licensors hereunder, provided that in no event shall the aggregate royalties payable to the Licensors in any semi-annual period in such jurisdiction be reduced by more than [***] percent ([***]%) as a result of any such deduction, and provided further that any excess allowable deduction remaining as a result of such limitation may be carried forward to subsequent periods.

4.9 Amounts owed under this Article 4 that are not paid when due shall accrue interest from the due date until paid, at a rate equal to the then prevailing prime rate of Citibank, N.A., plus [***] percent ([***]%).

4.10 On a country-by-country and Licensed Product-by-Licensed Product basis, upon the later of (i) 20 years and (ii) the date of the last to expire Valid Claim contained in the Patent Rights covering a Licensed Product or Licensed Process in such country (such expiration including, for purposes hereof, the date upon which no Valid Claims remain with respect to a particular country, even if such date occurs prior to patent issuance), the Licensee's obligation to remit royalty payments to Licensors resulting from sales from a country in which there is no longer a Valid Claim shall be reduced by [***] ([***]%) percent until such time as until such time as the Company no longer has "de facto exclusivity" for the applicable in a particular country. The Company will no longer have de facto exclusivity in a particular country if a third party (i) has obtained approval for sale (if required) in that country for a product which contains the same active ingredient and which is approved for the same indication as the Product in that country and (ii) has made at least one commercial sale for value of a competitive product in that country within [***] ([***]) months prior to or after the fiscal quarter in which the royalty calculation is being made, provided, however, that the Company shall not be deemed to have "de facto exclusivity" in a particular country to the extent that such "de facto exclusivity" is primarily attributable to Patent Rights owned by, or licensed to, the Company.

4.11 Notwithstanding anything in this Section 4, no payment shall be due under this Agreement if such similar payment is made under the terms of the Original License. For instance, and by way of example only, if royalties are paid pursuant to the Original License for a particular year as a result of sales of a Licensed Product in a particular country, then royalties shall not be due under this Agreement for such Licensed Product for such year and for such sales in such country. Additionally, by way of example only, if a milestone payment in Appendix A is remitted pursuant to the Original License, then it shall not be due under this Agreement and shall have been deemed to be paid. Payments are only made pursuant to this Agreement if and when (i) they are due under this Agreement but not otherwise due under the Original License and (ii) if the Original License terminates or expires upon its terms. The Licensee shall also remit payments to the Licensors under this Agreement if the same payment is reduced under the terms of the Original License, but would not have been reduced under this Agreement. In such a case, the balance of the payment not otherwise remitted under the Original License shall be remitted pursuant to this Agreement.

ARTICLE 5 - REPORTS AND RECORDS

5.1 The Licensee shall keep full, true and accurate books of account containing all particulars that may be necessary for the purpose of showing the amounts payable to the Licensors by way of Article 4 as aforesaid. Said books of account shall be kept at the Licensee's principal place of business and up to two times per year the supporting data for the three (3) prior calendar years shall, upon reasonable notice to the Licensee, be open for inspection by an auditor selected by the Licensors, except one to whom the Licensee has reasonable objection, for the purpose of verifying the Licensee's royalty statement or compliance in other respects with this License Agreement. If an inspection shows an under reporting or underpayment in excess of the greater of [***] dollars ($[***]) or [***] percent ([***]%) of royalties payable for any twelve (12) month period, then the Licensee shall reimburse the Licensors for the cost of the inspection at the time the Licensee pays the unreported royalties, including any late charges as required by Paragraph 5.4 of this Agreement. All payments required under this Article 5 shall be due within sixty (60) days of the date the Licensors provide the Licensee notice of the payment due.

5.2 Within sixty (60) days from the end of each quarter of each calendar year, the Licensee shall deliver to the Licensors complete and accurate reports, giving such particulars of the business conducted by the Licensee during the preceding quarter under this License Agreement as shall be pertinent to a royalty accounting hereunder. These shall include at least the following:

5.2.1 All Licensed Products and Licensed Processes used, leased or sold, by or for the Licensee, its Affiliates or any sublicensees.

5.2.2 Total amounts invoiced for Licensed Products and Licensed Processes used, leased or sold, by or for the Licensee, its Affiliates or any sublicensees.

5.2.3 Deductions applicable in computed "Net Sales" as defined in Paragraph 1.9.

5.2.4 Total royalties due based on Net Sales by or for the Licensee, its Affiliates or any sublicensee, any lump sum payment due to the Licensors, if any, pursuant to Paragraph 4.3.2.

5.2.5 Names and addresses of all sublicensees and Affiliates of the Licensee.

5.3 The Licensee agrees to forward to the Licensors semi-annually a copy of any report, which is in substance similar to the report required by this Article 5, received from any sublicensee and other documents received from any sublicensee as the Licensors may reasonably request, as may be pertinent to an accounting of royalties.

5.4 The Licensors agrees to hold in confidence each report delivered by the Licensee pursuant to this Article 5 until the termination of this Agreement. Notwithstanding the foregoing, the Licensors may disclose any such information required to be disclosed pursuant to any judicial, administrative or governmental request, subpoena, requirement or order, provided that the Licensors takes reasonable steps to provide the Licensee with the opportunity to contest or seek an appropriate order of protection in connection with such request, subpoena, requirement or order.

5.5 Mr. Rocamboli shall be considered a Licensor for the purposes of this Article 5. Additionally, if no payments are due under this Agreement because such payments are made under the Original License, then the Company shall remit a notice to the Licensors, at the time of issuance of such payments under the Original License, stating that no payments are due under this Agreement.

ARTICLE 6 - PATENT PROSECUTION AND MAINTENANCE

6.1 The Licensee shall assume all future patent expenses.

6.2 The Licensee shall diligently prosecute and maintain the Patent Rights as set forth in Appendix I hereto (as the same may be amended or supplemented from time to time after the date hereof), including, but not limited to, the filing of patent applications for inventions and Improvements, utilizing such patent counsel as may be mutually agreed upon by the parties hereto. Licensee agrees to diligently file, prosecute and maintain the

Patent Rights in at least the United States, Canada, Japan, Australia, the United Kingdom, Germany, Spain, France and Italy, if possible. Licensors shall notify Licensee immediately upon the creation or invention of any Improvement. The Licensee agrees to keep the Licensors reasonably well informed with respect to the status and progress of any such applications, prosecutions and maintenance activities including and to consult in good faith with the Licensors and take into account the Licensors' comments and requests with respect thereto. Both parties agree to provide reasonable cooperation to each other to facilitate the application and prosecution of patents pursuant to this Agreement.

6.3 The Licensee may, in its discretion, elect to abandon any patent application or issued patent comprising the Patent Rights. Prior to any such abandonment, the Licensee shall give the Licensors at least sixty (60) days notice and a reasonable opportunity to take over prosecution of such Patent Rights. In such event, the Licensors shall have the right, but not the obligation, to commence or continue such prosecution and to maintain any such Patent Rights under its own control and at its expense and the Licensee shall then make no further use of any such Patent Rights. The Licensee agrees to cooperate in such activities, including execution of any assignments or other documents necessary to enable the Licensors to obtain and retain sole ownership and control of such Patent Rights.

6.4 The Licensee shall promptly notify Licensors of the issuance of each Governmental Approval and, where reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to apply or enable Licensee to apply for a patent term extension, adjustment or restoration, supplementary protection certificate, or other form of market exclusivity conferred by applicable laws (collectively, "Patent Term Extensions"). Licensors shall, to the extent reasonably possible and reasonably useful or valuable in the commercialization of Licensed Products, use commercially reasonable efforts to, if and as requested by the Licensee, obtain (or assist the Licensee in obtaining) all available Patent Term Extensions. The parties hereto shall cooperate with each other in obtaining Patent Term Extensions wherever and whenever applicable, reasonably possible to obtain, and reasonably useful or valuable in the commercialization of Licensed Products.

ARTICLE 7 - TERMINATION

7.1 Unless terminated pursuant to this Article 7, this Agreement shall remain in full force and effect for the later to occur of (i) twenty five (25) years or (ii) the last to expire Valid Claim contained in the Patent Rights.

7.2 If the Licensee shall become bankrupt, or shall file a petition in bankruptcy, or if the business of the Licensee shall be placed in the hands of a receiver, assignee or trustee for the benefit of creditors, whether by the voluntary act of the Licensee or otherwise, this License Agreement shall automatically terminate.

7.3 Subject to Article 8.3, in the event that the Licensee fails to make payment to the Licensors of royalties due in accordance with the terms of this Agreement, provided such failure to make payment is not as a result of a bona fide dispute between the Licensors and the Licensee, the Licensors shall have the right to terminate this License Agreement within [***] ([***]) days after giving said notice of termination unless the Licensee shall pay to the Licensors, within the [***]-day period, all such payments due and payable under Article 4. Subject to Article 8, upon the expiration of the [***]-day period, if the Licensee shall not have paid all such royalties due and payable, the rights, privileges and the License granted hereunder shall, at the option of the Licensors, immediately terminate.

7.4 Subject to Article 8.3, upon any material breach or default of this License Agreement by the Licensee, other than as set forth in Paragraphs 7.2 and 7.3 hereinabove, the Licensors shall have the right to terminate this Agreement and the rights, privileges and license granted hereunder upon giving ninety (90) days notice to the Licensee. Such grounds for termination include, but shall not be limited to, [***]. Such termination shall become effective immediately upon the expiration of the ninety (90) day period referred to above, unless the Licensee shall have cured any such breach or default prior thereto.

7.5 The Licensee shall have the right at any time to terminate this Agreement by giving sixty (60) days notice thereof in writing to the Licensors.

7.6 Upon termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination or obligations under Articles 4, 5, 8, 9, 10, 15 and 16. The Licensee and/or any sublicensee thereof may, however, at any time after the effective date of such termination and continuing for a period not to exceed six (6) months thereafter, sell all completed Licensed Products, and any Licensed Products in the process of manufacture at the time of such termination, and complete manufacturing and sell the same, provided that the Licensee shall pay or cause to be paid to the Licensors the royalties thereon as required by Article 4 of this License Agreement and shall submit the reports required by Article 5 hereof on the sales of Licensed Products.

7.7 Upon the expiration of the Term, the Licensee shall have a fully paid, royalty free license to the Licensed Products and Licensed Processes, Improvements and Know how.

7.8 Upon termination of this Agreement, except pursuant to Paragraph 7.7 hereof, the Licensee shall have no future rights to the Patent Rights and Know-how granted hereunder, and shall make no further use thereof, including the manufacture, use or sale of Licensed Products or Licensed Processes, except as otherwise set forth herein.

ARTICLE 8 - ARBITRATION

8.1 Any dispute arising from or relating to this Agreement shall be determined before a tribunal of three (3) arbitrators in Cambridge or Boston, Massachusetts in accordance with the rules of the American Arbitration Association. One arbitrator shall be selected by the Licensors, one arbitrator shall be selected by the Licensee and the third arbitrator shall be selected by mutual agreement of the first two arbitrators.

8.2 The costs of such arbitration shall be borne proportionate to the finding of fault as determined by the Arbitrator. Judgment on the arbitration award may be entered by any court of competent jurisdiction.

8.3 Notwithstanding anything in this Agreement, if a good faith dispute is addressed by the parties hereto pursuant to this Article 8, this Agreement shall remain in full force and effect until such dispute is resolved. All applicable statues of limitations and time-based defenses shall be tolled while any good faith negotiation or mediation procedures are pending or ongoing.

ARTICLE 9 - INFRINGEMENT AND OTHER ACTIONS

9.1 The Licensee and the Licensors shall promptly provide written notice, to the other party, of any alleged infringement by a third party of the Patent Rights and provide such other party with any available evidence of such infringement.

9.2 During the Term, the Licensee shall have the right, but not the obligation, to prosecute and/or defend, at its own expense and utilizing counsel of its choice, any infringement of, and/or challenge to, the Patent Rights. No settlement, consent judgment or other voluntary final disposition of any such suit may be entered into without the consent of the Licensors, which consent shall not be unreasonably withheld. The Licensee shall indemnify and hold the Licensors harmless against any costs, expenses or liability that may be found or assessed against the Licensors in any such suit other than resulting from the Licensors' gross negligence, recklessness or willful misconduct.

9.3 Any recovery of damages by the Licensee, in any such suit, shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the Licensee relating to the suit and then to the Licensors for any credited royalties. The balance remaining from any such recovery shall be treated as royalties received by the Licensee from sublicensees and shared by the Licensors and the Licensee [***] percent ([***]%) to the Licensee and [***] percent ([***]%) to the Licensors.

9.4 If within ninety (90) days from receipt of notice by the Licensee of any alleged infringement, the Licensee shall have been unsuccessful in persuading the alleged infringer to desist, or shall not have brought and shall not be diligently prosecuting an infringement action, or if the Licensee shall notify the Licensors, at any time prior thereto, of its intention not to bring suit against the alleged infringer, then, and in those events only, the Licensors shall have the right, but not the obligation, to prosecute, at its own expense and utilizing counsel of its choice, any infringement of the Patent Rights, and the Licensors may, for such purposes, join the Licensee as a party plaintiff. The total cost of any such infringement action commenced solely by the Licensors shall be borne by the Licensors and the Licensors shall keep any recovery or damages for infringement or otherwise derived therefrom and such shall not be applicable to any royalty obligation of the Licensee.

9.5 In any suit to enforce and/or defend the Patent Rights pursuant to this License Agreement, the party not in control of such suit shall, at the request and expense of the controlling party, cooperate in all respects and, to the extent possible, have its employees testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

ARTICLE 10 - LIMITATION OF LIABILITY INDEMNITY REPRESENTATIONS AND WARRANTIES

10.1 The Licensors, by this License Agreement, makes no representations or warranties as to the validity and/or breadth of the inventions contained in the Patent Rights and the Licensee so acknowledges. The Licensors, by this License Agreement makes no representations or warranties as to patents now held or which will be held by others in the field of the Licensed Products and/or Licensed Processes for a particular purpose.

10.2 EXCEPT AS MAY BE EXPRESSLY PROVIDED HEREIN, THE LICENSORS DOES NOT MAKE, AND EXPRESSLY DISCLAIMS ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10.3 The Licensee agrees to defend, indemnify and hold the Licensors harmless from and against all liability, demands, damages, including without limitation, expenses or losses including death, personal

injury, illness or property damage (each a "Claim") arising directly or indirectly: (a) out of use by the Licensee or its transferees of inventions licensed or information furnished under this License Agreement or (b) out of any use, sale or other disposition by the Licensee or its transferees of Patent Rights, Licensed Products or Licensed Processes, except to the extent, in each such case, that such Claim results from or arises out of the Licensors' gross negligence, recklessness or willful misconduct. The Licensee agrees that any sublicense agreement it enters relative to the Licensed Products and/or Licensed Processes shall contain a covenant by such sublicensee providing for the indemnification of the Licensors as provided in this Article.

10.4 At such time when the Licensee has developed Licensed Products for sale, the Licensee shall obtain and carry in full force and effect commercial, general liability insurance, which shall protect the Licensee and the Licensors with respect to events covered by Paragraph 10.3 above. Such insurance shall be written by a reputable insurance company, shall list the Licensors as an additional named insured thereunder, shall be endorsed to include product liability coverage and shall require thirty (30) days written notice to be given to the Licensors prior to any cancellation or material change thereof. The limits of such insurance shall not be less than two million dollars ($2,000,000) per occurrence with an aggregate of five million dollars ($5,000,000) for personal injury or death, and one million dollars ($1,000,000) per occurrence with an aggregate of three million dollars ($3,000,000) for property damage. The Licensee shall provide the Licensors with Certificates of Insurance evidencing the same.

10.5 Notwithstanding the foregoing, if the requirements of Paragraph 10.4 are not consistent with general industry norms or good business practices at the time, the Licensors and Licensee agree to negotiate in good faith to modify this Paragraph 10.4; provided, however, that if the Licensee, using good-faith reasonable efforts, cannot obtain the insurance required by Paragraph 10.4 at rates that are prudent given the Licensee's financial position as determined by the Board of Directors of the Licensee at the time such insurance is required then the Licensors agrees to waive the requirements of Paragraph 10.4 until a determination by the Board of Directors of the Licensee that the Licensee's financial position permits it to obtain the insurance required by Paragraph 10.4.

10.6 To the Licensors' knowledge and belief: (i) the Licensors has all right, title, and interest in and to the Patent Rights, including exclusive, absolute, irrevocable right, title and interest thereto, free and clear of all liens, charges, encumbrances or other restrictions or limitations of any kind whatsoever; (ii) the Licensors have not been notified of any claim, pending or threatened, of infringement, interference or invalidity regarding any part or all of the Patent Rights or Know-how or their use; and there are no inventors of Patent Rights other than those listed as

inventors on applications filed for such Patent Rights. Notwithstanding the foregoing, the Licensors do not warrant that there are no third party rights which may reasonably lead, to a claim of infringement or invalidity regarding any part or all of the Patent Rights and their use as contemplated in the underlying patents.

ARTICLE 11 - ASSIGNMENT

11.1 This Agreement and the rights and duties pertaining hereto may not be assigned by either party without first obtaining the written consent of the other, which consent shall not be unreasonably withheld. Any such purported assignment, without the written consent of the other party, shall be null and of no effect. Notwithstanding the foregoing, the Licensee may assign this Agreement (i) to a purchaser, merging or consolidating corporation, or acquirer of substantially all of the Licensee's assets or business and/or pursuant to any reorganization qualifying under section 368 of the Internal Revenue Code of 1986 as amended, as may be in effect at such time, or (ii) to an Affiliate of the Licensee subject to the consent of the Licensors which consent shall not be unreasonably withheld.

ARTICLE 12 - PAYMENT OF FEES AND EXPENSES

12.1 Each of the Licensee and the Licensors shall be responsible for their own expenses relating to the preparation and consummation of this Agreement and the agreements and transactions contemplated hereby.

ARTICLE 13 - USE OF NAMES

13.1 Nothing contained in this Agreement shall be construed as granting any right to the Licensee or its Affiliates to use in advertising, publicity, or other promotional activities any name, trade name, trademark, or other designation of the Licensors or any of its units (including contraction, abbreviation or simulation of any of the foregoing) without the prior, written consent of the Licensors; provided, however, that the Licensors acknowledges and agrees that the Licensee may use the name of the Licensors in various documents used by the Licensee for capital raising and financing without such prior written consent and where the use of such names may be required by law. The Licensee agrees to promptly provide the Licensors with a copy of any documents used by the Licensee, which contain the name of the Licensors.

13.2 The Licensors may act as a consultant and scientific advisor to the Licensee with respect to the licenses granted to the Licensee hereunder, subject to the policies, if any, of the Licensors. However, nothing herein shall be deemed to establish a relationship of principal and agent between the Licensors and the Licensee, nor any of their agents or employees for any purpose whatsoever. This Agreement shall not be construed as creating a

partnership between the Licensors and the Licensee, or as creating any other form of legal association or arrangement which would impose liability upon one party for the act or failure to act of the other party.

ARTICLE 14 - PAYMENTS NOTICES AND OTHER COMMUNICATIONS

14.1 Any payment, notice or other communication required or permitted to be given pursuant to this Agreement shall be in writing and sent by certified first class mail, postage prepaid, by hand delivery or by facsimile if confirmed in writing, in each case effective upon receipt, at the addresses below or as otherwise designated by written notice given to the other party:

In the case of the Licensors:

Bymer, Inc. (Fred Mermelstein, Ph.D.)
30 Colbert Road E
Newton, MA
(617) 349-4511 (Office)
(212) 844-9528 (Cell)

Janet Chollet, M.D.
[address]

Stephen Rocamboli
c/o Integrin Partners
275 Grove Street, Suite 2- 400
Newton, MA 02494

In the case of the Licensee:

Pear Tree Pharmaceuticals, Inc.
275 Grove Street, Suite 2-400
Newton, MA 02466

ARTICLE 15 - CONFIDENTIALITY

15.1 Any proprietary or confidential information relating to the Licensed Products and Licensed Processes (including but not limited to Know-how and patent prosecution documents relating to Patent Rights) collectively constitute the "Confidential Information." The Licensee, Rocamboli and the Licensors agree that they will not use the Confidential Information for any purpose unrelated to this Agreement, and will hold it in confidence during the term of this Agreement and for a period of five (5) years after the termination or expiration date of this Agreement. The Licensee, Rocamboli and the Licensors shall exercise with respect to such the Confidential Information the same degree of care as the Licensee and the Licensors exercise with respect to their own confidential or proprietary information of a similar nature (but no less than reasonable care), and shall not disclose it or permit its disclosure to any third party (except to those of its employees, consultants, or agents who are bound by the same obligation of

confidentiality as the Licensee and the Licensors are bound pursuant to this Agreement). However, such undertaking of confidentiality by the Licensee or the Licensors shall not apply to any information or data which:

15.1.1 The receiving party receives at any time from a third party lawfully in possession of same and having the right to disclose same;

15.1.2 Is, as of the date of this Agreement, in the public domain, or subsequently enters the public domain through no fault of the receiving party;

15.1.3 Is independently developed by the receiving party as demonstrated by written evidence without reference to information disclosed to the receiving party;

15.1.4 Is disclosed pursuant to the prior written approval of the disclosing party; and

15.1.5 Is required to be disclosed pursuant to law or legal process (including, without limitation, to a governmental authority) provided, in the case of disclosure pursuant to legal process, reasonable notice of the impending disclosure is provided to the disclosing party and disclosing party has agreed to such disclosure in writing or has exhausted its right to contest such disclosure.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

16.1 This License Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of laws.

16.2 If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, the Licensee shall assume all legal obligations to do so and the costs in connection therewith.

16.3 The Licensee shall observe all applicable United States and foreign laws with respect to the use, sale manufacture and transfer of Licensed Products and related technical data to foreign countries, including, without limitation, the regulations of the Food and Drug Administration and its foreign equivalents, the International Traffic in Arms Regulations (ITAR), and the Export Administration Regulations.

16.4 The parties hereto acknowledge that this Agreement, including the Appendices and documents incorporated by reference, sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and shall not be subject to any change of modification except by the execution of a written instrument subscribed to by the parties hereto.

16.5 The provisions of this License Agreement are severable, and in the event that any provision of this License Agreement shall be determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

16.6 The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this License Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party.

16.7 The headings of the several articles are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

16.8 This Agreement will not be binding upon the parties until it has been signed below on behalf of each party, in which event, it shall be effective as of the date recited on page one.

16.9 This Agreement embodies the entire understanding of the parties and shall supersede all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.

16.10 Each party hereto shall be excused from any breach of this Agreement which is proximately caused by governmental regulation, act of war, strike, act of God or other similar circumstance normally deemed outside the control of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement, by proper persons thereunto duly authorized.

PEAR TREE PHARMACEUTICALS, INC.

By: /s/ Stephen Rocamboli
Stephen Rocamboli
President

By: /s/ Fred Mermelstein
Fred Mermelstein

LICENSORS:

By: /s/ Fred Mermelstein
Fred Mermelstein

By: /s/ Janet Chollet
Janet Chollet

As to ROCAMBOLI

By: /s/ Stephen Rocamboli
Stephen Rocamboli

CONFIDENTIAL TREATMENT REQUESTED

APPENDIX 1

Title: Compositions and methods for topical tamoxifen citratetherapy
US Patent number: 9480662
Type: Grant
Filed: May 1, 2015
Date of Patent: November 1, 2016
Inventors: Janet A. Chollet, Fred H. Mermelstein

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT A

PERFORMANCE MILESTONE PAYMENTS

Subject to Article 4.1, To ensure that the Licensee is diligently pursuing the development and commercialization of the Licensed Products and Licensed Processes, in further consideration of the license and options granted herein, the Licensee shall make the following payments (the "Milestone Payments") in accordance with the following schedule:

MILESTONE	AMOUNT
Commencement of Phase 11/111 Phase Ill pivotal trial for each Licensed Product	$[***]
New Drug Application (NDA) [2] for each Licensed Product	$[***]
NDA Approval for each Licensed Product	$[***]
First Commercial Sale for each Licensed Product	$[***]

Any Milestone Payments made in accordance with the above shall be distributed as follows:

[***]% to Fred Mermelstein
[***]% to Stephen Rocamboli
[***]% to Janet Chollet

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

AGREEMENT AND PLAN OF MERGER

among

DARÉ BIOSCIENCE, INC.,

DARÉ MERGER SUB, INC.,

PEAR TREE PHARMACEUTICALS, INC.,

and

FRED MERMELSTEIN AND STEPHEN C. ROCAMBOLI,

as Holders' Representatives

April 30, 2018

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

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CONFIDENTIAL TREATMENT REQUESTED

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is dated as of April 30, 2018, by and among Daré Bioscience, Inc., a Delaware corporation ("Parent"), Daré Merger Sub, Inc., a Delaware corporation ("Merger Sub"), Pear Tree Pharmaceuticals, Inc., a Delaware corporation (the "Company") and Fred Mermelstein and Stephen C. Rocamboli, as Holders' Representatives. Each of Parent, Merger Sub, the Company and Holders' Representatives may be individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

RECITALS

WHEREAS, the Company, Parent and Merger Sub intend to effect a merger of Merger Sub with and into the Company (the "Merger") in accordance with this Agreement and the General Corporation Law of the State of Delaware (the "DGCL"), whereupon consummation of the Merger, Merger Sub shall cease to exist and the Company shall become a Subsidiary of Parent;

WHEREAS, the board of directors of the Company has approved, adopted and declared advisable this Agreement and the transactions contemplated hereby, including the Merger, and resolved to recommend the adoption of this Agreement and the transactions contemplated by this Agreement to its stockholders, in accordance with the DGCL and upon the terms and subject to the conditions set forth herein;

WHEREAS, the respective board of directors of Parent and Merger Sub have each approved, adopted and declared advisable this Agreement and the transactions contemplated hereby, including the Merger, in accordance with the DGCL and upon the terms and subject to the conditions set forth herein;

WHEREAS, concurrently with the execution and delivery of this Agreement, each of the Holders is executing and delivering a joinder agreement in the form of Exhibit A attached hereto (each a "Joinder" and collectively the "Joinders") making each such Holder subject to certain obligations described therein; and

WHEREAS, immediately following the execution of this Agreement, the Stockholders shall adopt this Agreement and approve the Merger, pursuant to a written consent (each a "Written Consent" and collectively, the "Written Consents").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, representations, warranties and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I: DEFINITIONS

Section 1.1 Defined Terms. The following terms shall have the following meanings in this Agreement:

"Accounting Firm" has the meaning as set forth in Section 5.8.1.

