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DELTA REPORT

10-K

EYPT - EYEPOINT PHARMACEUTICALS,

10-K - DECEMBER 31, 2023 COMPARED TO 10-K - DECEMBER 31, 2022

The following comparison report has been automatically generated

TOTAL DELTAS	6881
CHANGES	292
DELETIONS	3848
ADDITIONS	2741

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-K

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

For the fiscal year ended December 31, 2022 2023

or

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

For the transition period from to

Commission File Number 000-51122

EyePoint Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**26-2774444**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
480 Pleasant Street Watertown, MA	**02472**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (617) 926-5000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001	EYPT	The Nasdaq Stock Market LLC (Nasdaq Global Market)

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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 every Interactive Data File required to be submitted 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 such files). Yes ☒ No ☐

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

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

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

The aggregate market value of the common stock held by non-affiliates of the registrant, computed by reference to the closing price of the common stock on the Nasdaq Global Market on June 30, 2022 June 30, 2023, the last trading day of the registrant's most recently completed second fiscal quarter, was approximately $209,510,387 232.9. million.

There were 34,301,926 49,830,792 shares of the registrant's common stock, $0.001 par value, outstanding as of March 2, 2023 March 1, 2024.

DOCUMENTS INCORPORATED BY REFERENCE

Part III of this Annual Report on Form 10-K incorporates certain information by reference from the registrant's proxy statement for the 2023 2024 annual meeting of stockholders to be filed no later than 120 days after the end of the registrant's fiscal year ended December 31, 2022 December 31, 2023.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
FORM 10-K
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2022 2023
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Preliminary Note Regarding Forward-Looking Statements

Various statements made in this Annual Report on Form 10-K are forward-looking and involve risks and uncertainties. All statements that address activities, events or developments that we intend, expect or believe may occur in the future are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements give our current expectations or forecasts of future events and are not statements of historical or current facts. These statements include, among others, statements about:

- the potential for EYP-1901, as an investigational sustained delivery intravitreal treatment deploying a bioerodible Durasert E™ insert of vorolanib, a selective and patented tyrosine kinase inhibitor (TKI) targeting wet age-related macular degeneration (wet AMD), non-proliferative diabetic retinopathy (NPDR), and Diabetic Macular Edema diabetic macular edema (DME);
- our expectations regarding the timing and outcome of our ongoing and planned Phase 2 clinical trials for EYP-1901 for the treatment of wet AMD, NPDR, and NPDR;
- our expectations regarding the timing and clinical development of our other product candidates, including EYP-1901;
- the extent to which our business, the medical community and the global economy will continue to be materially and adversely impacted by the effects of the C pandemic (the Pandemic), or by other pandemics, epidemics or outbreaks;
- potentially improve outcomes in serious retinal diseases;

EYP-2301, a promising TIE-2 agonist, razuprotafib, f/k/a AKB-9778, formulated in Durasert E

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- our strategic alliances with other companies;
- our cash flow expectations from commercial sales of YUTIQ®;
- our expectations regarding the market for DEXYCU® following the loss of pass-through related separate payment for DEXYCU;
- our ability to manufacture YUTIQ, DEXYCU, EYP-1901 or any future products or product candidates, in sufficient quantities and quality;
- our belief that our cash, cash equivalents, and investments in marketable securities of $144.6 million $331.0 million at December 31, 2022 December 31, 2023, and anticipated net will provide a cash inflows from product sales will fund our operating plan runway into 2026 through topline data for the second half of 2024, under curre expectations regarding the timing and outcomes of our EYP-1901 Phase 2 clinical trials for EYP-1901; 3 pivotal trials;
- our ability to obtain additional capital in sufficient amounts and on terms acceptable to us, and the consequences of failing to do so;
- our future expenses and capital expenditures;
- our expectations regarding the timing and results of the August 2022 subpoena from the U.S. Attorney's Office for the District of Massachusetts (DOJ) seeking production of documents related to sales, marketing and promotional practices (DOJ Subpoena), including as pertain to DEXYCU; DEXYCU®;
- our ability to manufacture EYP-1901 or any other products or product candidates, in sufficient quantities and quality;
- our expectations regarding our ability to obtain and adequately maintain sufficient intellectual property protection for EYP-1901 YUTIQ and DEXYCU and any future ot products or product candidates, and to avoid claims of infringement of third-party intellectual property rights;
- risks associated with global economic conditions, including inflation and rising interest rates, or uncertainty caused by geopolitical violence and unrest, including the o conflicts between Ukraine and Russia, and Israel and Hamas;
- the effect of legal and regulatory developments, and;
- our expectation that we will continue to incur significant expenses and that our operating losses and our net cash outflows to fund operations will continue for the foreseeable future; and future.
- the effect of legal and regulatory developments.

Forward-looking statements also include statements other than statements of current or historical fact, including, without limitation, all statements related to any expectations of revenues, expenses, cash flows, earnings or losses from operations, cash required to maintain current and planned operations, capital or other financial items; any statements of the plans, strategies and objectives of management for future operations; any plans or expectations with respect to product research, development and commercialization, including regulatory approvals; any other statements of expectations, plans, intentions or beliefs; and any statements of assumptions underlying any of the foregoing. We often, although not always, identify forward-looking statements by using words or phrases such as "likely", "expect", "intend", "anticipate", "believe", "estimate", "plan", "project", "forecast", and "outlook".

The following are some of the factors that could cause actual results to differ materially from the anticipated results or other expectations expressed, anticipated or implied in our forward-looking statements:

- the effectiveness and timeliness of our preclinical studies and clinical trials, and the usefulness of the data;
- our expectations regarding the timing and clinical development sufficiency of our product candidates, including EYP-1901, and the potential for EYP-1901 as a sustain delivery treatment for serious eye diseases, including wet AMD, NPDR and DME; existing cash resources into 2026;
- our ability to achieve profitable operations and access to needed capital;
- fluctuations in our operating results;
- the duration, scope and outcome of any governmental inquiries or investigations;
- the extent to which the Pandemic impacts our business, the medical community and the global economy;

- consequences of the loss of pass-through related separate payment for DEXYCU pursuant to the Final Rule;
- our ability to successfully produce sufficient commercial quantities of YUTIQ and DEXYCU and to grow YUTIQ revenue and market share in the U.S.;
- our ability to sustain and enhance an effective commercial infrastructure and enter into and maintain commercial agreements for the commercialization of YUTIQ;
- our ability to generate international commercialization opportunities associated with DEXYCU;
- consequences of fluocinolone acetonide side effects for YUTIQ;
- consequences of dexamethasone side effects for DEXYCU;
- the success of current and future license and collaboration agreements, including our agreements with Ocumension Therapeutics (Ocumension) Alimera Sciences, Inc. (Alimera), Betta Pharmaceuticals Co., Ltd. (Betta), Equinox Science, LLC (Equinox) and Betta Pharmaceuticals Co., Ltd. (Betta) Ocumension Therapeutics (Ocumensio
- our dependence on contract research organizations, vendors and investigators;
- effects our ability to manufacture clinical and commercial supply of competition our products and other developments affecting sales of products; product candidates;

- the extent to which the global economic conditions, uncertainty caused by geopolitical violence and unrest and public health crises impact our business, the medical community, and the global economy;
- market acceptance of our products; product candidates, if approved;
- protection of intellectual property and avoiding intellectual property infringement;
- product liability; and
- other factors described in our filings with the SEC.

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We cannot guarantee that the results and other expectations expressed, anticipated or implied in any forward-looking statement will be realized. The risks set forth under Item 1A of this Annual Report on Form 10-K describe major risks to our business, and you should read and interpret any forward-looking statements together with these risks. A variety of factors, including these risks, could cause our actual results and other expectations to differ materially from the anticipated results or other expectations expressed, anticipated or implied in our forward-looking statements. Should known or unknown risks materialize, or should underlying assumptions prove inaccurate, actual results could differ materially from past results and those anticipated, estimated, or projected in the forward-looking statements. You should bear this in mind as you consider any forward-looking statements.

Our forward-looking statements speak only as of the dates on which they are made. We do not undertake any obligation to publicly update or revise our forward-looking statements even if experience or future changes makes it clear that any projected results expressed or implied in such statements will not be realized.

EYEPOINT®, DEXYCU®, YUTIQ®, DURASERT®, DELIVERING INNOVATION TO THE EYE® and Durasert WITH AN EYE ON PATIENTS® are our trademarks. Retisert® and Vitrasert® are Bausch & Lomb's trademarks. YUTIQ® is licensed to Alimera Sciences and Ocumension Therapeutics in their respective territories. ILUVIEN® is Alimera Sciences Inc.'s trademark. Verisome® is a trademark owned by Ramscor, Inc. and exclusively licensed to us. The reports we file or furnish with the SEC, including this Annual Report on Form 10-K, also contain trademarks, trade names and service marks of other companies, which are the property of their respective owners.

Risk Factor Summary

The risk factors summarized below could materially harm our business, operating results and/or financial condition, impair our future prospects and/or cause the price of our common stock to decline. For more information, see "Item 1A. Risk Factors" in this Annual Report on Form 10-K for the year ended December 31, 2022 December 31, 2023.

Material risks that may affect our business, operating results and financial condition include, but are not necessarily limited to, the following:

Risks Related To Our Financial Position and our And Our Capital Resources

- We will likely need additional capital to fund our operations. If we are unable to obtain sufficient capital, we will need to curtail and reduce our operations and costs modify our business strategy.
- We have incurred significant losses since our inception and anticipate that we will continue to incur losses for the foreseeable future.
- We may never achieve profitability from future operations.
- We received a subpoena from the U.S. Attorney's Office for the District of Massachusetts seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU®. If the DOJ commences an action against us, the action could have a material adverse effect on our business, financial condition, results of operations and cash flows. In addition, we have expended and expect to continue to expend significant financial and managerial resources responding to the DOJ Subpoena, which could also have a material adverse effect on our business, financial condition, results of operations and cash flows.
- The ongoing novel coronavirus (COVID-19) pandemic has had, and may continue to have, a material and adverse impact on our business.

- We will need to raise additional capital in the future, which may not be available on favorable terms and may be dilutive to stockholders or impose operational restrictions
- We must maintain compliance The Company's receipt of maximum consideration in conjunction with the terms its sale of rights to our Credit Facilities or receive a waiver YUTIQ® franchise to Alimera for any non-compliance. Our failure to comply with the covenants or other terms $82.5 million cash plus royalties is dependent on Alimera's effective sale and distribution of the Credit Facilities, including as a result YUTIQ® outside of events beyond our control, could result in a default under the SVB Loan Agreement that would materially China, Hong Kong, Taiwan, Macau and adversely affect the ongoing viability of our business. Southeast Asia.
- Our Loan Agreement contains restrictions that limit our flexibility in operating our business.
- Certain potential payments to the Lenders could impede a sale of our company.
- To service our indebtedness, we will require a significant amount of cash and our ability to generate cash depends on many factors beyond use our control. net opera loss carryforwards and other tax attributes may be limited.

Risks Related To The Regulatory Approval And Clinical Development Of Our Product Candidates

- The outcomes of clinical trials are uncertain, and delays in the completion of or the termination of any clinical trial of EYP-1901 or our other product candidates could h our business, financial condition and prospects.

- Clinical trial results may fail to support continued clinical investigations and/or approval of EYP-1901 or our other product candidates.
- We may expend significant resources to pursue our lead product candidate, EYP-1901 for the treatment of wet AMD, NPDR, and DME, and fail to capitalize on the pote of EYP-1901, or our other product candidates, for the potential treatment of other indications that may be more profitable or for which there is a greater likelihood of succ
- Initial Phase 1 or 2 results from a clinical trial do not ensure that the trial will be successful and success in early-stage clinical trials does not ensure success in later-s clinical trials.
- We face risks related Interim, "top-line" and preliminary data from our clinical trials that we announce or publish from time to health epidemics time may change as r

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patient data become available and outbreaks, including are subject to audit and verification procedures that could result in material changes in the Pandemic, which c
significantly disrupt our preclinical studies and clinical trials. final data.

- We may find it difficult to enroll patients in our clinical trials, which could delay or prevent clinical trials of our product candidates.
- We are largely dependent on the clinical and future commercial success of our lead product candidate, EYP-1901.

Risks Related To The Commercialization Of Our Products And Product Candidates

- Our current business strategy relies in part on our ability to successfully commercialize our approved products; product candidates, if approved; however, the products not achieve market acceptance or be commercially successful.
- Our products product candidates, if approved and commercialized, may continue to be impacted by additional unfavorable pricing regulations, third-party reimburser practices or healthcare reform initiatives which could harm our business.
- If we fail to comply with reporting and payment obligations under the Medicaid Drug Rebate program or other governmental pricing programs, we could be subje additional reimbursement requirements, penalties, sanctions, and fines which could have a material adverse effect on our business, financial condition, results of operat and growth prospects.
- Even though regulatory approvals for YUTIQ® and DEXYCU® have been obtained in the U.S., we will still face extensive FDA regulatory requirements and may face future regulatory difficulties.
- Our relationships with physicians, patients and payors in the U.S. are subject to applicable anti-kickback, fraud and abuse laws and regulations. In addition, we are sul to patient privacy regulation by both the federal government and the states in which we conduct our business. Our failure to comply with these laws could expose u criminal, civil and administrative sanctions, reputational harm, and could harm our results of operations and financial conditions.
- If the market opportunities for our products and product candidates, including EYP-1901, are smaller than we believe they are, our results of operations may be adver affected and our business may suffer.
- If any of our products have newly discovered or developed safety problems, our business would be seriously harmed.
- The Affordable Care Act and any changes in healthcare laws may increase the difficulty and cost for us to commercialize our approved products in the U.S. and affec prices we may obtain.

Risks Related To Our Intellectual Property

- If we are unable to protect our intellectual property rights or if our intellectual property rights are inadequate to protect our product candidates, our competitors could dev and commercialize technology and products similar to ours, and our competitive position could be harmed.
- We may become involved in lawsuits to protect or enforce our patents or the patents of our licensors, which could be expensive, time consuming and unsuccessful.
- We may not be able to protect our intellectual property rights throughout the world.

- Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements impose governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.
- Third parties may initiate legal proceedings alleging that we are infringing their intellectual property rights, the outcome of which could be uncertain and could harm business.
- Our competitors may be able to circumvent our patents by developing similar or alternative technologies or products in a non-infringing manner.
- Changes in either U.S. or foreign patent law or interpretation of such laws could diminish the value of patents in general, thereby impairing our ability to protect our proc or product candidates.
- We may be subject to claims asserting that our employees, consultants, independent contractors, and advisors have wrongfully used or disclosed confidential informa and/or alleged trade secrets of their current or former employers or claims asserting ownership of what we regard as our own intellectual property.
- Intellectual property rights do not prevent all potential threats to competitive advantages we may have.
- If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.
- If our trademarks are not adequately protected, then we may not be able to build name recognition in our markets of interest and our business may be adversely affecte

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Risks Related To Our Reliance On Third Parties

- The development and commercialization of our lead product candidate, EYP-1901, is dependent on intellectual property we license from Equinox Science and API a pharmaceutical ingredient (API) supply of vorolanib from Equinox Science. vorolanib. If we breach our agreement with Equinox or the agreement is terminated, we c lose license rights or API supply of vorolanib that are material to our business.
- The development of our lead product candidate, EYP-1901, is dependent on our supply of its active pharmaceutical ingredient (API) API vorolanib, which we source third-parties. If any manufacturer or partner we rely upon fails to supply vorolanib in the amounts we require on a timely basis, or fails to comply with stringent regulat applicable to pharmaceutical drug manufacturers, we may be unable to meet demand for our products and may lose potential revenues.
- Due If our CROs, vendors and investigators do not successfully carry out their responsibilities or if we lose our relationships with them, our development efforts with res to the loss of pass-through related separate payment of DEXYCU as of January 1, 2023, we agreed to terminate our ongoing Commercial Alliance Agreement ImprimisRx to co-promote DEXYCU, which product candidates could also have a material adverse effect on our business, financial condition and results of operations du a reduction of cash flow associated with DEXYCU. be delayed.
- We use our own facility for the manufacturing of YUTIQ®, and rely on third party suppliers for key components and any disruptions to our operations or to the operations of our suppliers could adversely affect YUTIQ®'s commercial viability.

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- Our manufacturing operations currently depend on our Watertown, MA facility and we are currently developing an additional manufacturing facility in Northbridge, MA. I Watertown location is destroyed or out of operation, or, if the Northbridge development is delayed for a substantial period of time, our business may be adversely impact
- If we encounter issues with our CMOs or suppliers, we may need to qualify alternative manufacturers or suppliers, which could impair our ability to sufficiently and timely manufacture and supply DEXYCU. DEXYCU®.
- We use our own facility for the manufacturing of YUTIQ, and rely on third party suppliers for key components and any disruptions to our operations or to the operations of our suppliers could adversely affect YUTIQ's commercial viability.

Risks Related To Ownership Of Our Common Stock

- The trading price of the shares of our common stock has been highly volatile, and purchasers of our common stock could incur substantial losses.
- A small concentration of approximately ten stockholders beneficially own 63% 65% of our total outstanding common stock, which gives certain stockholders signifi control over matters subject to stockholder approval, which would prevent new investors from influencing significant corporate decisions.
- Certain covenants related to our share purchase agreement with Ocumension may restrict our ability to obtain future financing and cause additional dilution for our stockholders.

PART I

ITEM 1. BUSINESS

Overview

EyePoint Pharmaceuticals (Nasdaq: EYPT) is a clinical-stage biopharmaceutical company committed to developing and commercializing therapeutics to help improve the lives of patients with serious eye disorders. retinal diseases. The Company's pipeline leverages its proprietary bioerodible Durasert E® ™ technology (Durasert) (Durasert E™) for sustained intraocular drug delivery including delivery of delivery. The Company's lead product candidate, EYP-1901, is an investigational sustained delivery intravitreal treatment currently for anti-vascular endothelial growth factor (anti-VEGF) mediated retinal diseases combining vorolanib, a selective and patent-protected tyrosine kinase inhibitor with Durasert E™. Additional pipeline programs include EYP-2301, a promising TIE-2 agonist, razuprotafib, f/k/a AKB-9778, formulated in Phase 2 clinical trials. Durasert E™ to potentially improve outcomes in serious retinal diseases. The proven Durasert® drug delivery platform technology (Durasert®) has been safely administered to thousands of patients' patient eyes across four U.S. FDA products approved products, including YUTIQ® for the treatment of posterior segment uveitis, which is currently marketed by the Company. U.S. Food and Drug Administration (FDA). EyePoint Pharmaceuticals is headquartered in Watertown, Massachusetts.

The Durasert allows® technology (Durasert) provides for the development of a miniaturized solid cylinder of drug for sustained "zero-order kinetics" release that can be delivered through a single standard intravitreal (IVT) injection in the physician's physician office. A Durasert intravitreal IVT insert is can be designed to provide consistent, sustained intravitreal delivery "zero-order kinetics" release of a drug over a period of months to years and can generally be tailored to for each drug and disease indication. Durasert® inserts can be developed in non-erodible formulations or in bioerodible formulations using Durasert E™.

EYP-1901 is an investigational product and our lead pipeline program deploying a bioerodible Durasert insert of vorolanib, a selective and patented tyrosine kinase inhibitor (TKI), that potentially brings has the potential to bring a new mechanism of action and treatment paradigm for anti-VEGF mediated serious eye diseases beyond existing anti-vascular endothelial growth factor (VEGF) large molecule therapies. EYP-1901 is presently in Phase 2 clinical trials as a sustained delivery treatment for wet age-related macular degeneration (wet AMD), the leading cause of vision loss among people 50 years of age and older in the United States, and non-proliferative diabetic retinopathy (NPDR), a largely untreated disease due to limitations of available therapies. We expect to initiate a Phase 2 clinical trial in diabetic macular edema (DME) in late 2023 or early 2024.

In 2022, we reported positive twelve-month safety and efficacy data in a Phase 1 clinical trial of EYP-1901 (DAVIO), delivering the active drug vorolanib. diseases. Vorolanib acts through intracellular binding of all VEGF vascular endothelial growth factor (VEGF) receptors thereby blocking all VEGF isoforms. Vorolanib has also demonstrated encouraging neuroprotection data in preclinical in-vivo studies potentially bringing an additional treatment benefit.

EYP-1901 is presently in Phase 2 clinical trials as a sustained delivery treatment for wet age-related macular degeneration (wet AMD), non-proliferative diabetic retinopathy (NPDR), and diabetic macular edema (DME). We expect to initiate pivotal Phase 3 clinical trials in wet AMD in the second half of 2024.

In wet AMD, EYP-1901 is being developed as a sustained delivery six-month maintenance therapy as treatment and in December 2023, we reported positive topline six-month safety and efficacy data from the Phase 2 clinical trial (DAVIO 2). DAVIO 2 is a six-month treatment. non-inferiority, randomized controlled, three-arm clinical trial comparing two doses of EYP-1901 (2mg and 3mg) against an aflibercept control arm. Data from the DAVIO 2 clinical trial demonstrated that 53% EYP-1901 achieved all primary and secondary endpoints including;

- Both EYP-1901 cohorts demonstrated a statistically non-inferior change in best corrected visual acuity BCVA versus aflibercept control with a numerical difference of patients went six-months without needing a supplemental anti-VEGF injection only -0.3 and -0.4 letters, respectively for the 2mg and 3mg dose at blended six-month

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endpoint.

- Positive safety profile continued with no EYP-1901-related ocular or systemic serious adverse events (SAEs).
- Key secondary endpoints were achieved with both EYP-1901 doses. These include an over 80% reduction in treatment burden, across all with nearly two-thirds of eyes supplement-free up to six-months.
- Strong anatomical control in both EYP-1901 cohorts was reduced documented by 75% through six-months. For optical coherence tomography (OCT).

In NPDR, we believe EYP-1901 has the potential is being developed as a once-yearly potential nine-month treatment option. for this disease. We completed enrollment in the Phase 2 clinical trial for NPDR (PAVIA) in May of 2023 and expect topline data in the second quarter of 2024.

Our In January 2024, we announced the first patient dosing in the Phase 2 clinical trial of EYP-1901 in DME and anticipate topline data in the first quarter of 2025.

In May 2023, we completed our transition to a clinical-stage biopharmaceutical company with the license of our commercial product, YUTIQ®, to Alimera Sciences Inc., for $82.5 million plus potential royalties on future revenues beginning in 2025. YUTIQ®

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is a once every three-year treatment for chronic non-infectious uveitis affecting the posterior segment of the eye that utilizes a non-erodible formulation of Durasert. Durasert®. YUTIQ® was launched in the U.S. in 2019 and we have focused on its use by both uveitis and retinal specialist physicians. 2019.

We continue to evaluate potential pipeline product candidates through internal discovery efforts, research collaborations and in-licensing arrangements to build our pipeline.