"Accounting Methodology" means in accordance with GAAP and otherwise consistent with the accounting methods, practices and procedures used to prepare the Unaudited Financial Statements.

"Action" means any claim, controversy, suit, action or cause of action, litigation, arbitration, investigation, opposition, interference, audit, hearing, demand, assessment, complaint, citation, proceeding, order or other legal proceeding (whether sounding in contract or tort or otherwise, whether civil, criminal, administrative or otherwise and whether brought at law or in equity or under arbitration or administrative regulation) and any written notice of violation, notice of potential responsibility or any notice alleging liability.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person. For this purpose, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"Aggregate Preferred Per Share Consideration" means the product of (i) the Preferred Per Share Consideration and (ii) the number of shares of Company Preferred Stock outstanding as of immediately prior to the Effective Time.

"Aggregate Preferred Share Preference" means the lower of (i) the Closing Merger Consideration and (ii) product of (x) the preference per share of the Preferred Stock in accordance with the Company Charter and (y) the number of shares of Company Preferred Stock outstanding as of immediately prior to the Effective Time.

"Base Merger Closing Consideration" means $75,000.

"Base Merger Consideration" means the sum of the Base Merger Closing Consideration plus the Based Merger Delayed Consideration.

"Base Merger Delayed Consideration" means $75,000.

"Business Day" means any day other than a Saturday, Sunday or any other day on which banking institutions in San Diego, California are authorized or required by Law or order to remain closed.

"Cap Amount" means an amount equal to (i) the Company Transaction Expenses *plus* (ii) the Parent Transaction Expenses *plus* (iii) the Company Debt.

"CERCLA" is defined within the definition of "Environmental Laws" below.

"Certificate" means a certificate representing shares of the Company Capital Stock.

"Change of Control Payment" means (a) any bonus, severance or other payment that is created, accelerated, accrues or becomes payable by the Company to any present or former director, stockholder, Employee or Consultant, including pursuant to an employment agreement, Plan or any other Contract, including any Taxes payable on or triggered by any such payment and (b) without duplication of any other amounts included within the definition of Company Transaction Expenses, any other payment, expense or fee that accrues or becomes payable by the Company to any Governmental Authority or other Person under any Law or Contract, including in connection with the making of any filings, the giving of any notices or the obtaining of any consents, authorizations or approvals, in each case of each of (a) and (b) as a result of, in connection with the execution and delivery of the Agreement or any other Transaction Agreement or the consummation of the Transactions (including the Merger).

"Charter Documents" means, with respect to any entity, the articles of incorporation and bylaws or similar organizational documents of such entity.

"Clinical Data" means the Company's clinical data generated by Dr. Janet A. Chollet as described in her clinical study report entitled "Observations of the Use of a Vaginal Suppository Containing Tamoxifen to Treat Menopause Patients with Moderate to Severe Vulvar and Vaginal Atrophy" dated December 12, 2008, inclusive of supportive documentation and records.

"Closing Cash" means the fair market value of all cash and cash equivalents held by the Company as of the Closing (before taking into account the consummation of the Merger), determined in accordance with the Accounting Methodology.

"Closing Consideration Payment" has the meaning set forth in Section 2.14.3.

"Closing Merger Consideration" means an amount equal to sum of the Base Merger Closing Consideration *plus* (i) the Closing Cash *minus* (ii) the Company Debt *minus* (iii) the Company Transactions Expenses *minus* (iv) any amounts payable under the Management Incentive Plan *minus* (v) the Holders' Representatives Expenses Amount. For purposes of this definition, the foregoing clauses (i) through (v) and the individual elements thereof, as applicable, shall be determined in accordance with the Accounting Methodology.

"Code" means the United States Internal Revenue Code, as amended.

"Common Per Share Consideration" means the quotient of (i) the Closing Merger Consideration *minus* the Aggregate Preferred Share Preference divided by (ii) the Fully Diluted Shares of Capital Stock.

"Company Capital Stock" means the outstanding shares of the Company Common Stock and the outstanding shares of Company Preferred Stock.

"Company Charter" means the amended and restated certificate of incorporation of the Company as in effect on the date hereof, as the same may have been amended from time to time.

"Company Common Stock" means the common stock of the Company, par value $0.001 per share.

"Company Debt" means, as at any time with respect to the Company, without duplication, all Liabilities, including all obligations with respect to principal, accrued and unpaid interest, penalties, premiums and any other fees, expenses and breakage costs on and other payment obligations arising under any (a) indebtedness for borrowed money (including amounts outstanding under overdraft facilities), (b) indebtedness issued in exchange for or in substitution for borrowed money, (c) obligations for the deferred purchase price of property, goods or services, (d) obligations evidenced by any note, bond, debenture, guarantee or other debt security or similar instrument or Contract, including, without limitation, any obligations owed to Stockholders, (e) all liabilities under capitalized leases, (f) all obligations, contingent or otherwise, in respect of letters of credit and banker's acceptance or similar credit transactions, (g) obligations under Contracts relating to interest rate protection or other hedging arrangements, to the extent payable if such Contact is terminated at Closing, (h) guarantees of the types of obligations described in sub clauses (a) though (g) above, and (i) all unpaid Pre-Closing Taxes, in each case, incurred by or otherwise outstanding in the name of the Company on or prior to the Closing Date.

"Company Intellectual Property Rights" means all Intellectual Property Rights owned by the Company or used by the Company in connection with the business of the Company as currently conducted.

"Company Material Adverse Effect" means, with respect to the Company, any fact, condition, event, change, circumstance or effect that, individually or in the aggregate with all other facts, conditions, changes, circumstances and effects with respect to which such defined term is used in this Agreement, is, or could reasonably be expected to become, materially adverse to (a) the business, assets, operations, results of operations or condition (financial or otherwise) or prospects of the Company, or (b) the Company's ability to, in a timely manner, perform its obligations under the Transaction Agreements to which it is a party, or to consummate the Transactions (including the Merger) under such Transaction Agreements; provided, however, that any determination of whether there has been a Material Adverse Effect pursuant to clause (b) above shall not include any effect, change, event, occurrence or state of facts: (i) that generally affects the industry in which the Company operates so long as the Company is not disproportionately affected thereby relative to other participants in such industry, (ii) that results from general economic conditions in any country where the Company's business is conducted so long as the Company is not disproportionately affected relative to the other companies therein or (iii) that results from the taking of any action specifically required to be taken by this Agreement.

"Company Option" means an outstanding option granted pursuant to, or outside of, any Company Option Plan and any other option or other right (including any commitment to grant options or other rights) to purchase or otherwise acquire Company Capital Stock, whether or not vested or exercisable.

"Company Option Plan" means the 2007 Stock Incentive Plan, as amended.

"Company Plans" means (a) "employee benefit plans" (as defined in Section 3(3) of ERISA, as amended), (b) the Pear Tree Pharmaceuticals, Inc. Management Incentive and Carve-out Incentive Plan, dated February 13, 2017, as amended (the "Management Incentive Plan") (c) individual employment, consulting, change in control, severance or other agreements or arrangements and (d) other benefit plans, policies, agreements or arrangements, including bonus or other incentive compensation, stock purchase, equity or equity-based compensation, deferred compensation, profit sharing, change in control, severance, pension, retirement, welfare, sick leave, vacation, loans, salary continuation, health, dental, disability, flexible spending account, service award, fringe benefit, life insurance and educational assistance plan, policies, agreements or arrangements, whether written or oral, under which any Employee, Consultant or director of the Company participates and which is maintained, contributed to or participated in by the Company, or with respect to which the Company has or may have any obligation or liability, contingent or otherwise.

"Company Preferred Stock" means the Series A Preferred Stock of the Company, par value $0.001 per share.

"Company Technology" means any and all Technology that is owned by the Company or used in connection with the business of the Company as currently conducted, excluding Clinical Data.

"Company Transaction Expenses" means an amount equal to (ii) the aggregate fees and expenses payable or reimbursable by the Company to third parties in connection with negotiation, entering into and consummation of this Agreement and the Transactions including the Merger, including the fees and expenses of investment bankers, finders, consultants, attorneys, accountants and others advisors engaged by the Company in connection with the Merger and (ii) all Change of Control Payments.

"Confidentiality Agreement" means the agreement dated as of August 18, 2017, between Parent and the Company as it may be amended from time to time.

"Consultant" means any individual consultant or independent contractor or director (who is not an Employee) of the Company.

"Contingent Consideration" has the meaning set forth in Section 2.14.

"Contract" means any contract, loan or credit agreement, debenture, note, guaranty, bond, mortgage, indenture, deed of trust, license, lease or other agreement, arrangement or instrument (in each case, as applicable, whether written or oral) that is legally binding.

"DGCL" means the General Corporation Law of the State of Delaware.

"Dissenting Shares" means shares of Company Capital Stock held by a holder who has properly demanded and not effectively withdrawn or lost such holder's appraisal, dissenters' or similar rights for such shares under the DGCL.

"DR Plans" means the Company's disaster recovery and business continuity plans.

"Effective Date" means the date on which the Effective Time occurs.

"Employee" means an employee of the Company.

"Environmental Laws" means all Laws relating in any way to the environment, preservation or reclamation of natural resources, the presence, management or Release of, or exposure to, Hazardous Materials, or to human health and safety, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.) ("CERCLA"), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. § 300f et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.) and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), each of their state and local counterparts or equivalents, each of their foreign and international equivalents and any transfer of ownership notification or approval statute, as each has been amended and the regulations promulgated pursuant thereto.

"Environmental Liabilities" means, with respect to any Person, all liabilities, obligations, responsibilities, remedial actions, losses, damages, punitive damages, consequential damages, treble damages, liens, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts and consultants and costs of investigation and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any Action, claim or demand by any other Person or in response to any violation of Environmental Law, whether known or unknown, accrued or contingent, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or administrative regulation, to the extent based upon, related to, or arising under or pursuant to any Environmental Law, environmental Permit, order or agreement with any Governmental Authority or other Person, which relates to any environmental, health or safety condition, violation of Environmental Law or Release or threatened Release of Hazardous Materials.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"FDA" means the United States Food and Drug Administration or any successor entity thereto.

"Fully Diluted Shares of Company Capital Stock" means the sum, without duplication, of the aggregate number of shares of Company Capital Stock (on an as converted to Company Common Stock basis) that are issued and outstanding immediately prior to the Effective Time (other than shares to be cancelled in accordance with Section 2.7.2).

"GAAP" means the generally accepted accounting principles in the United States.

"Governmental Authority" means any (a) nation, region, state, county, city, town, village, district or other jurisdiction, (b) federal, state, local, municipal, foreign or other government, (c) department, agency or instrumentality of a foreign or other government, including any state-owned or state-controlled instrumentality of a foreign or other government, (d) governmental or quasi-governmental entity of any nature (including any governmental agency, branch, department or other entity and any court or other tribunal), (e) international or multinational organization formed by states or governments, (f) organization that is designated by executive order pursuant to Section 1 of the United States International Organizations Immunities Act (22 U.S.C. 288 of 1945), as amended and the rules and regulations promulgated thereunder or (g) other body entitled to exercise any administrative, executive, judicial, legislative, police or regulatory authority or taxing authority.

"GYN Holdings" means GYN Holdings Inc, Inc, a Delaware corporation and wholly owned subsidiary of the Company.

"Hazardous Materials" means any material, substance or waste that is regulated, classified, or otherwise characterized under or pursuant to any Environmental Law as "hazardous", "toxic", a "pollutant", a "contaminant", "radioactive" or words of similar meaning or effect, including petroleum and its by-products, asbestos, polychlorinated biphenyls, radon, mold, urea formaldehyde insulation, chlorofluorocarbons and all other ozone-depleting substances.

"Holder" means any Stockholder.

"Holder Indemnified Persons" means the Holders and their respective directors, officers, employees, Affiliates, agents, successors and assigns.

"Holder Indemnifying Parties" means the Company, the Holders and the Joinder Holders, as applicable.

"Holders' Representatives Expenses" means the loss, liability or expense of any nature incurred by Holders' Representatives arising out of or in connection with the administration of its duties as Holders' Representatives, including reasonable legal fees and other costs and expenses of defending or preparing to defend against any claim or liability in the premises, unless such loss, liability or expense is caused by such Holders' Representatives' willful misconduct or gross negligence.

"Indemnification Sharing Percentage" means, with respect to each Holder, the percentage of the number of Fully Diluted Shares of Company Capital Stock held by all Holders as a group that is held by such Holder.

"Indemnified Person" means a Parent Indemnified Person or a Holder Indemnified Person, as applicable.

"Indemnifying Party" means Holders' Representatives (on behalf of the Holder Indemnifying Parties) or Parent, as applicable.

"Information System" means software, hardware, computer and telecommunications equipment and other information technology and related services.

"Intellectual Property Rights" means the entire right, title and interest in and to all proprietary rights of every kind and nature however denominated, throughout the world, including (a) patents, industrial designs, copyrights, mask work rights, trade secrets, database rights and all other proprietary rights in Technology; (b) trademarks, trade names, service marks, service names, brands, trade dress, logos and other indicia of origin and the goodwill and activities associated therewith; (c) domain names, rights of privacy and publicity and moral rights; (d) any and all registrations, applications, recordings, licenses, common-law rights and contractual rights relating to any of the foregoing; and (e) all Actions and rights to sue at law or in equity for any past or future infringement or other impairment of any of the foregoing, including the right to receive all proceeds and damages therefrom and all rights to obtain renewals, continuations, divisions, or other extensions of legal protections pertaining thereto.

"IRS" means the United States Internal Revenue Service.

"Joinder Holder" means each Holder who has executed and delivered a Joinder prior to the Closing.

"Knowledge" means, with respect to the Company, the actual knowledge of Stephen Rocamboli, Fred Mermelstein and Janet Chollet and the knowledge such individuals would reasonably be expected to obtain in the performance of his or her duties relating to the Company with respect to the subject matter so qualified with Knowledge.

"Law" means any United States federal, state or local or any foreign law, statute, standard, ordinance, code, rule, regulation, resolution or promulgation or any Order or any Permit granted under any of the foregoing or any similar provision having the force or effect of law.

"Liability" means, with respect to any Person, any liability or obligation of such Person whether known or unknown, whether asserted or not asserted, whether determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether directly incurred or consequential, whether due or to become due and whether or not required under GAAP to be accrued on the financial statements of such Person.

"License Agreements" means, collectively, (a) the Amended and Restated Exclusive License Agreement for Atrophic Vaginitis Technology, dated as of August 15, 2007, by and among the Company, Janet Chollet, M.D. ("Chollet") and Fred Mermelstein, Ph.D. ("Mermelstein"), as amended, (b) the Exclusive License Agreement, dated as of February 13, 2017, by and between GYN Holdings and Bernadette Klamerus, (c) the Exclusive License Agreement, dated as of February 13, 2017, between GYN Holdings and the Company, and (d) the Exclusive License Agreement, dated as of September 15, 2017, by and among the Company, Chollet and Mermelstein.

"Lien" means any charge, encumbrance, claim, community or other marital property interest, equitable ownership interest, collateral assignment, lien, license, option, pledge, security interest, mortgage, deed of trust, right of way, easement, encroachment, servitude, right of first offer or first refusal, buy/sell agreement and any other restriction or covenant with respect to, or condition governing the use, construction, voting (in the case of any equity interest), transfer, receipt of income or exercise of any other attribute of ownership of any kind or nature whatsoever affecting or attached to any asset.

"Loss" means, with respect to any Person, any Action, cost, damage, expense, Liability, loss, injury, deficiency, Tax, settlement, including interest, penalties, fees, fines, reasonable legal, accounting and other professional fees and reasonable expenses incurred in the investigation, collection, prosecution, determination and defense of such Losses (including, in each case, in connection with the enforcement of any claim for indemnification hereunder), that is incurred or suffered by such Person.

"Nonqualified Deferred Compensation Plan" has the meaning given such term in Section 409A(d)(1) of the Code.

"Order" means any Law, order, injunction (whether temporary, preliminary or permanent), judgment, decree, assessment, award or ruling enacted, promulgated, issued, entered, amended or enforced by any Governmental Authority.

"Ordinary Course of Business" means the ordinary course of business of the Company consistent with past practice.

"Parent Indemnified Persons" means the Surviving Corporation, Parent, Merger Sub and their Affiliates and each of their respective equity holders, directors, officers, employees, agents, successors and assigns.

"Parent Transaction Expenses" means an amount equal to the aggregate fees and expenses payable or reimbursable by the Parent to attorneys and accountants directly related to negotiation, entering into and consummation of this Agreement and the Transactions including the Merger. "Permit" means any permit, license, franchise, certificate, approval, registration, notification or authorization from any Governmental Authority, or required by any Governmental Authority to be obtained, maintained or filed.

"Permitted Liens" means: (i) statutory liens with respect to the payment of Taxes, in all cases which are not yet due or payable; and (ii) statutory liens of landlords, suppliers, mechanics, carriers, materialmen, warehousemen, service providers or workmen and other similar Liens imposed by Law created in the Ordinary Course of Business the existence of which could not constitute a default or breach under any of the Company's Contracts for amounts that are not yet delinquent.

"Person" means any natural person, corporation, limited liability company, partnership, association, trust or other entity, including a Governmental Authority.

"Personal Data" means any information collected or used by the Company (including such Personal Data collected by the Company (if any) from visitors who use the Company's website(s)) that can be used to specifically identify a natural person (including but not limited to name, address, telephone number, electronic mail address, social security number or other government-issued number, bank account number or credit card number) and any special categories of personal information regulated under or covered under any applicable Law.

"Pre-Closing Tax Period" means (a) any taxable period ending on or before the Effective Date and (b) with respect to a Straddle Period, any portion thereof ending on the Effective Date.

"Pre-Closing Taxes" means all Taxes with respect to the Company with respect to any Pre-Closing Tax Period.

"Preferred Per Share Consideration" means an amount for each share of Preferred Stock equal to the sum of (i) the quotient of the Aggregate Preferred Share Preference divided by the number of shares of Company Preferred Stock outstanding as of immediately prior to the Effective Time *plus* (ii) the Common Per Share Consideration multiplied by the number of shares of Company Common Stock into which such share of Preferred Stock is convertible immediately prior to the Merger.

"Products" means any product that the Company currently sells or has sold at any time in the past.

"Public Software" means any software that is (i) distributed as free software or as open source software (e.g., Linux), or (ii) subject to any licensing or distribution model that includes as a term thereof any requirement for distribution of source code to licensees or third parties, patent license requirements on distribution, restrictions on future patent licensing terms, or other abridgement or restriction of the exercise or enforcement of any Company Intellectual Property Rights through any means, (iii) licensed or distributed under any Public Software License or under less restrictive free or open source licensing and distribution models such as those obtained under the BSD, MIT, Boost Software License and the Beer-Ware Public Software Licenses or any similar licenses, (iv) a public domain dedication or (v) derived from in any manner (in whole or in part), links to, relies on, is distributed with, incorporates or contains any software described in (i) through (iv) above.

"Public Software License" means any of the following licenses or distribution models, or licenses or distribution models similar to any of the following (i) GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); (ii) the Artistic License (e.g., PERL); (iii) the Mozilla Public License; (iv) the Netscape Public License; (v) the Sun Community Source License (SCSL); (vi) the Sun Industry Standards License (SISL); (vii) the Apache License; and (viii) any licenses that are defined as OSI (Open Source Initiative) licenses as listed on the Opensource.org website.

"Related Party" means (a) any current or former director (or nominee), or officer of the Company, (b) any five percent or greater Stockholder of the Company or five percent or greater holder of the Company Options (calculated on an as-converted to Company Common Stock basis) and (c) any relative, spouse, officer, director or Affiliate of any of the foregoing Persons.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing of or migrating into or through the environment or any natural or man-made structure.

"Representatives" means, with respect to any Person, the officers, employees, investment bankers, financial advisors, attorneys, accountants, agents and other representatives of such Person.

"Securities Act" means The Securities Act of 1933, as amended.

"Securities Payment Schedule" has the meaning set forth in Section 2.8.8.

"Series A Original Issue Date" has the meaning set forth in the Company Charter.

"Series A Original Issue Price" has the meaning set forth in the Company Charter.

"Stockholders" means the holders of Company Capital Stock.

"Straddle Period" has the meaning set forth in Section 5.8.2.

"Subsidiary" means, when used with respect to any corporation, limited liability company, partnership, association, trust or other entity the accounts of which would be consolidated with those of such party in such entity's consolidated financial statements if such financial statements were prepared in accordance with GAAP, as well as any other corporation, limited liability company, partnership, association, trust or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power (or, in the case of a partnership, more than 50% of the general partnership interests) are, as of such date, owned by such entity or one or more Subsidiaries of such entity or by such party and one or more Subsidiaries of such party.

"Tax" or "Taxes" means (a) any or all federal, state, local or foreign taxes, charges, fees, customs duties, imposts, levies or other assessments in the nature of taxes, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property and estimated taxes, (b) any or all interest, penalties, fines, additions to tax or additional amounts imposed by any Governmental Authority in connection with any item described in clause (a) and (c) any liability in respect of any items described in clauses (a) and/or (b) payable by reason of contract, assumption, transferee liability, operation of Law or Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof of any analogous or similar provision under Law) or otherwise.

"Tax Returns" means with respect to Taxes any return, report, claim for refund, estimate, information return or statement, declaration of estimated tax or other similar document required to be filed with any Taxing Authority with respect to Taxes, including any Schedule or attachment thereto and including any amendment thereof.

"Tax Sharing Agreement" means any agreement relating to the sharing, allocation or indemnification of Taxes.

"Taxing Authority" means any Governmental Authority exercising authority in respect of Taxes.

"Technology" means all inventions, works, discoveries, innovations, know-how, information (including ideas, research and development, formulas, algorithms, compositions, processes and techniques, data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, business and marketing plans and proposals, graphics, illustrations, artwork, documentation and manuals), databases, computer software, firmware, computer hardware, integrated circuits and integrated circuit masks, electronic, electrical and mechanical equipment and all other forms of technology, including improvements, modifications, works in process, derivatives, or changes, whether tangible or intangible, embodied in any form, whether or not protectable or protected by patent, copyright, mask work right, trade secret law, or otherwise and all documents and other materials recording any of the foregoing.

"Third Party Claim" refers to any Action that is instituted, or any claim that is asserted, by any Person not party to this Agreement in respect of an indemnifiable matter under this Agreement.

"Threshold" means $50,000.

"Total Merger Consideration" means the Base Merger Consideration, as adjusted herein, and the Contingent Consideration.

"Transactions" means any transaction contemplated by this Agreement, including (a) the Merger and the other transactions described in the recitals to this Agreement, (b) the execution, delivery and performance of the Transaction Agreements other than this Agreement and (c) the payment of fees and expenses relating to such transactions by the Company and the Holders.

"Transaction Agreements" means this Agreement, the Option Termination Agreements and the Joinders.

ARTICLE II: THE MERGER AND EFFECT OF THE MERGER

Section 2.1 The Merger. Upon the terms and subject to the conditions set forth in this Agreement and in accordance with the DGCL, at the Effective Time, Merger Sub shall be merged with and into the Company, and the separate corporate existence of Merger Sub shall thereupon cease and the Company shall continue as the surviving corporation and a wholly owned Subsidiary of Parent. The Company after the Merger is sometimes referred to herein as the "Surviving Corporation."

Section 2.2 Closing. The closing of the Transactions (the "Closing") shall take place at 10:00 a.m. (Pacific time) on the second Business Day following the satisfaction or waiver of the conditions set forth in ARTICLE VI (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at such time) at the offices of Mintz Levin, 3580 Carmel Mountain Road, Suite 300, San Diego, California 92130, unless another time, date or place is agreed to in writing by the Parties (the "Closing Date").

Section 2.3 Effective Time. Subject to the provisions of this Agreement, as soon as practicable on the Closing Date, the Parties shall file with the Secretary of State of the State of Delaware a certificate of merger in form and substance reasonably acceptable to Parent, executed in accordance with the relevant provisions of the DGCL (the "Certificate of Merger"). The Merger shall become effective upon the filing of the Certificate of Merger or at such later time as is agreed to by the Parties and specified in the Certificate of Merger (the time at which the Merger becomes effective is herein referred to as the "Effective Time").

Section 2.4 Effects of the Merger. The Merger shall have the effects set forth in this Agreement and the DGCL. Without limiting the generality of the foregoing and subject thereto, at the Effective Time, (a) all the rights, privileges and powers of the Company and Merger Sub shall vest in the Surviving Corporation, (b) all of the property, real and personal, including causes of action and every other asset of Merger Sub and the Company, shall vest in the Surviving Corporation without further act or deed and (c) all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation.

Section 2.5 Charter Documents of Surviving Corporation.

2.5.1 Certificate of Incorporation. At the Effective Time, the certificate of incorporation of the Company shall be amended and restated so as to be identical to the certificate of incorporation of Merger Sub as in effect immediately prior to the Effective Time, except that the name of the Surviving Corporation shall be the name of the Company as of immediately prior to the Effective Time and shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided therein or by applicable Law.

2.5.2 Bylaws. At the Effective Time, the bylaws of the Company shall be amended and restated so as to be identical to the bylaws of Merger Sub, as in effect immediately prior to the Effective Time and shall be the bylaws of the Surviving Corporation until thereafter amended as provided in its Charter Documents and applicable Law.