The ongoing COVID-19 coronavirus pandemic (the Pandemic) has had a material and adverse impact on the Company's business pursuant to a reduction in physician office visits impacting YUTIQ, specifically in early 2022. Going forward, the duration and full extent to which the Pandemic impacts the Company's business, revenues, financial condition and cash flows depend on future developments that are highly uncertain, subject to change and are difficult to predict, including new information that may emerge concerning the Pandemic, and may cause intermittent or prolonged periods of reduced patient services at the Company's customers' facilities, which may negatively affect customer demand. The Company's revenues, financial condition and cash flows may be adversely affected in the future as well. The Company is continuously monitoring the Pandemic and its potential effect on the Company's financial position, results of operations and cash flows. Although the U.S. government has announced its intention to terminate the public health crisis associated with the Pandemic as of May 2023, there remains an uncertainty about the potential future impact of the Pandemic on the Company's business. This uncertainty could have an impact in future periods on certain estimates used in the preparation of the Company's periodic financial results, including reserves for variable consideration related to product sales, realizability of certain receivables and assessment for excess or obsolete inventory. Uncertainty around the extent and length of time of the Pandemic, and any future related financial impact cannot be reasonably estimated at this time.

Our Pipeline and Commercial Products

The following table describes the stage of each of our programs:

DEVELOPMENT PROGRAM	STATUS	PARTNER
EYP-1901 – vorolanib in bioerodible Durasert E™ • Wet wet AMD • NPDR • DME	Phase 2 clinical trials underway in wet AMD, NPDR and NPDR DME DME Phase 2 trial anticipated in Q4 2023 or Q1 2024	Partnered with Betta Pharmaceuticals in China, Hong Kong, Taiwan and Macau
EYP-2301 – razuprotafib in Durasert E™	Preclinical development	
COMMERCIAL PROGRAMS	**STATUS**	**PARTNER**
YUTIQ – chronic non-infectious uveitis affecting the posterior segment	Commercial	Ocumension – Asia Alimera – EU, Middle East, Canada, Australia and New Zealand

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DEXYCU – Treatment of inflammation following ocular surgery	Commercial, but no longer actively marketed due to loss of pass-through reimbursement by CMS effective January 1, 2023	Ocumension – Asia Unpartnered

Strategy

Our goal is to become a leader in the development and commercialization of innovative sustained delivery therapeutics to help improve the lives of patients with serious eye disorders. The key elements of our strategy include:

- **Advance EYP-1901** through Phase 3 clinical development for wet AMD, NPDR and DME
- **Advance EYP-1901** into clinical trials in additional indications, potentially including Myopic Choroidal Neovascularization myopic choroidal neovascularization (CNV) and retinal vein occlusion (RVO)
- **Advance EYP-2301 into clinical development for serious retinal diseases**
- **Expand product pipeline through in-license, partnership or acquisition** with initial focus on molecules that can be delivered using our Durasert® technology.
- **Leverage our drug delivery technologies** through research collaborations and out-licenses with other pharmaceutical and biopharmaceutical companies, institutions and other organizations.

The Unmet Need in the Treatment of Eye Disease – Duration of Action

We are primarily focused on diseases affecting the posterior segment of the eye, with particular attention on retinal disease. We leverage our best-in-class sustained delivery Durasert® technology to achieve improved outcomes with more convenient dosing regimens. Diseases of the retina and posterior segment of the eye include wet AMD, DR, and DME and other indications including orphan diseases and certain cancers.

Our lead pipeline program, EYP-1901, is initially focused on improving the treatment of wet AMD, DR NPDR, and DME and these DME. These VEGF mediated diseases share an underlying propensity to cause leakage from either pre-existing damaged blood vessels or new vessels (neovascularization), that, if untreated, can lead to severe visual loss.

These conditions are generally treated locally with frequent large molecule anti-VEGF ligand blocking intravitreal injections. While these treatments have a positive history of safety and initial efficacy, the need for frequent injections hampers long term visual outcomes. Many patients with retinal or other posterior segment diseases such as non-infectious uveitis require lifelong treatment and interruptions in therapy can result in disease reactivation and permanent visual loss. Accordingly, monthly or bi-monthly injections are not an effective long term means of delivering a steady state dose to the site of disease for many patients. Finally, the risk of patient non-compliance increases when treatment involves multiple products or complex or painful dosing regimens, as patients age or suffer cognitive impairment or serious illness, or when the treatment is lengthy or expensive.

Drug delivery for treating ophthalmic diseases in posterior segments of the eye is a significant challenge. Due to the effectiveness of the blood-eye barrier, it is difficult for systemically (orally or intravenously) administered drugs to reach the retina in sufficient quantities to have a beneficial effect without causing adverse side effects to other parts of the body.

Due to the drawbacks of frequent intravitreal injections, we believe the development delivery of methods to deliver drugs to patients in a more precise, micro dose zero order release kinetics over longer periods of time with Durasert® can satisfy a large unmet medical need

for both patients and physicians. In addition, with less frequent injections, we believe patients will be able to better comply with their prescribed treatment regimen as the burden of having to frequently go into the physician's office for eye injections, usually over a lifetime after diagnosis, presents issues for patients. Further, we are focused on bringing new mechanisms of action to the treatment of disease in addition to the current

standard of care. Unlike many chronic diseases that are treated with drugs addressing multiple mechanisms of action, most retinal diseases are currently addressed using a single mechanism of action.

Durasert Technology Platform

Our current Durasert® technology platform uses proprietary sustained release technology to deliver drugs in the eye over periods of months to years through a single intravitreal (IVT) injection. To date, four products utilizing successive generations of the Durasert® technology have been approved by the FDA. In addition to our own YUTIQ, these These products include YUTIQ® (fluocinolone acetonide intravitreal implant or FA 0.18 mg) and ILUVIEN (FA intravitreal implant) 0.19 mg, which are both licensed to Alimera

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Sciences Inc. (Alimera), and Retisert® (FA intravitreal implant) implant 0.59 mg mg) and Vitrasert® (ganciclovir) (ganciclovir intravitreal implant 4.5 mg, mg), which are both licensed to Bausch & Lomb. Earlier ophthalmic products that utilize the Durasert® technology, Retisert and Vitrasert, are surgically implanted; while ILUVIEN and YUTIQ® were designed to be injected delivered IVT during a physician office visit.

The Durasert® technology allows for the production of a solid, injectable, sustained release insert of a drug compound. All four FDA-approved Durasert® products utilize a non-erodible formulation of Durasert. Durasert®. For these products, the drug core matrix is coated with one or more polymer layers, and the permeability of those layers and other design aspects control the rate and duration of drug release. By changing elements of the design, we can alter both the rate and duration of release to meet different therapeutic needs.

EYP-1901 deploys a bioerodible formulation of the Durasert technology. technology, Durasert E[Ô]. In this formulation, the drug core matrix remains essentially unchanged, however, the non-erodible polymer layers are not utilized. This allows the solid insert to potentially deliver higher doses of drug and for the remaining core matrix to be fully bio eroded after the drug is fully released.

Our Durasert® technology platform is designed to provide sustained delivery of drugs for ophthalmic diseases and conditions with the following features:

- *Sustained Delivery*. The delivery of drugs for predetermined periods of time ranging from months to years. We believe that uninterrupted, sustained delivery offers the opportunity to develop products that reduce the need for repeated applications, thereby reducing the risks of patient noncompliance and adverse effects from repeated administrations.
- *Controlled Release Rate*. The release of therapeutics for sustained zero-order kinetics at a controlled rate. We believe that this feature allows us to develop products that deliver optimal concentrations of therapeutics over time and eliminate excessive variability in dosing during treatment.
- *Local Delivery*. The delivery of therapeutics directly to a target site. We believe this administration can allow the natural barriers of the body to isolate and assist in maintaining appropriate concentrations at the target site to achieve the maximum therapeutic effect while minimizing unwanted systemic effects.

Our Product Candidates

EYP-1901 for wet AMD, NPDR and DME

EYP-1901 is an investigational product deploying a bioerodible Durasert insert of vorolanib, a selective and patent protected TKI, that potentially brings a new mechanism of action and treatment paradigm for serious eye diseases beyond existing anti-VEGF large molecule ligand blocking therapies. EYP-1901 utilizes our bioerodible Durasert E[Ô] technology. We have reported positive safety and efficacy data for EYP-1901 in our Phase 1 2 DAVIO clinical trial and we are currently developing evaluating EYP-1901 in Phase 2 clinical trials for wet AMD (DAVIO 2) NPDR (PAVIA) and NPDR. A DME (VERONA). The Phase 2 clinical trial in DME is anticipated to initiate in late 2023 or early 2024. enrolled its first patient on January 9, 2024.

Vorolanib acts through intracellular binding of all VEGF receptors thereby blocking all VEGF isoforms, the main driver of the proliferation of blood vessels that are the hallmark of wet AMD and other retinal diseases. In addition to the safety and efficacy demonstrated in the DAVIO clinical trial, vorolanib has also demonstrated encouraging neuroprotection data in preclinical in-vivo studies potentially bringing an additional treatment benefit. Prior to in-licensing by EyePoint, the Company, vorolanib was previously studied in Phase 1 and 2 clinical trials as an orally delivered therapy for the treatment of wet AMD and data from these trials demonstrated a positive clinical signal and no ocular toxicity.

Market Opportunity in Wet Age-Related Macular Degeneration (wet AMD) wet AMD

Wet AMD occurs when new, abnormal blood vessels grow under the retina. These vessels may leak blood or other fluids, causing scarring of the macula. This form of AMD is less common but much more serious. AMD is one of the major causes of vision loss of the total vision impairment globally.

As the proportion of people in the U.S. age 65 and older grows larger, more people are developing age-related diseases such as AMD. From 2000-2010, the number of people with AMD grew 18 percent, from 1.75 million to 2.07 million. By 2050, the estimated

number of people with AMD is expected to more than double from 2.07 million to 5.44 million. White Americans are expected to continue to account for the majority of cases. However, Hispanics are expected to account for the greatest rate of increase, with a nearly six-fold rise in the number of expected cases from 2010 to 2050.

Age is the greatest risk factor for developing AMD and individuals aged 50+ are more prone to the disease. Among all AMD patients in the United States, wet AMD accounts for only 10% of cases, yet it alone accounts for 90% of legal blindness.

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There are several effective and safe treatments for wet AMD available on the market, including large molecule anti-VEGF intravitreal injectable drugs marketed under the brands names Lucentis, Eylea, Eylea HD, Vabysmo, Beovu, and Avastin (off label use). However, these treatments must be injected in a physician's office either monthly, bi-monthly or in some patients every three to four months, which can cause inconvenience and discomfort and often lead to reduced compliance and poor outcomes. The branded drug, SUSVIMO™, a port delivery technology for ranibizumab, was approved by the FDA in 2021 and requires an initial surgical placement of the port. Genentech voluntarily recalled Susvimo in October 2022 and all new implants have been paused. The issue is the septum dislodges preventing the PDS implant to be refilled. It is currently not known when Susvimo will be commercially available again. Genentech initially said it would be back on market "in a year or so."

Separate published studies using real world data (one study in the U.S. and another that includes Canada, France, Germany, Ireland, Italy, the Netherlands, UK, and Venezuela) indicate that despite initial efficacy, approved wet AMD treatments still result in vision loss over time.

We believe that EYP-1901, if approved as a potential six-month sustained delivery maintenance therapy, has the potential to offer wet AMD patients a convenient safe and effective treatment option with a unique mechanism of action.

Market Opportunity in Non-Proliferative Diabetic Retinopathy (NPDR)

Diabetic retinopathy (DR) is a frequent complication of diabetes mellitus. Slow but progressive changes in the small blood vessels of the retina may cause no symptoms or only mild vision problems in early stages. The disease progresses from NPDR to proliferative diabetic retinopathy (PDR). At any stage, retina bleeding and fluid accumulation lead leads to DME which can cause blindness. Both PDR and DME are common DR complications associated with the progression of the disease. Diabetes is the leading cause of new cases of blindness in adults. This is a growing problem as the number of people living with diabetes increases, so does the number of people with impaired vision due to NPDR.

The central retina area that is located between the main branches (superior and inferior arcades) of the central retinal vessels in the eye is known as the "macular area." area". The retina beyond this is considered "peripheral retina." retina". The central retinal area can develop abnormal findings. These findings can be present in the non-proliferative or the proliferative forms of the disease. These changes in the macula include the presence of abnormally dilated small vessel outpouchings (called microaneurysms), retinal bleeding (retinal hemorrhages) and yellow lipid and protein deposits (hard exudates). With DME, the macula can get thicker than normal.

NPDR can be classified into mild, moderate or severe stages based upon the presence or absence of retinal bleeding, abnormal venous beading of the vessel wall (venous beading) or abnormal vascular findings (intraretinal microvascular anomalies or IRMA). NPDR progresses to PDR and/or DME, which is a major cause of vision loss in a diabetic eye. No treatment is typically administered at the NPDR stages. A treatment with a sustainable dosing regimen that slows or prevents progression of NPDR to PDR or DME could help reduce the vision threatening effects of diabetic eye disease.

Market Opportunity in Diabetic Macular Edema (DME)

DME is triggered by DR, a well-known complication of diabetes. DR is caused by long-term damage to the retina's small blood vessels. The leakage of fluid into the retina may lead to swelling of the surrounding tissue, including the macula. If left untreated, fluid can leak into the macula's center, called the fovea, the part of the eye where sharp, straight-ahead vision occurs. The fluid makes the macula swell, blurring vision. This condition results in DME. DME can occur at any stage of DR, although it is more likely to occur later with the disease's progression.

Common signs and symptoms of DME include dark spots like a smudge on glasses or gaps that may appear in the vision, blurred vision, double vision, faded colors, or the affected person may find bright light or glare difficult. The American Academy of Ophthalmology (AAO) estimates that nearly 80% of Type 1 diabetics and 50% of Type 2 diabetics will have developed DR after living with diabetes for 15 and 20 years, respectively.

Per the March 3, 2022, Journal of American Medical Association of Ophthalmology, DR is the leading cause of incident blindness in US adults aged 20 to 74 years old and DME can occur with any stage of DR. DR and DME affect 28.5% and 3.8%, respectively, of US adults, 40 years and older, with diabetes.

The most common treatments of DME are anti-VEGF Drugs, drugs, corticosteroids, and laser photocoagulation. Topical nonsteroidal anti-inflammatory drugs (NSAIDs), in the form of eye drops, are sometimes used either before or after cataract surgery to prevent the development of macular edema. Currently, intravitreal anti-VEGF agents are the preferred first-line treatment for DME.

Clinical Development

The EYPT-1901 Phase 1 DAVIO clinical trial (DAVIO) was a dose escalation trial that enrolled 17 wet AMD patients across four separate doses. The primary endpoint of the trial was safety, and key secondary endpoints were best corrected visual acuity (BCVA) and central subfield thickness. thickness (CST) measured by optical coherence tomography (OCT).

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In November 2021, we reported positive interim six-month safety and efficacy data for the DAVIO clinical trial. There were no ocular Serious Adverse Events (SAEs) SAEs reported, no drug-related systemic SAEs reported, and all ocular adverse events (AEs) were ≤ grade 2; the only grade 3 AE was not drug-related. Regarding efficacy, stable visual acuity (VA) and optical coherence tomography (OCT) OCT and a clinically significant reduction in treatment burden of 75% was observed with a median time to rescue of six months. The six-month interim data also reported that 53% of patients in the trial did not require a supplemental anti-VEGF treatment up-to the six-month visit.

In July 2022, we updated the results of the DAVIO clinical trial through 12-months reporting continued positive safety and efficacy results. This included a continuation of a clinically significant reduction in treatment burden of 73% at 12 months. The data also reported that 35% of patients in the trial did not require a supplemental anti-VEGF treatment up-to the twelve-month visit.

We initiated DAVIO 2 is a multi-center randomized, double-masked controlled Phase 2 clinical trial for of EYP-1901 for in previously treated patients with wet AMD (DAVIO 2) AMD. Originally designed to enroll 144 patients, the trial enrolled 160 patients in total due to strong investigator and top-line data patient interest. All enrolled patients were previously treated with a standard-of-care anti-VEGF therapy and were randomly assigned to one of two doses of EYP-1901 (approximately 2 mg or 3 mg) or an aflibercept control. EYP-1901 is anticipated delivered with a single intravitreal injection in the fourth quarter physician's office, similar to current FDA approved anti-VEGF treatments. The primary non-inferiority efficacy endpoint was change in BCVA compared to the aflibercept control, approximately six-months after the EYP-1901 injection. Secondary endpoints include safety, reduction in treatment burden, mean change in CST as measured by OCT, the percent of 2023. eyes that remain free of supplemental anti-VEGF injections, and number of aflibercept injections in each group.

DAVIO 2 top line results at week 32 were released on December 4, 2023. In summary, the study indicated:

- Both EYP-1901 doses (2mg and 3mg) achieved all primary and secondary endpoints.
- Statistical non-inferiority in change in BCVA (at a confidence interval of 95%) compared to aflibercept control, at weeks 28 and weeks 32 combined. The 2mg and 3mg doses were only -0.3 and -0.4 letters different, respectively, versus on-label aflibercept. The lower limit of the non-inferiority margin is defined as a -4.5 letters by the FI with 5 letters representing one line on the eye chart.
- Continued positive safety and tolerability profile with no EYP-1901-related ocular or systemic SAEs.
- 89% and 85% reduction in treatment burden, respectively, for the 2mg and 3mg EYP-1901 doses, when comparing the injections in the 6 months prior to entry into the vs. the injections administered during the study following EYP-1901 dosing.
- 65% and 64% of eyes were supplement free up to six-months, respectively, for the 2mg and 3mg doses of EYP-1901.
- Both EYP-1901 doses demonstrated strong anatomic control with OCT difference below 10 microns at week 32 compared to the aflibercept control.
- Patient discontinuation up to week 32 was low at 4% with no EYP-1901 related discontinuation.

The DAVIO 2 study is ongoing with continued patient follow up through week 56:

- On February 2, 2024, in the sub-group of patients who were supplement-free up to six months, the EYP-1901 groups demonstrated numerical superiority in change in along with strong anatomic control compared to the aflibercept control group. This result confirms that the positive topline data from the Phase 2 DAVIO 2 trial were dr by EYP-1901 and not by study eyes requiring supplemental injection.

The PAVIA NPDR Phase 2 clinical trial is expected to enroll approximately 144 patients across a three arms comprised of arm trial with two separate doses of EYP-1901, with an aflibercept given as single injection on Day 1, and a sham control. In addition, PAVIA is evaluating EYP-1901 as a potential nine-month treatment in NPDR and the trial completed enrollment of 77 patients. A summary of the trial includes:

- Moderately severe to severe NPDR patients enrolled
- Primary endpoint: 2, or more, step diabetic retinopathy severity score (DRSS) improvement at week 36
- Secondary endpoints include reduction in vision-threatening complications, DME occurrence and or proliferative disease, retinal ischemia and safety

The PAVIA topline results are anticipated in the second quarter of 2024.

The VERONA DME Phase 2 clinical trial, in NPDR (PAVIA) was initiated in the third quarter of 2022, following the initiation of the Phase 2 wet AMD trial. The PAVIA is a three arm trial is expected to enroll approximately 105 patients across three arms comprised of with two separate doses of EYP-1901 and an aflibercept control. VERONA is evaluating EYP-1901 as a sham control. potential six-month treatment in previously treated DME patients. The two EYP-1901 doses are administered as a single injection on Day 1 following the aflibercept injection on the same visit. The trial enrolled its first patient on Jan 9, 2024, and topline results are anticipated in the first quarter of 2025. A summary of the trial includes:

- Evaluate the safety and efficacy of EYP-1901 in the DME patient population
- Collect dose-ranging data to inform future clinical trials
- Primary endpoint: time to supplemental anti-VEGF injection up to week 24
- Secondary endpoints: change in BCVA vs. aflibercept control, stable anatomical outcome as measured by OCT, DRSS over time

Intellectual Property

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EYP-1901

The Company's lead product candidate, EYP-1901, is an investigational sustained delivery treatment for anti-VEGF-mediated retinal diseases combining vorolanib, a selective and patent-protected tyrosine kinase inhibitor with Durasert E[Ô].

In February 2020, we entered into an Exclusive License Agreement (Equinox License Agreement) with Equinox Science, LLC (Equinox), pursuant to which Equinox granted us an exclusive, sublicensable, royalty-bearing right and license to certain patents and other Equinox intellectual property to research, develop, make, have made, use, sell, offer for sale and import the compound vorolanib and any pharmaceutical products comprising the compound for the prevention or treatment of wet AMD, DR and RVO (the Original Field) using our proprietary localized delivery technologies, in each case, throughout the world except China, Hong Kong, Taiwan and Macau (the Territory). On May 2, 2022, we entered into Amendment #1 to the Equinox License Agreement, pursuant to which the Original Field was expanded to cover the prevention or treatment of ophthalmology indications using the Company's proprietary localized delivery technologies.

In consideration for the rights granted by Equinox, we (i) made a one time, non-refundable, non-creditable upfront cash payment of $1.0 million to Equinox in February 2020, and (ii) agreed to pay milestone payments totaling up to $50 million upon the achievement of certain development and regulatory milestones, consisting of (a) completion of a Phase 2 clinical trial for the compound or a licensed product, (b) the filing of a new drug application (NDA) or foreign equivalent for the compound or a licensed product in the United States, European Union, or United Kingdom and (c) regulatory approval of the compound or a licensed product in the United States, European Union, or United Kingdom.

We also agreed to pay Equinox tiered royalties based upon annual net sales of licensed products in the Territory. The royalties are payable with respect to a licensed product in a particular country in the Territory on a country-by-country and licensed product-by-licensed product basis until the later of (i) twelve years after the first commercial sale of such licensed product in such country and (ii) the first day of the month following the month in which a generic product corresponding to such licensed product is launched in such country (collectively, the Royalty Term). country. The royalty rates range from the high-single digits to low-double digits depending on the level of annual net sales. The royalty rates are subject to reduction during certain periods when there is no valid patent claim that covers a licensed product in a particular country.

On May 2, 2022, the Company entered into an Exclusive License Agreement (the Betta License Agreement) with Betta Pharmaceuticals Co., Ltd. (Betta), an affiliate of Equinox. Under the Betta License Agreement, the Company granted to Betta an exclusive, sublicensable, royalty-bearing license under certain of the Company's intellectual property to develop, use (but not make or have made), sell, offer for sale, and import the Company's product candidate, EYP-1901, an investigational sustained delivery intravitreal anti-VEGF treatment that combines a bioerodible formulation of the Company's proprietary sustained-release technology with the compound vorolanib (the Licensed Product), in the field of ophthalmology (the Betta Field) in the Greater Area of China, including China, the Hong Kong Special Administrative Region, the Macau Special Administrative Region, and Taiwan (the Betta

Territory). The Company retained rights under the Company's intellectual property to, among other things, conduct clinical trials on the Licensed Product in the Betta Field in the Betta Territory.

In consideration for the rights granted by the Company, Betta agreed to pay the Company tiered, mid-to-high single-digit royalties based upon annual net sales of Licensed Products in the Betta Territory. The royalties are payable on a Licensed Product-by-Licensed-Product and region-by-region basis commencing on the first commercial sale of a Licensed Product in a region and continuing until the later of (i) the date that is twelve (12) years after first commercial sale of such Licensed Product in such region, and (ii) the first day of the month following the month in which a generic product corresponding to such Licensed Product is launched in the relevant region. The royalty rate is subject to reduction under certain circumstances, including when there is no valid claim of a licensed patent that covers a Licensed Product in a particular region.

EYP-2301

The Company is advancing EYP-2301 into pre-clinical development. EYP-2301 delivers razuprotafib, f/k/a AKB-9778, formulated in Durasert E[Ô] to potentially improve outcomes in serious retinal diseases.