Section 2.6 Management of the Surviving Corporation.

2.6.1 Board of Directors. Unless otherwise determined by Parent prior to the Effective Time, the Parties shall take all requisite action so that the directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation immediately following the Effective Time, until their respective successors are duly elected and qualified or their earlier death, resignation or removal in accordance with the Charter Documents of the Surviving Corporation.

2.6.2 Officers. Unless otherwise determined by Parent prior to the Effective Time, the Parties shall take all requisite action so that the officers of Merger Sub immediately prior to the Effective Time shall be the officers of the Surviving Corporation until their respective successors are duly appointed and qualified or their earlier death, resignation or removal in accordance with the Charter Documents of the Surviving Corporation.

Section 2.7 Effect of the Merger on Capital Stock. At the Effective Time, by virtue of the Merger and without any action to be taken on the part of the holder of any shares of the Company Capital Stock or any shares of capital stock of Merger Sub, or on the part of the Company, Parent, Merger Sub or any other Person, the following shall occur:

2.7.1 Capital Stock of Merger Sub. Each share of capital stock of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and non-assessable share of common stock, par value $0.001 per share, of the Surviving Corporation and collectively shall constitute the only outstanding shares of capital stock of the Surviving Corporation and each stock certificate of Merger Sub evidencing ownership of any such shares shall evidence ownership of such shares of common stock of the Surviving Corporation.

2.7.2 Cancellation of Securities held by the Company. Any shares of Company Capital Stock that are owned by the Company immediately prior to the Effective Time shall be automatically canceled and shall cease to exist and no consideration shall be delivered in exchange therefor.

2.7.3 Conversion of Company Capital Stock. Each issued share of Company Capital Stock outstanding immediately prior to the Effective Time (other than shares to be canceled in accordance with Section 2.7.2 or Dissenting Shares) shall, subject to the terms and conditions of this Agreement, be converted into the right to receive a pro rata portion of the Total Merger Consideration as set forth below:

(a) Preferred Stock. Each share of Company Preferred Stock outstanding immediately prior to the Effective Time (other than any shares of Company Preferred Stock to be canceled in accordance with Section 2.7.2 or Dissenting Shares) shall be converted into the right to receive, before any amounts are paid with respect to shares of the Company Common Stock, (i) an amount in cash, without interest, equal to the Preferred Per Share Consideration and (ii) the contingent right to receive such share's applicable portion of the Base Merger Delayed Consideration and the Contingent Consideration, if any, less any applicable withholding Taxes in accordance with Section 2.9, which contingent right shall be transferrable after the 18-month anniversary of the Effective Date, provided that any transferee executes a Joinder Agreement in connection with such transfer.

(b) Common Stock. Each share of Company Common Stock outstanding immediately prior to the Effective Time (other than shares of Company Common Stock to be canceled in accordance with Section 2.7.2 and Dissenting Shares) shall be converted into the right to receive (i) an amount in cash, without interest, equal to the Common Per Share Consideration and (ii) the contingent right to receive such share's applicable portion of the Base Merger Delayed Consideration and the Contingent Consideration, if any, less any applicable withholding Taxes in accordance with Section 2.9, which contingent right shall be transferrable after the 18-month anniversary of the Effective Date, provided that any transferee executes a Joinder Agreement in connection with such transfer.

2.7.4 Cancellation of Company Options.

(a) At the Effective Time, each Company Option shall have all rights thereunder cancelled, and, as consideration for the potential receipt of proceeds from the Management Incentive Plan, each holder of any cancelled Company Option shall have delivered to the Company an Option Termination Agreement in form and substance reasonably acceptable to Parent (which shall include a release of claims substantially in the form of Section 5.13.1) (each, an "Option Termination Agreement"), effective upon the Closing.

(b) Prior to the Closing, the Company and its board of directors shall, subject to applicable Law, take all actions (including, if appropriate, amending any Company Option Plan and individual option agreements and obtaining consents from the holders of the Company Options and/or delivering optionee notices thereto) necessary to give effect to the transactions provided for in this Section 2.7.4 and to ensure that from and after the Effective Time, each holder of an outstanding Company Option shall cease to have any rights with respect thereto.

2.7.5 Rights Cease to Exist. As of the Effective Time, all shares of Company Capital Stock shall no longer be outstanding, shall automatically be canceled and shall cease to exist and each holder of a Certificate shall cease to have any rights with respect thereto, except the rights set forth in this Section 2.7.

Section 2.8 Delivery of Closing Merger Consideration Calculation. Not less than five Business Days prior to the Closing Date, the Company shall prepare and deliver to Parent (for Parent's review and approval) in writing:

2.8.1 the Company's calculation of the Closing Merger Consideration as of the Closing setting forth, in reasonable detail, each of the adjustments made to Base Merger Closing Consideration in such calculation;

2.8.2 the Company's consolidated balance sheet as of immediately prior to the Closing (the "Closing Balance Sheet");

2.8.3 the Company's calculation of the Common Per Share Consideration and the Preferred Per Share Consideration;

2.8.4 the name, address, tax identification number (if known) and the number of shares of Company Capital Stock (both by class or series and on an as converted to Company Common Stock basis) held by each holder thereof;

2.8.5 the Company's calculation of Fully Diluted Shares of Company Capital Stock;

2.8.6 the Company's calculation of the amount of the Closing Merger Consideration payable to each Holder and the amount of Taxes required to be withheld from such payments;

2.8.7 the Company's calculation of each Holder's Indemnification Sharing Percentage; and

2.8.8 a certificate of a duly authorized officer of the Company certifying the foregoing.

The calculations listed in the foregoing Section 2.8.1 through 2.8.8 shall be set forth on a spreadsheet referred to herein as the "Securities Payment Schedule". Notwithstanding anything in this Agreement to the contrary, the Closing Balance Sheet and the calculation of the Closing Merger Consideration shall be consistent with the Accounting Methodology and shall reflect all vacation, sick leave, severance and/or other remuneration required by Law, Contract or policy of the Company to be paid to each Employee for periods on or prior to the Closing Date.

Section 2.9 Payments At and After Closing.

2.9.1 Payments At Closing. At the Closing, Parent shall make, or cause to be made, the following payments by wire transfer of immediately available funds:

(a) *first*, to the respective holders of any Company Debt, in the aggregate amount of the Company Debt outstanding as of the Closing (the principal amounts of which are set forth on Schedule 3.5.5) pursuant to payoff letters from each such holder (A) indicating the amount required to discharge such Company Debt in full and terminate all lines of credit thereunder at the Closing (the "Payoff Amount") and (B) if such Company Debt is secured by any Liens, agreeing to release such Liens upon receipt of the applicable Payoff Amount;

(b) *second*, to the payees thereof, the Company Transaction Expenses, in each case as directed in writing by the Company prior to the Closing;

(c) *third*, to Holders' Representatives, the Holders' Representatives Expenses;

(d) *fourth*, to the persons identified in the Management Incentive Plan in the amounts set forth in the Securities Payment Schedule;

(e) *fifth*, as set forth in the Securities Payment Schedule, (i) to the Holders of Company Preferred Stock listed on Exhibit B attached hereto, $[***] (which includes a [***]% return on the Series A Original Issue Price each year (based on a 360-day year), compounded annually, during the period commencing on the Series A Original Issue Date and ending on the Effective Date), and (ii) to the Holders of Company Preferred Stock listed on Exhibit C attached hereto, $[***] (which includes a [***]% return on the Series A Original Issue Price each year (based on a 360-day year), compounded annually, during the period commencing on the Series A Original Issue Date and ending on the Effective Date) (together, the "Series A Liquidation Preference"); provided that if any payment hereunder is insufficient to pay the Holders of Company Preferred Stock the full amount to which they shall be entitled under the Company Charter, the Holders of Company Preferred Stock shall share ratably in any distribution of the amount available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares of Company Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares of Company Preferred Stock were paid in full; and

(f) *sixth*, as set forth in the Securities Payment Schedule, after the payment of the Series A Liquidation Preference to the Holders of Company Preferred Stock, any remaining amount shall be distributed among the Holders of Company Capital Stock, pro rata based on the number of shares held by each such Holder, treating for this purpose all such securities as if they had been converted to Company Common Stock pursuant to the terms of the Company Charter immediately prior to such payment.

2.9.2 Base Merger Delayed Consideration; Closing Offset. On the one year anniversary of the Closing Date, Parent shall pay, or cause to be paid, the Base Merger Delayed Consideration in accordance with the order of priority set forth in Section 2.9.1 hereof. Notwithstanding the above, in the event that the Closing Merger Consideration is less than or equal to $0.0, (i) no Closing Merger Consideration shall be deliverable by Parent to the Holders at Closing and (ii) Parent shall be entitled to withhold any of the Base Merger Delayed Consideration and the Contingent Consideration Payments payable in accordance with Section 2.14.3, as necessary, to set off against any such negative Closing Consideration Amount (the "Closing Offset"). Additionally, Parent shall have the right to withhold and set off against any amount otherwise due to be paid as Base Merger Delayed Condensation pursuant to this Section 2.9.2 the amount of any Losses to which any Parent Indemnified Persons may be entitled under Article VIII of this Agreement. For the avoidance of doubt, in the event that no Closing Merger Consideration or Base Merger Delayed Consideration is received by the Holders pursuant to the immediately preceding sentence, the Total Merger Consideration to be paid to the Holders shall be equal to the Contingent Consideration.

2.9.3 Payments After Closing. Any and all Contingent Consideration Payments (as adjusted to deduct any Closing Offset in accordance with Section 2.9.2) to be made pursuant to Section 2.14 shall be paid in accordance with Section 2.9.1.

Section 2.10 Non-Conversion.

2.10.1 Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, any Dissenting Shares shall not be converted into or represent a right to receive the applicable consideration for Company Capital Stock set forth in Section 2.7, but instead the holder thereof shall only be entitled to such rights as are provided by the DGCL.

2.10.2 Withdrawal or Loss of Rights. Notwithstanding the provisions of Section 2.10.1, if any holder of Dissenting Shares effectively withdraws or loses (through failure to perfect or otherwise) such holder's appraisal or dissenters' rights with respect to such shares under the DGCL, then, as of the later of the Effective Time and the occurrence of such event, (a) such holder's shares shall automatically convert into and represent only the right to receive the consideration for Company Capital Stock, as applicable, set forth in and subject to the provisions of this Agreement, upon surrender of the Certificate(s) formerly representing such shares and (b) Parent shall deliver to such holder such holder's portion of the Total Merger Consideration that is attributable to such shares at the time such rights are withdrawn or lost.

2.10.3 Demands for Appraisal. The Company shall give Parent (a) prompt notice of any written demand for appraisal received by the Company pursuant to the applicable provisions of the DGCL and (b) the opportunity to participate in all negotiations and proceedings with respect to such demands. The Company shall not, except with the prior written consent of Parent, make any payment with respect to any such demands or offer to settle or settle any such demands. Any communication to be made by the Company to any Stockholder with respect to such demands must be submitted and consented to in writing by Parent prior to delivery to any such Stockholder.

Section 2.11 Exchange of Certificates.

2.11.1 Payment Procedures.

(a) Following the Effective Time, Parent shall send to each Stockholder of record: (i) a letter of transmittal in form and substance reasonably acceptable to Parent (each, a "Letter of Transmittal") (which shall specify that delivery shall be effected and risk of loss and title to the Certificates shall pass, only upon receipt of the Certificates by Parent and shall contain a release of claims substantially in the form of Section 5.15, an appointment of Holders' Representatives as provided for in Section 8.4 and an agreement to indemnify Parent Indemnified Persons for Losses as provided in Section 8.2) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for payment of the applicable portion of the Total Merger Consideration, if any. Upon surrender by a holder of a Certificate for cancellation to Parent, together with such Letter of Transmittal, duly completed and validly executed in accordance with the instructions (and such other customary documents as may reasonably be required by Parent), the holder of such Certificate shall be entitled to receive in exchange therefor, subject to Section 2.11.5, the consideration, if any, provided for herein and the Certificate so surrendered shall thereafter be canceled. If payment of any portion of the Total Merger Consideration is to be made to any Person other than the Person in whose name the surrendered Certificate is registered, it shall be a condition of payment that (y) the Certificate so surrendered be properly endorsed or otherwise be in proper form for transfer in accordance with Section 2.11.2 and (z) the Person requesting such payment shall have paid any transfer and other Taxes required by reason of the payment of the applicable portion of the Total Merger Consideration to a Person other than the registered holder of such Certificate surrendered or shall have established to the reasonable satisfaction of Parent that such Tax either has been paid or is not applicable. After the Effective Time, each Certificate shall represent only the right to receive the applicable portion of the Total Merger Consideration, as contemplated by this ARTICLE II.

(b) On or prior to the Closing Date, the Company shall deliver to each holder of a Company Option an Option Termination Agreement.

2.11.2 Transfer Books; No Further Ownership Rights in Company Stock. The Closing Merger Consideration paid in respect of shares of Company Capital Stock (together with the contingent right to receive, if, when and to the extent payable, the Base Merger Delayed Consideration and the Contingent Consideration) upon the surrender for exchange of Certificates in accordance with the terms of this ARTICLE II shall be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Company Capital Stock previously represented by such Certificates and at the close of business on the day on which the Effective Time occurs, the stock transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of Company Capital Stock that were outstanding immediately prior to the Effective Time. If, at any time after the Effective Time, Certificates are presented to Parent or the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this ARTICLE II.

2.11.3 Lost, Stolen or Destroyed Certificates. If any Certificate is lost, stolen or destroyed, upon the making of an affidavit of the fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by Parent, , such Person will indemnify against any claim that may be made with respect to such Certificate, Parent shall pay, subject to Section 2.11.5, in exchange for such lost, stolen or destroyed Certificate, the applicable portion of the Total Merger Consideration to be paid in respect of the shares of Company Capital Stock formerly represented by such Certificate, as contemplated by this ARTICLE II. Notwithstanding anything in this Agreement to the contrary, Parent shall not be obligated or required to post a bond for any Holder for any reason in connection with a lost, stolen or destroyed Certificate or otherwise.

2.11.4 No Liability. Notwithstanding anything in this Agreement to the contrary, none of the Parties shall be liable to any Person for any portion of the Total Merger Consideration delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

2.11.5 Withholding Taxes. Parent, the Company and the Surviving Corporation shall deduct and withhold from any payment payable to a Holder under this Agreement and shall pay to the appropriate Taxing Authority such amounts that are required to be deducted and withheld with respect to the making of such payment under any Tax Law. To the extent amounts are so withheld and paid to a Taxing Authority, the withheld amounts shall be treated for purposes of this Agreement as having been paid to the Holder in respect of which such deduction and withholding was made.

Section 2.12 Adjustments. Notwithstanding any provision of this ARTICLE II to the contrary (but without in any way limiting the covenants in Section 6.1 (Conduct of Business)), if between the date hereof and the Effective Time the outstanding shares of any class or series of Company Capital Stock are changed into a different number of shares or a different class or series by reason of the occurrence or record date of any stock dividend, subdivision, reclassification, recapitalization, split, combination, exchange of shares or similar transaction, the per share Total Merger Consideration shall be appropriately adjusted to reflect such stock dividend, subdivision, reclassification, recapitalization, split, combination, exchange of shares or similar transaction.

Section 2.13 Aggregate Consideration. Notwithstanding anything in this Agreement to the contrary, in no event shall the aggregate amounts to be paid to the Holders pursuant to this Agreement with respect to shares of Company Capital Stock exceed (a) in respect of the amounts payable at the Closing, the Closing Merger Consideration and (b) in respect of the amounts payable thereafter, the portion of the Base Merger Delayed Consideration and the Contingent Consideration, if any, payable to the Holders.

Section 2.14 Contingent Consideration. In addition to the Base Merger Consideration, as adjusted, Parent shall pay certain contingent consideration ("Contingent Consideration") as set forth below.

2.14.1 Contingent Consideration Definitions. For purposes of Section 2.14, the following terms shall have the following meanings in this Section 2.14:

"Aggregate Net Sales" means cumulative Net Sales of Parent and its Affiliates of all Revenue Share Years.

"Annual Net Sales" means Net Sales during any given Revenue Share Year.

"De Facto Exclusivity" means, on a Revenue Product-by-Revenue Product and on a country-by-country basis, the period of time commencing upon the Effective Date and ending upon the date that a Third Party (i) has obtained approval for sale (if required) in that country for a product which contains the same active ingredient and which is approved for the same indication as a Revenue Product in that country, and (ii) has made at least one commercial sale for value of such product that is competitive with a Revenue Product in that country within six months prior to or after the calendar quarter in which Parent's royalty calculation is being made, provided, however, that there shall be no De Facto Exclusivity in a particular country to the extent that such De Facto Exclusivity is primarily attributable to patent rights owned by, or licensed to, Parent, in such country.

"EMA" means the European Medicines Agency or any successor entity thereto.

"First Commercial Sale" means, with respect to any Revenue Product in any country, the first sale on a commercial basis to a Third Party of such Revenue Product in such country after Regulatory Approval for such Revenue Product has been granted in such country.

"NDA" means a New Drug Application (as more fully defined in 21 C.F.R. 314.5 et seq. or its successor regulation) filed with the FDA.

"Net Sales" means, with respect to any Revenue Product following its Regulatory Approval, the gross amounts invoiced for sales of such Revenue Product by Parent, its Affiliates, or Sublicensee, as applicable (the "Selling Party") anywhere in the world, less to the extent actually taken, paid, accrued, allowed, included, or allocated based on good faith estimate, in the gross sales prices with respect to such sales (and consistently applied as set forth below):

(a) sales taxes, excise taxes, use taxes, VAT and duties paid by the Selling Party in relation to Revenue Product and any other equivalent governmental charges imposed upon the importation, use or sale of Revenue Product (excluding taxes when assessed on income derived from sales);

(b) credits and allowances (actually allowed or paid) for defective or returned Revenue Product(s), including allowances for spoiled, damaged, outdated, rejected, returned, withdrawn or recalled Revenue Product(s);

(c) governmental and other rebates and refunds (or equivalents thereof) granted to managed health care organizations, pharmacy benefit managers (or equivalents thereof), federal, state, provincial, local and other governments, their agencies and purchasers and reimbursers or to trade customers, in each case with respect to such Revenue Product;

(d) actual bad debt expense (but not exceeding [***]% of Net Sales);

(e) chargebacks and retroactive price reductions actually granted to the Third Party applicable to sales of such product; and

(f) trade, cash, prompt payment and/or quantity discounts, actually allowed and taken directly by the Third Party, and mandated discounts.

Where a Revenue Product is sold in combination with other pharmaceutical products or active ingredients (collectively, "Combination Components") the Net Sales applicable to such sale shall be calculated by multiplying the total Net Sales of such combined product by the fraction A/(A+B), where A is the sale price of the Revenue Product portion of such Combination Revenue Product when sold separately and B is the sale price of the other active ingredient(s) in such Combination Revenue Product when sold separately (and B may not exceed [***] for purposes of this calculation); provided, however, that if the Revenue Product portion of such Combination Revenue Product or any of the other active ingredients in such Combination Revenue Product is not then sold separately, then Parent shall calculate Net Sales of such Combination Revenue Products by the fraction C/C+D, where C is [***] and D is [***]. Notwithstanding anything to the contrary herein, (i) Annual Net Sales shall never be reduced by more than [***] percent ([***]%) for the purpose of calculating payments owed under 2.14.2(b) to be paid in accordance with Section 2.9.3, and (ii) Aggregate Net Sales shall not be reduced for any purpose when calculating payments due under 2.14.2(a)(ix)-(xiii) (i.e., milestones shall be achieved by Aggregated Net Sales of the product as a whole).

Sales of Revenue Product(s) between or among Parent and its Affiliates or Sublicensees shall be excluded from the calculation of Net Sales and no payments shall be payable on such sales except where such Affiliates or Sublicensees are end users. For the avoidance of doubt, sales of a Revenue Product for use in conducting clinical trials of such Revenue Product in a country in order to obtain the Regulatory Approval of such Revenue Product in such country shall be excluded from Net Sales calculations. Also, notwithstanding anything to the contrary above, sales or transfers of a Revenue Product for any charitable purposes, compassionate use, named patient sales or free samples shall be excluded from Net Sales calculations.

"Phase I/II Study" means any human clinical trial of a Revenue Product conducted mainly to evaluate its safety that would satisfy the requirements of 21 C.F.R. § 312.21(a) or its non-United States equivalents, or a human clinical trial of a Revenue Product that uses information obtained from one or more previously conducted Phase 1 human clinical trials that is designed to provide a preliminary determination of safety of the Revenue Product in the target patient population over a range of doses and dose regimens.

"Phase III Study" means a pivotal clinical trial of a Revenue Product in human patients in order to establish the safety and efficacy of the Revenue Product for a particular indication, which study is prospectively designed to demonstrate with statistical significance that the Revenue Product is sufficiently safe and effective for use in the indication to support the filing of an application for approval to market such Revenue Product for such indication in any jurisdiction without the need to conduct additional clinical trials, as more fully described in US federal regulation 21 C.F.R. § 312.21(c) and its equivalents in other jurisdictions.

"Regulatory Approval" means any and all approvals, licenses, registrations or authorizations by a Governmental Authority in a country necessary for the development, manufacturing, use, storage, import, marketing and full commercial sale of a product in such country, including any necessary pricing and reimbursement approval.

"Regulatory Authority" means any Governmental Authority or other authority responsible for granting Regulatory Approvals for products, including the FDA, EMA and any corresponding national or regional regulatory authorities.

"Revenue Product" means a product, the manufacture, use, sale or import of which requires that Parent or the Surviving Corporation pay a royalty to its licensors pursuant to any of the License Agreements.

"Revenue Share Term" means, on a Revenue Product-by-Revenue Product and country-by-country basis, the period of time commencing upon First Commercial Sale and ending upon the later of (i) the date that Parent is no longer obligated to pay royalties to its licensors under the License Agreements; or (ii) the date that there is no longer any De Facto Exclusivity within such country.

"Revenue Share Year" means (a) the period of time commencing upon First Commercial Sale and ending on the first anniversary of the last day of the calendar month in which such falls and (b) each succeeding 12 month period thereafter.

"Sublicensee" means any person or entity other than an Affiliate of Parent to which Parent has granted a sublicense under any of the License Agreements.

"Third Party" means any person or entity other than Parent or an Affiliate of Parent or the Surviving Corporation or an Affiliate of the Surviving Corporation.

2.14.2 Contingent Consideration Earnout. Parent shall pay the following Contingent Consideration in accordance with Section 2.9.3:

(a) Milestone Payments. As additional consideration paid in respect of shares of Company Capital Stock pursuant to this Agreement, Parent shall pay the following additional amounts (each, a "Milestone Payment") upon the achievement of the following events (each, a "Milestone Event") in accordance with Section 2.9.3:

	Milestone Event	**Milestone Payment**
(i)	Earlier to occur of (a) completion of successful Phase I/II Study for a Revenue Product and (b) first use or treatment of a Revenue Product in a human subject in a Phase III Study.	Under item (a), $[***], payable as follows: $[***] is payable upon safety and efficacy endpoints that meet the minimal definition of success (i.e. Phase I/II Study data concluding that the Revenue Product is well-tolerated and results in no serious adverse events) *and* establishes an effective and tolerable dose to advance to a Phase III Study; and $[***] is payable if, upon completion of the Phase I/II Study, the Revenue Product does not significantly increase circulating estrogen levels *and* the Surviving Corporation makes a determination of a dose for the definitive trials of Revenue Product safety and efficacy; or, if (a) is not met then, alternatively, Under item (b), $[***], payable upon first use or treatment of a Revenue Product in a human subject in a Phase III Study. And for the avoidance of doubt, only $[***] is payable pursuant to this Milestone Event (i).
(ii)	Regulatory Approval to commence Phase III Study for a Revenue Product	$[***]
(iii)	Completion of first successful Phase III Study that meets criteria required for submission of an NDA for a Revenue Product	$[***]
(iv)	Completion of second successful Phase III study that meets criteria required for submission of an NDA for a Revenue Product	$[***]

(v)	NDA approval of a Revenue Product by the FDA	$[***], provided, however, if the Parent, its affiliates, or sublicensees is not required to perform one or more of the clinical studies listed above, such payments shall become due and payable upon FDA approval (for example, if FDA does not require two Phase 3 clinical trials, and a payment is not made pursuant to (vi) above, payment pursuant to this (vii) shall be $[***])
(vi)	Regulatory Approval in the European Union of a Revenue Product	$[***]
(vii)	First Regulatory Approval of a Revenue Product outside of United States and outside of the European Union	$[***]
(viii)	First Commercial Sale of a Revenue Product	$[***]
(ix)	Aggregate Net Sales of a Revenue Product reach USD $[***]	$[***]
(x)	Aggregate Net Sales of a Revenue Product reach USD $[***]	$[***]
(xi)	Aggregate Net Sales of a Revenue Product reach USD $[***]	$[***]
(xii)	Aggregate Net Sales of a Revenue Product reach USD $[***]	$[***]

Each Milestone Payment shall only be due once upon the first occurrence of any Milestone Event as indicated above. The Milestone Events set forth in items (iii)-(xii) of Section 2.14.2(a) may be achieved by the Surviving Corporation, Parent or a Sublicensee in respect of Revenue Products.

(b) Revenue Share Consideration.

(i) Annual Net Sales. As additional consideration paid in respect of shares of Company Capital Stock pursuant to this Agreement, Parent shall pay a revenue share on Parent's and its Affiliates' Net Sales for each Revenue Share Year during the Revenue Share Term as set forth in the table below in accordance with Section 2.9.3. For clarity, Annual Net Sales for any given Revenue Share Year shall be aggregated for all Revenue Products in order to determine the applicable revenue share rate.