In August 2021, we entered into an Asset Purchase Agreement with Aerpio Pharmaceuticals Inc. (Aerpio), pursuant to which we acquired all right title and interest in and to certain U.S. and ex-U.S. patents and applications relating to certain Tie-2 activating molecules, including razuprotafib, for a one-time cash payment of $450,000. The assets we acquired from Aerpio included hundreds of patents and applications.

Our Commercial Previously Commercialized Products

YUTIQ®

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YUTIQ® (fluocinolone acetonide intravitreal implant or FA 0.18 mg) for intravitreal injection, was approved by the FDA in October 2018, and we commercially launched YUTIQ in the U.S. in February 2019. On May 17, 2023, and we licensed the U.S. rights to Alimera and also entered with Alimera into a product rights agreement (the Product Rights Agreement). Pursuant to the Product Rights Agreement, we granted Alimera an exclusive and sublicensable (in accordance with the terms of the Product Rights Agreement) right and license under the Company's and its affiliates' interest in certain of the Company's and its affiliates' intellectual property to develop, manufacture, sell, commercialize, and otherwise exploit certain products, including YUTIQ is indicated® (for the treatment and prevention of uveitis in the entire world except Europe, the Middle East, and Africa (the Licensed Territory). The Licensed Territory excluded such territories because the Company had previously licensed to Alimera rights to certain products, which included YUTIQ® (known as ILUVIEN® in Europe, the Middle East, and Africa (EMEA)) for the treatment and prevention of uveitis in EMEA pursuant to that certain Second Amended and Restated Collaboration Agreement, dated as of July 10, 2017, by and between pSivida, US, Inc. (f/k/a Control Delivery Systems, Inc.) (n/k/a EyePoint Pharmaceuticals U.S., Inc., an affiliate of Company) and Alimera. The license also excluded any rights to YUTIQ® for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye. YUTIQ is a once every three-year treatment utilizing a non-erodible formulation of our proprietary Durasert technology that is administered during a physician office visit.

In addition eye in China and certain other countries and regions in Asia, which rights have been exclusively licensed by the Company to commercialization of YUTIQ in the U.S., we have licensed (i) regulatory, reimbursement and distribution rights Ocumension Therapeutics ("Ocumension") pursuant to the product to Alimera for Europe, Middle East, Exclusive License Agreement, dated as of November 2, 2018, by and Africa (EMEA) under its ILUVIEN tradename between the Company and (ii) Ocumension. We licensed clinical development, regulatory, reimbursement, and distribution rights to Durasert FA YUTIQ® to Ocumension Therapeutics (Ocumension) for Mainland China, Hong Kong, Macau, Taiwan, South Korea, and other jurisdictions across Southeast Asia.

Market Opportunity

Chronic non-infectious uveitis affecting the posterior segment of the eye is an inflammatory disease that afflicts people of all ages, producing swelling and destroying eye tissues, which can lead to severe vision loss and blindness. This disease affects between 60,000 to 100,000 people each year in the U.S. and causes approximately 30,000 new cases of blindness every year. The standard of care treatment for this disease typically involves the use of short-acting corticosteroids to reduce uveitic flares followed by additional treatments of sustained release, lower dose steroids to minimize the risk of further flares.

Recent Clinical Development Highlights

CALM real world registry study is ongoing and collecting real world data on YUTIQ for the Treatment of Chronic Non-Infectious Uveitis Affecting the Posterior Segment. There were two initial baseline posters presented at the American Society of Retina Specialists (ASRS) and Retina Society conferences in 2021. At present, data for 188 eyes of 122 patients have been logged in the registry. Various posters with follow-up data will be presented at ARVO 2023 Meeting and at the ASRS 2023 meeting. Additional data will be analyzed and presented or published as the study continues and the data are analyzed.

In the second quarter of 2022, we dosed the first patient in a Phase 4 Study, the SYNCRONICITY study, of YUTIQ® (fluocinolone acetonide intravitreal implant) 0.18 mg was approved and sales commenced in China in 2022 and we are entitled to royalties on product sales by Ocumension. Alimera is now responsible for the treatment of Chronic Non-Infectious Posterior Segment Uveitis. This is a 2-year, prospective, open-label, uncontrolled, safety all commercial, regulatory, and efficacy study. Its objective is distribution activities related to evaluate the safety and efficacy of YUTIQ® for the management of chronic non-infectious posterior segment uveitis that has responded to previous steroid therapy. We plan to enroll approximately 125 subjects with at least 100 subjects expected to complete two years of follow-up. The primary efficacy endpoints will be evaluated at six months and will be as follows: 1) Mean change from baseline in BCVA letter score in the study eye measured by Early Treatment Diabetic Retinopathy Study (ETDRS) visual acuity charts and 2) Mean change from baseline central subfield thickness (CST, also known as central foveal thickness) measured by spectral domain optical coherence tomography (SD-OCT) in the study eye. As of January 2023, 25% patient recruitment has been attained, as the clinical trial continues, data will be presented or published and when appropriate data are analyzed.

Intellectual Property

We own the rights for . YUTIQ® in the U.S. and all foreign jurisdictions and have licensed these rights in EMEA and Mainland China, Hong Kong, Macau and Taiwan. In August 2020, we expanded the out-license agreement with Ocumension to include South

Korea and other jurisdictions across Southeast Asia. We have patent rights for YUTIQ is a once every three-year treatment utilizing a non-erodible formulation of our proprietary Durasert® in the U.S. through at least August 2027 and internationally through dates ranging from October 2024 to May 2027.

Sales and Marketing

YUTIQ was granted technology that is administered during a permanent and specific J-code by the Centers for Medicare & Medicaid Services (CMS), effective October 1, 2019. Approximately 20 Key Account Managers (KAMs) are dedicated to calling on uveitis and retinal specialists across the U.S. as of February 28, 2023.

In 2020, the retinal and uveitis markets were impacted by the Pandemic as most teaching hospitals and many independent practices significantly reduced the patient access and flow into the clinics. As a result, many patients were unable to receive the treatments needed to control the inflammatory disease in a timely manner. We started to see customer demand return in the third and fourth quarter of 2020.

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In 2021, the pandemic continued to impact the ability of KAMs to promote YUTIQ, especially in the institutional segment. However, there was a significant expansion of utilization in the retinal segment and the fourth quarter of 2021 saw record sales and customer demand. This expansion within the retinal market continued throughout 2022 and this drove record sales and customer demand for YUTIQ. physician office visit.

DEXYCU®

DEXYCU® (dexamethasone intraocular suspension) 9%, for intraocular administration, was approved by the FDA in February 2018 for the treatment of post-operative ocular inflammation and commercially launched in the U.S. in March 2019 with a primary focus on its use immediately following cataract surgery. DEXYCU® is administered as a single dose directly into the surgical site at the end of ocular surgery and is the first long-acting intraocular product approved by the FDA for the treatment of post-operative inflammation. DEXYCU utilizes our proprietary Verisome® drug-delivery technology, which allows for a single intraocular injection that releases dexamethasone, a corticosteroid, for up to 22 days.

Market Opportunity

DEXYCU is approved for ocular post-surgical inflammation. The initial market we have focused on for DEXYCU is post-operative inflammation associated with cataract surgery as there were approximately 3.8 million cataract surgeries performed in 2018 in the U.S.

Due to the elimination of separate pass-through reimbursement by CMS the Centers for Medicare and Medicaid Services (CMS) as described below, the market opportunity for this product is significantly impacted and, accordingly, the Company has minimized terminated promotion of this program in the U.S.

Clinical Development Highlights

Retrospective study data were presented at the Association for Research U.S in Vision and Ophthalmology (ARVO) and American Society of Cataract and Refractive Surgery (ASCRS) 2021. This completed study was a multicenter retrospective study of real world data from use of DEXYCU. ARVO 2021 data from this study highlighted real world data in patients with a history of glaucoma treated with DEXYCU for inflammation control following cataract surgery. Anti-inflammatory efficacy, as measured by anterior chamber cell (ACC) count clearing and safety with regard to intraocular pressure (IOP) elevation were similar in patients with glaucoma to the full study population.

Intellectual Property

We own the worldwide rights to all indications for DEXYCU® and in January 2020 we out-licensed clinical development, regulatory, reimbursement and distribution rights to Ocumension for the product in Mainland China, Hong Kong, Macau and Taiwan. In August 2020, we expanded the out-license agreement with Ocumension to include South Korea and other jurisdictions across Southeast Asia.

Sales and Marketing

Effective January 1, 2022, our commercial alliance partner, ImprimisRx, assumed responsibility for all sales and marketing activities for DEXYCU in the U.S. and absorbed the majority of our DEXYCU commercial organization. We continued to recognize net product revenue and maintained manufacturing and distribution responsibilities for DEXYCU along with non-sales related regulatory compliance. We paid ImprimisRx a commission based on the net sales of DEXYCU and retained all commercial rights and the NDA for DEXYCU. ImprimisRx utilized their internal sales representatives and their numerous indirect representatives to promote DEXYCU to their existing cataract surgery customers. The contract with ImprimisRx was terminated on December 31, 2022.

In October 2018, DEXYCU was granted “pass through status” by CMS for reimbursement of DEXYCU separate from the cataract procedure payment bundle for a 3-year period. The 3-year period commenced in April 2019, the quarter of the first claim for reimbursement for DEXYCU was submitted to CMS and was to expire in March 2022. In addition, in November 2018, CMS assigned a specific and permanent J-code for DEXYCU, effective January 1, 2019, that enabled reimbursement across all types of payers. In the 2022 CMS Hospital Outpatient Prospective Payment System Final Rule, which was released in November of 2021, CMS decided that DEXYCU would receive adjusted separate payment for nine months equivalent to an extension of pass through status through December 31, 2022 as a result of the Public Health Emergency which limited access to many therapies provided in the ASC or outpatient setting. The 2023 CMS Hospital Outpatient Prospective Payment System Final Rule did not extend DEXYCU pass through payment beyond December 31, 2022, therefore as of January 1, 2023 the payment for DEXYCU is part of the bundled surgical payment. 2023.

Manufacturing

The FDA carefully regulates the quality of pharmaceuticals. The main regulatory standard for ensuring pharmaceutical quality is the Current Good Manufacturing Practice (cGMPs) regulation for human pharmaceuticals. Manufacturing of our clinical trial materials (CTM) and of our commercial products is subject to these cGMPs which govern record-keeping, manufacturing processes

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and controls, personnel, quality control and quality assurance, among other activities. Incoming raw materials and components from suppliers are inspected upon arrival according to pre-specified criteria prior to use in the CTM or the commercial product. During product manufacture, in-process tests are conducted on intermediate products according to pre-specified criteria; testing is finally conducted on the finished product prior to its release. Our systems and our contractors are required to comply with cGMP requirements, and we assess compliance regularly through performance monitoring and audits.

EYP-1901

Production, assembly, and packaging of EYP-1901 CTM is done in the Class 10,000 clean rooms located at our Watertown, MA facility. We source the active pharmaceutical ingredient (API) vorolanib from Betta Pharmaceuticals and various raw materials and components for both EYP-1901 and its injector from third-party vendors. We established a relationship with a U.S.-based contract manufacturing supplier for vorolanib to develop transfer the process for manufacturing vorolanib and to become the U.S. supplier of vorolanib for use in EYP-1901. Our agreements with Betta Pharmaceuticals and these third parties include confidentiality, and intellectual property, and supply provisions to protect our proprietary rights related to EYP-1901. In January 2023, we announced that we entered into a lease agreement to design and construct a 40,000-square-foot manufacturing facility in Northbridge, Massachusetts to support the global manufacturing of our programs, including EYP-1901. The 40,000 square-foot standalone manufacturing facility will be GMP compliant to meet U.S. FDA and European Medicines Agency (EMA) standards and support EYP-1901's clinical supply and commercial readiness upon regulatory approval. In addition, the building will have the capacity and capabilities to support our expanding pipeline. The new facility, customized for our requirements, will be constructed and managed by V.E. Properties IX, LLC, and is expected to be operational in the second half of 2024.

YUTIQ®

Production, assembly, and packaging of YUTIQ® is done in the Class 10,000 clean rooms located at our Watertown, MA facility. facility and we are supplying such product to our partners pursuant to our respective agreements with them. We source the API and various raw materials and components for YUTIQ® from third-party vendors. Our agreements with these third parties include confidentiality and intellectual property provisions to protect our proprietary rights related to YUTIQ.

DEXYCU®

We currently use a contract manufacturer for the commercial supply of DEXYCU. DEXYCU®. A separate contract manufacturer provides kitting and packaging of the finished product, and other vendors provide sterilization, testing, and storage services. Our agreements with these third parties include confidentiality and intellectual property provisions to protect our proprietary rights related to DEXYCU. DEXYCU®. We require our contract manufacturers to operate in accordance with cGMPs and all other applicable laws and regulations. We employ personnel with extensive technical, manufacturing, analytical, and quality experience to oversee contract manufacturing and testing activities, and to compile manufacturing and quality information for our regulatory submissions.

U.S. Sales and Marketing

As of February 28, 2023, we have 20 KAMs deployed across May, 2023, the U.S. responsible for commercial support of YUTIQ® was shut down due to the sale out-license of YUTIQ. In addition the product to our KAMs, we have an experienced Alimera. There are no internal employees presently supporting YUTIQ® sales and marketing leadership team that has extensive commercialization experience with ophthalmic products at previous companies. efforts.

Effective January 1, 2022, our commercial alliance partner, ImprimisRx, assumed responsibility for all sales and marketing activities for In 2023, we terminated the promotion of DEXYCU in the U.S. and absorbed the majority of our DEXYCU commercial organization. Our partnership with ImprimisRx ended on December 31, 2022 and DEXYCU marketing responsibilities returned to EyePoint and we have minimized those activities in 2023 ® due to the elimination of separate pass-through reimbursement by CMS. DEXYCU

is not commercially supported by the Company although it is still available through specialty distributors.

U.S. Market Access and Payer Reimbursement

In 2018 we recruited a team of highly experienced personnel to form our market access team. The team is comprised of our VP of Market Access and Government Affairs, Assoc. Director of Patient Access, Director of National Accounts (NAD), and Field Reimbursement Managers (FRMs) who handle the reimbursement for both YUTIQ and DEXYCU. Their roles include the discussions with payers regarding the costs and benefits of our products for their members; assisting with the addition of our products to the medical policy of payers; and providing the market with assistance regarding reimbursement queries.

We have initiated a patient assistance platform called EyePoint AssistSM to provide co-pay and coinsurance relief for eligible commercial patients.

Reimbursement for YUTIQ is® was obtained using a permanent J code, established on October 1, 2019, which enables reimbursement from both Medicare and commercial payers. In May 2023 we out-licensed YUTIQ® to Alimera. DEXYCU® had three-year pass through status with Medicare which expired effective January 1, 2023. The Company made the decision to no longer commercially support DEXYCU® from a sales and marketing perspective as of January 1, 2023, and therefore all patient assistance programs and support were also concluded concurrently. Accordingly, we now focus on reimbursement matters related to our product candidates.

U.S. Product Distribution Channel

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We have previously established a distribution channel in the United States for the commercialization of YUTIQ® and DEXYCU® that provides provided physicians with several options for ordering our products. This includes agreements with a nationally recognized third-party logistics provider (3PL), several distributors, and a specialty pharmacy provider for physicians who prefer to use a traditional buy-and-bill model. The 3PL provides fee-based services related to logistics, warehousing, order fulfilment, invoicing, returns and accounts receivable management. While DEXYCU® is still available through this network, all YUTIQ® product responsibilities including distribution were turned over to Alimera effective May 2023.

Research Agreements

From time to time, we enter into research agreements with third parties to evaluate our technology platforms for the treatment of ophthalmic and other diseases. We intend to continue this activity with partner compounds that could be successfully delivered with our Durasert and, potentially, Verisome technology platforms on a fee-for-service basis with the potential for future clinical and commercial milestones and royalties.

FDA Approved Products Licensed to Others Other Entities

YUTIQ® for posterior segment uveitis

YUTIQ® (fluocinolone acetonide intravitreal implant or FA 0.18 mg) for intravitreal injection, was approved by the FDA in October 2018 and commercially launched in the U.S. in February 2019. YUTIQ® is indicated for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye. YUTIQ® is a once every three-year treatment utilizing a non-erodible formulation of our proprietary Durasert technology that is administered during a physician office visit. In May 2023 we licensed rights to YUTIQ® to Alimera for $82.5 million with $75 million paid up-front and $7.5 million due in equal quarterly installments in 2024. We are also entitled to low to mid double-digit royalty on Alimera's related U.S. net sales above defined thresholds for the calendar years 2025-2028.

We have licensed clinical development, regulatory, reimbursement and distribution rights to YUTIQ® to Ocumension for Mainland China, Hong Kong, Macau, Taiwan, South Korea, and other jurisdictions across Southeast Asia. YUTIQ® was approved in China in 2022 and we are entitled to royalties on product sales by Ocumension.

ILUVIEN for DME

ILUVIEN is an injectable, sustained-release micro-insert based on our Durasert® technology platform and which delivers 0.19 mg of FA to the back of the eye for treatment of DME. DME is a disease suffered by diabetics where leaking capillaries cause swelling in the macula, the most sensitive part of the retina. DME is a leading cause of blindness in the working-age population in most developed countries. The ILUVIEN micro-insert is substantially the same micro-insert as YUTIQ. YUTIQ®.

We originally licensed our Durasert® proprietary insert technology to Alimera for use in ILUVIEN for the treatment of all ocular diseases (excluding uveitis). On July 10, 2017, we entered into the an amended and restated collaboration agreement with Alimera (the Amended Alimera Agreement, Agreement), pursuant to which we (i) expanded the license to Alimera to our proprietary Durasert® sustained-release drug delivery technology platform to include uveitis, including chronic non-infectious uveitis affecting the posterior segment of the eye, in the EMEA and (ii) converted the net profit share arrangement for each licensed product (including ILUVIEN) under the original collaboration agreement with Alimera (the Prior Alimera Agreement) to a sales-based royalty on a calendar quarter basis commencing July 1, 2017, with payments from Alimera due 60 days following the end of each calendar quarter.

Sales-based royalties started at the rate of 2% and increased, commencing December 12, 2018, to 6% on aggregate calendar year net sales up to $75 million and 8% in excess of $75 million. Alimera's share of contingently recoverable accumulated ILUVIEN commercialization losses under the Prior Alimera Agreement, capped at $25 million, are to be reduced as follows: (i) $10.0 million was cancelled in lieu of an upfront license fee on the effective date of the Amended Alimera Agreement; (ii) for calendar years 2019 and 2020, 50% of earned sales-based royalties in excess of 2% will be offset against the quarterly royalty payments otherwise due from Alimera; (iii) in March 2020, another $5 million was cancelled upon Alimera's receipt of regulatory approval for ILUVIEN for the uveitis indication; and (iv) commencing in calendar year 2021, 20% of earned sales-based royalties in excess of 2% will be offset against the quarterly royalty payments due from Alimera until such time as the balance of the original $25 million of recoverable commercialization losses has been fully recouped. On December 17, 2020, we sold our interest in royalties payable to us under our license agreement with Alimera in connection with Alimera's sales of ILUVIEN® to SWK Funding, LLC (SWK) in exchange for a one-time $16.5 million payment from SWK.

Retisert for chronic non-infectious uveitis affecting the posterior segment of the eye

Retisert is a sustained-release non-erodible implant based on our Durasert technology platform for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye. Surgically implanted, it delivers 0.59 mg of FA to the back of the eye for approximately 30 months. Retisert is licensed to Bausch & Lomb, with which we co-

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developed the product. Retisert is approved in the U.S., Bausch & Lomb sells the product and paid sales-based royalties to us. The patent with which Retisert is marketed expired in March 2019. As such, pursuant to our agreement with Bausch & Lomb, payment of sales-based royalties concluded at the end of March 2019 following patent expiration.

Strategic Collaborations

We have entered into a number of collaboration and license agreements to develop and commercialize our product candidates and technologies. In each agreement, we have retained the right to use and develop the underlying technologies outside of the scope of the exclusive licenses granted. The license and collaboration arrangements typically include, among other terms and conditions, non-refundable upfront license fees, milestone payments and royalties on product sales. Please refer to Note 3 to the Consolidated Financial Statements, included under Item 15, "Exhibits and Financial Statement Schedules," for further details.

Intellectual Property

We own or license patents in the U.S. and other countries. Our patents generally cover the design, formulation, manufacturing methods, and use of our sustained release therapeutics, devices and technologies. For example, we own and/or license U.S. and foreign patents and patent applications for our DURASERT® technology and our VERISOME® technology. In addition, we own U.S. and foreign patents and patent applications covering other technologies, such as devices used to administer some of our products. Patents for individual products extend for varying periods according to the date of patent filing or grant and legal term of patents in the various countries where patent protection is obtained. The actual protection afforded by a patent, which can vary from country to country, depends upon the type of patent, the scope of its coverage, and the availability of legal remedies in the country. Patent term

extension may be available in various countries to compensate for a patent office delay or a regulatory delay in approval of the product.

The U.S. patents that were previously listed in the USFDA Orange Book for Retisert expired in March 2019. The latest expiring patent listed in the USFDA Orange Book covering ILUVIEN® and YUTIQ® expires in August 2027 in the U.S. and in October 2024 in the EU, although extensions have been obtained or applied for through May 2027 in various EU countries. The U.S. patent covering the YUTIQ® injector and administration with this injector expires in January 2028.

The last of the previously issued patents covering DEXYCU® expire in July 2023, but additional patents have issued in the U.S. that will cover DEXYCU® until at least May 2034, and to the injection dosing guides until June of 2039.

The last expiring patent covering the vorolanib compound licensed to us by Equinox Science and used in EYP-1901 expires in September 2037, but EyePoint the Company has filed an additional patent application for EYP-1901 that, if issued, would extend coverage of EYP-1901 until at least 2041. In addition, EyePoint the Company has filed additional patent applications for technology relating to EYP-1901, that, if issued, could expire in 2043, and for a new injector designed for administration of DURASERT®, that, if issued, could expire in 2042.

The acquired Aerpio patent portfolio now includes more than 300 approximately 150 U.S. or ex-U.S. patents and pending applications that claim compositions of matter, pharmaceutical formulations and compositions and/or methods of use covering for both small molecule and mono and bi-specific antibody inhibitors of the protein tyrosine phosphatase (VE-PTP). One of the small molecules is razuprotafib. Some of the antibodies covered include both VE-PTP and VEGF binding domains. VE-PTP is a negative Tie2 regulator that, when inhibited, can activate the Tie2 pathway leading to downstream signaling that promotes vascular health, stability and decreases vascular permeability and inflammation associated with a number of posterior segment eye diseases. The patent claims to for methods of use relate primarily to disease indications where activation of Tie2 and associated vascular stabilization are potentially beneficial. The potential expiration dates of the patents and applications in this portfolio range from 2027 to 2041. This date range is estimated and based on certain assumptions, including that certain applications will be granted, all necessary fees will be paid and no terminal disclaimers or other limitations on expiration are required for certain patents or applications.

The latest expiring U.S patent listed in the U.S. FDA Orange Book covering ILUVIEN® and YUTIQ® expires in August 2027 and the latest expiring European counterpart expires in October 2024, although extensions have been obtained or applied for through May 2027 in various European countries. The U.S. patent covering the YUTIQ® injector and administration with this injector expires in January 2028.

Our issued patents cover DEXYCU® until at least May 2034 and cover the injection dosing guides until at least June of 2039.

Human Capital Resources

To achieve the goals and expectations of our Company goals, it is critical that we continue to attract and retain top talent. talent with experience in clinical development, regulatory, manufacturing and other functional areas crucial to executing on our strategy. To facilitate talent attraction and retention, we strive to make our company Company ensures a safe and rewarding workplace, with providing opportunities for our employees to grow and develop in their careers, supported by strong careers. We offer compensation

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and incentives that include market-competitive pay, equity grants, performance bonuses, healthcare benefits, and health retirement, and wellness programs, including paid time off and by programs that build connections between flexible work schedules. We embrace our employees.

Company culture and strive to foster a collaborative, inclusive, and productive work environment.

As of February 28, 2023 February 29, 2024, we had 144 121 full-time employees all located in the United States. None of our employees are represented by a collective bargaining agreement. agreement and none are represented by labor union. During fiscal 2022 2023 our voluntary turnover rate was 16% 7.6%, which is consistent with below the average voluntary turnover rates for Boston-area Biotech biotech companies.

The success of our business is fundamentally connected to the well-being of our employees. Accordingly, we are committed to their health, safety, and wellness. We provide our employees and their families with access to a variety of innovative, flexible and convenient health and wellness programs, including benefits that provide protection and security so that they have peace of mind concerning events that may require time away from work, or that impact their financial well-being, that well-being. We support their physical and mental health and by providing tools and resources to help them improve or maintain their health status and encourage engagement in healthy behaviors, behaviors. Depending on the nature of the work both remote and that offer choice where possible so they can customize their benefits to meet their needs and the needs of their families. In response to the Pandemic, we implemented significant changes that we determined were in the best interest of our employees, as well as the communities in which we operate, and which comply with government regulations. This includes having many of our non-laboratory employees hybrid work from home, while implementing additional safety measures for employees continuing on-site work. arrangements are available.

We also provide robust compensation and benefits programs to meet the needs of our employees. In addition to competitive base salaries, these programs include annual discretionary bonuses, stock equity awards, a 401(k) plan and employer match, an employee stock purchase program, health, dental and vision insurance benefits, tax advantaged health savings and flexible spending accounts, paid time off, family leave and flexible work schedules, among others. Our broad-based equity programs include includes all employees with employees. The vesting conditions are set to facilitate the retention of employees with critical skills and experience and motivate employees to perform to the best of their abilities, while we achieve our objectives.

In order to promote long-term retention and maximize the potential of our employees, we invest in their professional and personal development. By offering needs-based supplemental training, management development and effective communications training our employee satisfaction scores have increased. We survey our employees on a regular basis and report the results of those surveys back to management and our board of directors.

As a company our success is rooted in the diversity of our teams and our commitment to inclusion. We value diversity at all levels and continue to focus on extending our diversity and inclusion initiatives across our workforce – from working with managers to recruit diverse team members to the advancement of leaders from different backgrounds.

Competition

The market for products treating eye diseases is highly competitive and is characterized by extensive research efforts and rapid technological progress. We face substantial competition for our FDA-approved products and our product candidates. Pharmaceutical, drug delivery, and biotechnology companies, as well as research organizations, governmental entities, universities, hospitals, other nonprofit organizations, and individual scientists, have developed and are seeking to develop drugs, therapies, and novel delivery methods to treat diseases targeted by our products and product candidates. Most Many of our competitors and potential competitors are larger, better established, more experienced, and have substantially more resources than we or our partners have. Competitors may reach the market earlier, may have obtained or could obtain patent protection that dominates or adversely affects our products and potential products, and may offer products with greater efficacy, lesser or fewer side effects, and/or other competitive advantages. We believe that competition for treatments of eye diseases is based upon the effectiveness of the treatment, side effects, time to market, reimbursement and price, reliability, ease of administration, dosing or injection frequency, patent position, and other factors.

Many companies have or are pursuing products to treat eye diseases that are or would be competitive with EYP-1901 and YUTIQ. other pipeline products. Some of these products and product candidates include the following:

EYP-1901 for wet AMD, NPDR and DME

FDA-approved LUCENTIS® (ranibizumab), EYLEA (aflibercept)® (aflibercept 2mg), EYLEA® HD (aflibercept 8mg), VABYSMO® (faricimab) and off-label use of the cancer drug AVASTIN® (bevacizumab) are the leading treatments for wet AMD. Lucentis, Eylea, and Avastin are also used in the treatment of NDPR DR and DME. There are also two approved biosimilar FDA-approved Lucentis biosimilars mediations approved by the FDA.

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In 2021, the FDA approved Susvimo, a first-of-its-kind port delivery system (PDS) with ranibizumab for the treatment of patients with wet AMD. However, in the Fall of 2022, Susvimo was taken off the market by Genentech via a voluntary recall. In January 2022, the FDA approved VABYSMO® (faricimab), a bispecific antibody Ang-2 and VEGF-A vascular endothelial growth factor-A inhibitor. Also in 2022, two ranibizumab biosimilars, Byooviz and Cimerli entered the market. The FDA also approved Beovu® brolucizumab injection on October 8, 2019.

In August 2023, the FDA approved EYLEA® HD (aflibercept 8mg) for wet AMD, DME, and DR based on the pivotal PULSAR and PHOTON trials in which EYLEA® HD demonstrated clinically equivalent vision gains to EYLEA® (aflibercept 2 mg) that were maintained with fewer injections.

In addition to FDA approved products, there are a number of investigational treatments in development including the following:

REGENXBIO Inc., and Adverum Biotechnologies, Inc. , 4D Molecular Therapeutics (4DMT), 4D Molecular Therapeutics (4DMT), as well as several others in early development are developing gene therapy treatments for retinal diseases, such as wet AMD. AMD and DME. REGENXBIO is developing RGX-314, ABBV-RGX-314, a gene therapy utilizing its NAV AAV8 vector containing a gene encoding for a monoclonal antibody fragment which inhibits VEGF. Adverum is developing ADVM-022, Ixo-vec (formerly ADVM-022), a gene therapy utilizing an AAV.7m8 vector containing a gene encoding for a protein that expresses aflibercept. 4DMT is developing 4D-150 as an investigational genetic medicine using the intravitreal R100 vector for the treatment of neovascular age-related macular degeneration (wet AMD) and diabetic macular edema (DME). 4D-150 is in the randomized Phase 2 stage of the Phase 1/2 PRISM study for adults with wet AMD and in the Phase 2 SPECTRA study for adults with DME.

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In addition to FDA approved products, there are a number of investigational treatments in development including the following:

Aflibercept 8 mg (high-dose Eylea) – Regeneron/Bayer

In September 2022, Regeneron Pharmaceuticals, Inc., announced that the primary endpoints were met in two pivotal trials investigating novel aflibercept 8 mg with 12- and 16-week dosing regimens in patients with DME and wet AMD.

The PHOTON trial in DME demonstrated that aflibercept 8 mg 12- and 16-week dosing regimens achieved non-inferiority in vision gains compared to the EYLEA 8-week dosing regimen. In this study, 91% and 89% of DME patients were rapidly initiated and maintained on 12- and 16-week dosing intervals (without need for regimen modification) through week 48, respectively.

In this trial, the safety of aflibercept 8 mg was consistent with the established safety profile of EYLEA. Regeneron and Bayer will submit these data to regulatory authorities in countries around the world.

OTX-TKI AXPAXLI (formerly OTX-TKI) – Ocular Therapeutics Therapeutix, Inc.

In February 2023, Ocular Therapeutics Therapeutix, Inc. (Ocular Therapeutix) presented 10-month data for OTX-TKI demonstrating a favorable safety and efficacy profile in a controlled Phase 1 trial of patients that were measured dry at screening. OTX-TKI utilizes axitinib, a TKI, formulated in a hydrogel and delivered through an intravitreal injection.

Ocular Therapeutics has indicated their intention Therapeutix initiated the SOL trial and expects to advance OTX-TKI into Phase 3 trials enroll approximately 300 evaluable wet AMD subjects who are treatment naïve in DR and the study eye in wet AMD. the trial. The SOL trial is designed to be a multi-center, parallel-group trial. In February 2024, Ocular Therapeutix announced that it had screened the first three subjects in the SOL trial in early 2024.

CLS-AX – Clearside Biomedical, Inc.

Clearside Biomedical, Inc. is developing CLS-AX (axitinib injectable suspension) for investigation in patients with neovascular wet AMD (nAMD). AMD. A subset of data was released in 2023 that appeared favorable. Clearside Biomedical announced that topline data results of their Phase 2b clinical trial are expected in the third quarter of 2024.

KSI-301 15

Tarcocimab Tedromer (formerly KSI-301) – Kodiak Sciences Inc.

KSI-301 Tarcocimab Tedromer is an investigational anti-VEGF therapy. In February 2022, July 2023, Kodiak completed enrollment in Sciences Inc. (Kodiak) announced its phase 3 wet AMD GLEAM and GLIMMER Phase III clinical trials, which are global, multicenter, randomized studies designed to evaluate the did not meet their primary efficacy durability and safety endpoints of KSI-301 in patients with treatment-naïve DME.

In each of these studies, patients are randomized to receive either intravitreal KSI-301 on an individualized dosing regimen showing non-inferior visual acuity gains for tarcocimab dosed every eight 8 to 24 weeks after only three 3 monthly loading doses or intravitreal aflibercept every eight weeks after five loading doses. Each study is

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expected compared to enroll approximately 450 patients worldwide; the primary endpoint is the change from baseline in best-corrected vision at a year. Patients will be treated and followed for two years. Both studies are estimated to read out in 2023. aflibercept.

In November 2023, Kodiak Sciences also reported announced it was rebooting its Tarcocimab development program based on the results strength of its phase 3 NPDR GLOW study. In the study, six-month dosing of tarcocimab tedromer 5 mg in moderately severe to severe NPDR met its one-year primary endpoint. Kodiak plans to conduct one additional NPDR pivotal study with a study commercial formulation of KSI-301 for treatment of naïve wet AMD. KSI-301 was found to be not non-inferior to the control group that were treated with Eylea. tarcocimab.

OPT-302 - Opthea Limited

OPT-302 is an intravitreal agent that inhibits VEGF-C vascular endothelial growth factor-C and VEGF-D. D. OPT-302 has been investigated in both DME and nAMD patients in combination with IVI anti-VEGF-A anti-vascular endothelial growth factor-A (anti-VEGF-A) therapy. In Opthea's Opthea Limited's (Opthea) randomized, double-masked, sham-controlled, phase 1b/2a trial, 153 patients with DME were treated with OPT-302 alone, in combination with intravitreal aflibercept injections, or with aflibercept alone. OPT-302 and aflibercept combination therapy yielded the largest proportion of DME patients who gained ≥10 ETDRS Early Treatment Diabetic Retinopathy Study (ETDRS) letters from baseline to week 12.20 Opthea has initiated phase 3 trials for OPT-302 in combination with and in comparison to ranibizumab and aflibercept for nAMD patients. According to Opthea, these trials are currently enrolling.

THR-149 – Oxurion NV

Plasma kallikrein (PKal) is independent of the VEGF pathway and is also thought to promote vascular permeability and neovascularization. THR-149 is bicyclic peptide PKal inhibitor delivered via intravitreal injection currently in clinical trials for DME patients who demonstrated suboptimal response to anti-VEGF therapy. KALAHARI is a 2-part, randomized, multicenter, phase 2 study that aims to assess the dosage levels of THR-149 intravitreal injection in addition to the efficacy and safety of THR-149 compared to aflibercept injections in 126 patients with DME. In May 2023, Oxurion NV announced KALAHARI is expected to reach reached its primary endpoint enrollment target of 108 patients. At that time, Oxurion announced that it anticipated topline data in March the fourth quarter of 2023. Interim results presented in February 2022 revealed that over 80% of DME patients in the THR-149 high-dose arm gained ≥5 ETDRS letters and 50% of patients gained >10 ETDRS letters four months after the final THR-149 injection. 24 Central central subfield thickness (CST) also remained stable at the 6-month mark.

Integrins are transmembrane glycoprotein receptors that play a role in cell signaling, adhesion, migration, remodeling, and proliferation and are thought to contribute to retinal pathology via modulation and integration of the VEGF and Ang/Tie2 pathways. Clinical trials exploring the efficacy of anti-integrin therapy in DME are underway, including integrin inhibitors.

THR-687 – Oxurion NV

THR-687 is an integrin receptor antagonist that inhibits avβ3, avβ5, and a5β, and demonstrated significant and rapid visual acuity gains in a multicenter, single-dose escalation phase 1 study in DME patients. INTEGRAL, a randomized, multicenter, 2-part phase 2 study evaluated the efficacy and safety of THR-687 compared to aflibercept intravitreal injections in 303 DME patients. Although THR-687 met its safety and tolerability endpoints, INTEGRAL found no significant difference in BCVA or CST, leading to the discontinuation of part B of the INTEGRAL trial.

OCS-01 - Oculis Holding AG

OCS-01 1.5% ophthalmic suspension is a topical formulation of dexamethasone that utilizes novel solubilizing nanoparticle technology to enhance bioavailability and durability of the dexamethasone solution.30 solution. DIAMOND is a 2-stage, double-masked, randomized, multicenter phase 3 trial that will evaluate the safety and efficacy of OCS-01 with 2 dosing regimens in comparison to vehicle alone in 482 DME patients for 52 weeks.31 Preliminary results from DIAMOND are expected weeks. In December 2023, Oculis Holding AG announced the first patient first visit in 2024. phase 3 DIAMOND-1 trial of OCS-01 eye drop in diabetic macular edema.

UBX1325 – Unity Biotechnology, Inc.

UBX1325 is an inhibitor of Bcl-xl, a protein that senescent cells rely on for survival. UBX1325 demonstrated a favorable safety profile and sustained improvements in visual acuity through 24 weeks in a phase 1 study of patients with advanced vascular eye disease.32 UBX1325 is currently being studied in disease.
In September, the company announced 48-week results from phase 2 BEHOLD ENVISION study a multicenter, randomized, double-masked, prospective of UBX1325 in patients with wet AMD. Patients on combination treatment with UBX1325 and aflibercept from weeks 24-48 maintained vision gains achieved at week 24 on aflibercept alone. Then in December 2023, Unity Biotechnology, Inc. announced the first patient dosed in phase 2 trial that enrolled 62 patients to receive one 10 µg ASPIRE study of UBX1325 injection or sham IVI and evaluated at 12, 24, and 48 weeks to ensure safety, efficacy, and durability.33 Sixteen-week results of the BEHOLD study are in DME with topline 16-week data expected in the second half of 2022.

YUTIQ for Posterior Segment Uveitis

Periocular and intravitreal steroid injections, and systemic delivery of corticosteroids are routinely used to treat posterior segment uveitis, which is a chronic, inflammatory condition of the eye. It is treated both aggressively and frequently by physicians in order to minimize the disease "flares," which are the main cause of vision deterioration and potential blindness.

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OZURDEX®, marketed by Allergan, is approved in the U.S. and EU for posterior segment uveitis through an intravitreal bioerodible implant that provides treatment which lasts for several months. This limited duration effectiveness of OZURDEX can result in frequent intravitreal injections of the implant.

AbbVie, Inc. has FDA approval for HUMIRA® (adalimumab) for the treatment of all types of non-infectious uveitis (intermediate, posterior and panuveitis) and it is administered subcutaneously every other week for systemic delivery. HUMIRA is a biologic that blocks tumor necrosis factor alpha, a naturally occurring cytokine that is involved in normal inflammatory and immune responses. Humira's retail price in the U.S. is approximately $50,000 per year.

Other companies have ongoing trials of posterior segment uveitis treatments, including Santen Pharmaceutical Co. Ltd., which received a Complete Response Letter (CRL), in December 2017 from the FDA for its filed NDA for sirolimus, which is administered through intravitreal injection every two months. Sirolimus is a mammalian target of rapamycin inhibitor and modulator of the immune system and is being developed for chronic non-infectious uveitis affecting the posterior segment of the eye. Santen initiated a Phase 3 clinical trial of sirolimus in December 2018 in the U.S. The study is entitled: LUMINA: A Phase III, Multicenter, Sham-Controlled, Randomized, Double-Masked Study Assessing the Efficacy and Safety of Intravitreal Injections of 440 ug DE-109 for the Treatment of Active, Non-Infectious Uveitis of the Posterior Segment of the Eye. The study was completed on June 8, 2022 and its primary readout is currently pending.

Clearside Biomedical Inc.'s (Clearside) CLS-TA (triamcinolone acetonide, a steroid) for macular edema associated with non-infectious uveitis has been accepted by the FDA for review and it is administered through a suprachoroidal injection administered every 12 weeks. Preliminary clinical data indicated that the suprachoroidal route may reduce the risk of increased IOP that is typically associated with intraocular injection of steroids. The results of the Phase 3 trial, presented in September 2018, indicated that while about 50% of patients experienced significant improvements in visual acuity through 24 weeks, adverse events of IOP increase were reported in about 12% of patients.

On December 19, 2018, Clearside submitted an NDA for XIPERE™ (CLS-TA) to the FDA for the treatment of macular edema associated with uveitis. On October 18, 2019, Clearside received a CRL from the FDA regarding its NDA for XIPERE. The CRL

included the FDA's request for additional stability data, reinspection of the drug product manufacturer and additional data on clinical use of the final to-be-marketed SCS Microinjector™ delivery system. Clearside indicated that it expects to resubmit its New Drug Application for XIPERE to FDA for review in the first fourth quarter of 2020. On October 23, 2019, Bausch Health Companies Inc. acquired an exclusive license for the commercialization and development of XIPERE in the United States and Canada. XIPERE was eventually approved in the U.S. in October 2021. 2024.

Government Regulation

We are subject to extensive regulation by the FDA and other federal, state, and local regulatory agencies. The Federal Food, Drug and Cosmetic Act (the FD&C Act), and FDA's implementing regulations set forth, among other things, requirements for the testing, development, manufacture, quality control, safety, effectiveness, approval, labeling, storage, record-keeping, reporting, distribution, import, export, advertising, and promotion of our products and product candidates. Although the discussion below

focuses on regulation in the U.S., we currently out-license certain of our products and may seek approval for, and market, other products in other countries in the future. Generally, our activities in other countries will be subject to regulation that is similar in nature and scope to that imposed in the U.S., although there can be important differences. Additionally, some significant aspects of regulation in the EU are addressed in a centralized way through the EMA, and the European Commission, but country-specific regulation remains essential in many respects. The process of obtaining regulatory marketing approvals and the subsequent compliance with appropriate federal, state, local, and foreign statutes and regulations require the expenditure of substantial time and financial resources and may not be successful.

Development and Approval

Under the FD&C Act, FDA approval of an NDA is required before any new drug can be marketed in the U.S. NDAs require extensive studies and submission of a large amount of data by the applicant.

Pre-clinical Testing. Before testing any compound in human patients in the U.S., a company must generate extensive pre-clinical data. Pre-clinical testing generally includes laboratory evaluation of product chemistry and formulation, as well as toxicological and pharmacological studies in several animal species to assess the toxicity and dosing of the product. Certain animal studies must be performed in compliance with the FDA's GLP, Good Laboratory Practice (GLP), regulations and the U.S. Department of Agriculture's Animal Welfare Act.

IND Investigational New Drug (IND) Application. Human clinical trials in the U.S. cannot commence until an IND, application is submitted and becomes effective. A company must submit pre-clinical testing results to the FDA as part of the IND, and the FDA must evaluate whether there is an adequate basis for testing the drug in initial clinical studies in human volunteers. Unless the FDA raises concerns, the IND becomes effective 30 days following its receipt by the FDA, and the clinical trial proposed in the IND may begin. Once

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human clinical trials have commenced, the FDA may stop a clinical trial by placing it on “clinical hold” because of concerns about the safety of the product being tested, or for other reasons.

Clinical Trials. Clinical trials involve the administration of a drug to healthy human volunteers or to patients under the supervision of a qualified investigator. The conduct of clinical trials is subject to extensive regulation, including compliance with the FDA’s bioresearch monitoring regulations and Good Clinical Practice, or GCP, requirements, which establish standards for conducting, recording data from, and reporting the results of, clinical trials, and are intended to assure that the data and reported results are credible and accurate, and that the rights, safety, and well-being of study participants are protected. Clinical trials must be conducted under protocols that detail the study objectives, parameters for monitoring safety, and the efficacy criteria, if any, to be evaluated. Each protocol is reviewed by the FDA as part of the IND. In addition, each clinical trial must be reviewed and approved by, and conducted under the auspices of, an Institutional Review Board, or IRB, institutional review board (IRB), for each clinical site. Companies sponsoring the clinical trials, investigators, and IRBs also must comply with, as applicable, regulations and guidelines for obtaining informed consent from the study patients, following the protocol and investigational plan, adequately monitoring the clinical trial, and timely reporting of adverse events, or AEs. Foreign studies conducted under an IND must meet the same requirements that apply to studies being conducted in the U.S. Data from a foreign study not conducted under an IND may be submitted in support of an NDA if the study was conducted in accordance with GCP and the FDA is able to validate the data.

A study sponsor is required to publicly post specified details about certain clinical trials and clinical trial results on government or independent websites (e.g., http://clinicaltrials.gov). Human clinical trials typically are conducted in three sequential phases, although the phases may overlap or be combined:

- Phase 1 clinical trials involve the initial administration of the investigational drug to humans, typically to a small group of healthy human subjects, but occasionally to a gr of patients with the targeted disease or disorder. Phase 1 clinical trials generally are intended to evaluate the safety, metabolism and pharmacologic actions of the drug, side effects associated with increasing doses, and, if possible, to gain early evidence of effectiveness.

- Phase 2 clinical trials generally are controlled studies that involve a relatively small sample of the intended patient population and are designed to develop initial data regarding the product’s effectiveness, to determine dose response and the optimal dose range, and to gather additional information relating to safety and potential AEs.
- Phase 3 clinical trials are conducted after preliminary evidence of effectiveness has been obtained and are intended to gather the additional information about dosage, safety and effectiveness necessary to evaluate the drug’s overall risk-benefit profile, and to provide a basis for regulatory approval. Generally, Phase 3 clinical developm programs consist of expanded, large-scale studies of patients with the target disease or disorder to obtain statistical evidence of the efficacy and safety of the drug at the proposed dosing regimen.

The sponsoring company, the FDA, or the IRB may suspend or terminate a clinical trial at any time on various grounds, including a finding that the patients are being exposed to an unacceptable health risk. Further, success in early-stage clinical trials does

not assure success in later-stage clinical trials. Data obtained from clinical activities are not always conclusive and may be subject to alternative interpretations that could delay, limit or prevent regulatory approval.

NDA Submission and Review. The FD&C Act provides two pathways for the approval of new drugs through an NDA. An NDA under Section 505(b)(1) of the FD&C Act is a comprehensive application to support approval of a product candidate that includes, among other things, data and information to demonstrate that the proposed drug is safe and effective for its proposed uses, that production methods are adequate to ensure its identity, strength, quality, and purity of the drug, and that proposed labeling is appropriate and contains all necessary information. A 505(b)(1) NDA contains results of the full set of pre-clinical studies and clinical trials conducted by or on behalf of the applicant to characterize and evaluate the product candidate.