Revenue Share Rate	**Annual Net Sales**
[***]%	Less than USD $[***]
[***]%	Portion of Annual Net Sales between USD $[***] and less than $[***]
[***]%	Portion of Annual Net Sales between USD $[***] and $[***]
[***]%	Portion of Annual Net Sales greater than USD $[***]

(ii) Revenue Share Stacking. Except with respect to payments made by Parent to licensors pursuant to the License Agreements, if Parent or its Affiliate is a party to a royalty-bearing license agreement with any Third Party, which license is employed in the manufacture, use and/or sale of a Revenue Product, then Parent may reduce the revenue share rate applicable to such Revenue Product by [***]% for each [***]% of royalty rate payable to such Third Party; provided, however, that the revenue share rate otherwise due under this Agreement shall never be reduced by more than [***] percent ([***]%).

(iii) License Agreements Revenue Share Offset. Royalties paid by Parent or the Surviving Corporation to its licensors pursuant to the License Agreements (including without limitation royalties payable to the licensors based on Sublicensee sales) ("License Agreements Payments"), and fees paid by Parent or the Surviving Corporation to its licensors pursuant to the License Agreements based on income received from Sublicensees, are fully credible against all revenue share due under Section 2.14.2(b).

(iv) De Facto Exclusivity. On a country-by-country and Revenue Product-by-Revenue Product basis, once Parent and the Surviving Corporation is no longer obligated to pay royalties to its licensors under the License Agreements for such Revenue Product in such country, but there is De Facto Exclusivity for such Revenue Product in such country, then each revenue share rate set forth in the table above shall be reduced by one-half in that country for such Revenue Product during such period of De Facto Exclusivity.

(v) One Revenue Share. For clarity, only one revenue share shall be due with respect to the same unit of a Revenue Product.

(vi) Sublicense Fees. Parent shall pay [***] percent ([***]%) of royalties received by Parent and the Surviving Corporation from Sublicensees based on such Sublicensees' Net Sales ("Sublicensee Revenue") in accordance with Section 2.9.3, provided, however, that such amount shall never be less than [***] percent ([***]%) of such Sublicensee's corresponding Net Sales.

2.14.3 Payment of Contingent Consideration.

(a) All amounts to be paid in respect of Contingent Consideration (each such payment, a "Contingent Consideration Payment"), if any, shall be paid by Parent in accordance with the order of priority set forth in Sections 2.9.1, 2.9.2 and 2.9.3 hereof.

(b) The Contingent Consideration, if any, to be paid in accordance with Section 2.9.3 shall be paid in U.S. Dollars by wire transfer or electronic funds transfer of immediately available funds by Parent to the Holders, as follows:

(i) Notification and Payment of Milestone Event. Parent shall promptly notify the Holders' Representatives after a Milestone Event has been achieved. Within 30 Business Days of notification by Parent to the Holders' Representatives of the realization of a Milestone Event, Parent shall provide to the Holders' Representatives a schedule setting forth the amounts of the Contingent Consideration Payments to be paid to each Holder and any other payments required pursuant to Sections 2.9.1, 2.9.2 and 2.9.3 (the "Contingent Payment Schedule"). Within 5 Business Days of the receipt of such Contingent Payment Schedule by the Holders' Representatives, the Holders' Representatives shall provide a written response to Parent stating whether the Holders' Representatives agree with or object to the Contingent Payment Schedule. If the Holders' Representatives agree with such Contingent Payment Schedule or if the Holders' Representatives fail to provide a written response to Parent within such 5 Business Day period, then within 2 Business Days of receipt of the Holders' Representatives' acceptance or the expiration of the 5 Business Day Period without a response, Parent shall pay or cause to be paid the corresponding Milestone Payment in accordance with the Contingent Payment Schedule. If the Holders' Representatives timely object to the Contingent Payment Schedule, then Parent and the Holders' Representatives shall attempt in good faith for 10 Business Days to resolve such dispute. If Parent and the Holders' Representatives reach an agreement with respect to the Contingent Payment Schedule, then within 2 Business Days of such agreement, Parent shall pay or cause to be paid the corresponding Milestone Payment in accordance therewith. If

Parent and the Holders' Representatives are unable reach an agreement within 20 Business Days after receipt by the Holders' Representatives of the Contingent Payment Schedule, the disputed items shall be resolved by the Accounting Firm, and any determination by the Accounting Firm shall be final. The Accounting Firm shall resolve any disputed items with respect to the Contingent Payment Schedule within 30 days of having the item referred to it pursuant to such procedures as it may require. The costs, fees and expenses of the Accounting Firm shall be deducted and paid from the Contingent Consideration Payment that is payable in accordance with this Section 2.14.3. Parent shall pay or cause to be paid the corresponding Milestone Payment within 2 Business Days of receipt of the determination by the Accounting Firm.

(ii) Reports and Payment of Revenue Share. On a Revenue Product-by-Revenue Product basis, commencing upon First Commercial Sale and until expiration or termination of the Revenue Share Term, Parent shall prepare and deliver to the Holders' Representatives a revenue share report of the sales of Revenue Products by Parent and its Affiliates made, and of Sublicensee Revenue received, for each calendar quarter, within 60 days of the end of such calendar quarter, specifying (1) all Sublicensee Revenue received; and (2) in the aggregate and on a Revenue Product-by-Revenue Product and country by country basis: (a) total gross amounts for Revenue Products sold or otherwise disposed of by Parent and its Affiliates; (b) amounts deducted in accordance with the definition of Net Sales from such gross amounts to calculate Net Sales; (c) Net Sales; (d) revenue share based on such Net Sales; (e) License Agreements Payments credited against such revenue share; (f) Aggregate Net Sales to date; and (g) revenue share payable in accordance with Section 2.9.3. The revenue share and Sublicensee Revenue will be payable following the procedures set forth in Section 2.14.3(b)(i) above and the date on which any such revenue share and Sublicensee Revenue are payable shall be referred to as the "Revenue Share Delivery Date".

(c) Currency Conversion. In the case of Net Sales outside the United States, for purposes of paying the revenue share hereunder, payments received by Parent and its Affiliates will be expressed in the U.S. Dollar equivalent calculated on a quarterly basis in the currency of the country of sale and converted to their U.S. Dollar equivalent using the average rate of exchange over the applicable calendar quarter to which the sales relate, in accordance with the rate of exchange for such currency reported in The Wall Street Journal, Internet U.S. Edition at www.wsj.com, as of the last day of the applicable reporting period (or, if unavailable on such date, the first date thereafter on which such rate is available).

(d) Records and Audits. Parent will keep complete and accurate records of the underlying revenue data relating to the calculations of Parent's and its Affiliates' and Sublicensees' Net Sales generated in the then current calendar year and during the preceding 3 calendar years. The Holders' Representatives may, once annually at their own expense, have a nationally recognized, independent, certified public accounting firm, selected by them and subject to Parent's prior written consent (which shall not be unreasonably withheld), review any such records of Parent and its Affiliates and Sublicensees (the "Audited Party") in the location(s) where such records are maintained by the Audited Party upon reasonable written notice (which shall be no less than 30 days' prior written notice) and during regular business hours and under obligations of strict confidence, for the sole purpose of verifying the basis and accuracy of the payments made under Section 2.14.3(b)(ii) within the 24 month period preceding the date of the request for review. No calendar year will be subject to audit under this Section 2.14.3(d) more than once. The Audited Party will receive a copy of each such report concurrently with receipt by the Holders' Representatives. Should such audit certify a discrepancy to the Holders' detriment, the Audited Party will, within 45 days after receipt of such report from the accounting firm, pay any undisputed amount of the discrepancy. The Holders will pay the full cost of the review unless the underpayment of amounts due to the Holders is certified to be greater than five percent (5%) of the amount due for the entire period being examined, in which case the Audited Party will pay the cost charged by such accounting firm for such review. Should the audit lead to the discovery of a discrepancy to the Audited Party's detriment, the Audited Party may credit the amount of the discrepancy, without interest, against future payments payable under this Agreement, and if there are no such payments payable, then the Holders shall pay to the Audited Party the amount of the discrepancy, without interest, within 45 days of the Holder's Representative receipt of the report.

(e) Equity Consideration. Each Contingent Consideration Payment to be paid by Parent under this Section 2.14 may be paid, at Parent's sole discretion, in cash as set forth above, or in shares of Parent's common stock (the "Contingent Consideration Shares"), as determined pursuant to the following formula. If Parent elects to deliver all or a portion of a Contingent Consideration Payment in the form of Contingent Consideration Shares (each such payment, a "Contingent Equity Consideration Payment"), the total number of Contingent Consideration Shares payable in connection with such Contingent Equity Consideration Payment shall be equal to the number obtained by dividing (i) the respective Contingent Consideration Payment amount to be paid in Contingent Consideration Shares by (ii) the average closing price of Parent common stock on the Nasdaq Capital Market for the 30 consecutive trading days prior to the date two Business Days prior to either (x) the achievement of such Milestone Event or (y) the Revenue Share Delivery Date, as applicable. The Contingent Consideration Shares shall be registered, fully transferable, fully paid and non-assessable on the date of issuance.

2.14.4 Right to Set-off. Parent shall have the right to withhold and set off against any amount otherwise due to be paid pursuant to this Section 2.14 the amount of (i) any Closing Offset pursuant to Section 2.9.2 and (ii) any Losses to which any Parent Indemnified Persons may be entitled under Article VIII of this Agreement.

Section 2.15 Diligent Efforts. From and after the Closing, Parent (itself or through the Company or any of their respective Affiliates or sublicensees) shall use commercially reasonable efforts to bring the Revenue Product to market through a thorough diligent development program for commercial exploitation of the Company Intellectual Property Rights during the term of the License Agreements.

ARTICLE III: REPRESENTATIONS AND WARRANTIES OF THE COMPANY

For purposes of these representations and warranties (other than those in Sections 3.1.3, 3.2, 3.3, and 3.4), the term the "Company" shall include any subsidiaries of the Company, unless otherwise noted herein. As a material inducement to Parent and Merger Sub to enter into this Agreement and effect the Merger, with the understanding that Parent and Merger Sub are relying thereon in entering into this Agreement and consummating the Transactions (including the Merger), the Company hereby represents and warrants as of the date hereof and as of the Closing Date to Parent and Merger Sub as follows:

Section 3.1 Organizational Matters.

3.1.1 Valid Existence; Good Standing. The Company is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware and, except as set forth in Schedule 3.1.1, has all requisite power and authority to own or lease all of its properties and assets and to carry on its business as now or currently proposed to be conducted. The Company is duly licensed or qualified to do business and is in good standing under the laws of each jurisdiction set forth in Schedule 3.1.1, which represent all of the jurisdictions in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or licensed by it makes such licensing or qualification necessary.

3.1.2 Operations. The Company has no employees outside of Massachusetts and no consultants outside of New Jersey and North Carolina.

3.1.3 Subsidiaries. Schedule 3.1.3 sets forth a true, correct and complete list of the Company's Subsidiaries. Each of the Company's Subsidiaries has been duly formed or organized, is validly existing and in good standing under the Laws of the jurisdiction of its organization, and has all requisite power and authority necessary to own or lease all of its properties and assets and to carry on its business as it is now being conducted or as currently proposed to be conducted. Each of the Company's Subsidiaries is duly licensed or qualified to do business and is in good standing under the Laws of each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or licensed by it makes such licensing or qualification necessary. The outstanding capital stock, membership interests, partnership interests or other equity or voting interests, as the case may be, of each of the Company's Subsidiaries have been duly authorized and validly issued and are fully paid and nonassessable and are not subject to, nor were they issued

in violation of, any preemptive right. The Company or one of its wholly owned Subsidiaries owns of record and beneficially all the issued and outstanding capital stock, membership interests, partnership interests or other equity or voting interests, as the case may be, of such Subsidiaries free and clear of any Liens other than Permitted Liens. There are no authorized or outstanding options, warrants, rights, subscriptions, agreements or obligations to issue any shares of capital stock, membership interests, partnership interests or other equity interests nor any other securities convertible into or exchangeable or exercisable for shares, membership interests, partnership interests or other equity interests in any Subsidiary of the Company. Except as set forth in Schedule 3.1.3, the Company does not own and never has owned, directly or indirectly, any shares of capital stock, voting securities, or equity interests in any Person. The Company has no obligation to make an investment (in the form of a purchase of equity securities, loan, capital contribution or otherwise) directly or indirectly in any Person.

3.1.4 Corporate Documents. The Company has delivered to Parent true and complete copies of the Company Charter and the bylaws of the Company in each case as the same may have been amended from time to time (collectively, the "Company Charter Documents"). All such Company Charter Documents are unmodified and in full force and effect and the Company is not in violation of any provision of the Company Charter Documents. The Company's Board of Directors has not proposed or approved any amendment of any of the Company Charter Documents. The Company has made available to Parent and its representatives true and complete copies of the stock ledger of the Company and of the minutes (or, in the case of minutes that have not yet been finalized, drafts thereof) of all meetings of the Stockholders, the Board of Directors and each committee of the Board of Directors of the Company held since the Company's inception.

3.1.5 Officers and Directors. Schedule 3.1.5 lists all of the directors and officers of the Company as of the date hereof.

Section 3.2 Authority; Noncontravention; Voting Requirements.

3.2.1 Power and Authority. The Company has all necessary power and authority to execute and deliver this Agreement and the Transaction Agreements to which it is a party and to perform all of its obligations thereunder and to consummate the Transactions (including the Merger).

3.2.2 Due Authorization of Agreement. The Company's Board of Directors, at a meeting duly called and held pursuant to the DGCL, has unanimously (a) approved and declared advisable and in the best interests of the Company and its Stockholders the Transaction Agreements and the Transactions (including the Merger) and (b) resolved to recommend that the Stockholders adopt this Agreement and approve the Merger. The execution, delivery and performance by the Company of this Agreement and the Transaction Agreements to which it is a party and the consummation by it of the Transactions (including the Merger) have been duly authorized by the Company's Board of Directors and no other action on the part of the Company's Board of Directors or its Stockholders is necessary to authorize the execution, delivery and performance by the Company of this Agreement and the Transaction Agreements to which it is a party and the consummation by it of the Transactions (including the Merger) except for the Company Stockholder Approval pursuant to the Written Consents. The affirmative vote (in person or by proxy) or written consent of the holders of a majority of the outstanding shares of Company Capital Stock (voting together as a single class on an as-converted to common stock basis) and the affirmative vote (in person or by proxy) or written consent of the holders of a majority of the outstanding shares of Company Preferred Stock voting in favor of the adoption of this Agreement (collectively, the "Company Stockholder Approval") are the only votes or approvals of the holders of any class or series of capital stock of the Company necessary to adopt this Agreement.

3.2.3 Valid and Binding Agreements. This Agreement and each of the other Transaction Agreements to which the Company is a party have been duly executed and delivered by the Company. Assuming due authorization, execution and delivery of this Agreement and the other Transaction Agreements by the other Parties hereto and thereto, this Agreement constitutes and the other Transaction Agreements shall, when executed and delivered, constitute, the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms.

3.2.4 No Conflict. Except as set forth in Schedule 3.2.4, neither the execution and delivery by the Company of this Agreement and any Transaction Agreement to which the Company is a party nor the consummation of the Transactions (including the Merger), nor compliance by the Company with any of the terms hereof or thereof, shall conflict with or result in any violation of or default under (with or without notice or lapse of time, or both) or give rise to a right of termination, cancellation, modification or acceleration of any obligation or loss of any benefit or result in the creation of any Lien upon any of the properties or assets of the Company (any such event, a "Conflict") under (i) any provision of the Company Charter Documents or any resolutions adopted by the Company's Board of Directors or Stockholders, (ii) any Contract to which the Company is a party or by which any of its properties or assets may be bound or affected, or (iii) any Permit issued to the Company or any Order or Law applicable to the Company or any of its properties or assets (whether tangible or intangible). Except as set forth in Schedule 3.2.4, following the Closing Date, the Company shall continue to be permitted to exercise all of its rights under the Contracts without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments which the Company would otherwise be required to pay pursuant to the terms of such Contracts had the Transactions contemplated by this Agreement not occurred.

Section 3.3 Capitalization.

3.3.1 Authorized and Issued Securities. The authorized capital stock of the Company consists of 40,000,000 shares of Company Common Stock and 10,000,000 shares of Company Preferred Stock. The capitalization of the Company is as follows: (a) 3,625,000 shares of Company Common Stock are issued and outstanding, (b) no shares of Company Common Stock are held by the Company in its treasury, (c) 235,000 shares of Company Common Stock are subject to outstanding options under the Company Option Plan, (d) no outstanding options have been issued outside the Company Option Plan, (e) 901,000 shares of Company Preferred Stock are issued and outstanding, all of which are designated as Series A Preferred Stock, (f) no shares of Company Preferred Stock are subject to outstanding options under the Company Option Plan and (g) a sufficient number of shares of Company Common Stock is available for issuance upon exercise of outstanding options under the Company Option Plan and upon conversion of the Company Preferred Stock into Company Common Stock. No Company Option has a per share exercise price that is greater than the Common Per Share Consideration. Each share of Company Preferred Stock is currently convertible into one share of Company Common Stock. Except as set forth in this Section 3.3.1, there are no and as of the Effective Time there shall be no, shares of Company Capital Stock, voting securities or equity interests of the Company issued and outstanding or any subscriptions, options, warrants, calls, convertible or exchangeable securities, rights, commitments or agreements of any character providing for the issuance of any shares of capital stock, voting securities or equity interests of the Company, including any representing the right to purchase or otherwise receive any Company Capital Stock.

3.3.2 Ownership of Stock and Options. Schedule 3.3.2 sets forth a complete and accurate list of each of the record holders of (a) each class or series of the Company Capital Stock and the number of shares of each such class or series the Company Capital Stock held by each holder as of the date hereof and the number of shares or other securities into which such Company Capital Stock is convertible, listed by class and series and (b) all Company Options and the exercise price, date of grant and number of shares of Company Common Stock into which such Company Option are exercisable by each such Holder as of the date hereof and the vesting schedules of each such Company Option (noting specifically any options subject to vesting acceleration upon the Merger or certain terminations of service following the Merger). All issued and outstanding shares of Company Capital Stock are owned of record and beneficially, as set forth in Schedule 3.3.2, and are free and clear of all Liens.

3.3.3 Valid Issuance; No Preemptive or Other Rights.

(a) All issued and outstanding shares of Company Capital Stock (i) are and all shares of Company Capital Stock that may be issued pursuant to the exercise of Company Options and the conversion of outstanding shares of any class or series of Company Preferred Stock shall be, when issued in accordance with the respective terms thereof, duly authorized, validly issued, fully paid and nonassessable and (ii) except as set forth in Schedule 3.3.3, are not subject to, nor were issued in violation of, any preemptive rights, rights of first offer or refusal, co-sale rights or similar rights arising under applicable Law or pursuant to the Company Charter

Documents, or any Contract to which the Company is a party or by which it is bound and have been offered, issued, sold and delivered by the Company in compliance with all registration or qualification requirements (or applicable exemptions therefrom) of applicable federal, state and foreign securities Laws. Each option granted under the Company Option Plan was duly authorized by all requisite corporate action on a date no later than the grant date and has an exercise price per share at least equal to the fair market value of a share of Company Common Stock on the grant date. The Company is not under any obligation to register any of its presently outstanding securities, or securities issuable upon exercise or conversion of such securities, under the Securities Act or any other Law.

(b) The rights, preferences and privileges of the Company Capital Stock are as set forth in the Company Charter. Other than those accruing to the Company's outstanding Series A Preferred Stock, if any, there is no liability for dividends accrued and/or declared but unpaid with respect to the outstanding Company Capital Stock. The Company is not subject to any obligation to repurchase, redeem or otherwise acquire any shares of Company Capital Stock or any other voting securities or equity interests (or any options, warrants or other rights to acquire any shares of Company Capital Stock, voting securities or equity interests) of the Company. Except as provided for in this Agreement or set forth in Schedule 3.3.3, there are no voting trusts or other agreements or understandings with respect to the voting of the Company Capital Stock. There are no outstanding or authorized stock appreciation, phantom stock, profit participation, or other similar rights with respect to the Company.

(c) True and complete copies of all form agreements and instruments (and any amendments thereto, if applicable) relating to or issued under the Company Option Plan and the Management Incentive Plan have been delivered to Parent; there are no agreements to amend, modify or supplement such agreements or instruments from the forms thereof provided to Parent; and all equity grants under the Company Option Plan have been made pursuant to agreements and instruments and do not deviate from such form agreements and instruments.

Section 3.4 No Consents or Approvals. Except for the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL, no consents or approvals of, filings with, or notices to any Governmental Authority or Person are required to be made or obtained by the Company for the valid execution, delivery and performance of this Agreement or the other Transaction Agreements to which it is a party and the consummation of the Transactions (including the Merger), except for those set forth in the documents on Schedule 3.4 and pursuant to the Company's corporate charter.

Section 3.5 Financial Matters.

3.5.1 Financial Statements.

(a) Schedule 3.5.1 sets forth the following financial statements of the Company (collectively, the "Financial Statements"): the unaudited balance sheets and related unaudited statements of income, cash flows and stockholders' equity as of and for the fiscal years ended 2015, 2016 and 2017 (the "Balance Sheet Date") (such unaudited financial statements, collectively, the "Unaudited Financial Statements") and the unaudited balance sheet and the related unaudited statements of income, cash flows and stockholders' equity as of and for the one-month period ended January 31, 2018 (the "Interim Balance Sheet" and such date the "Interim Balance Sheet Date").

(b) The books and records of the Company (i) have been and are being maintained in accordance with GAAP and (ii) are complete, properly maintained and do not contain or reflect any material inaccuracies or discrepancies.

3.5.2 Fair Presentation. The Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby. The Financial Statements fairly present the financial condition of the Company as of such dates and the results of operations of the Company for such periods, and were derived from and are consistent with the books and records of the Company; provided, however, that the Financial Statements as of and for the period ended on the Interim Balance Sheet Date are subject to normal year-end adjustments (which shall not be material individually or in the aggregate). Since January 1, 2015, the Company has not effected any material change in any method of accounting or accounting practice.

3.5.3 No Undisclosed Liabilities. Except as set forth in Schedule 3.5.3, the Company does not have any Liabilities that are not reflected or reserved against on the face of (and not in the notes to) the Financial Statements, except Liabilities (a) incurred by the Company in connection with the preparation, execution, delivery and performance of the Transaction Agreements and included in the Company Transaction Expenses or (b) which have arisen in the Ordinary Course of Business since the Interim Balance Sheet Date.

3.5.4 Bank Accounts. Schedule 3.5.4 sets forth an accurate list and summary description (including name and address) of each bank and other financial institution in which the Company maintains an account (whether checking, savings or otherwise), lock box or safe deposit box and the names of the persons having signing authority or other access thereto. All cash in such accounts is held in demand deposits and is not subject to any restriction as to withdrawal.

3.5.5 Company Debt. Except as set forth in Schedule 3.5.5, there is no Company Debt. With respect to each item of Company Debt, Schedule 3.5.5 accurately sets forth the name of the creditor, the Contract under which such debt was issued, the name and address of the creditor, the principal amount of the debt and a description of the collateral if secured.

Section 3.6 Absence of Certain Changes or Events. Since the Interim Balance Sheet Date, (a) there have not been any events, changes, occurrences or circumstances that, individually or in the aggregate, have had or could reasonably be expected to have a Company Material Adverse Effect and (b) there has not occurred any material damage, destruction or loss (whether or not covered by insurance) of any material asset of the Company that adversely affects the use thereof. Since the Interim Balance Sheet Date, the Company has been operated in the Ordinary Course of Business. Without limiting the foregoing, since the Interim Balance Sheet Date, the Company has not taken any action described in Section 5.1 that if taken after the date hereof and prior to the Effective Time would violate such provision.

Section 3.7 Legal Proceedings. Except as set forth in Schedule 3.7, since January 1, 2013, there have not been and there are no pending or, to the Knowledge of the Company, threatened, Actions, in either case, by or against the Company, its properties or assets or any of the Company's officers or directors in their capacities as such, nor, to the Company's Knowledge, are there any circumstances that would constitute a basis therefor.

Section 3.8 Compliance with Laws; Permits. The Company is and has at all times been, in compliance in all material respects with all Laws applicable to the Company or any of its properties, assets, business or operations. The Company holds all Permits necessary to conduct its business and own, lease and operate its properties and assets and all such Permits are in full force and effect. The Company is and has always been, in compliance in all material respects, with the terms of all Permits necessary to conduct its business and to own, lease and operate its properties and facilities. Schedule 3.8 sets forth a list of all material Permits that are held by the Company. The Company has not received notice from any Governmental Authority or other Person claiming or alleging that the Company was not in compliance with all Laws applicable to the Company or its business or operations; the Company has not been assessed a material penalty with respect to any alleged failure by the Company to have or comply with any Permit; and the Company has no Knowledge of a Governmental Authority considering the amendment, termination, revocation or cancellation of any Permit held by the Company.

Section 3.9 Taxes. Except as set forth in Schedule 3.9 hereto:

3.9.1 Except as set forth in Schedule 3.9.1, the Company has timely paid all Taxes owed by the Company (without regard to whether or not such Taxes are or were disputed), whether or not shown on any Tax Return. Since December 31, 2016, the Company has incurred no Liability for Taxes arising outside of the Ordinary Course of Business. There are no Liens for Taxes (other than Taxes not yet due and payable on any of the assets of the Company). The Company is not subject to any currently effective waiver of any statute of limitations in respect of Taxes nor has it agreed to any currently effective extension of time with respect to a Tax assessment or deficiency.

3.9.2 The Company has timely filed all Tax Returns that are required to have been filed by or with respect to the Company. All such Tax Returns were, when filed, true, correct and complete in all material respects and were prepared in compliance in all material respects with all applicable Laws. The Company is not the beneficiary of any currently effective extension of time within which to file any Tax Return. The Company has not received written notice of a claim by a Taxing Authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction and, to the Company's Knowledge, there is no such claim outstanding or pending.