Section 505(b)(2) of the FD&C Act provides an alternate regulatory pathway to obtain FDA approval that permits the filing of an NDA where at least some of the information required for approval comes from studies not conducted by or for the applicant and for which the applicant has not obtained a right of reference. The applicant may rely to some extent upon the FDA’s findings of safety and effectiveness for an approved product that acts as the reference drug and submit its own product-specific data — which may include data from pre-clinical studies or clinical trials conducted by or on behalf of the applicant — to address differences between the product candidate and the reference drug.

The submission of an NDA under either Section 505(b)(1) or Section 505(b)(2) generally requires payment of a substantial user fee to the FDA, subject to certain limited deferrals, waivers and reductions. The FDA reviews applications to determine, among other things, whether a product is safe and effective for its intended use and whether the manufacturing controls are adequate to assure and preserve the product’s identity, strength, quality, and purity. For some NDAs, the FDA may convene an advisory committee to seek insights and recommendations on issues relevant to approval of the application. Although the FDA is not bound by the recommendation of an advisory committee, the agency usually considers such recommendations carefully when making decisions.

Our products and product candidates include products that combine drug and device components in a manner that meet the definition of a "combination product" under FDA regulations. The FDA exercises significant discretion over the regulation of combination products, including the discretion to require separate marketing applications for the drug and

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device components in a combination product. For YUTIQ®, FDA's Center for Drug Evaluation and Research (CDER) had primary jurisdiction for review of the NDA, and both the drug and device components were reviewed under one marketing application. For a drug-device combination product for which CDER has primary jurisdiction, CDER typically consults with the Center for Devices and Radiological Health in the NDA review process. Whether reviewed under one application or separately, both the drug and device components of a drug-device combination product must satisfy the applicable regulatory requirements for marketing as if they were submitted for approval independently.

The FDA may determine that a Risk Evaluation and Mitigation Strategy (REMS), is necessary to ensure that the benefits of a new product outweigh its risks, and the product can therefore be approved. A REMS may include various elements, ranging from a medication guide or patient package insert to limitations on who may prescribe or dispense the drug, depending on what the FDA considers necessary for the safe use of the drug. Under the Pediatric Research Equity Act (PREA), certain applications for approval must also include an assessment, generally based on clinical study data, of the safety and effectiveness of the subject drug in relevant pediatric populations.

Before approving an NDA, the FDA will inspect the facility or facilities where the product is manufactured. The FDA will not approve an application unless it determines that the manufacturing processes and facilities are in compliance with cGMP, requirements and adequate to assure consistent production of the product within required specifications.

The FDA conducts a preliminary review of a submitted NDA to ensure the application is sufficiently complete for substantive review. Once the FDA accepts an NDA submission for filing — which occurs, if at all, within 60 days after submission of the NDA — the FDA's goal for a non-priority review of an NDA is ten months. The review process can be and often is significantly extended, however, by FDA requests for additional information, studies, or clarification. The targeted action date can also be shortened to six

months of the 60-day filing date for products that are granted priority review designation because they are intended to treat serious or life-threatening conditions and demonstrate the potential to address unmet medical needs. The FDA reviews an NDA to determine, among other things, whether a product is safe and effective for its intended use and whether its manufacturing is cGMP-compliant to assure and preserve the product's identity, strength, quality, and purity.

After review of an NDA and the facilities where the product candidate is manufactured, the FDA either issues an approval letter or a complete response letter (CRL), outlining the deficiencies in the submission. The CRL may require additional testing or information, including additional pre-clinical or clinical data, for the FDA to reconsider the application. Even if such additional information and data are submitted, the FDA may decide that the NDA still does not meet the standards for approval. Data from clinical trials are not always conclusive and the FDA may interpret data differently than the sponsor. FDA approval of any application

may include many delays or never be granted. If FDA grants approval, an approval letter authorizes commercial marketing of the product candidate with specific prescribing information for specific indications.

Obtaining regulatory approval often takes a number of years, involves the expenditure of substantial resources, and depends on a number of factors, including the severity of the disease in question, the availability of alternative treatments, and the risks and benefits demonstrated in clinical trials. Additionally, as a condition of approval, the FDA may impose restrictions that could affect the commercial success of a drug or require post-approval commitments, including the completion within a specified time period of additional clinical studies, which often are referred to as "Phase 4" or "post-marketing" studies.

- Enables R&D animal testing alternatives and allows earlier negotiation with payers during development;
- Expands FDA authority during pre-approval inspection of clinical and non-clinical studies;
- Builds on FDA's framework governing accelerated approvals, including timing, conditions, and reporting for post-approval studies;
- Addresses diversity in clinical trials with requirements of agreed diversity plan to implement major clinical studies; and
- Confirms that contrast agents, radioactive drugs and over-the counter monographs drugs *are* drugs and *not* medical devices, restoring FDA's interpretation previously overturned by *Genus Med. Techs. LLC v. FDA*.

Post-approval modifications to the drug, such as changes in indications, labeling, or manufacturing processes or facilities, may require a sponsor to develop additional data or conduct additional pre-clinical studies or clinical trials, to be submitted in a new or supplemental NDA, which would require FDA approval.

Post-Approval Regulation

Once approved, drug products are subject to continuing regulation by the FDA. If ongoing regulatory requirements are not met, or if safety or manufacturing problems occur after the product reaches the market, the FDA may at any time withdraw product approval or take actions that would limit or suspend marketing. Additionally, the FDA may require post-marketing studies or clinical trials, changes to a product's approved labeling, including the addition of new warnings and contraindications, or the implementation of other risk management measures, including distribution-related restrictions, if there are new safety information developments.

Good Manufacturing Practices. Companies engaged in manufacturing drug products or their components must comply with applicable cGMP requirements and product-specific regulations enforced by the FDA and other regulatory agencies. Compliance with cGMP includes adhering to requirements relating to organization and training of personnel,

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buildings and facilities, equipment, control of components and drug product containers and closures, production and process controls, quality control and quality assurance, packaging and labeling controls, holding and distribution, laboratory controls, and records and reports. The FDA regulates and inspects equipment, facilities, and processes used in manufacturing pharmaceutical products prior to approval. If, after receiving approval, a company makes a material change in manufacturing equipment, location, or process (all of which are, to some degree, incorporated in the NDA), additional regulatory review and approval may be required. The FDA also conducts regular, periodic visits to re-inspect equipment, facilities, and processes following the initial approval of a product. Failure to comply with applicable cGMP requirements and conditions of product approval may lead the FDA to take enforcement actions or seek sanctions, including fines, issuance of warning letters, civil penalties, injunctions, suspension of manufacturing operations, operating restrictions, withdrawal of FDA approval, seizure or recall of products, and criminal prosecution. Although we periodically monitor the FDA compliance of our third-party manufacturers, we cannot be certain that our present or future third-party manufacturers will consistently comply with cGMP and other applicable FDA regulatory requirements.

In addition to cGMP requirements, drug-device combination products are also subject to certain additional manufacturing and safety reporting regulations for devices. Specifically, the FDA requires that drug-device combination products comply with certain provisions of the Quality System Regulation (QSR), which sets forth the FDA's manufacturing quality standards for medical devices. In addition to drug safety reporting requirements, the FDA also requires that we comply with some device safety reporting requirements for our drug-device combination product.

Advertising and Promotion. The FDA and other federal regulatory agencies closely regulate the marketing and promotion of drugs through, among other things, standards and regulations for direct-to-consumer advertising, advertising and promotion to healthcare professionals, communications regarding unapproved uses, industry-sponsored scientific and educational activities, and promotional activities involving the Internet. A product cannot be promoted before it is approved. After approval, product promotion can include only those claims relating to safety and effectiveness that are consistent with the labeling approved by the FDA. Healthcare providers are permitted to prescribe drugs for “off-label” uses — that is, uses not approved by the FDA and not described in the product’s labeling — because the FDA does not regulate the practice of medicine. However, FDA regulations impose restrictions on manufacturers’ communications regarding off-label uses. Broadly speaking, a manufacturer may not promote a drug for off-label use, but under certain conditions may engage in non-promotional, balanced, scientific communication regarding off-label use. Failure to comply with applicable FDA requirements and restrictions in this area may subject a company to adverse publicity and enforcement action by the FDA, the Department of Justice, or the Office of the Inspector General of the Department of Health and Human Services, as well as state authorities. This could subject a company to a range of penalties that could have a significant commercial impact, including civil and criminal fines and agreements that materially restrict the manner in which a company promotes or distributes a drug.

New Legislation. New legislation is passed periodically in Congress, or at the state level, that could significantly change the statutory provisions governing the approval, manufacturing and marketing of products regulated by the FDA. For example, the Food and Drug Omnibus Reform Act, 2022, enacted on December 29, 2022, confirms further authorities to FDA, such as:

- Enables R&D animal testing alternatives and allows earlier negotiation with payers during development;
- Expands FDA authority during pre-approval inspection of clinical and non-clinical studies;
- Builds on FDA’s framework governing accelerated approvals, including timing, conditions, and reporting for post-approval studies;
- Addresses diversity in clinical trials with requirements of agreed diversity plan to implement major clinical studies; and
- Confirms that contrast agents, radioactive drugs and over-the counter monographs drugs *are* drugs and *not* medical devices, restoring FDA’s interpretation previously overturned by *Genus Med. Techs. LLC v. FDA*.

Further, FDA revises its regulations and guidance in light of new legislation in ways that may affect our business or products. It is impossible to predict whether other changes to legislation, regulation, or guidance will be enacted, or what the impact of such changes, if any, may be.

Other Requirements. NDA holders must comply with other regulatory requirements, including submitting annual reports, reporting information about adverse drug experiences, reporting marketing status notifications, and maintaining certain records.

Hatch-Waxman Act

The Drug Price Competition and Patent Term Restoration Act of 1984, or the Hatch-Waxman Act, establishes two abbreviated approval pathways for pharmaceutical products that are in some way follow-on versions of already approved products.

Generic Drugs. A generic version of an approved drug is approved by means of an abbreviated NDA, or ANDA, by which the sponsor demonstrates that the proposed product is the same as the approved, brand-name drug, which is referred to as the reference listed drug or RLD. (RLD). Generally, an ANDA must contain data and information showing that the proposed generic product and RLD (i) have the same active ingredient, in the same strength and dosage form, to be delivered via the same route of administration, (ii) are intended for the same uses, and (iii) are bioequivalent. This is instead of independently demonstrating the proposed product’s safety and effectiveness, which are inferred from the fact that the product is the same as the RLD, which the FDA previously found to be safe and effective.

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505(b)(2) NDAs. As discussed previously, products may also be submitted for approval via an NDA under section 505(b)(2) of the FD&C Act. Unlike an ANDA, this does not excuse the sponsor from demonstrating the proposed product's safety and effectiveness. Rather, the sponsor is permitted to rely to some degree on information from investigations that were not conducted by or for the applicant and for which the applicant has not obtained a right of reference and must submit its own product-specific data of safety and effectiveness to an extent necessary because of the differences between the products. An NDA approved under 505(b)(2) may in turn serve as an RLD for subsequent applications from other sponsors.

RLD Patents. In an NDA, a sponsor must identify patents that claim the drug substance or drug product or a method of using the drug. When the drug is approved, those patents are among the information about the product that is listed in the FDA publication, Approved Drug Products with Therapeutic Equivalence Evaluations, which is referred to as the Orange Book. The sponsor of an ANDA or 505(b)(2) application seeking to rely on an approved product as the RLD must make one of several certifications regarding each listed patent. A "Paragraph I" certification is the sponsor's statement that patent information has not been filed for the RLD. A "Paragraph II" certification is the sponsor's statement that the RLD's patents have expired. A "Paragraph III" certification is the sponsor's statement that it will wait for the patent to expire before obtaining approval for its product. A "Paragraph IV" certification is an assertion that the patent does not block approval of the later product, either because the patent is invalid or unenforceable or because the patent, even if valid, is not infringed by the new product.

Regulatory Exclusivities. The Hatch-Waxman Act provides periods of regulatory exclusivity for products that would serve as RLDs for an ANDA or 505(b)(2) application. If a product is a "new chemical entity," or NCE — generally meaning that the drug contains no active moiety that has been approved by the FDA in any other NDA submitted under section 505(b) of the FD&C Act — there is a period of five years from the product's approval during which the FDA may not accept for filing any ANDA or 505(b)(2) application for a drug with the same active moiety. An ANDA or 505(b)(2) application may be submitted after four years, however, if the sponsor of the application makes a Paragraph IV certification.

A product that is not an NCE may qualify for a three-year period of exclusivity if the NDA contains new clinical data (other than bioavailability studies), derived from studies conducted by or for the sponsor, that were necessary for approval. In that instance, the exclusivity period does not preclude filing or review of an ANDA or 505(b)(2) application; rather, the FDA is precluded from granting final approval to the ANDA or 505(b)(2) application until three years after approval of the RLD. Additionally, the exclusivity applies only to the conditions of approval that required submission of the clinical data.

Once the FDA accepts for filing an ANDA or 505(b)(2) application containing a Paragraph IV certification, the applicant must within 20 days provide notice to the RLD NDA holder and patent owner that the application has been submitted and provide the

factual and legal basis for the applicant's assertion that the patent is invalid or not infringed. If the NDA holder or patent owner files suit against the ANDA or 505(b)(2) applicant for patent infringement within 45 days of receiving the Paragraph IV notice, the FDA is prohibited from approving the ANDA or 505(b)(2) application for a period of 30 months or the resolution of the underlying suit, whichever is earlier. If the RLD has NCE exclusivity and the notice is given and suit filed during the fifth year of exclusivity, the regulatory stay extends to 7.5 years after the RLD approval. The FDA may approve the proposed product before the expiration of the regulatory stay if a court finds the patent invalid or not infringed or if the court shortens the period because the parties have failed to cooperate in expediting the litigation.

Patent Term Restoration. A portion of the patent term lost during product development and FDA review of an NDA is restored if approval of the application is the first permitted commercial marketing of a drug containing the active ingredient. The patent term restoration period is generally one-half the time between the effective date of the IND or the date of patent grant (whichever is later) and the date of submission of the NDA, plus the time between the date of submission of the NDA and the date of FDA approval of the product. The maximum period of restoration is five years, and the patent cannot be extended to more than 14 years from the date of FDA approval of the product. Only one patent claiming each approved product is eligible for restoration and the patent holder must apply for restoration within 60 days of approval. The USPTO, U.S. Patent and Trademark Office (USPTO), in consultation with the FDA, reviews and approves the application for patent term restoration.

European and Other International Government Regulation

In addition to regulations in the U.S., we are subject to a variety of regulations in other jurisdictions governing, among other things, clinical trials and any commercial sales and distribution of our products. Whether or not we obtain FDA approval for a product, we must obtain the requisite approvals from regulatory authorities in foreign countries prior to the commencement of clinical trials or marketing of the product in those countries. Some countries outside of the U.S. have a similar process that requires the submission of a clinical trial application, or CTA, much like the IND prior to the commencement of human clinical trials. In the EU, for example, similar to the FDA a CTA must be submitted for authorization to the competent national authority of each EU Member State in which the clinical trial is to be conducted. Furthermore, the applicant may only start a clinical trial at a specific study site after the competent ethics committee, much like the IRB, has issued a favorable opinion. Once the CTA is approved in accordance with the EU Clinical Trials Directive 2001/20/EC or Clinical (Clinical Trials Directive, Directive), and the related national implementing provisions of the relevant individual EU Member States' requirements, clinical trial development may proceed.

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In April 2014, the new Clinical Trials Regulation, (EU) No 536/2014, or Clinical Trials Regulation, was adopted. The Regulation entered into force on January 31, 2022. The Clinical Trials Regulation is directly applicable in all the EU Member States, repealing the current Clinical Trials Directive. The new Clinical Trials Regulation allowed parties to start and conduct a clinical trial in accordance with the Clinical Trials Directive during a transitional period of one year which ended on January 31, 2023. Clinical trials authorized under the Clinical Trials Directive before January 31, 2023, can continue to be conducted under the Clinical Trials Directive until January 31, 2025. An application to transition ongoing trials from the current Clinical Trials Directive to the new Clinical Trials Regulation will need to be submitted and authorized in time before the end of the transitional period.

The new Clinical Trials Regulation is intended to simplify and streamline the approval of clinical trials in the EU. The main characteristics of the regulation include: a streamlined application procedure through a single entry point, the Clinical Trials Information System (CTIS); a single set of documents to be prepared and submitted for the application as well as simplified reporting procedures for clinical trial sponsors; and a harmonized procedure for the assessment of applications for clinical trials, which is divided in two parts. The use of the CTIS became mandatory for new clinical trial applications made in accordance with the Clinical Trials Regulation on January 31, 2023. Clinical trial sponsors can use CTIS to apply for authorization to run a clinical trial in all 27 EU Member States and three of the four European Free Trade Association States, Iceland, Liechtenstein and Norway via a single online application.

To obtain regulatory approval to commercialize a new drug under EU regulatory systems, we must submit a MAA, to the competent regulatory authority. In the EU, marketing authorization for a medicinal product can be obtained through a centralized, mutual recognition, decentralized procedure, or the national procedure of an individual EU Member State. A marketing authorization, irrespective of its route to authorization, may be granted only to an applicant established in the EU.

The centralized procedure provides for the grant of a single marketing authorization by the European Commission that is valid for all 27 EU Member States and three of the four European Free Trade Association States, Iceland, Liechtenstein, and Norway. Under the centralized procedure, the Committee for Medicinal Products for Human Use, or the CHMP, established at the EMA is responsible for conducting the initial assessment of a product. The maximum timeframe for the evaluation of an MAA is 210 days. This period excludes clock stops during which additional information or written or oral explanation is to be provided by the applicant in response to questions posed by the CHMP. Accelerated evaluation might be granted by the CHMP in exceptional cases, when a medicinal product is expected to be of a major public health interest. A major public health interest defined by three cumulative criteria: (i) the seriousness of the disease (for example, heavy disabling or life-threatening diseases) to be treated, (ii) the absence or insufficiency of

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an appropriate alternative therapeutic approach, and (iii) anticipation of high therapeutic benefit. If the CHMP accepts to review a medicinal product as a major public health interest, the time limit of 210 days will be reduced to 150 days. It is, however, possible that the CHMP can revert to the standard time limit for the centralized procedure if it considers that it is no longer appropriate to conduct an accelerated assessment.

Irrespective of the related procedure, at the completion of the review period the CHMP will provide a scientific opinion concerning whether or not a marketing authorization should be granted in relation to a medicinal product. This opinion is based on a review of the quality, safety, and efficacy of the product. Within 15 days of the adoption, the EMA will forward its opinion to the European Commission for its decision. Following the opinion of the EMA, the European Commission makes a final decision to grant a centralized marketing authorization. The centralized procedure is mandatory for certain types of medicinal products, including orphan medicinal products, medicinal products derived from certain biotechnological processes, advanced therapy medicinal products and medicinal products containing a new active substance for the treatment of certain diseases. This route is optional for certain other products, including medicinal products that are of significant therapeutic, scientific or technical innovation, or whose authorization would be in the interest of public or animal health at EU level.

Unlike the centralized authorization procedure, the decentralized marketing authorization procedure requires a separate application to, and leads to separate approval by, the competent authorities of each EU Member State in which the product is to be marketed. This application process is identical to the application that would be submitted to the EMA for authorization through the centralized procedure and must be completed within 210 days, excluding potential clock-stops, during which the applicant can respond to questions. The reference EU Member State prepares a draft assessment and drafts of the related materials. The concerned EU Member States must decide whether to approve the assessment report and related materials. If a concerned EU Member State cannot approve the assessment report and related materials due to concerns relating to a potential serious risk to public health, disputed elements may be referred to the European Commission, whose decision is binding on all EU Member States.

The mutual recognition procedure is similarly based on the acceptance by the competent authorities of the EU Member States of the marketing authorization of a medicinal product by the competent authorities of other EU Member States. The holder of a national marketing authorization may submit an application to the competent authority of an EU Member State requesting that this authority recognize the marketing authorization delivered by the competent authority of another EU Member State.

Marketing authorization holders are subject to comprehensive regulatory oversight by the EMA and the competent authorities of the individual EU Member States both before and after grant of marketing authorization. This includes control of compliance by the entities with EU cGMP rules, which govern quality control of the manufacturing process and require documentation policies and procedures.

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For other countries outside of the EU, such as countries in Eastern Europe, Latin America, or Asia, the requirements governing the conduct of clinical trials, product licensing, pricing, and reimbursement vary from country to country. Internationally, clinical trials are generally required to be conducted in accordance with GCP, applicable regulatory requirements of each jurisdiction and the medical ethics principles that have their origin in the Declaration of Helsinki.

Compliance

During all phases of development and in the post-market setting, failure to comply with applicable regulatory requirements may result in administrative or judicial sanctions. These sanctions could include the FDA's imposition of a clinical hold on trials, refusal to approve pending applications, withdrawal of an approval, warning letters or untitled letters, product recalls, product seizures, total or partial suspension of production or distribution, product detention or refusal to permit the import or export of products, injunctions, fines, civil penalties or criminal prosecution. Third country authorities can impose equivalent penalties. Any agency or judicial enforcement action could have a material adverse effect on us.

Other Exclusivities

Pediatric Exclusivity. Section 505A of the FD&C Act provides for six months of additional exclusivity or patent protection if an NDA sponsor submits pediatric data that fairly respond to a Written Request from the FDA for such data. The data do not need to

show that the product is effective in the pediatric population studied; rather, if the clinical trial is deemed to fairly respond to the FDA's request, the additional protection is granted. If reports of requested pediatric studies are submitted to and accepted by FDA within the statutory time limits, whatever statutory or regulatory periods of exclusivity or Orange Book listed patent protection that cover the drug are extended by six months. This is not a patent term extension, but it effectively extends the regulatory period during which the FDA cannot approve an ANDA or 505(b)(2) application owing to regulatory exclusivity or listed patents. When any product is approved, we will evaluate seeking pediatric exclusivity as appropriate.

In the EU, Regulation No 1901/2006 or the Pediatric Regulation, (Pediatric Regulation), requires that prior to obtaining a marketing authorization in the EU, applicants demonstrate compliance with all measures included in an EMA, approved Pediatric Investigation Plan or PIP. (PIP). This PIP covers all subsets in a pediatric population, unless the EMA has granted either, a product-specific waiver, a class waiver, or a deferral for one or more of the measures included in the PIP. Where all measures provided in the agreed PIP are completed, a six-month extension period of qualifying Supplementary Protection Certificates is granted. Between May 2021 and July 2021, the European Commission organized a public consultation to revise, among others, the Pediatric Regulation, as part of its Pharmaceutical Strategy for Europe. The current intention is for the European Commission to publish a proposal for new Regulation by the end of March 2023. Among the changes expected, an evolutionary and simplified PIP would be introduced, allowing allow the sponsor to amend the document as more evidence is gathered, subject to conditions regarding timing and substance.

Orphan Drug Exclusivity. The Orphan Drug Act provides incentives for the development of drugs intended to treat rare diseases or conditions, which are diseases or conditions affecting less than 200,000 individuals in the U.S., or a disease or condition affecting more than 200,000 individuals in the U.S. but there is no reasonable expectation that the cost of developing and making the drug product would be recovered from sales in the U.S. If a sponsor demonstrates that a drug product qualifies for orphan drug designation, the FDA may grant orphan drug designation to the product for that use. The benefits of orphan drug designation include research and development tax credits and exemption from user fees. A drug that is approved for the orphan drug designated indication generally is granted seven years of orphan drug exclusivity. During that period, the FDA generally may not approve any other application for the same product for the same indication, although there are exceptions, most notably when the later product is shown to be clinically superior to the product with exclusivity. The FDA can revoke a product's orphan drug exclusivity under certain circumstances, including when the product sponsor is unable to assure the availability of sufficient quantities of the product to meet patient needs. Orphan drug exclusivity does not prevent the FDA from approving a different drug for the same disease or condition, or the same biologic for a different disease or condition.

In the EU, medicinal products: (a) that are used to diagnose, treat or prevent life-threatening or chronically debilitating conditions that affect no more than five in 10,000 people in the EU; or (b) that are used to treat or prevent life-threatening or chronically debilitating conditions and that, for economic reasons, would be unlikely to be developed without incentives; and (c) where no satisfactory method of diagnosis, prevention or treatment of the condition concerned exists, or, if such a method exists, the medicinal product would be of significant benefit to those affected by the condition, may be granted an orphan designation in the EU. The application for orphan designation must be submitted to the EMA's Committee for Orphan Medicinal Products and approved by the European Commission before an application is made for marketing authorization for the product. Once authorized, orphan medicinal product designation entitles an applicant to financial incentives such as reduction of fees or fee waivers. In addition, orphan medicinal products are entitled to ten years of market exclusivity following authorization. During this ten-year period, with a limited number of exceptions, neither the competent authorities of the EU Member States, the EMA, or the European Commission are permitted to accept applications or grant marketing authorization for other similar medicinal products with the same therapeutic indication. However, marketing authorization may be granted to a similar medicinal product with the same orphan indication during the ten-year period with the consent

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of the marketing authorization holder for the original orphan medicinal product or if the manufacturer of the original orphan medicinal product is unable to supply sufficient quantities. Marketing authorization may also be granted to a similar medicinal product with the same orphan indication if this latter product is safer, more effective or otherwise clinically superior to the original orphan medicinal product. The period of market exclusivity may, in addition, be reduced to six years if it can be demonstrated on the basis of available evidence that the original orphan medicinal product is sufficiently profitable not to justify maintenance of market exclusivity. A On April 26, 2023, the European Commission adopted its proposal for the revision of Regulation (EC) No 141/2000 on orphan medicinal products (OMP Regulation) is expected by the end of March 2023. . Among the changes expected, proposed, the proposal would introduce draft OMP Regulation reforms the validity of the orphan designationwhich will expire after seven years, amends the scope of market exclusivity and introduces a new definitions concept of significant benefit and (highest) modulated market exclusivity with orphan products addressing high unmet medical needs changes to benefiting from the longest market exclusivity periods and launch conditionality, of 10 years (with possible additional extensions), as well as a removal of introduces, among other changes, the power for the EMA to propose new criteria for orphan pediatric incentive. designations. This proposal is currently being discussed and has not yet been adopted.

Data Exclusivity. In the EU, if a marketing authorization is granted for a medicinal product containing a new active substance, that product benefits from eight years of data exclusivity, during which generic marketing authorization applications referring to the data of that product may not be accepted by the regulatory authorities. The product also benefits from 10 years' market exclusivity during which generic products, even if authorized, may not be placed on the market. The overall ten-year period will be extended to a maximum of 11 years if, during the first eight years of those ten years, the marketing authorization holder obtains an authorization for one or more new therapeutic indications which, during the scientific evaluation prior to their authorization, are held to bring a significant clinical benefit in comparison with existing therapies. A On April 26, 2023, the European Commission adopted its proposal for the revision of Regulation (EC) No 726/2004 laying

down procedures for the authorization of medicinal products in the EU is expected by the end of March 2023. EU. Among the changes, expected, the proposal would reduce reduces the current data exclusivity period to a baseline 6-years. Additional regulatory data protection could be obtained upon conditions, but with a maximum of 8-years data exclusivity. This proposal is currently being discussed and has not yet been adopted.

U.S. Healthcare Reform

The Patient Protection and Affordable Care Act, as amended, which we refer to as the Affordable Care Act or ACA, is a sweeping measure intended to expand healthcare coverage within the U.S., primarily through the imposition of health insurance mandates on employers and individuals, the provision of subsidies to eligible individuals enrolled in plans offered on the health insurance exchanges, and expansion of the Medicaid program. This law substantially changed the way healthcare is financed by both governmental and private insurers and has significantly impacted the pharmaceutical industry. Changes that may affect our business include those governing enrollment in federal healthcare programs, reimbursement changes, benefits for patients within a coverage gap in the Medicare Part D prescription drug program (commonly known as the donut hole), rules regarding prescription drug benefits under the health insurance exchanges, changes to the Medicaid Drug Rebate program, expansion of the Public Health Service Act's 340B drug pricing discount program, or 340B program, fraud and abuse, and enforcement. The Affordable Care Act also requires pharmaceutical manufacturers of branded prescription drugs to pay a branded prescription drug fee to the federal government. Each such manufacturer pays a prorated share of the branded prescription drug fee of $2.8 billion in 2019 and thereafter, based on the dollar value of its branded prescription drug sales to certain federal programs identified in the law. These changes have impacted and will continue to impact existing government healthcare programs and have resulted in the development of new programs, including Medicare payment for performance initiatives.

Some states have elected not to expand their Medicaid programs to individuals with an income of up to 133% of the federal poverty level, as is permitted under the Affordable Care Act. For each state that does not choose to expand its Medicaid program, there may be fewer insured patients overall, which could impact our sales of products and product candidates for which we receive regulatory approval, and our business and financial condition. Where new patients receive insurance coverage under any of the new Medicaid options made available through the Affordable Care Act, the possibility exists that manufacturers may be required to pay Medicaid rebates on drugs used under these circumstances, a decision that could impact manufacturer revenues.

Certain provisions of the Affordable Care Act have been subject to judicial challenges as well as efforts to modify them or to alter their interpretation and implementation. For example, Congress eliminated, starting January 1, 2019, the tax penalty for not complying with the Affordable Care Act's individual mandate to carry health insurance. Further, the Bipartisan Budget Act of 2018, among other things, amended the Medicare statute to reduce the coverage gap in most Medicare drugs plans, commonly known as the "donut hole," by raising the required manufacturer point-of-sale discount from 50% to 70% off the negotiated price price. The Inflation Reduction Act of 2022 (IRA) sunsets the existing coverage gap program and replaces it with a new manufacturer discount program effective as of January 1, 2019. 2025. Additional legislative changes, regulatory changes, and judicial challenges related to the Affordable Care Act remain possible, but the nature and extent of such potential changes or challenges are uncertain at this time. It is unclear how the Affordable Care Act and its implementation, as well as efforts to modify or invalidate the Affordable Care Act, or portions thereof, or its implementation, will affect our business, financial condition, and results of operations. It is possible that the Affordable Care Act, as currently enacted or as it may be amended in the future, and other healthcare reform

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measures, including those that may be adopted in the future, could have a material adverse effect on our industry generally and on our ability to maintain or increase sales of our products or product candidates for which we receive regulatory approval or to successfully commercialize our products and product candidates.

Other legislative changes relating to reimbursement have been adopted in the U.S. since the Affordable Care Act was enacted. For example, on August 2, 2011, the Budget Control Act of 2011, among other things, created the Joint Select Committee on Deficit Reduction to recommend to Congress proposals for spending reductions. The Joint Select Committee did not achieve a targeted deficit reduction, which triggered the legislation's automatic reductions. In concert with subsequent legislation, this has resulted in aggregate reductions to Medicare payments to providers of, on average, 2% per fiscal year through 2031. Sequestration is currently set at 2% and will increase to 2.25% for the first half of fiscal year 2030, to 3% for the second half of fiscal year 2030, and to 4% for the remainder of the sequestration period that lasts through the first six months of fiscal year 2031. As long as these cuts remain in effect, they could adversely impact payment for any products we may commercialize in the future. We expect that additional federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, and in turn could significantly reduce the projected value of certain development projects and reduce our profitability.

Additional legislative changes, regulatory changes, or guidance could be adopted, which may impact the marketing approvals and reimbursement for our product candidates. For example, there has been increasing legislative, regulatory, and enforcement interest in the United States with respect to drug pricing practices. There have been several Congressional inquiries and proposed and enacted federal and state legislation and regulatory initiatives designed to, among other things, bring more transparency to product pricing, evaluate the relationship between pricing and manufacturer patient programs, and reform government healthcare program reimbursement methodologies for drug products. If healthcare policies intended to curb healthcare costs are adopted or if we experience negative publicity with respect to pricing of our products or the pricing of pharmaceutical drugs generally, the prices that we charge for any approved products may be limited, our commercial opportunity may be limited, and/or our revenues from sales of our products may be negatively impacted.

On August 12, 2022, the Inflation Reduction Act of 2022 (IRA) was signed into law. The IRA includes several drug pricing policies that are intended to reduce costs for the Medicare program and its beneficiaries, as well as a variety of provisions on the environment and clean energy, corporate taxes, and other health care policies. The IRA contains a negotiation provision that requires the Secretary of Health and Human Services to negotiate, with respect to Medicare units and subject to a specified cap, the price of a set number of high Medicare spend drugs and biologicals per year starting in 2026. The IRA limits the negotiation eligibility for the 2026, 2027, and 2028 program years and afford limited additional relief for "small biotech drugs" of certain small manufacturers which, among other things, represent a limited portion (as specified in the text) of Medicare program spending. The IRA also penalizes manufacturers of certain Medicare Part B and D drugs for price increases above inflation and makes several changes to the Medicare Part D benefit, including a limit on annual out-of-pocket costs, and a change in manufacturer liability under the program.

Coverage and Reimbursement

Sales of any of our products and product candidates, if approved and once commercialized, depend, in part, on the extent to which the costs of the products product will be covered by Medicare and Medicaid, and private payors, such as commercial health insurers and managed care organizations. Third-party payors determine which drugs they will cover and the amount of reimbursement they will provide for a covered drug. In the U.S., there is no uniform system among payors for making coverage and reimbursement decisions. In addition, the process for determining whether a payor will provide coverage for a product may be separate from the process for setting the price or reimbursement rate that the payor will pay for the product once coverage is approved. Payors may limit coverage to specific products on an approved list, or formulary, which might not include all of the FDA-approved products for a particular indication.

In order to secure coverage and reimbursement for our products, we may need to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of the product, in addition to the costly studies required to obtain FDA or other comparable regulatory approvals. Even if we conduct pharmacoeconomic studies, our product candidates products may not be considered medically necessary or cost-effective by payors. Further, a payor's decision to provide coverage for a product does not imply guarantee that an adequate reimbursement rate will be approved set, including because HCPs health care providers (HCPs) negotiate their own reimbursement directly with commercial payors.

In the past, payors have implemented reimbursement metrics and periodically revised those metrics as well as the methodologies used as the basis for reimbursement rates, such as ASP, average manufacturer price, or AMP, and actual acquisition cost. The existing data for reimbursement based on these metrics is relatively limited, although certain states have begun to survey acquisition cost data for the purpose of setting Medicaid reimbursement rates. CMS surveys and publishes retail pharmacy acquisition cost information in the form of National Average Drug Acquisition Cost files to provide state Medicaid agencies with a basis of comparison for their own reimbursement and pricing methodologies and rates.

We have participated in and, if we obtain approval to commercialize additional products, we expect to participate in, and have certain price reporting obligations to, the Medicaid Drug Rebate Program. This program requires us to pay a rebate for each unit of drug reimbursed by Medicaid. The amount of the "basic" portion of the rebate for each product is set by law as the larger of: (i) 23.1% of quarterly AMP, or (ii) the difference between quarterly AMP and the quarterly best price available from us to any commercial or

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non-governmental customer, or Best Price. AMP must be reported on a monthly and quarterly basis and Best Price is reported on a quarterly basis only. In addition, the rebate also includes the “additional” portion, which adjusts the overall rebate amount upward as an “inflation penalty” when the drug’s latest quarter’s AMP exceeds the drug’s AMP from the first full quarter of sales after launch, adjusted for increases in the Consumer Price Index-Urban. The upward adjustment in the rebate amount per unit is equal to the excess amount of the current AMP over the inflation-adjusted AMP from the first full quarter of sales. Rebates under the Medicaid Drug Rebate Program are currently capped at 100 percent no longer subject to a cap as of AMP, but that cap is set to be removed, effective January 1, 2024, which could increase our rebate liability. The rebate amount is computed each quarter based on our report to CMS of current quarterly AMP and Best Price for our drug. We are required to report revisions to AMP or Best Price within a period not to exceed 12 quarters from the quarter in which the data was originally due. Any such revisions could have the impact of increasing or decreasing our rebate liability for prior quarters, depending on the direction of the revision. The Affordable Care Act made significant changes to the Medicaid Drug Rebate Program, and CMS issued a final regulation which became effective on April 1, 2016, to implement the changes to the Medicaid Drug Rebate program under the Affordable Care Act. On December 21, 2020, CMS issued a another final regulation that modified existing Medicaid Drug Rebate Program regulations to permit reporting multiple Best Price figures with regard to value based purchasing arrangements (beginning in 2022) and provided definitions for “line extension,” “new formulation,” and related terms with the practical effect of expanding the scope of drugs considered to be line extensions (beginning in 2022). While the regulatory provisions that purported to affect the availability of the AMP and Best Price exclusions of manufacturer-sponsored patient benefit programs in the context of pharmacy benefit manager “accumulator” programs were invalidated by a court, accumulator, and other such programs may continue to negatively affect us in other ways.

Federal law requires that any manufacturer that participates in the Medicaid Drug Rebate Program also participate in the Public Health Service’s 340B drug pricing program in order for federal funds to be available for the manufacturer’s drugs under Medicaid and Medicare Part B. The 340B program, which is administered by the Health Resources and Services Administration, or HRSA, requires participating manufacturers to agree to charge statutorily defined covered entities no more than the 340B “ceiling price” for

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the manufacturer’s covered outpatient drugs. These 340B covered entities include a variety of community health clinics and other entities that receive health services grants from the Public Health Service, as well as hospitals that serve a disproportionate share of low-income patients. The 340B ceiling price is calculated using a statutory formula, which is based on the AMP and rebate amount for the covered outpatient drug as calculated under the Medicaid Drug Rebate Program. Any changes to the definition of AMP and the Medicaid rebate amount under the Affordable Care Act or other legislation could affect our 340B ceiling price calculations and negatively impact our results of operations.

HRSA issued a final regulation regarding the calculation of the 340B ceiling price and the imposition of civil monetary penalties on manufacturers that knowingly and intentionally overcharge covered entities, which became effective on January 1, 2019. It is currently unclear how HRSA will apply its enforcement authority under this regulation. HRSA has also implemented a ceiling price reporting requirement related to the 340B program under which we are required to report 340B ceiling prices to HRSA on a quarterly basis, and HRSA then publishes that information to covered entities. Moreover, under a final regulation effective January 13, 2021, HRSA newly established an administrative dispute resolution (ADR), process for claims by covered entities that a manufacturer has engaged in overcharging, and by manufacturers that a covered entity violated the prohibitions against diversion or duplicate discounts. Such claims are to be resolved through an ADR panel of government officials rendering a decision that could may be appealed only in to federal court. An ADR proceeding could subject us to onerous procedural requirements and could result in additional liability. In addition, legislation may be introduced that, if passed, would further expand the 340B program to additional covered entities or would require participating manufacturers to agree to provide 340B discounted pricing on drugs used in an inpatient setting.

Federal law also requires that a company that participates in the Medicaid Drug Rebate program report ASP information each quarter to CMS for certain categories of drugs that are paid under the Medicare Part B program. For calendar quarters beginning January 1, 2022, manufacturers are required to report the average sales price for certain drugs under the Medicare program regardless of whether they participate in the Medicaid Drug Rebate Program. Manufacturers calculate the ASP based on a statutorily defined formula as well as regulations and interpretations of the statute by CMS. CMS uses may use these submissions to determine payment rates for drugs under Medicare Part B. Starting in 2023, manufacturers must pay refunds to Medicare for single source drugs or biologicals, or biosimilar biological products, reimbursed under Medicare Part B and packaged in single-dose containers or single-use packages, for units of discarded drug reimbursed by Medicare Part B in excess of 10 percent of total allowed charges under Medicare Part B for that drug. Manufacturers that fail to pay refunds could be subject to civil monetary penalties of 125 percent of the refund amount. For more information about Medicare Part B, refer to the risk factor entitled “Our products and product candidates, if approved and commercialized, may become subject to unfavorable pricing regulations, third-party reimbursement practices, or healthcare reform initiatives which could harm our business” set forth under the section titled “Risk Factors” in this Annual Report on Form 10-K.

Statutory or regulatory changes or CMS guidance could affect the pricing of our approved products, and could negatively affect our results of operations. On August 16, 2022, President Biden signed into law the Inflation Reduction Act of 2022, or The IRA, which, among other things, requires the Secretary of Health and Human Services Secretary to negotiate, with respect to Medicare units and subject to a specified cap, the price of a set number of certain high Medicare spend drugs and biologicals per year starting in 2026. Starting January 2023, the The IRA establishes established a Medicare Part B inflation rebate scheme, under which, generally speaking, manufacturers will owe rebates if the average sales price of a Part B drug increases faster than the pace of inflation. Failure to timely pay a Part B inflation rebate is subject to a civil monetary penalty. These or any

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other public policy changes could impact the market conditions for our products. We further expect continued scrutiny on government price reporting and pricing more generally from Congress, agencies, and other bodies. For more information about Medicare Part B, refer to the risk factor entitled “Our products and product candidates, if approved and commercialized, may become subject to unfavorable pricing regulations, third-party reimbursement practices, or healthcare reform initiatives which could harm our business” set forth under the section titled “Risk Factors” in this Annual Report on Form 10-K. In the U.S. Medicare program, outpatient prescription drugs may be covered under Medicare Part D. Medicare Part D is a voluntary prescription drug benefit, through which Medicare beneficiaries may enroll in prescription drug plans offered by private entities for coverage of outpatient prescription drugs. Part D plans include both stand-alone prescription drug benefit plans and prescription drug coverage as a supplement to Medicare Advantage plans provided for under Medicare Part C.

Coverage and reimbursement for covered outpatient drugs under Part D are not standardized. Part D prescription drug plan sponsors are not required to pay for all covered Part D drugs, and each drug plan can develop its own drug formulary that identifies which drugs it will cover and at what tier or level. Any formulary used by a Part D prescription drug plan must be developed and reviewed by a pharmacy and therapeutic committee. Although Part D prescription drug formularies must include drugs within each therapeutic category and class of covered Part D drugs, they have some flexibility to establish those categories and classes and are not required to cover all of the drugs in each category or class. Medicare Part D prescription drug plans may use formularies to limit the number of drugs that will be covered in any therapeutic class and/or impose differential cost sharing or other utilization management techniques.

Medicare Part D coverage is available for our products and may be available for any future product candidates for which we receive marketing approval. approval and commercialize. However, in order for the products that we market to be included on the formularies of Part D prescription drug plans, we likely will have to offer pricing that is lower than the prices we might otherwise obtain. Changes to Medicare Part D that give plans more freedom to limit coverage or manage utilization, and other cost reduction initiatives in the program, could decrease the coverage and price that we receive for any approved products and could seriously harm our business.

In addition, manufacturers are currently required to provide to CMS a 70% discount on brand name prescription drugs utilized by Medicare Part D beneficiaries when those beneficiaries are in the coverage gap phase of the Part D benefit design. The IRA sunsets the coverage gap discount program starting in 2025 and replaces it with a new manufacturer discount program and makes other reforms to the Part D benefit, which could increase our liability under Part D. Further, starting October 2022, the IRA establishes a Medicare Part D inflation rebate scheme, under which, generally speaking, manufacturers will owe additional rebates if the AMP of a Part D drug increases faster than the pace of inflation. Failure to timely pay a Part D inflation rebate is subject to a civil monetary penalty.

In order to be eligible to have our products paid for with federal funds under the Medicaid and Medicare Part B programs and purchased by certain federal agencies and grantees, we must participate in the U.S. Department of Veterans Affairs, (VA), Federal Supply Schedule, (FSS), pricing program. Under this program, we are obligated to make our “innovator” drugs available for procurement on an FSS contract and charge a price to four federal agencies — the VA, U.S. Department of Defense, (DoD), Public Health Service and U.S. Coast Guard — that is no higher than the statutory Federal Ceiling Price, (FCP). The FCP is based on the non-federal average manufacturer price, (Non-FAMP), which we calculate and report to the VA on a quarterly and annual basis. We also may participate in the Tricare Retail Pharmacy program, under which we would pay quarterly rebates on utilization of innovator products that are dispensed through the Tricare Retail Pharmacy network to Tricare beneficiaries. The rebates are calculated as the difference between the annual Non-FAMP and FCP.

Pricing and rebate calculations vary across products and programs, are complex, and are often subject to interpretation by us, governmental or regulatory agencies, and the courts. We could be held liable for errors associated with our submission of pricing data. In addition to retroactive Medicaid rebates and the potential for issuing 340B program refunds, if we are found to have knowingly submitted false AMP, Best Price, or Non-FAMP information to the government, we may be liable for significant civil monetary penalties per item of false information. If we are found to have made a misrepresentation in the reporting of our ASP, the Medicare statute provides for significant civil monetary penalties for each misrepresentation for each day in which the misrepresentation was applied. Our failure to submit monthly/quarterly AMP and Best Price data on a timely basis could result in a significant civil monetary penalty per day for each day the information is late beyond the due date. Such conduct also could be grounds for CMS to terminate our Medicaid drug rebate agreement, in which case federal payments may not be available under Medicaid or Medicare Part B for our covered outpatient drugs. Significant civil monetary penalties also could apply to late submissions of Non-FAMP information. Civil monetary penalties could also be applied if we are found to have charged 340B covered entities more than the statutorily mandated ceiling price or HRSA could terminate our agreement to participate in the 340B program, in which case federal payments may not be available under Medicaid or Medicare Part B for our covered outpatient drugs. In addition, claims submitted to federally-funded healthcare programs, such as Medicare and Medicaid, for drugs priced based on incorrect pricing data provided by a manufacturer can implicate the federal civil False Claims Act. Civil monetary penalties could be due if we fail to offer discounts to beneficiaries under the Medicare Part D coverage gap discount program. Furthermore, under the refund program for discarded drugs, manufacturers that fail to pay refunds could be subject to civil monetary penalties of 125 percent of the refund amount.

The containment of healthcare costs has become a priority of federal, state and foreign governments, and the prices of drugs have been a focus in this effort. The U.S. government, state legislatures, and foreign governments have shown significant interest in implementing cost-containment programs to limit the growth of government-paid

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healthcare costs, including price controls, restrictions on reimbursement, and requirements for substitution of generic products for branded prescription drugs. For example, there have been several recent U.S. Congressional inquiries and proposed federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the cost of drugs, and reform government program reimbursement methodologies for drug products.