3.9.3 The Company has timely and properly withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Employee, Consultant, creditor, Stockholder, or any other Person.

3.9.4 The Company has made available to Parent correct and complete copies of all federal and state income Tax Returns and all examination reports and statements of deficiencies filed, or assessed against and agreed to, by the Company with respect to Taxes for all taxable periods ending on or after December 31, 2015.

3.9.5 Schedule 3.9.5 lists all jurisdictions (whether foreign or domestic) in which the Company pays Taxes and describes the nature of the Taxes paid by the Company.

3.9.6 All Taxes (including sales tax, use tax and VAT) that were required to be collected or self-assessed by the Company have been duly collected or self-assessed, and all such amounts that were required to be remitted to any Taxing Authority have been duly remitted, and the Company has timely complied with all reporting requirements with respect thereto.

3.9.7 Except as set forth in Schedule 3.9.7, the Company has never (i) made an election under Section 1362 of the Code to be treated as an S corporation for federal income tax purposes or (ii) made a similar election under any comparable provision of any state, local or non-U.S. Tax Law.

3.9.8 No deficiencies for any Taxes have been proposed or assessed in writing against or with respect to any Taxes due by or Tax Returns of the Company and there is no outstanding audit, assessment, dispute or claim concerning any Tax liability of the Company either within the Company's Knowledge or claimed, pending or raised by any Taxing Authority in writing.

3.9.9 The Company (A) is not nor has never been a member of an affiliated group (other than a group the common parent of which is Company) filing a consolidated federal income Tax Return or (B) has no liability for Taxes of any person arising from the application of Treasury Regulation Section 1.1502-6 or any analogous provision of state, local or foreign law, or as a transferee or successor, by contract, or otherwise (other than pursuant to the provisions of a contract entered into in the Company's Ordinary Course of Business the principal purpose of which is unrelated to Taxes).

3.9.10 The Company has not been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

3.9.11 The Company shall not be required to include an item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Effective Date as a result of any: (a) change in method of accounting requested prior to the Effective Time; (b) agreement entered into with any Taxing Authority prior to the Effective Time; (c) installment sale or open transaction disposition made prior to the Effective Time; (d) prepaid amounts received or paid on or prior to the Effective Time; (e) intercompany transaction occurring prior to the Effective Time or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any similar provision of any state, local, or foreign income Tax Laws) arising prior to the Effective Time; or (f) deferral of income under Section 108(i) of the Code as a result of any reacquisition of a debt instrument occurring prior to the Effective Time.

3.9.12 The Company has not distributed stock of another Person, nor, to the Company's Knowledge, has its stock been distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or Section 361 of the Code.

3.9.13 Notwithstanding anything to the contrary in this Agreement, it is agreed and understood that (i) no representation or warranty is made by the Company in this Agreement in respect of Tax matters, other than the representations and warranties set forth in this Section 3.9 and Section 3.10, (ii) the representations and warranties in this Section 3.9 other than Sections 3.9.4 and 3.9.11 refer only to activities on or prior to the Closing Date and shall not serve as representations and warranties regarding, or a guarantee of, nor can they be relied upon with respect to, Taxes attributable to any Tax period (or portion thereof) beginning, or Tax positions taken, after the Closing Date, and (iii) no representations or guarantees are made with respect to the amount or availability of any Tax attributes of the Company, including, without limitation, net operating losses, capital losses, built-in losses, tax credits or similar items of the Company after the Closing Date.

Section 3.10 Employee Benefits and Labor Matters.

3.10.1 Plans and Arrangements. Schedule 3.10.1 sets forth a true and complete list of all Company Plans together with a brief description of the type of plan and benefit provided thereunder. The Company has provided or made available to Parent a current, accurate and complete copy (including amendments) of each Company Plan, or a copy of the representative form agreement thereof, and written descriptions of all non-written Company Plans. None of the Company Plans provides for post-employment life or health coverage for any participant or any beneficiary of a participant, except as may be required under Part 6 of Subtitle B of Title I of ERISA, Section 4980B of the Code or any similar state law and at the expense of the participant or the participant's beneficiary. All contributions required to have been made under any of the Company Plans or by Law (without regard to any waivers granted under Section 412 of the Code), have been timely made. There are no unfunded liabilities or benefits under any Company Plans that are not reflected in the Financial Statements.

3.10.2 ERISA. No Company Plan is subject to Title IV of ERISA or is otherwise a Defined Benefit Plan as defined in Section 3(35) of ERISA (a "Title IV Plan") and neither the Company nor any other entity (whether or not incorporated) that, together with the Company, would be treated as a single employer under Section 414 of the Code or Section 4001 of ERISA (each an "ERISA Affiliate") has incurred any liability pursuant to Title IV of ERISA that remains unsatisfied. Neither the Company nor any ERISA Affiliate has sponsored, contributed or had an obligation to contribute, to any Title IV Plan, or any money purchase pension plan subject to Section 412 of the Code, within the past six years. No Company Plan is or has been a multiemployer plan within the meaning of Section 3(37) of ERISA or a multiple employer welfare arrangement within the meaning of Section 3(40) of ERISA.

3.10.3 Conformity with Laws. All Company Plans have been established, operated and maintained in accordance with their terms and with all applicable provisions of ERISA, the Code and other Laws. All amendments and actions required to bring the Company Plans into conformity in all material respects with all of the applicable provisions of the Code, ERISA and other applicable Laws have been made or taken, except to the extent that such amendments or actions are not required by Law to be made or taken until a date after the Effective Time. There are no pending Actions arising from or relating to the Company Plans (other than routine benefit claims), nor does the Company have any Knowledge of facts that could form or could reasonably be expected to form the basis for any such Action.

3.10.4 Employment Matters.

(a) The Company has delivered to Parent a true and complete listing of the Employees and the Consultants. Other than as fully reflected or specifically reserved against in accordance with GAAP in the Financial Statements (or as otherwise expressly permitted or required pursuant to this Agreement), neither the Company nor any Holder has paid or promised to pay any bonuses, commissions or incentives to any Employee or Consultant.

(b) Except as set forth in Schedule 3.10.4(b):

(i) the Company has paid to each applicable Employee the entire amount of the bonus, if any, earned by such Employee for the year ended 2017 and no remaining bonus amounts for the year ended 2017, payable to any Employee, remain unpaid as of the Closing Date; and

(ii) since the Company's inception, (A) the Company has paid or made provision for payment of all salaries and wages, which are payable by the Company to any Employees, accrued through the Closing Date and is in compliance in all material respects with all applicable laws respecting employment and employment practices, terms and conditions of employment, collective bargaining, immigration, wages, hours and benefits, non-discrimination in employment, workers compensation, the collection and payment of withholding and/or payroll taxes and similar Taxes, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Employment Opportunity Act of 1972, ERISA, the Equal Pay Act, the National Labor Relations Act, the Fair Labor Standards Act, the Americans with Disabilities Act of 1990, the Vietnam Era Veterans Reemployment Act, the Family and Medical Leave Act and any and all similar applicable state and local Laws; and (B) the Company has not been engaged in any unfair employment practice.

3.10.5 Effect of Transaction. With the exception of payments to be made pursuant to the Management Incentive Plan, neither the execution and delivery of the Transaction Agreements by the Company nor the consummation of the Transactions (including the Merger) by the Company, shall result in (a) any payment becoming due to any Employee, (b) the provision of any benefits or other rights to any Employee, (c) the increase, acceleration or provision of any payments, benefits or other rights to any Employee, whether or not any such payment, right or benefit would constitute a "parachute payment" within the meaning of Section 280G of the Code, or (d) require any contributions or payments to fund any obligations under any Company Plan.

3.10.6 Compliance with Section 409A of the Code. To the extent that any Company Plan is a "Nonqualified Deferred Compensation Plan," as such term is defined in Section 409A of the Code, such Company Plan is in documentary and operational compliance with Section 409A of the Code and all applicable guidance issued by the IRS thereunder. Each Company Option is exempt from or in compliance with the requirements of Section 409A of the Code.

Section 3.11 Environmental Matters. The Company is and at all times has been, in compliance in all material respects with all applicable Environmental Laws. There is no Action relating to or arising under Environmental Laws that is pending or, to the Knowledge of the Company, threatened against or affecting the Company. The Company has not received any written notice of, or entered into, or assumed by Contract or operation of Law, any obligation, liability, order, settlement, judgment, injunction or decree relating to or arising under Environmental Laws. To the Knowledge of the Company, there are no facts, circumstances or conditions existing with respect to the Company or any property or facility to or at which the Company transported or arranged for the disposal or treatment of Hazardous Materials that could reasonably be expected to result in the Company incurring any Environmental Liability.

Section 3.12 Contracts.

3.12.1 Specified Material Contracts. The Company is not a party to, does not have any obligations, rights or benefits under and none of its assets or properties are bound by:

(a) Except as set forth in Schedule 3.12.1(a), any Contracts that purport to limit, curtail or restrict the ability of the Company or its Affiliates to conduct business in any geographic area or line of business or restrict the Persons with whom the Company or any of its future Subsidiaries or Affiliates may do business;

(b) Except as set forth in Schedule 3.12.1(b), any Contracts that provide for an obligation or an anticipated obligation for a payment in excess of $2,000 for any individual or Person, including any Contracts with individuals providing for any commission-based payments in excess of such amount;

(c) Except as set forth in Schedule 3.12.1(c), any voting agreements or registration rights agreements relating to Company Capital Stock to which the Company is a party;

(d) Except as set forth in Schedule 3.12.1(d), any Contract with any supplier or provider of goods or services that are incorporated into any Product involving consideration in excess of $2,000 in the current or either of the two previous fiscal years;

(e) Except as set forth in Schedule 3.12.1(e), any Contract (other than as set forth above) that is material to the Company's Products or necessary to utilize the Company's Intellectual Property Rights, including, but not limited to, any Contracts that if terminated would have potential to have a Company Material Adverse Effect on the Company's ability to utilize the Company's Intellectual Property Rights; and

(f) Except as set forth in Schedule 3.12.1(f), any Contract to enter into or negotiate the entering into of any of the foregoing.

3.12.2 Documentation. The Company is not party to any oral Material Contracts and has previously made available to Parent true and complete copies of each written Material Contract (as defined below), together with any and all amendments, supplements and "side letters" thereto.

3.12.3 Status of Material Contracts. Each of the Contracts required to be listed in Schedule 3.12.1 and each of the IP Contracts (collectively, the "Material Contracts") is valid and binding on the Company and in full force and effect and, assuming due execution and delivery by the other parties thereto, is enforceable in accordance with its terms by the Company. The Company is not in breach or default under any Material Contract, nor does any condition exist that, with notice or lapse of time or both, would constitute a breach or default in any respect thereunder by the Company or that would result in material liability to the Company. To the Knowledge of the Company, (a) no other party to any Material Contract is in default thereunder and (b) no condition exists that with notice or lapse of time or both would constitute a default in any material respect by any such other party thereunder. The Company has not received notice of any termination or cancellation of any Material Contract and to the Company's Knowledge, no other party to a Material Contract has plans to terminate or cancel such Material Contract. The Company has not and, to the Knowledge of the Company, no other party to any Material Contract has repudiated any material provision of any Material Contract. The Company is not disputing and, to the Knowledge of the Company, no other party to such Material Contract is disputing, any material provision of any Material Contract. None of the parties to any Material Contract is renegotiating any material amounts paid or payable to or by the Company under such Material Contract or any other material term or provision thereof.

Section 3.13 License Agreements. The Company has not breached and to the Knowledge of the Company is not in breach or default under any License Agreement, nor does any condition exist that, with notice or lapse of time or both, would constitute a breach or default in any respect thereunder by the Company. Neither the execution and delivery by the Company of this Agreement and any Transaction Agreement to which the Company is a party nor the consummation of the Transactions (including the Merger), nor compliance by the Company with any of the terms hereof or thereof, shall create a Conflict with any of the License Agreements.

Section 3.14 Real Property. The Company does not own any real property, nor has the Company ever owned any real property, and the Company is not party to any lease, sublease, license or other Contract under which such real property is occupied or used.

Section 3.15 Intellectual Property.

3.15.1 Company IP. The Company does not use, own, possess or control any Technology or Intellectual Property Rights material to the conduct of its business as currently conducted except for the Technology and Intellectual Property Rights licensed to the Company under the Inbound IP Contracts identified on Schedule 3.15.1. The Company exclusively owns and has the right to use all Clinical Data free and clear of all Liens and does not use any Public Software.

3.15.2 Infringement. Except as set forth in Schedule 3.15.2, neither the Company nor any of its predecessors has (i) received any written charge, complaint, claim, demand, or notice alleging infringement, dilution, misappropriation or violation of the Intellectual Property Rights of any Person (including any demand to refrain from using or to license any Intellectual Property Rights of any Person in connection with the conduct of the business) or (ii) agreed to, or has a contractual obligation to, indemnify any Person for or against any interference, infringement, dilution, misappropriation or violation with respect to any Intellectual Property Rights.

3.15.3 Scheduled IP. Schedule 3.15.3 identifies all patents, patent applications, registered trademarks and copyrights, applications for trademark and copyright registrations, domain names, registered design rights and other forms of registered Intellectual Property Rights and applications therefor owned by or exclusively licensed to the Company (collectively, the "Company Registrations") and accurately identifies and describes each action, filing, and payment that must be taken or made on or before the date that is 120 days after the Closing Date in order to maintain in full force and effect each Company Registration. No interference, opposition, cancellation, reissue, reexamination, review or other Action, to the Knowledge of the Company, is pending or, to the Knowledge of the Company, threatened, in which the ownership, scope, validity or enforceability of any Company Intellectual Property Right is being contested or challenged.

3.15.4 IP Contracts. Schedule 3.15.4 identifies each Contract under which the Company uses or licenses Technology or Intellectual Property Rights that are material to the operation of the business of the Company (other than Shrink Wrap Licenses) (the "Inbound IP Contracts") or under which the Company has granted any Person any right or interest in Company Intellectual Property Rights including any right to use or access any item of Technology (the "Outbound IP Contracts," and together with the Inbound IP Contracts, the "IP Contracts"). Except as provided in the Inbound IP Contracts and Shrink Wrap Licenses, the Company does not owe any royalties or other payments for the use of any Intellectual Property Rights or Technology.

3.15.5 Inbound IP Contracts. With respect to the Inbound IP Contracts: (i) to the Knowledge of the Company, Company is the sole and exclusive licensee under each Inbound IP Contract; (ii) Company has not assigned, transferred, conveyed or otherwise encumbered any of its rights, title or interests under any Inbound IP Contract; (iii) to the Knowledge of the Company, there are no claims, judgments or settlements against or pending with respect to any Intellectual Property Rights licensed under any Inbound IP Contract; (iv) Company has not received written notice that any claims, judgments or settlements described in the prior clause are threatened; (v) to the Knowledge of the Company, no Intellectual Property Rights licensed under any Inbound IP Contract are subject of any pending interference, opposition, cancellation or patent protest; and (vi) to the Knowledge of the Company, no Third Party is infringing or misappropriating any of the Intellectual Property Rights licensed under any Inbound IP Contract.

Section 3.16 Insurance. Schedule 3.16 sets forth a list of all policies of property, general liability, directors and officers, fiduciary, employment, title, workers' compensation, environmental, product liability, cyber liability and other forms of insurance maintained by the Company and all pending outstanding claims against such insurance policies. The Company has delivered to Parent complete and correct copies of all such policies, together with all endorsements, riders and amendments thereto.

Section 3.17 Related Party/Affiliate Transactions. Except as set forth in Schedule 3.17, there are no Liabilities of the Company to any Related Party other than ordinary course, Employee- and director-related compensation and reimbursement Liabilities. No Related Party has any interest in any property (real, personal or mixed, tangible or intangible) used by the Company in the conduct of its business. The Company is not subject to any ongoing transactions pursuant to which the Company purchases any services, products, or Technology from, or sells or furnishes any services, products or Technology to, any Related Party. All transactions pursuant to which any Related Party has purchased any services, products, or Technology from, or sold or furnished any services, products or technology to, the Company (each a "**Related Party Transaction**") have been on an arms-length basis on terms no less favorable to the Company than would be available from an unaffiliated party.

Section 3.18 No Untrue Statements. No statement by the Company contained in this Agreement, any Schedule to this Agreement, any other Transaction Agreement, any certificate delivered pursuant to this Agreement or otherwise made in connection with the Transactions (including the Merger) contains any untrue statement of a material fact, or omits to state a material fact necessary in order to make the statements therein contained not misleading.

Section 3.19 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the Transactions (including the Merger) or any prior merger, acquisition or divestiture transaction based upon arrangements made by or on behalf of the Company or any of its Affiliates (any such fees, commissions and reimbursement expenses, the "Broker Fees"). Notwithstanding anything in this Agreement to the contrary, there are no fees or expenses related to the Transactions (including the Merger) payable by the Company to any third party other than the Company Transaction Expenses.

ARTICLE IV: REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub jointly and severally represent and warrant to the Company as follows:

Section 4.1 Organization, Standing and Corporate Power. Each of Parent and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the Laws of the jurisdiction in which it is incorporated.

Section 4.2 Authority; Noncontravention.

4.2.1 Power; Enforceability. Each of Parent and Merger Sub has all requisite corporate power and corporate authority to execute and deliver the Transaction Agreements to which it is a party and to perform its obligations thereunder and to consummate the Transactions (including the Merger). The execution, delivery and performance by each of Parent and Merger Sub of the Transaction Agreements to which it is a party and the consummation by Parent and Merger Sub of the Transactions (including the Merger), have been duly authorized and approved by their respective Boards of Directors (and prior to the Effective Time shall be adopted by Parent as the sole Stockholder of Merger Sub) and no other corporate action on the part of Parent or Merger Sub is necessary to authorize the execution, delivery and performance by Parent and Merger Sub of the Transaction Agreements to which it is a party and the consummation by it of the Transactions (including the Merger). This Agreement has been and, when delivered at the Closing, the other Transaction Agreements to which Parent or Merger Sub is a party shall be, duly executed and delivered by Parent and Merger Sub. Assuming due authorization, execution and delivery hereof by the other parties hereto and thereto, this Agreement constitutes and the other Transaction Agreements to which Parent or Merger Sub is a party shall, when delivered at the Closing, constitute, the legal, valid and binding obligations of Parent and Merger Sub, enforceable against Parent and Merger Sub in accordance with their respective terms, except to the extent that their enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

4.2.2 No Violations. Neither the execution and delivery of the Transaction Agreements to which Parent or Merger Sub is a party, nor the consummation by Parent or Merger Sub of the Transactions (including the Merger), nor compliance by Parent and Merger Sub with any of the terms or provisions thereof, shall (a) violate any provision of the Charter Documents of Parent or Merger Sub or (b) assuming that the consents and approvals referred to in Section 4.3 are obtained and the filings referred to in Section 4.3 are made, (i) violate any Law applicable to Parent or Merger Sub or any of their respective properties or assets, or (ii) constitute a default under, result in the termination of or cancellation under, or result in the creation of any Lien upon any of the respective properties or assets of, Parent or Merger Sub under, any of the terms, conditions or provisions of any material Contract to which Parent or Merger Sub is a party, except for such violations, losses, defaults, terminations, cancellations, accelerations or Liens as, individually or in the aggregate, would not reasonably be expected to prevent or materially delay or materially impair the ability of Parent or Merger Sub to consummate the Merger, (a "Parent Material Adverse Effect").

Section 4.3 Governmental Approvals. Except for (a) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL and (b) such consents, approvals, orders, authorizations, registrations, declarations, notices and filings as may be required under applicable state securities laws or the rules and regulations of the Nasdaq Stock Market (in each case, if required), no consents or approvals of, or filings, declarations or registrations with, any Governmental Authority are necessary for the execution and delivery of this Agreement by Parent and Merger Sub or the consummation by Parent and Merger Sub of the Transactions (including the Merger), other than such other consents, approvals, filings, declarations or registrations that, if not obtained, made or given, would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

Section 4.4 Ownership and Operations of Merger Sub. Parent is the record owner of all of the outstanding capital stock of Merger Sub. Merger Sub was formed solely for the purpose of engaging in the Transactions, has engaged in no other business activities and has conducted its operations only as contemplated hereby.

Section 4.5 Availability of Funds. Parent shall have available to it at the times required by this Agreement, sufficient funds to pay the Closing Merger Consideration, to make the other payments contemplated hereby and to consummate the Transactions (including the Merger).

Section 4.6 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the Transactions based upon arrangements made by or on behalf of Parent or any of its Affiliates.

ARTICLE V: ADDITIONAL COVENANTS AND AGREEMENTS

Section 5.1 Conduct of Business. Except as expressly permitted by this Agreement, or with the prior written consent of Parent, in its sole discretion or as required by applicable Law, from the date of this Agreement until the Effective Time or the earlier termination of this Agreement pursuant to ARTICLE VII (Termination), the Company shall, and shall cause the Representatives and Affiliates of the Company to, (a) conduct its business in in the Ordinary Course of Business and in compliance in all material respects with all applicable Laws, (b) maintain and preserve the License Agreements and continue to perform any and all obligations under the License Agreements in accordance with their respective terms, (c) maintain and preserve the goodwill of those having business relationships with the Company (including by using commercially reasonable efforts to maintain the value of its assets and technology and preserve its relationships with suppliers, distributors, strategic partners, licensors, licensees, regulators and others having business relationships with the Company) and (d) maintain in full force and effect all insurance policies described in Section 3.16. Without limiting the generality of the foregoing, except as set forth in Schedule 5.1, until the Effective Time, the Company shall not:

5.1.1 issue, sell, grant, dispose of, amend any term of (with the exception of the termination of the Company Options), grant registration rights with respect to, pledge or otherwise encumber any shares of its capital stock or other equity interests, or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for any shares of its capital stock or other equity interests, or any rights, warrants, options, calls, commitments or any other agreements of any character to purchase or acquire any shares of its capital stock or other equity interests or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for, any shares of its capital stock or other equity interests;

5.1.2 amend (including by reducing an exercise price or extending a term) or waive any of its rights under, or accelerate the vesting under, any provision of the Company Option Plan or any agreement evidencing any outstanding stock option or other right to acquire capital stock of the Company or any restricted stock purchase agreement or any similar or related contract;

5.1.3 redeem, purchase or otherwise acquire or cancel any of its outstanding shares of capital stock or equity interests, or any rights, warrants, options, calls, commitments or any other agreements of any character to acquire any shares of its capital stock or equity interests;

5.1.4 declare, set aside funds for the payment of or pay any dividend on, or make any other distribution (whether in cash, stock or property) in respect of, any shares of its capital stock or other equity interests or make any payments to the Stockholders in their capacity as such;

5.1.5 split, combine, subdivide, reclassify or take any similar action with respect to any shares of the Company's capital stock;

5.1.6 form any Subsidiary;

5.1.7 incur, guarantee, issue, sell, repurchase, prepay or assume any (a) Company Debt, or issue or sell any options, warrants, calls or other rights to acquire any debt securities of the Company; (b) obligations of the Company issued or assumed as the deferred purchase price of property; (c) conditional sale obligations of the Company; (d) obligations of the Company under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the Ordinary Course of Business); (e) obligations of the Company for the reimbursement of any obligor on any letter of credit; and (f) obligations of the type referred to in clauses (a) through (e) of other Persons for the payment of which the Company is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations;

5.1.8 sell, transfer, lease, license, mortgage, encumber or otherwise dispose of or subject to any Lien (including pursuant to a sale-leaseback transaction or an asset securitization transaction), any of its properties or assets;

5.1.9 make any capital expenditure or expenditures in excess of $2,000;

5.1.10 acquire or agree to acquire in any manner (whether by merger or consolidation, the purchase of an equity interest in or a material portion of the assets of or otherwise) any business or any corporation, partnership, association or other business organization or division thereof other than the acquisition of inventory and equipment in the Ordinary Course of Business;

5.1.11 make any investment (by contribution to capital, property transfers, purchase of securities or otherwise) in, or loan or advance funds to any Person;

5.1.12 with respect to Contracts, (a) enter into, adopt, terminate, modify, renew or amend (including by accelerating material rights or benefits under) any Material Contract, (b) enter into or extend the term or scope of any Contract that purports to restrict the Company, or any future Subsidiary of the Company, from engaging in any line of business or in any geographic area, (c) enter into any Contract that could be breached by, or require the consent of any third party in order to continue in full force following consummation of the Transactions (including the Merger), or (d) release any Person from, or modify or waive any material provision of, any confidentiality or non-disclosure agreement;

5.1.13 except as provided for in this Agreement or on Schedule 5.1.13, (a) hire or terminate any employees, (b) grant any bonus, benefit or other direct or indirect compensation to any director, Employee or Consultant other than in the Ordinary Course of Business, (c) increase the coverage or benefits available under or otherwise modify or amend or terminate any (or create any new) Company Plan, except as required by applicable Law or by the terms of any Company Plan, (d) other than in the Ordinary Course of Business, enter into any employment, deferred compensation, severance, consulting, non-competition or similar agreement to which the Company is a party (or amend any such agreement in any material respect) or enter into any agreement involving an Employee or Consultant, except, in each case, as required by applicable Law from time to time in effect or by the terms of any Company Plan or (e) enter into any Related Party Transaction;

5.1.14 except as set forth on Schedule 5.1.14, make, change or revoke any election concerning Taxes or Tax Returns, file any amended Tax Return or any Tax Return inconsistent with past practice, enter into any closing agreement or Contract with any Governmental Authority with respect to Taxes, settle any Tax claim or assessment or surrender any right to claim a refund of Taxes or request any Tax ruling or agree to an extension or waiver of the statute of limitations with respect to the assessment or determination of Taxes;

5.1.15 amend the Company Charter Documents;

5.1.16 adopt a plan or agreement for or carry out any complete or partial liquidation, dissolution, restructuring, recapitalization, merger, consolidation or other reorganization other than as required by the provisions of the Transaction Agreements;

5.1.17 pay, repurchase, prepay, discharge, settle or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise) in excess of $10,000, other than the payment, discharge, settlement or satisfaction in accordance with the terms of the Liabilities reflected in the Balance Sheet;

5.1.18 initiate, settle, agree to settle, waive or compromise any Action;

5.1.19 delay beyond normal payment terms payment of any accounts payable;

5.1.20 grant or agree to grant any license to any of the Company's Intellectual Property Rights;

5.1.21 hire, appoint or terminate any director or officer of the Company except as required by the terms of this Agreement; or

5.1.22 agree to take any of the foregoing actions.