Beginning April 1, 2013, Medicare payments for all items and services, including drugs, were reduced by 2% under the sequestration (i.e., automatic spending reductions) required by the Budget Control Act of 2011, as amended by the American Taxpayer Relief Act of 2012. Subsequent legislation extended the 2% reduction, generally to 2031 Sequestration is currently set at 2% and will increase to 2.25% for the first half of fiscal year 2030, to 3% for the second half of fiscal year 2030, and to 4% for the remainder of the sequestration period that lasts through the first six months of fiscal year 2031. As long as these cuts remain in effect, they could adversely impact payment for any products we now sell or may commercialize in the future. If Congress does not take action in the future to modify these sequestrations, Medicare Part D plans could seek to reduce their negotiated prices for drugs. Other legislative or regulatory cost containment legislation could have a similar effect.

Further, the Affordable Care Act may reduce the profitability of drug products. It expanded manufacturers' rebate liability under the Medicaid program from fee-for-service Medicaid utilization to include the utilization of Medicaid managed care organizations as well, and increased the minimum Medicaid rebate due for most innovator drugs. The Affordable Care Act and subsequent legislation also changed the definition of AMP. On February 1, 2016, CMS issued final regulations to implement the changes to the Medicaid drug rebate program under the Affordable Care Act. These regulations became effective on April 1, 2016.

The Affordable Care Act requires pharmaceutical manufacturers of branded prescription drugs to pay a branded prescription drug fee to the federal government. Each such manufacturer pays a prorated share of the branded prescription drug fee of $2.8 billion in 2019 and thereafter, based on the dollar value of its branded prescription drug sales to certain federal programs identified in the law. The Affordable Care Act also expanded the Public Health Service Act's 340B program to include additional types of covered entities. Substantial new provisions affecting compliance have also been enacted, which may affect our business practices with healthcare practitioners. It appears likely that the Affordable Care Act will continue the pressure on pharmaceutical pricing, especially under the Medicare and Medicaid programs, and may also increase our regulatory burdens and operating costs.

Additional legislative changes, regulatory changes, and judicial challenges related to the Affordable Care Act remain possible, as discussed above under the heading "U.S. Healthcare Reform." In addition, there There likely will continue to be proposals by legislators at both the federal and state levels, regulators, and third-party payors to contain healthcare costs. Thus, even if we obtain favorable coverage and reimbursement status for our products and any product candidates for which we receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future.

Different pricing and reimbursement schemes exist in other countries. In the EU, each EU Member State can restrict the range of medicinal products for which its national health insurance system provides reimbursement and can control the prices of medicinal products for human use marketed on its territory. As a result, following receipt of marketing authorization in an EU Member State, through any application route, the applicant is required to engage in pricing discussions and negotiations with the competent pricing authority in the individual EU Member State. The governments of the EU Member States influence the price of pharmaceutical products through their pricing and reimbursement rules and control of national healthcare systems that fund a large part of the cost of

those products to consumers. Some EU Member States operate positive and negative list systems under which products may only be marketed once a reimbursement price has been agreed upon. To obtain reimbursement or pricing approval, some of these countries may require the completion of clinical trials that compare the cost-effectiveness of a particular product candidate to currently available therapies. Other EU Member States allow companies to fix their own prices for medicines but monitor and control company profits. Others adopt a system of reference pricing, basing the price or reimbursement level in their territories either on the pricing and reimbursement levels in other countries or on the pricing and reimbursement levels of medicinal products intended for the same therapeutic indication. Further, some EU Member States approve a specific price for the medicinal product or may instead adopt a system of direct or indirect controls on the profitability of the company placing the medicinal on the market. The downward pressure on healthcare costs in general, particularly prescription drugs, has become more intense. As a result, increasingly high barriers are being erected to the entry of new products. In addition, we may face competition for our product candidates from lower-priced products in foreign countries that have placed price controls on pharmaceutical products. In addition, in some countries, cross-border imports from low-priced markets exert a commercial pressure on pricing within a country.

Health Technology Assessment, or HTA, of medicinal products, however, is becoming an increasingly common part of the pricing and reimbursement procedures in some EU Member States. These EU Member States include France, Germany, Ireland, Italy, and Sweden. HTA is the procedure according to which the assessment of the public health impact, therapeutic impact and the economic and societal impact of use of a given medicinal product in the national healthcare systems of the individual country is conducted. HTA generally focuses on the clinical efficacy and effectiveness, safety, cost, and cost-effectiveness of individual medicinal products as well as their potential implications for the healthcare system. Those elements of medicinal products are compared with other treatment options available on the market.

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The outcome of HTA regarding specific medicinal products will often influence the pricing and reimbursement status granted to these medicinal products by the competent authorities of individual EU Member States. The extent to which pricing and reimbursement decisions are influenced by the HTA of the specific medicinal product varies between EU Member States.

In addition, pursuant to Directive 2011/24/EU on the application of patients' rights in cross-border healthcare, a voluntary network of national authorities or bodies responsible for HTA in the individual EU Member States was established. The purpose of the network is to facilitate and support the exchange of scientific information concerning HTAs. This may lead to harmonization of the criteria taken into account in the conduct of HTAs between EU Member States and in pricing and reimbursement decisions and may negatively affect price in at least some EU Member States.

On January 31, 2018, the European Commission adopted a proposal for an HTA Regulation intended to set out an EU-wide framework for HTA and boost cooperation among EU Member States in assessing health technologies, including new medicinal products. The HTA Regulation provides the basis for permanent and sustainable cooperation at the EU level for joint clinical assessments in these areas and is therefore complementary to Directive 2011/24/EU. The HTA Regulation was finally adopted on December 13, 2021, and entered into force on January 11, 2022. The HTA Regulation will apply to all EU Member States from January 12, 2025.

The HTA Regulation provides that EU Member States will be able to use common HTA tools, methodologies, and procedures across the EU. Individual EU Member States will continue to be responsible for drawing conclusions on the overall value of a new health technology for their healthcare system, and pricing and reimbursement decisions.

Healthcare Fraud and Abuse Laws

In addition to FDA restrictions on marketing of pharmaceutical products, if and when we commercialize our business is product candidates, our relationship with customers and third party payors will be subject to healthcare applicable anti-kickback, fraud and abuse, regulation and enforcement by both the federal government other laws and the states in which we conduct our business. regulations. These laws include, but are not limited to the following:

The federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, in cash or in kind, to induce or in return for purchasing, leasing, ordering or arranging for or recommending the purchase, lease or order of any healthcare item or service reimbursable, in whole or in part, under Medicare, Medicaid or other federally financed healthcare programs. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on one hand and prescribers, purchasers, and formulary managers on the other. A violation of the Anti-Kickback Statute may be established without proving actual knowledge of the statute or specific intent to violate it. The government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act. Although there are a number of statutory exceptions and regulatory safe harbors protecting certain common activities from prosecution, the exceptions and safe harbors are drawn narrowly and practices that involve remuneration to those who prescribe, purchase, or recommend pharmaceuticals, including certain discounts, or engaging such individuals as consultants, speakers or advisors, may be subject to scrutiny if they do not fit squarely within the exception or safe harbor. For example, in November 2020, the OIG issued a Special Fraud Alert to highlight certain inherent fraud and abuse risks associated with speaker fees, honorariums and expenses paid by pharmaceutical and medical device companies to healthcare professionals participating in company-sponsored events. The Special Fraud Alert sent a clear signal that speaker programs will be subject to potentially heightened enforcement scrutiny. Our practices may not in all cases meet all of the criteria for safe harbor protection from anti-kickback liability. Moreover, there are no safe harbors for many common practices, such as educational and research grants, charitable donations, product support and patient assistance programs. Arrangements that implicate the Anti-Kickback Statute and do not fit within an exception or safe harbor are reviewed on a case-by-case basis to determine whether, based on the facts and circumstances, they violate the statute.

The federal civil False Claims Act prohibits any person from, among other things, knowingly presenting, or causing to be presented, a false or fraudulent claim for payment of government funds, or knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay money to the government or knowingly concealing or knowingly and

improperly avoiding, decreasing, or concealing an obligation to pay money to the federal government. Actions under the False Claims Act may be brought by private individuals known as qui tam relators in the name of the government and to share in any monetary recovery. In recent years, several pharmaceutical and other healthcare companies have faced enforcement actions under the False Claims Act for, among other things, providing free product to customers with the expectation that the customers would bill federal programs for the product, and other interactions with prescribers and other customers including interactions that may have affected customers' billing or coding practices on claims submitted to the federal government. Other companies have faced enforcement actions for causing false claims to be submitted because of the company's marketing the product for unapproved, and thus non-reimbursable, uses. Federal enforcement agencies also have shown increased interest in pharmaceutical companies' product and patient assistance programs, including reimbursement and co-pay support services, and a number of investigations into these programs have resulted in significant civil and criminal settlements.

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The Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively HIPAA) prohibits, among other things, knowingly and willfully executing a scheme to defraud any healthcare benefit program, including private third-party payors. HIPAA also prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement or representation, or making or using any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry in connection with the delivery of or payment for healthcare benefits, items or services. We may obtain health information from third parties that are subject to privacy and security requirements under HIPAA and we could potentially be subject to criminal penalties if we, our affiliates, or our agents knowingly obtain or disclose individually identifiable health information maintained by a HIPAA-covered entity in a manner that is not authorized or permitted by HIPAA.

The majority of states also have statutes or regulations similar to the federal anti-kickback and false claims laws, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor. Several states now require pharmaceutical companies to report expenses relating to the marketing and promotion of pharmaceutical products in those states and to report gifts and payments to individual health care providers HCPs in those states. Some of these states also prohibit certain marketing-related activities including the provision of gifts, meals, or other items to certain health care providers. HCPs. Other states have laws requiring pharmaceutical sales representatives to be registered or licensed, and still others impose limits on co-pay

assistance that pharmaceutical companies can offer to patients. In addition, several states require pharmaceutical companies to implement compliance programs or marketing codes.

The Physician Payments Sunshine Act, implemented as the Open Payments program, and its implementing regulations, requires manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to CMS information related to direct or indirect payments and other transfers of value to physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, certified nurse-midwives, and teaching hospitals, as well as ownership and investment interests held in the company by physicians and their immediate family members. As Many of last year, manufacturers must the non-U.S. jurisdictions where we operate also have equivalent laws requiring us to report transfers of value made to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, and certified nurse-midwives. healthcare professionals.

Compliance with such laws and regulations will require substantial resources. Because of the breadth of these various fraud and abuse laws, it is possible that some of our business activities could be subject to challenge under one or more of such laws. Such a challenge could have material adverse effects on our business, financial condition and results of operations. In the event governmental authorities conclude that our business practices do not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations, they may impose sanctions under these laws, which are potentially significant and may include civil monetary penalties, damages, exclusion of an entity or individual from participation in government health care programs, criminal fines and imprisonment, additional reporting requirements if we become subject to a corporate integrity agreement or other settlement to resolve allegations of violations of these laws, as well as the potential curtailment or restructuring of our operations. Even if we are not determined to have violated these laws, government investigations into these issues typically require the expenditure of significant resources and generate negative publicity.

Healthcare Privacy Laws

We may be subject to federal, state, and foreign laws and regulations governing data privacy and security of health information, and the collection, use, disclosure, and protection of health-related and other personal information, including state data breach notification laws, state health information and/or genetic privacy laws, and federal and state consumer protection laws, such as Section 5 of the FTC Act, many of which differ from each other in significant ways, thus complicating compliance efforts. Compliance with these laws is difficult, constantly evolving, and time consuming. Many of these state laws enable a state attorney general to bring actions and provide private rights of action to consumers as enforcement mechanisms. There is also heightened sensitivity around certain types of health information, such as sensitive condition information or the health information of minors, which may be subject to additional protections. Federal regulators, state attorneys general, and plaintiffs' attorneys, including class action attorneys, have been and will likely continue to be active in this space.

The legislative and regulatory landscape for privacy and data protection continues to evolve, and there has been an increasing focus on privacy and data protection issues which may affect our business. Failure to comply with these laws and regulations could result in government enforcement actions and create liability for us (including the imposition of significant civil and/or criminal penalties), private litigation and/or adverse publicity that could negatively affect our business. We may obtain health information from third parties, such as health care providers HCPs who prescribe our products, and research institutions we collaborate with, who are subject to privacy and security requirements under HIPAA. Although we are not directly subject to HIPAA, other than potentially with respect to providing

certain employee benefits, we could be subject to criminal penalties if we or our affiliates or agents knowingly obtain individually identifiable health information maintained by a HIPAA-covered entity in a manner that is not authorized or permitted by HIPAA.

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In California, the California Consumer Privacy Act (CCPA) establishes certain requirements for data use and sharing transparency and provides California consumers (as defined in the law) certain rights concerning the use, disclosure, and retention of their personal data. In November 2020, California voters approved the California Privacy Rights Act (CPRA) ballot initiative which introduced significant amendments to the CCPA and established and funded a dedicated California privacy regulator, the California Privacy Protection Agency (CPPA). The amendments introduced by the CPRA went effect on January 1, 2023, and new implementing regulations are expected continue to be introduced by the CPPA. Failure to comply with the CCPA may result in, among other things, significant civil penalties and injunctive relief, or statutory or actual damages. In addition, California residents have the right to bring a private right of action in connection with certain types of incidents. These claims may result in significant liability and damages. Similarly, there are a number of legislative proposals in the EU, the United States, at both the federal and state level, as well as other jurisdictions that could impose new obligations or limitations in areas affecting our business. For example, other states, including Virginia, Colorado, Utah, Indiana, Iowa, Tennessee, Montana, Texas, and Connecticut have enacted privacy laws similar to the CCPA that impose new obligations or limitations in areas affecting our business and we continue to assess the impact of these state legislation, on our business as additional information and guidance becomes available. In addition, some countries are considering or have passed legislation implementing data protection requirements or requiring local storage and processing of data or similar requirements that could increase the cost and complexity of delivering our services and research activities. These laws and regulations are evolving and subject to interpretation, and may impose limitations on our activities or otherwise adversely affect our business. The obligations to comply with the CCPA and evolving legislation may require us, among other things, to update our notices and develop new processes internally and with our partners. In

addition, we could be subject to regulatory actions and/or claims made by individuals and groups in private litigation involving privacy issues related to data collection and use practices and other data privacy laws and regulations, including claims for misuse or inappropriate disclosure of data, as well as unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act (FTC Act). The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards. With respect to privacy, the FTC also sets expectations that companies honor the privacy promises made to individuals about how the company handles consumers' personal information; any failure to honor promises, such as the statements made in a privacy policy or on a website, may also constitute unfair or deceptive acts or practices in violation of the FTC Act. While we do not intend to engage in unfair or deceptive acts or practices, the FTC has the power to enforce promises as it interprets them, and events that we cannot fully control, such as data breaches, may be result in FTC enforcement. Enforcement by the FTC under the FTC Act can result in civil penalties or decades-long enforcement actions. These laws and regulations, as well as any associated claims, inquiries, or investigations or any other government actions may lead to unfavorable outcomes including increased compliance costs, delays or impediments in the development of new products, negative publicity, increased operating costs, diversion of management time and attention, and remedies that harm our business, including fines or demands or orders that we modify or cease existing business practices.

Outside the U.S., the legislative and regulatory landscape for privacy and data security continues to evolve. There has been increased attention to privacy and data security issues that could potentially affect our business, including the EU General Data Protection Regulation including as implemented in the UK (collectively, GDPR), which imposes penalties for the most serious breaches of up to EUR 20 million or 4% of a noncompliant company's annual global revenue, whichever is greater. The GDPR regulates the processing of personal data (including health data from clinical trials) and places certain obligations on the processing of such personal data including ensuring the lawfulness of processing personal data (including obtaining valid consent of the individuals to whom the personal data relates, where applicable), the processing details disclosed to the individuals, the adequacy, relevance and necessity of the personal data collected, the retention of personal data collected, the sharing of personal data with third parties, the transfer of personal data out of the European Economic Area/UK to third countries including the U.S., contracting requirements (such as with clinical trial sites and vendors), the use of personal data in accordance with individual rights, the security of personal data and security breach/incident notifications. Data protection authorities from the different European Member States and the UK may interpret the GDPR and applicable related national laws differently and impose requirements additional to those provided in the GDPR and that sit alongside the GDPR, as set out under applicable local data protection law. In addition, guidance on implementation and compliance practices may be issued, updated or otherwise revised. Enforcement by European and UK regulators is generally active, and failure to comply with the GDPR or applicable Member State/UK local law may result in fines, amongst other things (such as notices requiring compliance within a certain timeframe). Further, the UK Government may amend/update UK data protection law, which may result in changes to our business operations and potentially incur commercial cost.

European/UK data protection laws, including the GDPR, generally restrict the transfer of personal data from the European Economic Area (EEA), including the EU, United Kingdom and Switzerland, to the U.S. and most other countries (except those deemed to be adequate by the European Commission/UK Secretary of State as applicable) unless the parties to the transfer have implemented specific safeguards to protect the transferred personal data. While previously U.S. companies could rely on self-certification to the EU-U.S. and Swiss-U.S. Privacy Shield frameworks administered by the U.S. Department of Commerce as one of these safeguards to legitimize transfers from the EU and Switzerland to the U.S. On July 10, 2023, this has been invalidated by the Court of Justice of the European Union (CJEU). The CJEU found that the Standard Contractual Clauses (SCCs), one of the primary safeguards for legitimizing data transfers, were valid in principle, but placed obligations on the parties entering into them including to verify whether an adequate level of protection is provided in the recipient jurisdiction, and whether additional measures are required to bring the level of protection in line with EU standards. Following this decision, the European Data Protection Board issued guidance on how organizations should approach international data transfers of GDPR-covered personal data, including the supplemental measures companies can adopt to help protect against overarching surveillance outside of the EU. In June 2021, the European Commission adopted a new set of SCCs aimed at enabling lawful transfers of its

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adequacy decision for the EU-U.S. Data Privacy Framework, meaning that personal data can now flow freely from the E.U. to non-adequate countries outside U.S. companies that participate in the EEA, the deadline for the adoption of which was December 27 2022. Data Privacy Framework. There are also recent developments regarding data transfers in the UK, which formally approved two mechanisms for transferring UK data overseas and that came into force on March 21, 2022: the International Data Transfer Agreement or the International Data Transfer Addendum to the SCCs. The UK Information Commissioner's Office also issued guidance on how to approach undertaking risk assessments for transfers of UK data to non-adequate countries outside the UK.

A lack of valid transfer mechanisms for GDPR-covered data could increase exposure to enforcement actions as described above, and may affect our business operations and require commercial cost (including potentially limiting our ability to collaborate/work with certain third parties and/or requiring an increase in our data processing capabilities in the EU/UK). Further, the European/UK data protection laws (including laws on data transfers as set out above) may also be updated/revised, accompanied by new guidance and/or judicial/regulatory interpretations, which could entail further impacts on our compliance efforts and increased cost.

Foreign Corrupt Practices Act

In addition, the U.S. Foreign Corrupt Practices Act of 1977, as amended, (FCPA), prohibits corporations and individuals from engaging in certain activities to obtain or retain business or to influence a person working in an official capacity. It is illegal to pay, offer to pay or authorize the payment of anything of value to any official of another country, government staff member, political party or political candidate in an attempt to obtain or retain business or to otherwise influence a person working in that capacity.

Corporate Information

We were incorporated under the laws of the state of Delaware on March 19, 2008, under the name New pSivida, Inc. Our predecessor, pSivida Limited, was formed in December 2000 as an Australian company incorporated in Western Australia. We subsequently changed our name to pSivida Corp. in May 2008 and again to EyePoint Pharmaceuticals, Inc. in March 2018. Our principal executive office is located at 480 Pleasant Street, Suite C400, Watertown, Massachusetts 02472, and our telephone number is (617) 926-5000.

Additional Information

Our website address is www.eyepointpharma.com. Information contained on, or connected to, our website is not incorporated by reference into this Annual Report on Form 10-K. Copies of this Annual Report on Form 10-K, and our annual reports on Form 10-K, proxy statements, quarterly reports on Form 10-Q, current reports on Form 8-K and, if applicable, amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, are available free of charge through our website under "Investors – Financial Information – SEC Filings" as soon as reasonably practicable after we electronically file these materials with, or otherwise furnish them to, the SEC. The SEC maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov.

ITEM 1A. RISK FACTORS

RISKS RELATED TO OUR FINANCIAL POSITION AND OUR CAPITAL RESOURCES

We will likely need additional capital to fund our operations. If we are unable to obtain sufficient capital, we will need to curtail and reduce our operations and costs and modify our business strategy.

Our operations have consumed substantial amounts of cash. To date, we have financed We are currently financing our operations primarily through the sale of capital stock, proceeds from term loan agreements, the receipt of license fees, milestone payments, research and development funding and royalty payments revenues from our collaboration partners, sales of YUTIQ® and product sales. In 2019, we commenced the U.S. launch of DEXYCU® to our first two commercial products, YUTIQ and DEXYCU, and we commercialization partners. We are developing EYP-1901 as a potential six-month sustained delivery treatment for wet AMD as well a treatment for non-proliferative diabetic retinopathy (NPDR), and NPDR. diabetic macular edema (DME). However, we have no expectation of revenues from our research and development programs, including EYP-1901, prior to the successful completion of clinical trials for such programs. Therefore, we have no sufficient historical evidence to assert that it is probable that we will receive sufficient revenues from our product sales to fund operations. As of December 31, 2022 December 31, 2023, our cash, cash equivalents, and investments in marketable securities totaled $144.6 million $331.0 million. We believe that our cash, cash equivalents and investments in marketable securities, combined with anticipated net cash inflows from net product sales, will fund our operating plan through topline data for the Phase 3 wet AMD clinical trials related to EYP-1901 into the second half of 2024, 2026, under current expectations regarding the timing and outcomes of our Phase 2 3 clinical trials trial for EYP-1901 for the treatment of wet AMD, and NPDR. through Phase 2 clinical trials for the treatment of NPDR and DME. Due to the difficulty and uncertainty associated with the design and implementation of clinical trials, we will continue to assess our cash, cash equivalents, results from investments in marketable securities and future funding requirements. However, there is no assurance that additional funding will be achieved and that we will succeed in our future operations. Actual cash requirements could differ from our

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projections due to many factors, including, the continued effect of the Pandemic on our business and the medical community, the timing and results of our Phase 2 and Phase 3 clinical trials for EYP-1901, additional investments in research and development programs the success of commercialization for YUTIQ, the loss of pass-through related separate payment for DEXYCU, the actual costs of these commercialization efforts, such as EYP-2301, the costs associated with the ongoing efforts associated with for responding to the subpoena from the U.S. Attorney's Office for the District of Massachusetts (DOJ) seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU® (DOJ Investigation) Subpoena), higher interest rates, inflation, supply shortages, competing technological and market developments, and the costs of any strategic acquisitions and/or development of complementary business opportunities.

If we are unable to raise additional capital in sufficient amounts or on terms acceptable to us, we will need to curtail and reduce our operations and costs, and modify our business strategy, which may require us to, among other things:

- significantly delay, scale back or discontinue the commercialization or development of one or more of our products or product candidates or one or more of our other research and development initiatives;

- seek partners or collaborators for one or more of our products or product candidates at an earlier stage than otherwise would be desirable or on terms that are less favorable than might otherwise be available;
- sell or license on unfavorable terms our rights to one or more of our technologies products or product candidates that we otherwise would seek to develop or commercia ourselves; and/or
- seek to sell our company at an earlier stage than would otherwise be desirable or on terms that are less favorable than might otherwise be available.