Nothing contained in this Agreement shall give Parent or Merger Sub, directly or indirectly, rights to control any operations of the Company prior to the Effective Time.

Section 5.2 Company Stockholder Approval, Joinders, Etc.

5.2.1 Written Consents. Within 72 hours of the execution and delivery of this Agreement, Stockholders shall have delivered Written Consents to Parent sufficient to approve the Merger under the DGCL and the Company Charter Documents and within ten Business Days of the execution and delivery of this Agreement, any remaining Stockholders required to sign a Written Consent shall have delivered their Written Consents to Parent.

5.2.2 Joinder Agreements. To the extent not executed and delivered on the date hereof, the Company shall use commercially reasonable efforts to have each Holder who is not party to this Agreement execute a Joinder prior to the Effective Time and shall provide copies of the executed Joinders to Parent promptly upon receipt.

5.2.3 Parachute Payments. Following the execution of this Agreement and prior to the Closing Date, the Company shall use its commercially reasonable efforts to (i) obtain waivers from each Person who has a right to any payments and/or benefits as a result of or in connection with the Transactions that that could separately or in the aggregate, be deemed constitute "excess parachute payments" within the meaning of Section 280G of the Code (the "Waived 280G Benefits") and (ii) solicit the approval of the Stockholders for approval (in a manner satisfactory to Parent) by such number of Stockholders in a manner intended to comply with Section 280G(b)(5)(A)(ii) and Section 280G(b)(5)(B) of the Code of any Waived 280G Benefits.

Section 5.3 Commercially Reasonable Efforts.

5.3.1 Actions Required to Consummate Transactions.

(a) Subject to the terms and conditions of this Agreement, from the date of this Agreement until the Closing Date or the earlier termination of this Agreement pursuant to ARTICLE VII (Termination), each of the Parties shall use (and shall cause its Affiliates to use) commercially reasonable efforts to promptly (a) take, or cause to be taken, all actions and do, or cause to be done, all things, necessary, proper or advisable to cause the conditions to closing of the other Parties hereunder to be satisfied and to consummate and make effective the Transactions (including the Merger), in each case, as expeditiously as practicable and (b) obtain all approvals, consents, registrations, Permits, authorizations and other confirmations from any Governmental Authority or third party necessary, proper or advisable to consummate the Transactions (including the Merger).

(b) Except as may be agreed in writing by the other Parties or as may be expressly permitted pursuant to this Agreement, from the date hereof until the Effective Date or such earlier date if this Agreement is terminated pursuant to ARTICLE VII, each Party shall not and shall not permit any of its Subsidiaries to agree to take any action which could reasonably be expected to delay the consummation of the Merger or result in the failure to satisfy any condition to consummation of Transactions (including the Merger).

5.3.2 Governmental Authorities. Each of the Parties shall use its commercially reasonable efforts to (a) cooperate with each other in connection with any investigation or other inquiry by or before a Governmental Authority relating to the Transactions (including the Merger), including any proceeding initiated by a private party and (b) keep the other Parties informed in all material respects and on a reasonably timely basis of any material communication received by such party from, or given by such party to, any Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the Transactions.

5.3.3 Contractual Consents. The Company shall use its commercially reasonable efforts to obtain all necessary consents, waivers and approvals of any parties to any Material Contracts as are required thereunder in connection with the Merger or for any such Material Contracts to remain in full force and effect, so as to preserve all material rights of and material benefits to, the Company under such Material Contract from and after the Effective Time. Such consents, waivers and approvals shall be in a form reasonably acceptable to Parent.

Section 5.4 Public Announcements. The Company shall not (nor shall it permit, any Company Representative or Affiliate to), directly or indirectly, issue any statement or communication with any third party regarding the existence of the subject matter of this Agreement or the Transactions (including the Merger) (including any claim or dispute arising out of or related to this Agreement or the interpretation, entering into, performance, breach or termination hereof) without the prior written consent of Parent.

Section 5.5 Access to Information.

5.5.1 Access. Subject to the requirements of applicable Law, the Company shall afford to Parent and Parent's Representatives, from time to time prior to the earlier of (i) the Effective Time or (ii) the termination of the Agreement pursuant to Section 7.1, access during normal business hours to (a) all of the Company's Facilities, books, reports, Contracts, assets, filings with and applications to Governmental Authorities, records and correspondence (in each case, whether in physical or electronic form) and (b) to the Representatives of the Company, as Parent may reasonably request, and the Company shall furnish promptly to Parent all information and documents concerning its business, financial condition and operations, properties and personnel as Parent may reasonably request and Parent shall be allowed to make copies of such information and documents.

5.5.2 Updated Financials. Promptly, but in no event later than 10 calendar days after the end of each month from the date hereof until the Closing Date, the Company shall provide Parent with a copy of the true and correct unaudited balance sheets and related statements of income and cash flows of the Company as of and for the period ended the most-recent month-end prepared using the Company's books and records and in accordance with GAAP consistently applied, together with a copy of the standard monthly reporting package provided to the Company's management.

Section 5.6 Confidentiality. The Holders' Representatives on behalf of the Holders acknowledge that the success of the Surviving Corporation after the Closing Date depends upon the preservation of the confidentiality of the Confidential Information (as hereinafter defined), that the preservation of the confidentiality of the Confidential Information is an essential premise of the bargain between the Parties and Parent and Merger Sub would be unwilling to enter into this Agreement in the absence of this Section 5.6. Accordingly, Holders' Representatives on behalf of the Holders shall and shall use their commercially reasonable efforts to cause its Affiliates and their respective Representatives to, keep confidential all documents and information involving or relating to the Company or its business (the "Confidential Information"), unless (a) compelled to disclose by competent judicial process so long as reasonable prior notice of such disclosure is given to Parent and the Company and a reasonable opportunity is afforded Parent and the Company to contest the same or (b) disclosed in an Action brought by a Party in pursuit of its rights or in the exercise of its remedies hereby (clauses (a) and (b) together, the "Confidential Information Exceptions"). Confidential Information does not include any document or information which (i) is or becomes generally available to the public other than as a result of a disclosure in violation of this Section 5.6 by the receiving party or its Representatives, (ii) was available to the receiving party on a non-confidential basis prior to its disclosure hereunder, (iii) becomes available to the receiving party on a non-confidential basis from a person not known by the receiving party to be under an obligation not to transmit the information to the receiving party or (iv) is independently developed by the receiving party without reference to any of the Confidential Information. The provisions of this Section 5.6 shall survive the Closing Date indefinitely.

Section 5.7 Notification of Certain Matters. The Company shall provide prompt written notice to Parent upon becoming aware (a) that any representation or warranty made by such Party in this Agreement was, when made or subsequently has become untrue, (b) of any failure by such Party to comply with or satisfy any of its covenants or agreements hereunder, (c) of the occurrence or nonoccurrence of any event that could reasonably be expected to cause any condition precedent to any obligation of any Party to consummate the Transactions (including the Merger) not to be satisfied at or prior to the Closing Date, (d) of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions (including the Merger), (e) of any notice or other communication from any Governmental Authority in connection with the Transactions (including the Merger), (f) of the commencement or threat of commencement of any Action regarding the Transactions (including the Merger) or otherwise relating to the Company or its business, or (g) of any other

material development affecting the assets, Liabilities, business, financial condition or operations of the Company, included, but not limited to, any of the License Agreement, that could be reasonably expected to cause a Company Material Adverse; provided, however, that neither the delivery of any notice pursuant to this Section 5.7 nor obtaining any information or knowledge in any investigation pursuant to Section 5.5 or otherwise shall (i) cure any breach of, or non-compliance with, any representation or warranty requiring disclosure of such matter, or any breach of any other provision of this Agreement, (ii) amend or supplement any scheduled disclosure made by the Company in ARTICLE III or (iii) limit the remedies available to the Party receiving, or entitled to receive, such notice, including remedies pursuant to ARTICLE II (Merger), ARTICLE VI (Conditions Precedent), ARTICLE VII (Termination), ARTICLE VIII (Indemnification) or ARTICLE IX (Misc.).

Section 5.8 Tax Matters. For purposes of this Section 5.8, all references to the Company include any predecessor entity of the Company.

5.8.1 Pre-Closing Period Tax Returns. The Company shall, at the Company's expense, prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company for all taxable periods ending on or before the Closing Date and which are due on or before the Closing Date and the Company shall pay or cause to be paid all Taxes with respect to such periods. Parent shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company for all taxable periods ending on or prior to the Closing Date and which are due after the Closing Date. All Tax Returns referred to in this Section 5.8.1 shall be prepared in accordance with past practices of the Company. Parent and the Surviving Corporation shall submit each Tax Return to the Holders' Representatives at least 20 days before such Tax Return is due for the Holders' Representatives' written approval prior to filing. If the Holders' Representatives object to any item on any such Tax Return, they shall, with 15 days after delivery of such Tax Return, notify Parent and the Surviving Corporation in writing that they so object, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Parent and the Holders' Representatives shall negotiate in good faith and use their reasonable best efforts to resolve such items. If Parent and the Holders' Representatives are unable to reach such agreement with 10 days after receipt by Parent of such notice, the disputed items shall be resolved by an independent nationally recognized accounting firm selected by Parent and reasonably acceptable to the Holders' Representatives (the "Accounting Firm") and any determination by the Accounting Firm shall be final. The Accounting Firm shall resolve any disputed items within 30 days of having the item referred to it pursuant to such procedures as it may require. If any disputed items are unable to be resolved before the due date for such Tax Return, the Tax Return shall be filed as prepared by Parent and the Surviving Corporation and then amended to reflect the Parties' or the Accounting Firm's resolution. The costs, fees and expenses of the Accounting Firm shall be borne equally by Parent and the Holders' Representatives. Any amount due by the Holders under this Section 5.8.1 shall be paid by the Surviving Corporation, and Parent shall be entitled to withhold any Base Merger Delayed Consideration payments payable in accordance with Section 2.9.2 and any Contingent Consideration Payments payable in accordance with Section 2.14.3 to set off against any such amount.

5.8.2 Post-Closing and Straddle Period Tax Returns.

(a) Parent shall prepare or cause to be prepared and file or cause to be filed all Tax Returns of the Company for taxable periods that end after the Closing Date, including all Tax Returns for all complete taxable periods including but not ending on the Closing Date (collectively, the "Straddle Periods") and Parent shall cause the Surviving Corporation to pay all Taxes with respect to such periods. Parent shall permit the Holders' Representatives a reasonable period of time, but not less than 20 days to review and comment, prior to filing, on each Tax Return for a Straddle Period. Parent and the Surviving Corporation shall consider in good faith any changes to such Straddle Period Tax Returns that are reasonably requested by the Holders' Representatives with respect to Taxes for which the Holders would bear liability pursuant to this Agreement. If the Holders' Representatives object to any item on any such Tax Return, they shall, with 15 days after delivery of such Tax Return, notify Parent in writing that they so object, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Parent and the Holders' Representatives shall negotiate in good faith and use their reasonable best efforts to resolve such items. If Parent and the Holders' Representatives are unable to reach such agreement with 10 days after receipt by Parent of

such notice, the disputed items shall be resolved by the Accounting Firm and any determination by the Accounting Firm shall be final. The Accounting Firm shall resolve any disputed items within 30 days of having the item referred to it pursuant to such procedures as it may require. If any disputed items are unable to be resolved before the due date for such Tax Return, the Tax Return shall be filed as prepared by Parent and then amended to reflect the Parties' or the Accounting Firm's resolution. The costs, fees and expenses of the Accounting Firm shall be borne equally by Parent and the Holders' Representatives. Any amount due by the Holders under this Section 5.8.2(a) shall be paid by the Surviving Corporation, and Parent shall be entitled to withhold any Base Merger Delayed Consideration payments payable in accordance with Section 2.9.2 and any Contingent Consideration Payments payable in accordance with Section 2.14.3 to set off against any such amount.

(b) In the case of any Straddle Period, the amount of Taxes allocable to the portion of the Straddle Period ending on the Closing Date shall be determined as follows: In the case of Taxes imposed on a periodic basis (such as real or personal property Taxes), the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction, the numerator of which is the number of calendar days in the Straddle Period ending on and including the Closing Date and the denominator of which is the number of calendar days in the entire relevant Straddle Period. In the case of Taxes not described in the previous sentence (such as franchise Taxes, Taxes that are based upon or related to income or receipts, based upon occupancy or imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible)), the amount of any such Taxes shall be determined as if such taxable period ended as of the close of business on the Closing Date.

5.8.3 Tax Contests. If a claim shall be made by any Taxing Authority, which, if successful, might result in an indemnity payment to an Indemnified Person pursuant to Article VIII, then such Indemnified Person shall give notice to the Indemnifying Party in writing of such claim and of any counterclaim the Indemnified Person proposes to assert (a "Tax Claim"); provided, however, the failure to give such notice shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party has been prejudiced as a result of such failure. With respect to any Tax Claim relating to a Pre-Closing Tax Period, the Holders' Representatives shall, solely at the Holders' cost and expense, control all proceedings in connection with such Tax Claim (including selection of counsel); provided, however, that the Holders' Representatives must first consult, in good faith with Parent before taking any action with respect to the conduct of such Tax Claim. Notwithstanding the foregoing, the Holders' Representatives shall not settle such Tax Claim without the prior written consent of Parent, which consent shall not be unreasonably withheld, conditioned, or delayed, and Parent and counsel of its own choosing (at the Holders' cost) shall have the right to participate fully in all aspects of the prosecution or defense of such Tax Claim if Parent reasonably determines that such Tax Claim could have a material adverse impact on the Taxes of the Company in a taxable period or portion thereof beginning after the Closing Date. Parent shall control all proceedings with respect to any Tax Claim relating to a taxable period or portion thereof beginning after the Closing Date and the Holders shall have no right to participate in the conduct of any such proceeding.

5.8.4 Certification. Parent and the Holders' Representatives agree, upon request from the other party, to use their commercially reasonable efforts to obtain any certificate or other document from any Taxing Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated by this Agreement (including the Merger)).

5.8.5 Tax Sharing Agreements. The Company shall terminate all Tax Sharing Agreements with respect to the Company as of the Closing Date and shall ensure that such agreements are of no further force or effect on and after the Closing Date and that there shall be no further liabilities or obligations imposed on the Company under any such agreements.

5.8.6 Cooperation. Following the Closing Date, Parent, the Surviving Corporation and the Holders' Representatives shall, as reasonably requested by any party hereto: (a) assist any other Party in preparing and filing any Tax Returns relating to the Company that such other Party is responsible for preparing and filing; (b) cooperate in preparing for any Tax Claim, Tax audit of, or dispute with any Taxing Authority regarding and any judicial or administrative proceeding relating to, liability for Taxes, in the preparation or conduct of litigation or investigation of claims and in connection with the preparation of financial statements or other documents to be filed with any Taxing Authority, in each case with respect to the Company; (c) make available to the other parties and to any Taxing Authority as reasonably requested all information, records and documents relating to Taxes relating to the Company (at the cost and expense of the requesting Party); (d) provide timely notice to the other Parties in writing of any pending or threatened Tax audits or assessments relating to the Company for taxable periods for which any such other Party is responsible; and (e) furnish the other Parties with copies of all correspondence received from any Taxing Authority in connection with any Tax audit or information request with respect to any taxable periods for which any such other Party is responsible. For the avoidance of doubt, the cooperation noted in this Section 5.8.6 shall include signing any Tax Returns, amended Tax Returns, claims or other documents with respect to any Tax controversy or proceeding, with respect to Taxes, the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

5.8.7 No Section 338 Tax Election. Neither Parent nor its Affiliates shall make a Tax election pursuant to Section 338 of the Code or any similar election under state, local or foreign Tax Law with respect to the Company in connection with the Merger.

5.8.8 Transfer Taxes. The Holders, jointly and severally, shall be liable for any real property transfer or gains tax, stamp tax, stock transfer tax, or other similar Tax imposed as a result of the Merger (collectively, the "Transfer Taxes"), and any penalties or interest with respect to the Transfer Taxes. The Parties shall cooperate in filing all necessary Tax Returns and other documentation with respect to the Transfer Taxes. Any such Transfer Taxes shall be paid by the Surviving Corporation, and Parent shall be entitled to withhold any Base Merger Delayed Consideration payments payable in accordance with Section 2.9.2 and any Contingent Consideration Payments payable in accordance with Section 2.14.3 to set off against any such Transfer Taxes paid by the Surviving Corporation.

5.8.9 Stockholders' Liability for Payment Obligations. The Holders severally shall be liable for all personal Taxes or other amounts payable by the Holders pursuant to this Agreement.

5.8.10 336(e) Election. Without the prior written consent of the Parent (which may be withheld for any reason), neither the Company nor the Holders shall make a Tax election pursuant to Section 336(e) of the Code or any similar election under state, local or foreign Tax Law with respect to the Merger.

Section 5.9 Support Agreements. The Company acknowledges that the Persons listed on Schedule 5.9 have executed and delivered to Parent a support agreement in form and substance reasonably acceptable to Parent which agreement shall become binding and effective as of the Closing Date (collectively, the "Support Agreements").

Section 5.10 Employee Matters.

5.10.1 Employees. Nothing in this Agreement shall give rise to any obligation by Parent to retain any Employee, any group of Employees of the Company or any Company Plan following the Closing Date. At or prior to the Effective Time, the Company will terminate all Employees. The Company shall be responsible for (i) compliance with all applicable Law with respect to the employment or termination of all such Employees prior to the Effective Time and (ii) the employment-related obligations with respect to Employees prior to the Effective Time including worker's compensation benefits with respect to injuries or incidents occurring prior to the Effective Time, any paid time-off and sick or vacation amounts due or granted by the Company to any Employees prior to the Effective Time as well as any amounts due to any Employees resulting from the Company's existing Company Plans. The Company shall pay all unused vacation benefits earned or accrued by Employees through the Effective Time.

5.10.2 Company Plans. Parent reserves the right to request that the Company cease contributions to and/or terminate one of more of the Company Plans effective immediately prior to Closing. Any such cessation or termination may only be undertaken (i) in accordance with the governing documents and Contracts for the Company Plans (including through plan amendment) and (ii) if such cessation or termination conforms with applicable Laws.

5.10.3 No Third-Party Beneficiaries. This Section 5.10 is not intended to amend any benefit plans or arrangements of Parent or any of its Subsidiaries, to limit the ability of Parent or any of its Subsidiaries to amend, modify or terminate any of such benefit plans or arrangements or to confer third-party beneficiary rights on any Person who is not a Party to this Agreement.

Section 5.11 Restrictive Covenant Agreements. On the date hereof, the Company shall use commercially reasonable efforts to cause each of the Holders listed on Schedule 5.11 (each, a "Restricted Person") to execute and deliver to Parent a Restricted Person Non-competition and Non-solicitation Agreement in form and substance reasonably acceptable to Parent (each a "Restricted Person Non-competition and Non-solicitation Agreement").

Section 5.12 No Negotiations, Etc. The Company shall not and shall cause the Holders and their respective Representatives not to, directly or indirectly solicit, initiate, or enter into any discussions or negotiations or continue in any way any discussions or negotiations with any Person or group of Persons regarding any Competing Transaction (defined below). The Company shall promptly but not later than 48 hours of the occurrence of the relevant event notify Parent orally and in writing if any inquiries, proposals, or requests for information concerning a Competing Transaction are received by the Company, the Holders or any of their respective Representatives. The written notice shall include the identity of the Person making such inquiry, proposal, or request and the terms and conditions thereof as well as a copy of such inquiry proposal or request. For purposes of this Section 5.12, "Competing Transaction" means a transaction or a series of related transactions (other than the Transactions, including the Merger) involving (i) any sale of stock or other equity interests in the Company, (ii) a merger, consolidation, share exchange, business combination, or other similar transaction involving the Company (iii) any sale, lease, exchange, exclusive license, mortgage, pledge, transfer, or other disposition of 10% or more of the assets of the Company or (iv) any other transaction or series of transactions which could reasonably preclude the consummation of the Transactions (including the Merger).

Section 5.13 Release of Claims.

5.13.1 General Release of Claims. Effective as of the Effective Date, each Holder on behalf of itself and each of its equity holders (if any) and each of their respective Subsidiaries, Affiliates, employees, agents, advisors, heirs, legal representatives, successors and assigns (each a "Releasor"), pursuant to its Joinder Agreement shall completely release, acquit and forever discharge, to the fullest extent permitted by Law, Parent, the Company and their Affiliates and each of their respective current, former and future officers, directors, employees, agents, advisors, successors and assigns (collectively, the "Releasees") from any losses, liabilities, suits, actions, debts or rights, whether fixed or contingent, known or unknown, matured or unmatured, arising out of, relating to, or in any manner connected with any facts, events or circumstances, or any actions taken, at or prior to the consummation of the Transactions (including the Merger) that any Releasor ever had or now has against the Releasees (collectively, the "Released Matters"), excluding any liabilities arising solely in relation to the Transactions (including the Merger) (collectively, the "Release of Claims"). Effective as of the Effective Date, the Representative (on behalf of each Holder) shall not and, to the extent within its control, shall not cause or permit its equity holders or any of their respective Subsidiaries, Affiliates, employees, agents, advisors, heirs, legal representatives, successors and assigns, to assert any claims against the Releasees in respect of the Released Matters. Pursuant to the Joinders, each of the Holders has (a) represented and warranted that such Holder has (i) had the opportunity to consult with legal counsel of its choice, (ii) been fully informed of the nature and contents of its Release of Claims and (ii) entered into such Release of Claims freely, (b) acknowledged that it would be difficult to fully compensate Parent or any of its Affiliates for damages resulting from any breach of the provisions of such Release of Claims. Accordingly, in the event of any actual or threatened breach of such provisions, Parent and its

Affiliates shall (in addition to any other remedies that it may have) be entitled to temporary and/or permanent injunctive relief to enforce such provisions and recover related attorneys' fees and costs. Each Holder has further acknowledged in its respective Joinder that its Release of Claims constitutes a material inducement to Parent to consummate the Transactions (including the Merger) and Parent shall be relying on the enforceability of such Release of Claims in consummating such Transactions.

Section 5.14 No Challenge to IP Rights. None of Parent, Merger Sub or the Surviving Corporation (a) shall have the right to challenge, and shall not challenge, the validity or scope of the patents that are subject to the License Agreements or the validity or effectiveness of the License Agreements; or (b) shall amend or modify, or otherwise permit the amendment or modification, in whole or in part, any of the License Agreements without the prior written consent of the Holders' Representatives. Notwithstanding anything to the contrary herein, this Section 5.14 shall survive the Closing until all of the License Agreements expire upon their terms.

ARTICLE VI: CONDITIONS TO CLOSING

Section 6.1 Conditions to Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to effect the Transactions (including the Merger) are subject to the satisfaction (or waiver, if permissible under applicable Law by Parent, in its sole discretion) at or prior to the Closing of the following conditions:

6.1.1 Representations and Warranties. (a) Each of the representations and warranties contained in Section 3.1 (Organizational Matters), Section 3.2 (Capitalization), Section 3.3 (Authority; Noncontravention; Voting Requirements), Section 3.6 (Absence of Certain Changes or Events) and in Section 4 of the Joinders shall have been true and correct when made and shall be true and correct as of the Closing Date with the same force and effect as if made on the Closing Date and (b) disregarding all materiality, Material Adverse Effect, substantial compliance or similar materiality qualifications, each of the other representations and warranties set forth in ARTICLE III (Representations and Warranties of the Company) and each of the other representations and warranties of the Holders set forth in the Joinders shall have been true and correct in all material respects when made and shall be true and correct in all material respects as of the Closing Date with the same force and effect as if made at and as of the Closing Date; provided, however, that any such representation or warranty expressly made as of a specified date shall only need to have been true on and as of such date. The Parties understand and agree that for the purposes of this Section 6.1.1 the representations and warranties shall not be deemed to have been modified by and the requirement that their accuracy meet the standards set in this Section 6.1.1 shall not be excused by, any disclosure made pursuant to Section 5.7 (Notification of Certain Matters) or and any discovery of information by Parent.

6.1.2 Performance of Obligations of Company. The Company shall have performed in all respects all covenants, agreements and obligations required to be performed by it under this Agreement at or prior to the Closing.

6.1.3 Third Party Consents. The Company shall have delivered to Parent all necessary consents, waivers and approvals of the Governmental Authorities and the parties to any Material Contract set forth in Schedule 6.1.3 in form and substance reasonably satisfactory to Parent.

6.1.4 Written Consents. The Written Consents shall have been obtained in accordance with applicable Law and the Company Charter Documents and delivered to Parent in accordance with Section 5.2.1.

6.1.5 No Litigation. No Action shall have been instituted, commenced or threatened and no Action shall remain pending that seeks to or could reasonably be expected to (a) restrain, prevent, enjoin, prohibit or make illegal the Transactions (including the Merger), (b) cause any of the Transactions (including the Merger) to be rescinded following the Closing Date or (c) impose limitations on the ability of the Surviving Corporation to effectively conduct its business following the Closing Date or (d) compel Parent or the Company to dispose of any portion of the Company's business or assets.

6.1.6 Support Agreements. The Support Agreements described in Section 5.9 shall have been executed and delivered to Parent at or prior to the execution of this Agreement and no such Support Agreement shall have been amended, terminated, cancelled or repudiated.

6.1.7 Restricted Person Non-competition and Non-solicitation Agreements. The Restricted Person Non-competition and Non-solicitation Agreements described in Section 5.11 shall have been executed and delivered to Parent at or prior to the execution of this Agreement and no such Restricted Person Non-competition and Non-solicitation Agreement shall have been amended, terminated, cancelled or repudiated.

6.1.8 Resignation of Employees, Officers and Directors. Parent shall have received resignations, in form and substance reasonably satisfactory to Parent, effective as of the Effective Date from each Employee, officer and director of the Company.

6.1.9 Cancellation of Certain Agreements. Each of the Contracts listed on Schedule 6.1.9 shall have been terminated effective the Closing Date pursuant to documents in form and substance reasonably satisfactory to Parent.

6.1.10 Delivery of Closing Certificates. Parent shall have received:

(a) Company Secretary's Certificate. A certificate in form and substance reasonably acceptable to Parent, dated as of the Closing Date, signed by the Secretary of the Company, certifying (i) the continued effectiveness of the Company Charter Documents, (ii) the names and incumbency of each of the officers of the Company executing this Agreement and each of the other Transaction Agreements, (iii) the valid adoption of resolutions of the Board of Directors of the Company approving this Agreement and the consummation of the Transactions (including the Merger) and (iv) that the Holders have adopted and approved this Agreement, the Merger and the matters set forth in the Written Consent;

(b) Closing Certificate. A certificate in form and substance reasonably acceptable to Parent dated as of the Closing Date, signed by the President of the Company certifying that the conditions precedent set forth in Section 6.1.1 and Section 6.1.2 have been met; and

(c) Good Standing Certificates. Certificates of good standing with respect to the Company issued by the Company's jurisdiction of organization and each of the jurisdictions in which the Company does business, each dated not more than five days prior to the Closing Date;

6.1.11 Payment of all Taxes. Parent shall have received evidence, in form and substance reasonably satisfactory to Parent, that all Pre-Closing Taxes have been fully paid.

6.1.12 Release of Liens. Parent shall have received payoff letters, in form and substance reasonably satisfactory to Parent, from each lender to the Company evidencing the aggregate amount of Company Debt outstanding as of the Closing Date and an agreement that, if such aggregate amount is paid to such lender on the Closing Date, such indebtedness shall be repaid in full and that all Liens of the Company shall be released forthwith.

6.1.13 Cancellation of Company Options. Parent shall have received evidence, in form and substance reasonably satisfactory to Parent, of the valid exercise or cancellation of all Company Options.

6.1.14 No Material Adverse Effect. Since the date of this Agreement, no Company Material Adverse Effect shall have occurred.

6.1.15 Appraisal Rights. Holders of no more than 5% of the shares of Company Capital Stock (determined immediately prior to the Effective Time on an as converted to Company Common Stock basis) shall have exercised or remain entitled to exercise appraisal rights under Section 262 of the DGCL.

6.1.16 280G Stockholder Approval or Disapproval. With respect to any payments and/or benefits that may constitute "parachute payments" under Section 280G of the Code with respect to any Employees, the Company shall have submitted such parachute payments to the Stockholders for approval and the Stockholders shall have (a) approved, pursuant to the method provided for in the regulations promulgated under Section 280G of the Code, any such "parachute payments" or (b) shall have voted upon and disapproved such "parachute payments," and, as a consequence, such "parachute payments" shall not be paid or provided for in accordance with applicable Law.

6.1.17 Joinders. The Company shall have delivered to Parent Joinders or Option Termination Agreements executed by Holders of at least 90% of the Fully Diluted Shares of Company Capital Stock.

6.1.18 No Injunctions or Restraints. No Order shall be in effect (a) enjoining, restraining, preventing or prohibiting consummation of the Transactions (including the Merger), (b) causing any of the Transactions (including the Merger) to be rescinded following the Closing Date, (c) imposing limitations on the ability of the Surviving Corporation to effectively conduct its business following the Closing Date or (d) compelling Parent or the Company to dispose of any portion of the Company's business or assets.

6.1.19 Completion of Due Diligence. Parent shall have completed its due diligence of the Company to Parent's full satisfaction and shall be fully satisfied with the results thereof, including, without limitation, with respect to the Company Intellectual Property Rights, Company Technology and the License Agreements.

Section 6.2 Conditions to Obligation of the Company. The obligation of the Company to effect the Transactions (including the Merger) is subject to the satisfaction (or waiver, if permissible under applicable Law) prior to the Closing of the following conditions:

6.2.1 Representations and Warranties. (a) Each of the representations and warranties contained in Section 4.1 (Organization, Standing and Corporate Power) and Section 4.2 (Authority; Noncontravention) shall have been true and correct when made and shall be true and correct as of the Closing Date with the same force and effect as if made on the Closing Date and (b) disregarding all materiality, Material Adverse Effect, substantial compliance or similar materiality qualifications, each of the other representations and warranties set forth in ARTICLE IV (Representations and Warranties of Parent and Merger Sub) shall have been true and correct when made and as of the Closing Date with the same force and effect as if made at and as of the Closing Date; provided, however, that any such representation or warranty expressly made as of a specified date shall only need to have been true on and as of such date.

6.2.2 Performance of Obligations of Parent and Merger Sub. Parent and Merger Sub shall have performed in all respects all covenants, agreements and obligations required to be performed by them under this Agreement prior to the Closing.

(a) Delivery of Closing Certificates. The Company shall have received a certificate in form and substance reasonably acceptable to the Company, dated as of the Closing Date, signed by the Secretary of Parent, certifying (A) the continued effectiveness of Parent's Charter Documents, (B) the names and incumbency of each of the officers of Parent executing this Agreement and each of the other Transaction Agreements and (C) the valid adoption of resolutions of the Board of Directors of Parent approving this Agreement and the consummation of the Transactions (including the Merger).

(b) Closing Certificate. A certificate in form and substance reasonably acceptable to the Company dated as of the Closing Date, signed by the President of Parent certifying that the conditions precedent set forth in Section 6.2.1 and 6.2.2 have been met; and

(c) Good Standing Certificate. A certificate of good standing with respect to Parent issued by Parent's jurisdiction of organization dated not more than five days prior to the Closing Date.

Section 6.3 Frustration of Closing Conditions. None of the Company, Parent or Merger Sub may rely on the failure of any condition set forth in Section 6.1 or Section 6.2.1 to be satisfied if such failed condition is the result of a breach of its obligations under this Agreement.

ARTICLE VII: TERMINATION

Section 7.1 Termination. This Agreement may be terminated and the Transactions (including the Merger) abandoned at any time prior to the Closing:

7.1.1 By the mutual written consent of the Company and Parent;

7.1.2 By Parent, if any final and non-appealable Order has the effect of enjoining, restraining, preventing, prohibiting or making illegal the consummation of the Merger;

7.1.3 By Parent, if any of the representations or warranties of the Company set forth in ARTICLE III shall not be true and correct or if the Company has failed to perform any covenant or agreement on the part of the Company set forth in this Agreement (including an obligation to consummate the Closing) and, in the case of the representations and warranties, measured on the date of this Agreement or as of any subsequent date (as if made on such date) up to the Closing Date, such that the condition to Closing set forth in Section 6.2.1 or Section 6.2.2 would not be satisfied and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured on or prior to the earlier of (i) 20 days after written notice thereof is delivered to the Company and (ii) the Outside Date; provided that the failure of any of the Company's representations or warranties to be true and correct as of the date of this Agreement shall not be subject to cure;

7.1.4 By the Company, if any of the representations or warranties of Parent set forth in ARTICLE IV shall not be true and correct or if Parent has failed to perform any covenant or agreement on the part of Parent set forth in this Agreement (including an obligation to consummate the Closing) such that the conditions to Closing set forth in either Section 6.1 and Section 6.2 would not be satisfied and the breach or breaches causing such representations or warranties not to be true and correct, or the failures to perform any covenant or agreement, as applicable, are not cured on or prior to the earlier of (i) 20 days after written notice thereof is delivered to Parent and (ii) the Outside Date; provided that this provision shall not be available to the Company if the Company is then in breach of this Agreement; and provided further that the failure of any of the representations or warranties of Parent to be true and correct as of the date of this Agreement shall not be subject to cure.

7.1.5 By either the Company or Parent, upon written notice to the other Party, if the Merger shall not have been consummated on or before May 15, 2018, which date may be extended from time to time by mutual written consent of Parent and the Company (such date, as it may be so extended from time to time, the "Outside Date"); provided, however, that the right to terminate this Agreement under this Section 7.1.5 shall not be available to a Party whose failure to perform any of its obligations under this Agreement has been a principal cause of or directly resulted in the failure of the Merger to occur on or before the Outside Date;

7.1.6 By Parent, if the Written Consents shall not have been obtained and delivered to Parent within 24 hours of the execution and delivery of this Agreement; or

7.1.7 By Parent, upon written notice to the Company, if since the date of this Agreement the Company has experienced a Material Adverse Effect.

Section 7.2 Effect of Termination. In the event this Agreement is terminated pursuant to Section 7.1, this Agreement shall become null and void (other than the provisions of this ARTICLE VII, Section 5.4 (Public Announcement), Section 5.6 (Confidentiality), Section 9.13 (Governing Law), Section 9.14 (Exclusive Jurisdiction; Venue; Service of Process) and Section 9.15 (Jury Trial) and any provision hereof that forms the basis for a claim of breach of this Agreement prior to the termination of this Agreement, all of which shall survive termination of this Agreement and remain in full force and effect), without further liability on the part of the Parties or any of their respective directors, officers or Affiliates, except that nothing shall relieve any Party from liability related to claims sounding in contract, tort or otherwise related to a material breach of this Agreement prior to the termination of this Agreement. Notwithstanding the above, in the event this Agreement is terminated by the Company pursuant to Section 7.1.4, Parent shall pay Company a termination fee in an amount equal to $[***].

ARTICLE VIII: SURVIVAL AND INDEMNIFICATION

Section 8.1 Survival. All representations and warranties of the Parties contained in this Agreement or any other Transaction Agreement or in any certificate or Schedule delivered hereunder or thereunder shall survive the Closing until the eighteen-month anniversary of the Closing Date or such later time as such period may be extended by tolling periods and other extensions (the "Initial Survival Date"); provided, however, that (a) the representations and warranties contained in Section 3.9 (Taxes) and Section 3.13 (License Agreements) shall survive until 30 days following expiration of the applicable statute of limitations; (b) the representations and warranties contained in Section 3.1 (Organizational Matters), Section 3.2 (Authority; Noncontravention; Voting Requirements), Section 3.3 (Capitalization), and Section 3.19 (Brokers and Other Advisors) (the "Company Special Representations"), and the representations and warranties at Section 4.1 (Organization, Standing and Corporate Power), Section 4.2 (Authority; Noncontravention) and Section 4.6 (Brokers and Other Advisors) (the "Parent Special Representations" and collectively with the Company Special Representations, the "Special Representations") shall survive for a period of 7 years after the Closing Date or such later time as may be extended by tolling periods and other extensions and (c) all of the covenants, agreements and obligations of the Parties contained in this Agreement or any other document, certificate, Schedule or instrument delivered or executed in connection herewith shall survive until performed in accordance with their terms (the Initial Survival Date or the last day of any of the periods specified in clauses (a), (b) and (c), the "Survival Date"). Notwithstanding the foregoing, if a claim or notice with respect to recovery under the indemnification provisions hereof is given in accordance with the terms hereof prior to the applicable Survival Date, the claim and any representations and warranties or covenants underlying such claim, shall continue until such claim is finally resolved pursuant to the terms of this ARTICLE VIII. Notwithstanding anything in this Agreement to the contrary, claims for fraud, willful misconduct or intentional misrepresentation shall survive indefinitely.

Section 8.2 Indemnification.

8.2.1 Indemnification by Holders. Subject to the terms, conditions and limitations of this ARTICLE VIII,

(a) each Holder (severally and not jointly in accordance with such Holder's Indemnification Sharing Percentage of any indemnifiable Loss), shall indemnify, defend and hold harmless the Parent Indemnified Persons from and against any and all Losses suffered, sustained or incurred by any such Parent Indemnified Person, whether or not involving a Third Party Claim, caused by, in connection with, as a result of or arising out of:

(i) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the representations or warranties (other than the Company Special Representations) made by the Company in this Agreement or in any other Transaction Agreement to which it is a party, including in any certificate delivered by or on behalf of the Company pursuant hereto;

(ii) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the Special Representations of the Company, without giving effect to any qualifications as to materiality, Material Adverse Effect, substantial compliance or similar qualifications contained in such representations and warranties;

(iii) any breach of or failure to perform any covenant or agreement of the Company provided for in this Agreement or any other Transaction Agreement, without giving effect to any qualifications as to materiality, Material Adverse Effect, substantial compliance or similar qualifications contained in such representations and warranties;

(iv) (A) any Tax imposed on the Company for a Pre-Closing Tax Period (except to the extent that such Taxes were taken into account for purposes of calculating Closing Merger Consideration or were otherwise paid by Holders pursuant to this Agreement), (B) any Tax of any member of an affiliated, combined, consolidated, or unitary group of which the Company (or any predecessor) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation Section 1.1502-6 (or any similar state, local, or foreign law), (C) any Tax for a Pre-Closing Tax Period of any Person for which the Company is liable as a transferee or successor, by contract, pursuant to any Law or otherwise, (D) the liability of the Holders for Transfer Taxes pursuant to Section 5.8, (E) any and all Taxes resulting from a breach of a covenant of the Holders or the Holders' Representatives contained in Section 5.8; and (F) any and all Taxes imposed on the Holders resulting from or attributable to the Merger other than with respect to Transfer Taxes allocated to Parent pursuant to Section 5.8,;

(v) Any Company Transaction Expenses not paid at or prior to the Closing;

(vi) any inaccuracy in the Securities Payment Schedule;

(vii) any appraisal rights exercised by any Stockholder to the extent not covered by amounts returned to the Parent with respect to Dissenting Shares pursuant to Section 2.10;

(viii) any fraud or intentional misconduct committed by any Holder or the Company, including any director, officer or Employee of the Company, in connection with the negotiation and execution of this Agreement or the other Transaction Agreements and the consummation of the Transactions (including the Merger); and

(ix) any Third Party Claim arising from or relating to that certain Advertisement Agreement, dated April 4, 2010, by and between the Company and NewCompounds.

(b) each Joinder Holder severally and not jointly shall indemnify, defend and hold harmless the Parent Indemnified Persons from and against any and all Losses suffered, sustained or incurred by any such Parent Indemnified Person, whether or not involving a Third Party Claim, caused by, in connection with, as a result of or arising out of:

(i) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the representations or warranties (other than the Special Representations) made by such Joinder Holder in his, her or its Joinder Agreement or in any other Transaction Agreement to which he, she or it is a party, without giving effect to any qualifications as to materiality, Material Adverse Effect, substantial compliance or similar qualifications contained in such representations and warranties;

(ii) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the Special Representations made by such Joinder Holder in this Agreement, without giving effect to any qualifications as to materiality, Material Adverse Effect, substantial compliance or similar qualifications contained in such representations and warranties; and

(iii) any breach of or failure by such Joinder Holder to perform any covenant or agreement of such Joinder Holder provided for in its Joinder Agreement.

8.2.2 Indemnification by the Parent. Subject to the terms, conditions and limitations of this ARTICLE VIII, the Parent shall indemnify, defend and hold harmless the Holder Indemnified Persons from and against any and all Losses suffered, sustained or incurred by such Holder Indemnified Person, whether or not involving a Third Party Claim, claims between the Parties, or otherwise relating to, as a result of, arising out of, or by virtue of:

(a) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the representations or warranties (other than Parent Special Representations) made by the Parent or Merger Sub in this Agreement, including in any certificate delivered by or on behalf of the Parent or Merger Sub pursuant hereto, without giving effect to any qualifications as to materiality, Material Adverse Effect or similar qualifications contained in such representations and warranties;

(b) any breach of, or misrepresentation or inaccuracy (or any Third Party Claim alleging facts that, if true, would be a breach of, misrepresentation or inaccuracy) in any of the Parent Special Representations, without giving effect to any qualifications as to materiality, Material Adverse Effect or similar qualifications contained in such representations and warranties; and

(c) any breach of or failure to perform any covenants or agreements of the Parent or Merger Sub provided for in this Agreement or any other Transaction Agreement to which it is a party; provided, however, that notwithstanding anything in this Agreement to the contrary, neither the Parent nor the Surviving Corporation shall be liable to any Holder for any payment inaccuracy if such payment is made in accordance with the Securities Payment Schedule.

8.2.3 General Limitations on Claims. Notwithstanding the foregoing:

(a) The Parent Indemnified Persons will not be entitled to recover Losses pursuant to Section 8.2.1(a)(i) or 8.2.1(b)(i) until the total amount of Losses which the Parent Indemnified Persons would have been entitled to recover under Section 8.2.1(a)(i) and 8.2.1(b)(i) exceeds the Threshold and then only the Losses in excess of the Threshold will be subject to indemnification hereunder; provided, however, that the indemnification obligations of the Holders with respect to Losses arising from or relating to any fraudulent or willful misconduct shall not be subject to the Threshold;

(b) the aggregate amount that may be recovered by the Parent Indemnified Persons or the Holder Indemnified Persons for Losses under Section 8.2.1(a)(i), 8.2.1(b)(i) or 8.2.2(a), respectively, shall not exceed the "Cap Amount"; provided, however, that the indemnification obligations of the Holders and the Parent with respect to Losses arising from or relating to any fraudulent or willful misconduct shall not be subject to the Cap Amount;

(c) for purposes of determining the amount of any Losses resulting from or in connection with the breach of any representation or warranty made by the Company, any Joinder Holder, Parent or Merger Sub, such representations shall be read as though none of them were subject to materiality, Material Adverse Effect, substantial compliance or similar materiality qualifications; and

(d) notwithstanding anything in this Agreement to the contrary, all indemnification obligations under this ARTICLE VIII shall exclude punitive damages (except to the extent that Losses payable to a third party as a result of a claim by such third party include punitive damages).

8.2.4 Holder Limitation. Except with respect to Losses by reason of any claims brought on the basis of fraudulent or willful misconduct, in no event shall the Parent Indemnified Persons have the right under this Agreement to recover from any Holder any amounts in excess of the Closing Merger Consideration, the Base Merger Delayed Consideration and any Contingent Consideration paid or payable to such Holder hereunder.

Section 8.3 Claims for Indemnification; Resolution of Conflicts.

8.3.1 Direct Claims for Indemnification. Subject to the limitations set forth above, any Parent Indemnified Person or Holder Indemnified Person (as represented by Holders' Representatives) (each, an "Indemnified Person") may seek recovery of Losses pursuant to this Section 8.3.1 not involving a third party by delivering to Holders' Representatives (on behalf of the Holder Indemnifying Parties) or the Parent (each, an "Indemnifying Party") as applicable, a notice (a) stating that an Indemnified Person has paid, sustained, suffered or incurred a Loss, and (b) specifying in reasonable detail the nature of the Loss, including an estimate (if reasonably apparent) of the amount of the Loss (a "Indemnification Claim Notice"); provided, however, that (1) the Indemnification Claim Notice need only specify such information to the knowledge of such Indemnified Person as of the date of such Indemnification Claim Notice, (2) shall not limit any of the rights or remedies of any Indemnified Person except to the extent that a material omission or misstatement was knowingly made in bad faith by such Indemnified Person and the Indemnifying Party shall have been materially prejudiced thereby and (3) may be updated and amended from time to time by the Indemnified Person by delivering an updated or amended Indemnification Claim Notice as provided for in the preceding sentence. All claims for indemnification under this Section 8.3 (i) by any Holder Indemnified Person may only be made on behalf of such Holder Indemnified Person by Holders' Representatives and (ii) against any Holder Indemnifying Party shall be addressed to Holders' Representatives. The Indemnifying Party may object to a claim for indemnification set forth in an Indemnification Claim Notice by delivering a notice to the Indemnified Person seeking indemnification within 30 days of the delivery of the applicable Indemnification Claim Notice (the "Indemnification Claim Objection Deadline"), setting forth in reasonable detail the objections to the claim. If the Indemnifying Party either notifies the applicable Indemnified Person that it does not object or does not object in writing by the Indemnification Claim Objection Deadline, such failure to so object shall be an irrevocable acknowledgment that the Indemnified Person is entitled to the full amount of the claims set forth in such Indemnification Claim Notice, and the Indemnifying Party shall take all necessary actions under this Agreement to effect payment in respect thereof.

8.3.2 Resolution of Conflicts.

(a) If an Indemnifying Party timely delivers an Objection Notice in accordance with Section 8.3.1, the Indemnifying Party and the Indemnified Person(s) shall attempt in good faith for 30 days to resolve such dispute. If the Indemnifying Party and the Indemnified Person(s) reach an agreement with respect to such dispute, a memorandum setting forth such agreement shall be prepared and signed by the parties (a "Settlement Memorandum").

(b) If the Indemnifying Party and the Indemnified Person(s) are unable to resolve such dispute during such 30-day period, any party to such dispute may institute dispute resolution proceedings in accordance with Section 9.14 and Section 9.15 with respect to the matter. Any final and non-appealable written decision, judgment or award rendered by a court of competent jurisdiction as to the validity and amount of any claim in such Indemnification Claim Notice shall be final, binding, and conclusive upon the parties to such dispute and any other Indemnifying Parties and Indemnified Persons.

8.3.3 Third-Party Claims.

(a) In the event that any Action is instituted, or that any claim is asserted, by any Person not party to this Agreement in respect of an indemnifiable matter hereunder (a "Third Party Claim"), the Indemnified Person seeking indemnification for any related Loss shall notify the Indemnifying Party of any such Action or claim promptly after receiving notice thereof (each, a "Third Party Indemnification Claim Notice"); provided, however, that no delay on the part of the Indemnified Person in giving any such notice shall relieve an Indemnifying Party of any indemnification obligations unless, and only to the extent that, such Indemnifying Party is actually and materially prejudiced by such delay and then only to the extent of such prejudice. Subject to the provisions of this Section 8.3.3, and assuming the Indemnified Person does not have the right to elect or does not choose to elect in its Third Party Indemnification Claim Notice to assume the defense of the Third Party Claim in accordance with clause (d) of this Section 8.3.3, the Indemnifying Party shall be entitled at its own expense to

conduct and control the defense and settlement of such Third Party Claim on behalf of the Indemnified Person through counsel chosen by the Indemnifying Party and reasonably acceptable to the Indemnified Person if the Indemnifying Party notifies the Indemnified Person in writing within 30 days (or sooner, if the nature of the Third Party Claim so requires) of its intent to do so and confirms that the Indemnifying Party shall be obligated to indemnify the Indemnified Person against all resulting Losses in accordance with this Agreement. If the Indemnifying Party does not elect within 30 days (or sooner, if the nature of the Third Party Claim so requires) to defend against, negotiate, settle or otherwise deal with any Third Party Claim, the Indemnified Person may defend against, negotiate, settle or otherwise deal with such Third Party Claim with counsel of its choice at the expense of the Indemnifying Party.

(b) If the Indemnifying Party elects to defend against, negotiate, settle or otherwise deal with any Third Party Claim:

(i) the Indemnifying Party shall use its commercially reasonable efforts to defend such Third Party Claim;

(ii) the Indemnified Person, prior to the period in which the Indemnifying Party assumes the defense of such matter, may take such reasonable actions to preserve any and all rights with respect to such matter, without such actions being construed as a waiver of the Indemnified Person's rights to defense and indemnification pursuant to this Agreement and without such actions being determinative of the amount of any indemnifiable Losses, except to the extent the Indemnifying Party's ability to defend such action is actually and materially prejudiced by such actions; and

(iii) the Indemnified Person may participate in the defense of such Third Party Claim with separate counsel at its own expense or, if so requested by the Indemnifying Party or, if in the reasonable opinion of counsel to the Indemnified Person, a conflict or potential conflict exists between the Indemnified Person and the Indemnifying Party that would make such separate representation advisable, at the reasonable expense of the Indemnifying Party.

(c) In connection with this Section 8.3.3, the Parties agree to:

(i) cooperate with each other in connection with the defense, negotiation or settlement of any such Third Party Claim;

(ii) make available witnesses in a timely manner to provide testimony through declarations, affidavits, depositions, or at hearing or trial and to work with each other in preparation for such events consistent with deadlines dictated by the particular Third Party Claim;

(iii) preserve all documents and things required by litigation hold orders pending with respect to particular Third Party Claims; and

(iv) provide such documents and things to each other, consistent with deadlines dictated by a particular matter, as required by legal procedure or court order, or if reasonably requested by another Party hereto;

provided that such cooperation referenced in clauses (i) through (iv) shall not be required if it could reasonably be expected to result in a waiver of any attorney-client, work product or other privilege, and provided further that the Parties shall use commercially reasonable efforts to avoid production of confidential information (consistent with Law), and to cause all communications among Employees, counsel and others representing any party to a Third Party Claim to be made so as to preserve any applicable attorney-client or work-product privileges.

(d) Except as permitted in this Section 8.3.3, the Indemnifying Party shall not, without the written consent of the Indemnified Person(s) (such consent not to be unreasonably conditioned, withheld or delayed), settle or compromise any Third Party Claim or permit a default or consent to entry of any judgment (each a "Settlement"); provided, however, that an Indemnified Person's written consent shall not be required if (i) the claimant provides such Indemnified Person an unqualified release from all liability in respect of the Third Party Claim, (ii) such Settlement does not impose any additional liabilities or obligations on the Indemnified Person and (iii) with respect to any non-monetary provision of such Settlement, such provisions could not have, or be reasonably expected to have, any adverse effect on the business, assets, financial condition or results of operations of the Indemnified Person and its Subsidiaries, if any. Any Settlement or compromise that does not comply with the preceding sentence shall not be determinative of the amount of Losses with respect to any related claims for indemnification pursuant to this ARTICLE VIII. The costs incurred by Holders' Representatives pursuant to participating in the defense of any Third Party Claims shall constitute Holders' Representatives Expenses.

(e) Notwithstanding anything in this Agreement to the contrary, if (i) a Third Party Claim seeks relief other than the payment of monetary damages, (ii) the subject matter of a Third Party Claim relates to the ongoing business of the Indemnified Person, which Third Party Claim, if decided against the Indemnified Person, could adversely affect the ongoing business of the Indemnified Person, (iii) the claim for indemnification relates to or arises in connection with any criminal proceeding, action or indictment, or (iv) the Indemnified Person reasonably concludes that the amount of the Third Party Claim and associated defense costs shall exceed the limits on the Indemnifying Party's obligations under Section 8.2.3(a) or the Indemnifying Party's financial resources available to defend against the Third Party Claim, then, in each such case, the Indemnified Person alone shall be entitled to contest, defend and settle such Third Party Claim. If the Indemnified Person elects to exercise such right to contest, defend and settle such Third Party Claim, then the Indemnified Person shall notify the Indemnifying Party of such election within 30 days of the later of (x) receiving the applicable Third Party Indemnification Claim Notice or (y) the occurrence of the event giving rise to the Indemnified Person's right to make such election pursuant to clause (i), (ii) or (iii) of this Section 8.3.3(e). In such event, the Indemnified Person shall instead have the right to be represented by counsel of its choice (of which it shall notify the Indemnifying Party) at the Indemnifying Party's reasonable expense and to defend against, negotiate, settle or otherwise deal with any Third Party Claim. If the Indemnified Person elects to defend against, negotiate, settle or otherwise deal with any Third Party Claim, then (1) the Indemnified Person shall use its commercially reasonable efforts to defend such Third Party Claim, conduct such defense in a good faith and reasonably diligent manner, keep the Indemnifying Party reasonably informed of the status of such defense, and use commercially reasonable efforts to cooperate with the Indemnifying Party with respect to such defense during the course of such defense, and (2) the Indemnifying Party may participate, at its own expense, in the defense of such Third Party Claim. If the Indemnified Person does not elect to contest, defend and settle such Third Party Claim, then the Indemnifying Party shall then have the right to contest and defend such Third Party Claim as described above in Section 8.3.3(a). Notwithstanding the foregoing, any Third Party Claims in respect of Taxes shall be governed by Section 5.8.3 rather than this Section 8.3.3.

8.3.4 Surviving Corporation. The Parties acknowledge and agree that if the Surviving Corporation suffers, incurs or otherwise becomes subject to any Losses as a result of or in connection with any misrepresentation or inaccuracy in or breach of any representation, warranty, covenant or agreement, then (without limiting any of the rights of the Surviving Corporation as an Indemnified Person) the Parent shall also be deemed, by virtue of its ownership of the stock of the Surviving Corporation, to have incurred Losses as a result of and in connection with such misrepresentation, inaccuracy or breach.

8.3.5 Cumulative Remedies. The rights of the Parent Indemnified Persons and the Holder Indemnified Persons under this ARTICLE VIII are cumulative, and each Parent Indemnified Person and Holder Indemnified Person shall have the right in its sole discretion to enforce any provision of this ARTICLE VIII without regard to the availability of any other remedy under any other provision of this Agreement.

8.3.6 Indemnification Adjusts Merger Consideration for Tax Purposes. Each Party shall, including retroactively, treat indemnification payments under this Agreement as adjustments to the Closing Merger Consideration, the Base Merger Delayed Consideration and the Contingent Consideration for Tax purposes to the extent permitted under applicable Law.

8.3.7 No Subrogation. No Holder shall make any claim for indemnification against either the Parent Indemnified Persons or the Surviving Corporation based on the fact that such Holder was a controlling person, director, Employee or agent of the Company (whether such claim is for Losses of any kind or otherwise and whether such claim is pursuant to Law, a Charter Document, a Contract or otherwise) with respect to any claim brought by a Parent Indemnified Person against any Holder under or relating to this Agreement or any other Transaction Agreement or the Transactions. With respect to any claim brought by a Parent Indemnified Person against any Holder under or relating to this Agreement, any Transaction Agreement or the Transactions, each Holder expressly waives any right of subrogation, contribution, advancement, indemnification or other claim against the Company with respect to any indemnification obligation or any other liability to which such Holder may become subject under or in connection with this Agreement.

8.3.8 Set-Off is Exclusive Remedy. From and after the Closing, the sole remedy of any Parent Indemnified Person shall be the right to withhold and deduct any sum that may be owed to any Parent Indemnified Person under this ARTICLE VIII from any amount otherwise payable to any Holder under any Transaction Agreement, including this Agreement and the agreements entered into in connection with the Transaction; provided, however, that Parent shall be entitled to seek equitable relief with respect to indemnification obligations of the Holders for Losses arising from or relating to any fraudulent or willful misconduct. For avoidance of doubt, nothing in this Agreement shall limit the liability of a licensor under any of the License Agreements.

Section 8.4 Holders' Representatives.

8.4.1 Appointment. By virtue of approving the Merger and the execution of the Joinders, each of the Holders shall irrevocably nominate, constitute and appoint Holders' Representatives with full power of substitution, to act in the name, place and stead of the Holders for purposes of executing any documents and taking any actions that Holders' Representatives may, in their sole discretion, determine to be necessary, desirable or appropriate in connection with any claim for indemnification, compensation or reimbursement under this ARTICLE VIII or set-off in satisfaction of claims. Fred Mermelstein and Stephen C. Rocamboli hereby accept their appointment as Holders' Representatives.

8.4.2 Authority. The Holders grant to Holders' Representatives full authority to execute, deliver, acknowledge, certify and file on behalf of each such Holder (in the name of any or all of the Holders or otherwise) any and all documents that Holders' Representatives may, in their sole discretion, determine to be necessary, desirable or appropriate, in such forms and containing such provisions as Holders' Representatives may, in their sole discretion, determine to be appropriate, in performing its duties as contemplated by this Section 8.4. Notwithstanding anything in any Transaction Agreement to the contrary: (a) each Indemnified Person shall be entitled to deal exclusively with each Holders' Representative on all matters relating to any claim for indemnification, compensation, reimbursement or set off pursuant to ARTICLE VIII; and (b) the Parent, each Parent Indemnified Person and each Holder shall be entitled to rely conclusively (without further evidence of any kind whatsoever) on any document executed or purported to be executed on behalf of any Holder by either Holders' Representative and on any other action taken or purported to be taken on behalf of any Holder by either Holders' Representative as fully binding upon such Holder. A decision, act, consent or instruction of either Holders' Representative, including an amendment, extension or waiver of this Agreement pursuant to Section 8.4 or Section 8.5 shall constitute a decision of the Holders and shall be final, binding and conclusive upon the Holders. Parent, Merger Sub, and the Surviving Corporation may rely upon any such decision, act, consent or instruction of either Holders' Representative as being the decision, act, consent or instruction of the Holders. Parent, Merger Sub, and the Surviving Corporation are hereby relieved from any liability to any Person for any acts done by them in accordance with such decision, act, consent or instruction of either Holders' Representative.

8.4.3 Power of Attorney. The Holders recognize and intend that the power of attorney granted to the Holders' Representatives: (a) is coupled with an interest and is irrevocable; (b) may be delegated by Holders' Representatives; and (c) shall survive the death, dissolution or incapacity, as applicable, of each of the Holders.

8.4.4 Replacement. If Holders' Representatives are dissolved, resign or are otherwise unable to fulfill their responsibilities hereunder, the Holders shall (by consent of those Persons entitled to at least a majority of the Contingent Consideration), within ten days after such dissolution, resignation or inability, appoint a successor to such Holders' Representatives reasonably satisfactory to Parent. Any such successor shall succeed Holders' Representatives as Holders' Representatives hereunder. If for any reason there is no Holders' Representative at any time, all references herein to Holders' Representatives shall be deemed to refer to the Holders who may take action by the written consent of Persons entitled to at least a majority of the Contingent Consideration.

8.4.5 Indemnification; Holders' Representatives Expenses. The Holders' Representatives shall not be liable to the Holders for any action taken or omitted to be taken by it as Holders' Representatives except in the case of willful misconduct or gross negligence. The Holders severally, but not jointly, pro rata based on the number of shares held by each such Holder, shall indemnify, defend and hold harmless the Holders' Representatives and the Holders' Representatives Affiliates and the respective agents, representatives and attorneys of each of the foregoing against any claim that such indemnitees may suffer or incur in connection with their capacity as Holders' Representatives, or any action taken or omitted by such indemnitees hereunder or thereunder (except such resulting from such indemnitee's willful misconduct or gross negligence). Pursuant to this Subsection 8.4.5, the Holders shall reimburse the Holders' Representatives for attorneys, accounting, and other specialists fees reasonably incurred by the Holders' Representatives in the performance of their duties set forth in this Agreement. In addition to seeking reimbursement, the Holders' Representatives may set-off any amounts owed by Holders pursuant to this Subsection 8.4.5 against any amount otherwise payable to such Holders under this Agreement.

8.4.6 Independent Analysis by Holders. Each Holder acknowledges that he, she or it has, independently and without reliance upon the Holders' Representatives or any other Holder, and based on such documents and information as he, she or it has deemed appropriate, made his, her or its own legal analysis and decision to enter into this Agreement. Each Holder also acknowledges that he, she or it, independently and without reliance upon the Holders' Representative or any other Holder, and based on such documents and information as he, she or it deems appropriate at the time, will continue to make his, her or its own decisions in taking or not taking any action under this Agreement and/or any other Transaction Agreement.

8.4.7 No Implied Duties. This Section 8.4 sets forth all of the duties of the Holders' Representatives with respect to any and all matters pertinent hereto. No implied duties or obligations will be read into this Agreement against the Holders' Representatives. The obligations of the Holders' Representatives hereunder are only those expressly set forth herein and therein.

ARTICLE IX: GENERAL PROVISIONS

Section 9.1 Interpretation. The following rules shall apply to the interpretation and construction of the terms and provisions of this Agreement and the other Transaction Agreements:

9.1.1 Provisions.

(a) When a reference is made in this Agreement or another Transaction Agreement to an "Article," "Section," "Exhibit" or "Schedule," such reference shall be to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated.

(b) The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(c) Whenever the words "include," "includes," or "including" are used in this Agreement or any other Transaction Agreement, such words shall be deemed to be followed by the words "without limitation."

(d) The words "hereof," "herein," and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement unless otherwise expressly indicated in the accompanying text.

(e) The use of "or" is not intended to be exclusive unless otherwise expressly indicated in the accompanying text.

(f) The defined terms contained in this Agreement or any of the other Transaction Agreements are applicable to the singular as well as the plural forms of such terms. Reference to the masculine gender shall be deemed to also refer to the feminine gender and *vice versa*.

(g) A reference to documents, instruments or agreements also refers to all addenda, exhibits or schedules thereto.

(h) Any reference to a provision or part of a Law shall include a reference to that provision or part as it may be renumbered or amended from time to time and any successor provision or part or any renumbering or amendment thereof unless otherwise indicated herein.

9.1.2 No Presumption. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall be used to favor or disfavor any Party by virtue of the authorship of any provision of this Agreement.

Section 9.2 Notices. All notices, waivers, consents and other communications to any Party hereunder shall be in writing and shall be deemed given (a) when personally delivered, (b) when receipt is electronically confirmed, if sent by facsimile or email of a PDF document, (c) one Business Day after deposit with a nationally recognized overnight courier, specifying next day delivery, with proof of receipt or (d) three Business Days after being sent by registered or certified mail, return receipt requested and postage prepaid, in each case to the Parties at the address, or if applicable, facsimile number or email address following such Party's name below or such other address, facsimile number or email address as such Party may subsequently designate to the other Parties by notice in accordance with this Section 9.2:

If to Parent or Merger Sub, to:

Daré Bioscience, Inc.
11119 North Torrey Pines Road, Suite 200
La Jolla, CA 92037
Attention: Sabrina Martucci Johnson
Email: sjohnson@darebioscience.com

with copies (which shall not constitute notice) to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
Attention: Jeremy Glaser, Esq.
Email: JDGlaser@mintz.com
Facsimile: (858) 314-1501

If to the Company, to:

30 Colbert Road East
Newton, MA 02465
Attention: Fred Mermelstein and Stephen C. Rocamboli
Email: fmerm@comcast.net; Steve@integrinpartners.com

with a copy (which shall not constitute notice) to:

Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607
Attention: W. David Mannheim, Esq. and Robert E. Futrell Jr., Esq.
Email: wmannheim@wyrick.com; rfutrell@wyrick.com
Facsimile: (919) 781-4865

If to Holders' Representatives, to:

Fred Mermelstein
30 Colbert Road East
Newton, MA 02465
Email: fmerm@comcast.net

Stephen C. Rocamboli
300 Second Ave, Apt 4183
Needham, MA 02494
Email: Steve@integrinpartners.com

with a copy (which shall not constitute notice) to:

Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607
Attention: W. David Mannheim, Esq. and Robert E. Futrell Jr., Esq.
Email: wmannheim@wyrick.com; rfutrell@wyrick.com
Facsimile: (919) 781-4865

Section 9.3 Assignment and Succession. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by any of the Parties without the written consent of the other Parties, except that Parent or Merger Sub may, without the prior consent of any other Party, (a) assign any or all of its rights, interests and obligations under this Agreement to any Affiliate of Parent, (b) assign this Agreement and any of its rights and obligations hereunder to the purchaser of all or substantially all of its equity securities or assets by merger, contract or otherwise in one transaction or a series of related transactions and (c) collaterally assign this Agreement to any lender; provided that no such assignment shall relieve the assigning party of any of its obligations hereunder. Any assignment of this Agreement or any of the rights, interests or obligations hereunder not permitted under this Section 9.3 shall be null and void ab initio. Subject to the foregoing terms of this Section 9.3, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

Section 9.4 Amendment or Supplement. Subject to the requirements of applicable Law, this Agreement may be amended at any time by execution of an instrument in writing identifying itself as an amendment signed, when amended prior to the Closing, by Parent, Merger Sub and the Company and, when amended on or after the Closing, by Parent, the Company and Holders' Representatives. For purposes of this Section 9.4, the Joinder Holders have agreed pursuant to the Joinders that any amendment of this Agreement consented to by Holders' Representatives shall be binding on and enforceable against them, whether or not they have signed this Agreement or such amendment, except those relating to the Total Merger Consideration, which shall require the vote of the Holders of 67% of the as-converted shares of the Company Capital Stock.

Section 9.5 Waivers. No waiver of any provision of this Agreement shall be valid and binding unless it is in writing and signed by the Party against whom the waiver is to be effective. No failure on the part of any Party in exercising any right, privilege or remedy hereunder and no delay on the part of any Party in executing any right, privilege or remedy under this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right hereunder. No notice to or demand on a Party made hereunder shall operate as a waiver of any right of the Party giving such notice or making such demand to take further action without notice or demand as permitted hereunder.

Section 9.6 Entire Agreement. This Agreement, including the Schedules and Exhibits hereto and the other documents referred to herein which form a part hereof, the Confidentiality Agreement and the Joinders, contain the entire understanding of the Parties with respect to the subject matter contained herein and therein. This Agreement supersedes all prior and contemporaneous, agreements, arrangements, contracts, discussions, negotiations, undertakings and understandings (whether written or oral) between the Parties with respect to such subject matter (other than the Confidentiality Agreement and the Joinders). Upon the Closing, the Confidentiality Agreement shall automatically terminate and none of the Parties shall have any further Liability or obligation thereunder.

Section 9.7 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties) any right, benefit or remedy of any nature whatsoever under this Agreement, except that after the Effective Time, Parent Indemnified Persons and Holder Indemnified Persons shall be third party beneficiaries for purposes of enforcing the rights granted to such Parent Indemnified Persons and Holder Indemnified Persons under Section 8.2. For the avoidance of doubt, no consent of any Indemnified Person shall be necessary to amend any provision of this Agreement.

Section 9.8 Remedies Cumulative. All rights and remedies of each of the Parties shall be cumulative and the exercise of any one or more rights or remedies shall not preclude the exercise of any other right or remedy available hereunder or under applicable Law.

Section 9.9 Specific Performance. The Parties agree that Parent and Merger Sub would be irreparably harmed if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by the Company could not be compensated adequately by monetary damages alone. Accordingly, the Parties agree that, in addition to any other remedy to which they may be entitled to at Law or in equity, Parent and Merger Sub shall be entitled to seek temporary, preliminary and/or permanent injunctive relief or injunctions to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement (including the right of Parent to compel the other Parties to cause the Merger to be consummated on the terms and subject to conditions set forth in this Agreement) without having to prove irreparable harm or that monetary damages would be inadequate. The Company expressly waives any requirement under any Law that Parent or Merger Sub obtain any bond or give any other undertaking in connection with any action seeking injunctive relief or specific performance of any of the provisions of this Agreement. The Company further agrees that in the event of any action for specific performance relating to this Agreement or the Merger, it shall not assert and hereby waives the defense that a remedy at Law would be adequate or that specific performance is not an appropriate remedy for any reason in Law or equity.

Section 9.10 Severability. If a court of competent jurisdiction finds that any term or provision of the Agreement is invalid, illegal or unenforceable under any Law or public policy, the remaining provisions of the Agreement shall remain in full force and effect if the economic and legal substance of this Agreement and the Merger shall not be affected in any manner materially adverse to any Party. Any such term or provision found to be illegal, invalid or unenforceable only in part or in degree shall remain in full force and effect to the extent not invalid, illegal or unenforceable. Upon the determination that any term or provision is invalid, illegal or unenforceable, the Parties intend that such provision shall be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent possible under applicable Law and compatible with the consummation of the Transactions as originally intended.

Section 9.11 Costs and Expenses. Except as otherwise specified herein, whether or not the Merger is consummated, each Party shall pay all costs and expenses it has incurred in connection with this Agreement and the Merger.

Section 9.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall constitute one instrument. The exchange of copies of this Agreement and manually executed signature pages by transmission by facsimile or by email of a PDF of a handwritten original signature or signatures to the other Parties shall constitute effective execution and delivery of this Agreement and may be used in lieu of the original Agreement for all purposes. The signature of a Party transmitted by facsimile or other electronic means shall be deemed to be an original signature for any purpose.

Section 9.13 Governing Law. This Agreement and all claims or causes of action (whether sounding in contract or tort) arising under or related to this Agreement, shall be governed by and construed in accordance with, the Laws of the State of Delaware, without regard to any rule or principle that might refer the governance or construction of this Agreement to the Laws of another jurisdiction.

Section 9.14 Exclusive Jurisdiction; Venue; Service of Process. In any action or proceeding between any of the Parties arising under or related to this Agreement, the other Transaction Agreements or the Merger, each of the Parties (a) knowingly, voluntarily, irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or to the extent that such court does not accept jurisdiction, the Superior Court of the State of Delaware or the United States District Court for the District of Delaware, (b) agrees that all claims in respect of any such action or proceeding shall be heard and determined exclusively in accordance with clause (a) of this Section 9.14, (c) waives any objection to the laying of venue of any such action or proceeding in such courts, including any objection that any such action or proceeding has been brought in an inconvenient forum or that the court does not have jurisdiction over any Party and (d) agrees that service of process upon such Party in any such action or proceeding shall be effective if such process is given as a notice in accordance with Section 9.2. The Parties agree that any Party may commence a proceeding in a court other than the above-named courts solely for the purpose of enforcing an order or judgment issued by one of the above-named courts.

Section 9.15 JURY TRIAL. EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNDER THE PROFESSIONAL ADVICE OF COUNSEL WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LEGAL ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE TRANSACTION AGREEMENTS OR THE MERGER BETWEEN ANY OF THE PARTIES.

Section 9.16 Legal Representation.

9.16.1 Parent hereby agrees, on its own behalf and on behalf of the Surviving Corporation (following Closing) and their respective directors, members, managers, partners, officers, employees and Affiliates, and each of their successors and assigns (all such parties, the "Waiving Parties"), that (i) Wyrick Robbins Yates & Ponton LLP (the "Law Firm") may represent the Holders, the Holders' Representatives and their Affiliates (other than the Surviving Corporation) (collectively, the "Holder Group"), on the one hand, and the Company, on the other hand, in connection with the negotiation, preparation, execution and delivery of this Agreement and the other Transaction Agreements, the other agreements contemplated hereby and thereby, and the consummation of the transactions contemplated hereby and thereby (such representation, the "Current Representation"), and (ii) the Law Firm (or any successor) may represent any and all members of the Holder Group or any director, member, manager, partner, officer, employee or Affiliate of the Holder Group in connection with any dispute, litigation, claim, proceeding or obligation arising out of or relating to this Agreement or the other Transaction Agreements, any other agreements contemplated hereby and thereby, or the transactions contemplated hereby or thereby, notwithstanding the Current Representation (or any continued representation of the Company) and even though the interests of such Person(s) may be directly adverse to Parent, the Surviving Corporation and their respective Affiliates, and each of Parent and the Surviving Corporation on behalf of itself and the other Waiving Parties hereby consents thereto and waives (and will not assert) any conflict of interest or any objection arising therefrom or relating thereto. The parties acknowledge that the foregoing provision applies whether or not the Law Firm provides legal services to the Surviving Corporation after the Closing Date.

9.16.2 The parties hereby irrevocably acknowledge and agree that all communications between the Holder Group and their counsel, including the Law Firm, made in connection with the negotiation, preparation, execution, delivery and performance under, or any dispute or proceeding arising out of or relating to, this Agreement or the other Transaction Agreements, any other agreements contemplated hereby and thereby, or the transactions contemplated hereby or thereby, or any matter relating to any of the foregoing (including, for the avoidance of doubt, all of the client files and records in the possession of the Law Firm related thereto), shall be deemed to be attorney-client privileged communications between the Holder Group and such counsel that belong to the Holder Group and the attorney-client privilege and the expectation of client confidence belongs to, and shall be controlled by, the Holder Group and will not pass to or be claimed by Parent, the Surviving Corporation or any of the Waiving Parties and may only be waived with the prior written consent of the Holders' Representatives on behalf of the Holder Group. From and after the Closing, Parent, on behalf of itself, the Surviving Corporation (following Closing) and the Waiving Parties, waives and will not assert any attorney-client privilege with respect to any communication between the Law Firm and the Company, its Subsidiaries or any Person in the Holder Group occurring during the Current Representation.

9.16.3 None of Parent, the Surviving Corporation or any of the other Waiving Parties or any Person purporting to act on behalf of or through Parent (including, for the avoidance of doubt, any of their officers that might also be members of the Holder Group), the Surviving Corporation or any of the Waiving Parties, will access or seek to obtain access to any such communications, or to the files of the Law Firm relating to the Current Representation. The Law Firm shall have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of Parent, the Surviving Corporation or any of the Waiving Parties by reason of any attorney-client relationship between the Law Firm and the Company or otherwise. In addition, Parent and the Surviving Corporation agree that it would be impractical to remove all attorney-client communications from the records (including e-mails and other electronic files) of the Surviving Corporation. Accordingly, as to any such communications prior to the date hereof, Parent and the Surviving Corporation, together with any of the Waiving Parties, further agree that no such Person may use, rely on or access without the prior written consent of the Holders' Representatives any of such communications in a manner that may compromise the attorney-client privilege of such communications.

* * *

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have caused this Agreement and Plan of Merger to be duly executed and delivered as of the date first above written.

DARÉ BIOSCIENCE, INC.

By: /s/ Sabrina Martucci Johnson
Name: Sabrina Martucci Johnson
Title: President and CEO

DARÉ MERGER SUB, INC.

By: /s/ Sabrina Martucci Johnson
Name: Sabrina Martucci Johnson
Title: President and CEO

IN WITNESS WHEREOF, the Parties have caused this Agreement and Plan of Merger to be duly executed and delivered as of the date first above written.

PEAR TREE PHARMACEUTICALS, INC.

By: /s/ Stephen C. Rocamboli
Name: Stephen C. Rocamboli
Title: President

IN WITNESS WHEREOF, the Parties have caused this Agreement and Plan of Merger to be duly executed and delivered as of the date first above written.

HOLDERS' REPRESENTATIVES

/s/ Fred Mermelstein
Fred Mermelstein

/s/ Stephen C. Rocamboli
Stephen C. Rocamboli

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT A

Joinder Agreement

[Attached]

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT B

Holders of Company Preferred Stock

Stockholder	Series A Shares
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
Totals	**[***]**

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT C

Holders of Company Preferred Stock

Stockholder	Series A Shares
[***]	[***]
[***]	[***]
Totals	**[***]**

Portions of this Exhibit, indicated by the mark "[***]", were omitted and have been filed separately with the Securities and Exchange Commission pursuant to the Registrant's application requesting confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 31.1

CERTIFICATIONS

I, Sabrina Martucci Johnson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Daré Bioscience, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 13, 2018

/s/ Sabrina Martucci Johnson
Sabrina Martucci Johnson
President and Chief Executive Officer
(principal executive officer)

Exhibit 31.2

CERTIFICATIONS

I, Lisa Walters-Hoffert, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Daré Bioscience, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 13, 2018

/s/ Lisa Walters-Hoffert
Lisa Walters-Hoffert

Chief Financial Officer
(principal financial officer)

Exhibit 32.1

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Daré Bioscience, Inc. (the "Company") for the fiscal quarter ended June 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Sabrina Martucci Johnson, President and Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, that, to her knowledge on the date hereof:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 13, 2018

/s/ Sabrina Martucci Johnson
Sabrina Martucci Johnson
President and Chief Executive Officer
(principal executive officer)

Exhibit 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Daré Bioscience, Inc. (the "Company") for the fiscal quarter ended June 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Lisa Walters-Hoffert, Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, that, to her knowledge on the date hereof:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 13, 2018

/s/ Lisa Walters-Hoffert
Lisa Walters-Hoffert
Chief Financial Officer
(principal financial officer)