We have incurred significant losses since our inception and anticipate that we will continue to incur losses for the foreseeable future.

We have incurred significant losses since our inception have not generated significant revenue from commercial sales of our products and are not profitable. Investment in drug development is highly speculative because it entails substantial upfront operating expenses and significant risk that a product candidate will fail to successfully complete clinical trials, gain regulatory approval or become commercially viable. We continue to incur significant operating expenses due primarily to investments in clinical trials, sales and marketing infrastructure, research and development, and other expenses related to our ongoing operations. For the years ended December 31, 2022 December 31, 2023 and 2021, 2022, we had losses from operations of $99.6 million $75.1 million and $55.3 million $99.6 million, respectively, and net losses of $102.3 million $70.8 million and $58.4 million $102.3 million, respectively, and we had a total accumulated deficit of $671.4 million $742.1 million at December 31, 2022 December 31, 2023.

We expect to continue to incur significant expenses and operating losses for the foreseeable future. We anticipate that our expenses will continue to be significant if, and as, we:

- continue the research and pre-clinical and clinical development of our product candidates, including EYP-1901 and YUTIQ; EYP-2301;
- initiate additional pre-clinical studies, clinical trials, or other studies or trials for EYP-1901, EYP-2301, and our other product candidates;
- continue to sustain and enhance an effective commercial infrastructure and enter into, and maintain new agreements for the commercialization of YUTIQ;
- continue efforts to commercialize DEXYCU internationally;
- add additional operational, financial and management information systems, and personnel, including personnel to support our development and commercialization planr efforts;
- continue to perform tasks associated with the ongoing DOJ Investigation; Subpoena;
- hire additional commercial, clinical, manufacturing and scientific personnel, and engage third party commercial, clinical and manufacturing organizations;
- further develop the manufacturing process for our product candidates;
- change or add additional manufacturers or suppliers;
- seek regulatory approvals for our product candidates that successfully complete clinical trials;
- seek to identify and validate additional product candidates;
- acquire or in-license other products, product candidates, and technologies;
- maintain, protect, and expand our intellectual property portfolio;
- create additional infrastructure to support our product development and planned future commercial sale efforts; and
- experience any delays or encounter issues with any of the above.

We may never achieve profitability from future operations.

Our ability to generate revenue and achieve profitability depends on our ability, alone or with strategic collaboration partners, to successfully commercialize our current products and complete the development of, and obtain the regulatory approvals necessary for, the manufacture and commercialization of our product candidates, including EYP-1901. To become and remain profitable, we must succeed in developing and commercializing products that generate significant revenue. This will require us to be successful in a range of challenging activities, including completing pre-clinical testing and clinical trials of our product candidates, discovering additional product candidates, obtaining regulatory approval for these product candidates, manufacturing, marketing, and selling any products for which we or our

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licensees may obtain regulatory approval, satisfying any post-marketing requirements and obtaining reimbursement for our products from private insurance or government payors. We do not know the extent to which YUTIQ or DEXYCU, or any of our product candidates, including EYP-1901, if approved, will generate significant revenue for us, if at all. We may never succeed in these activities and, even if we do, we may never generate revenues significant enough to achieve profitability. Because of the numerous risks and uncertainties associated with pharmaceutical product development and commercialization, we are unable to accurately project when or if we will be able to achieve profitability from operations. Even if we do so, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable would depress the value of our company and could impair our ability to raise capital, expand our business, maintain our research and development efforts, diversify

our product offerings, or even continue our operations. Our ability to generate revenue from our current or future products and product candidates will depend on a number of factors, including:

- the effectiveness and timeliness of our ability to successfully complete development activities, including the necessary preclinical studies and clinical trials, with respect t EYP-1901 and our other product candidates; the usefulness of the data;
- our ability to continue to sustain and enhance create an effective commercial infrastructure and enter into, and maintain, new agreements for the commercialization of YUTIQ;
- EYP-1901 and our ability to complete and submit applications to, and obtain regulatory approval from, foreign regulatory authorities, if we choose to commercialize YUT and DEXYCU in additional unpartnered jurisdictions outside the U.S.; other product candidates;
- the size of the markets in the territories for which we gain regulatory approval;
- our ability to further develop our commercial organization capable of sales, marketing, and distribution for YUTIQ and any of our other product candidates for which we r obtain marketing approval;
- our ability to manufacture clinical and commercial supply of our products and product candidates;
- our ability to enter into and maintain commercially reasonable agreements with manufacturers, wholesalers, distributors, and other third parties in our supply chain;
- the sufficiency of our existing cash resources until we present topline data for the EYP-1901 Phase 3 clinical trials into 2026;
- our access to needed capital;
- our success in establishing a commercially viable price for our products; product candidates;
- our ability to manufacture commercial quantities of our products product candidates at acceptable cost levels; and
- our ability to obtain coverage and adequate reimbursement from third parties, including government payors.

We received a subpoena from the U.S. Attorney's Office for the District of Massachusetts seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU®. If the DOJ commences an action against us, the action could have a material adverse effect on our business, financial condition, results of operations, and cash flows. In addition, we have expended and expect to continue to expend significant financial and managerial resources responding to the DOJ subpoena, which could also have a material adverse effect on our business, financial condition, results of operations, and cash flows.

In August 2022, the Company received a subpoena from the U.S. Attorney's Office for the District of Massachusetts (DOJ) seeking production of documents related to sales, marketing, and promotional practices, including as pertain to DEXYCU®. We (DOJ Subpoena).We are cooperating fully with the government in connection with this matter. We cannot predict the outcome of the DOJ Investigation, Subpoena, and there can be no assurance that the DOJ will not commence an action against us, or as to what the ultimate outcome of any such DOJ Investigation Subpoena might be. Under applicable law, the DOJ has the ability to impose sanctions on companies which are found to have violated the provisions of applicable laws, including civil monetary penalties and other remedies. The resolution of any such enforcement action, should there be one, could have a material adverse effect on our business, financial condition, results of operations, and cash flows. We have expended and expect to continue to expend significant financial and managerial resources responding to the DOJ subpoena, Subpoena, which could also have a material adverse effect on our business, financial condition, results of operations, and cash flows.

The ongoing novel coronavirus (COVID-19) pandemic has had, and may continue to have, a material and adverse impact on our business.

The ongoing COVID-19 coronavirus pandemic (the Pandemic) has had a material and adverse impact on the Company's business pursuant to a reduction in physician office visits impacting YUTIQ, specifically in early 2022. Going forward, the duration and full extent to which the Pandemic impacts the Company's business, revenues, financial condition and cash flows depend on future developments that are highly uncertain, subject to change and are difficult to predict, including new information that may emerge concerning the Pandemic, and may cause intermittent or prolonged periods of reduced patient services at the Company's customers' facilities, which may negatively affect customer demand. The Company's revenues, financial condition and cash flows may be adversely affected in the future as well. The Company is continuously monitoring the Pandemic and its potential effect on the Company's financial position, results of operations and cash flows. Although the U.S. government has announced its intention to terminate the public health crisis associated with the Pandemic as of May 2023, there remains an uncertainty about the potential future impact of the Pandemic on the Company's business. This uncertainty could have an impact in future periods on certain estimates used in the preparation of the Company's periodic financial results, including reserves for variable consideration related to product sales, realizability of certain receivables and assessment for excess or obsolete inventory. Uncertainty around the extent and length of time of the Pandemic, and any future related financial impact cannot be reasonably estimated at this time.

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While we cannot presently predict the future scope and severity of current or any potential business shutdowns or disruptions related to COVID-19, if we or any of the third parties with whom we engage, including the suppliers, manufacturers and other third parties in our global supply chain, clinical trial sites, clinical research organizations, patients who may be candidates for clinical trials, regulators, surgeons, ASCs, potential business development partners and other third parties with whom we conduct business, were to experience prolonged shutdowns or other business disruptions, including the imposition of restrictions on the export or import of our key supplies from countries outside of the United States, our ability to conduct our business in the manner and on the timelines

presently planned could be materially and negatively impacted. Further, any sustained disruption in the capital markets from the Pandemic could negatively impact our ability to raise capital.

To the extent the Pandemic continues to adversely affect our business, results of operations, financial condition and cash flows, it may also heighten many of the other risks described herein as well as in any amendment or update to our risk factors reflected in subsequent filings with the SEC.

The ultimate impact of the Pandemic on our business, results of operations, financial condition and cash flows is dependent on future developments, which are still highly uncertain and cannot be predicted with confidence, including the duration of the Pandemic, as well as the timing and phasing of business reopening, including the full resumption of the performance of elective surgical procedures such as cataract surgeries.

We will need to raise additional capital in the future, which may not be available on favorable terms and may be dilutive to stockholders or impose operational restrictions.

We will need to raise additional capital in the future to help fund the development and commercialization of EYP-1901 and our other product candidates, if approved, and the continued commercialization of YUTIQ. approved. The amount of additional capital we will require will be influenced by many factors, including, but not limited to:

- our clinical development plans for EYP-1901 for the treatment of wet AMD, NPDR, and DME and our other product candidates; candidates, including EYP-2301;
- the outcome, timing and cost of the regulatory approval process for EYP-1901 and our other product candidates, including the potential for the FDA to require that we perform more studies and clinical trials than those we currently expect;
- product revenues received and cash flow generated from sales of YUTIQ;
- whether and to what extent we internally fund, whether and when we initiate, and how we conduct other product development programs;

- whether and when we are able to enter into strategic arrangements for our products or product candidates and the nature of those arrangements;
- the costs involved in preparing, filing, and prosecuting patent applications, and maintaining, and enforcing our intellectual property rights;
- changes in our operating plan, resulting in increases or decreases in our need for capital;
- our views on the availability, timing and desirability of raising capital; and
- the costs of operating as a public company.

We do not know if additional capital will be available to us when needed or on terms favorable to us or our stockholders. Collaboration, licensing or other commercial agreements may not be available on favorable terms, or at all. If we seek to sell our equity securities under our at-the-market (ATM) program or in another offering, we do not know whether and to what extent we will be able to do so, or on what terms. Further, the rules and regulations of the Nasdaq Stock Market LLC, (Nasdaq), require us to obtain stockholder approval for sales of our equity securities under certain circumstances, which could delay or prevent us from raising additional capital from such sales. Also, the state of the economy and financial and credit markets at the time or times we seek any additional financing may make it more difficult or more expensive to obtain. If available, additional equity financing may be dilutive to stockholders, debt financing may involve restrictive covenants or other unfavorable terms and dilute our existing stockholders' equity, and funding through collaboration, licensing or other commercial agreements may be on unfavorable terms, including requiring us to relinquish rights to certain of our technologies or products. If adequate financing is not available if and when needed, we may delay, reduce the scope of, or eliminate research or development programs, postpone or cancel the pursuit of product candidates such as EYP-1901, including pre-clinical and clinical trials and new business opportunities, independent U.S. commercialization of YUTIQ, or other new products, if any, reduce staff and operating costs, or otherwise significantly curtail our operations to reduce our cash requirements and extend our capital.

We must maintain compliance The Company's receipt of maximum consideration in conjunction with the terms its sale of rights to our Credit Facilities or receive a waiver YUTIQ® franchise to Alimera for any non-compliance. Our failure to comply with the covenants or other terms $82.5 million cash plus royalties is dependent on Alimera's effective sale and distribution of the Credit Facilities, including as a result YUTIQ® outside of events beyond our control, could result in a default under the SVB Loan Agreement that would materially China, Hong Kong, Taiwan, Macau, and adversely affect the ongoing viability of our business. Southeast Asia.

On March 9, 2022 (the SVB Closing Date), we entered into a loan and security agreement (the SVB Loan Agreement) among us, as borrower, and Silicon Valley Bank, as lender (SVB), providing for (i) a senior secured term loan facility of $30 million (the Term Facility) and (ii) a senior secured revolving credit facility of up to $15.0 million (the Revolving Facility and together with the Term Facility, the Credit Facilities). The maximum amount available for borrowing at any time under the Revolving Facility is limited to a borrowing base

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valuation of our eligible accounts receivable. On the SVB Closing Date, $30 million of the Term Facility and approximately $11.5 million of the Revolving Facility, were advanced, to pay off the CRG Loan, including the accrued interests

through this date. We utilized Pursuant to our PRA with Alimera, the proceeds from Company agreed to grant to Alimera an exclusive and sublicensable right and license under the Credit Facilities, together with cash on hand, Company's and its affiliates' interest in certain of the Company's and its affiliates' intellectual property to develop, manufacture, sell, commercialize and otherwise exploit certain products, including YUTIQ® (fluocinolone acetonide intravitreal implant or FA) 0.18 mg, for the repayment treatment and prevention of uveitis in full of all outstanding obligations under our term loan agreement (the CRG Credit Agreement) with CRG Servicing LLC (CRG).

The loans under the Credit Facilities are due entire world except Europe, the Middle East and payable on January 1, 2027 (the Maturity Date). The Credit Facilities bear interest that is payable monthly in arrears at a per annum rate (subject to increase during an event of default) equal to (i) with respect Africa. Pursuant to the Term Facility, agreement, Alimera paid the greater of (x) the Wall Street Journal prime rate plus 2.25% and (y) 5.50% and (ii) with respect to the Revolving Facility, the Wall Street Journal Prime Rate. An unused commitment fee of 0.25% per annum applies to unutilized borrowing capacity under the Revolving Facility. Commencing on February 1, 2024, we are required to repay the principal of the Term Facility in 36 consecutive equal monthly installments. At maturity or if earlier prepaid, we will also be required to pay an exit fee equal to 2.00% of the aggregate principal amount of the Term Facility.

We may make Company a voluntary prepayment of the Term Facility, in whole but not in part, at any time. Subject to certain exceptions, we are also $75 million cash upfront payment (Upfront Payment). Alimera is required to make mandatory prepayments of outstanding loans under the Credit Facilities with the proceeds of asset sales and insurance proceeds, which amounts in the case of the Revolving Facility, subject to the conditions set forth in the SVB Loan Agreement, may be re-borrowed. All voluntary and mandatory prepayments of the Term Facility are subject to the payment of prepayment premiums as follows: (i) if prepayment occurs on or prior to the first anniversary of the SVB Closing Date, an amount equal to 3.0% of the aggregate outstanding principal amount of the Term Facility being prepaid, (ii) if prepayment occurs after the first anniversary of the SVB Closing Date and on or prior to the second anniversary of the SVB Closing Date, 2.0% of the aggregate outstanding principal amount of the Term Facility being prepaid, (iii) if prepayment occurs after the second anniversary of the SVB Closing Date and on or prior to the third anniversary of the SVB Closing Date, 1.0% of the aggregate outstanding principal amount of the Term Facility being prepaid and (iv) if prepayment occurs after the third anniversary of the SVB Closing Date but prior to the Maturity Date, an amount equal to 0.50% of the aggregate outstanding principal amount of the Term Facility being prepaid. The prepayment of the Term Facility in full is also subject to the payment of an exit fee of $600,000. We may voluntarily terminate the Revolving Facility at any time, subject to the payment of a termination fee as follows: (i) if such termination occurs on or prior to the first anniversary of the Closing Date, an amount equal to 3.0% of the Revolving Facility and (ii) if such termination occurs after the first anniversary of the Closing Date, 1.0% of the Revolving Facility.

Certain of our future subsidiaries will be required to become co-borrowers under the SVB Loan Agreement or guarantee the obligations of ours under the SVB Loan Agreement. Our obligations under the SVB Loan Agreement and the guarantee of such obligations are secured by a pledge of substantially all of our and such subsidiaries' assets, excluding intellectual property.

The SVB Loan Agreement contains affirmative and negative covenants customary for financings of this type, including limitations on our and our subsidiaries' abilities, among other things, to incur additional debt, grant or permit additional liens, make investments and acquisitions, merge or consolidate with others, dispose of assets, pay dividends and distributions, enter into affiliate transactions and change our line of business, in each case, subject to certain exceptions. On March 7, 2023, the Company and SVB entered into an amendment to the SVB Loan Agreement, modifying the four quarterly financial covenants of the agreement. Pursuant to the amendment, commencing upon December 31, 2022, the Company is required to maintain, at all times, unrestricted and unencumbered cash and cash equivalents in an amount equal to the greater of (i) $50,000,000 and (ii) the Company's six-month Cash Burn Guaranteed Payments (as defined in the SVB Loan Agreement).

If we do not maintain compliance with PRA) to the continuing covenants and other terms and conditions Company totaling $7.5 million during 2024. Alimera is also required to pay royalties to the Company from 2025 to 2028 at a percentage of the Credit Facilities or secure a waiver for any non-compliance, then SVB may choose to declare an event low-to-mid double digits of default and require that we immediately repay all amounts outstanding, plus penalties and interest, including an exit fee, any termination fees and any prepayment fees, and foreclose on the collateral granted to them to secure such indebtedness. Such repayment would have a material adverse effect on our business, operating results and financial condition.

In addition, the repayment of all unpaid principal and accrued interest under the Credit Facilities may be accelerated upon consummation of a specified change of control transaction or the occurrence Alimera's annual U.S. net sales of certain other events of default (as specified in the SVB Loan Agreement), including, among other things: products (including YUTIQ

- ®our default in a payment obligation under the SVB Loan Agreement;
- our default under any of our agreements (i) evidencing indebtedness in an aggregate principal amount) in excess of $250,000 or (ii) that could reasonably be expected to have a material adverse effect on our and our subsidiaries' business or operations;
- our breach certain thresholds, beginning at $70 million in 2025, increasing annually thereafter (Royalties). Upon Alimera's payment of certain affirmative covenants the Upfront Payment and the negative covenants or, subject Guaranteed Payments, the licenses and rights granted to specified cure periods, other terms of the SVB Loan Agreement;
- a material impairment in the perfection or priority of SVB's security interest in the collateral;
- the occurrence of a material adverse effect (as specified in the SVB Loan Agreement);
- certain specified insolvency Alimera will automatically become perpetual and bankruptcy-related events; and

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- certain specified events relating to governmental approvals.

Subject to irrevocable. We cannot predict what success, if any, applicable cure period set forth in the SVB Loan Agreement, upon the occurrence of an event of default, SVB Alimera may accelerate all or any amounts outstanding have with respect to sales of YUTIQ® and, therefore, it is uncertain as to when we may receive the Credit Facilities (principal, accrued interest, exit fee, any termination fees royalties and any prepayment fees). Our assets or cash flow may not be sufficient to fully repay our obligations under the SVB Loan Agreement if the obligations thereunder are accelerated upon an event of default. Further, if we are unable to repay, refinance or restructure our obligations under the SVB Loan Agreement, SVB could proceed to protect and enforce their rights under the SVB Loan Agreement by exercising such remedies as are available to SVB thereunder and in respect thereof under applicable law, either by suit in equity or by action will receive any royalties at law, or both, whether for specific performance of any covenant or other agreement contained in the SVB Loan Agreement or in aid of the exercise of any power granted in the SVB Loan Agreement. The foregoing would materially and adversely affect the ongoing viability of our business.

Our Loan Agreement contains restrictions that limit our flexibility in operating our business.

The SVB Loan Agreement contains various covenants that limit our ability to engage in specified types of transactions without SVB's prior consent. These covenants limit our ability to, among other things:

- sell, transfer, lease or dispose of our assets;
- create, incur or assume additional indebtedness;
- encumber or permit liens on certain of our assets;
- make restricted payments, including paying dividends on, repurchasing or making distributions with respect to, our common stock;
- make specified investments (including loans and advances) and acquisitions;
- consolidate, merge, sell or otherwise dispose of all or substantially all of our assets;
- enter into certain transactions with our affiliates;
- permit our cash held in deposit accounts with SVB to be less than the lesser of (i) 100.0% of our consolidated cash, including our subsidiaries' and affiliates' cash, and (i 110.0% of all outstanding obligations owing under the SVB Loan Agreement; and
- permit our liquidity to fall below certain agreed levels.

The covenants in our Loan Agreement may limit our ability to take certain actions that may be in our long-term best interests. all. In the event that we breach one Alimera fails to execute the effective sale and distribution of YUTIQ® in the specified regions the royalties contemplated under the PRA could be adversely impacted in total, or more covenants, SVB may choose to declare an event of default in part, and require that we immediately repay all amounts outstanding, plus penalties and interest, including the exit fee, any termination fees and any prepayment fees, terminate their commitments to extend further credit and foreclose on the collateral granted to them to secure such indebtedness. Such repayment could have a material adverse effect on our business operating results and financial condition.

Certain potential payments to the Lenders could impede a sale of our company.

Subject to certain exceptions, we are also required to make mandatory prepayments of outstanding loans under the Credit Facilities with the proceeds of assets sales and insurance proceeds, which amounts in the case of the Revolving Facility, subject to the conditions set forth in the Loan Agreement, may re-borrowed.

All voluntary and mandatory prepayments of the Term Facility are subject to the payment of prepayment premiums as follows: (i) if prepayment occurs on or prior to the first anniversary of the SVB Closing Date, an amount equal to 3.0% of the aggregate outstanding principal amount of the Term Facility being prepaid, (ii) if prepayment occurs after the first anniversary of the SVB Closing Date and on or prior to the second anniversary of the SVB Closing Date, 2.0% of the aggregate outstanding principal amount of the Term Facility being prepaid, (iii) if prepayment occurs after the second anniversary of the SVB Closing Date and on or prior to the third anniversary of the SVB Closing Date, 1.0% of the aggregate outstanding principal amount of the Term Facility being prepaid and (iii) if prepayment occurs after the third anniversary of the SVB Closing Date but prior to the Maturity Date, an amount equal to 0.50% of the aggregate outstanding principal amount of the Term Facility being prepaid. The prepayment of the Term Facility in full is also subject to the payment of an exit fee of $600,000. We may voluntarily terminate the Revolving Facility at any time, subject to the payment of a termination fee as follows: (i) if such termination occurs on or prior to the first anniversary of the Closing Date, an amount equal to 3.0% of the Revolving Facility and (ii) if such termination occurs after the first anniversary of the Closing Date, 1.0% of the Revolving Facility.

These provisions may make it more costly for a potential acquirer to engage in a business combination transaction with us. Provisions that have the effect of discouraging, delaying or preventing a change in control could discourage a third party from attempting to acquire us, limit the opportunity for our stockholders to receive a premium for their shares of our common stock and could also affect the price that some investors are willing to pay for our common stock.

To service our indebtedness, we will require a significant amount of cash and our ability to generate cash depends on many factors beyond our control.

Our ability to make cash payments on our indebtedness will depend on our ability to generate significant operating cash flow in the future. This ability is, to a significant extent, subject to general economic, financial, competitive, legislative, regulatory and other factors, that will be beyond our control. In addition, our business may not generate sufficient cash flow from operations to enable us to pay our indebtedness or to fund our other liquidity needs. In any such circumstance, we may need to refinance all or a portion of our indebtedness, on or before maturity. We may not be able to refinance any indebtedness on commercially reasonable terms or at all. If we cannot service our indebtedness, we

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may have to take actions such as selling assets, seeking additional equity or reducing or delaying capital expenditures, strategic acquisitions and investments. Any such action, if necessary, may not be effected on commercially reasonable terms or at all. The instruments governing our indebtedness may restrict our ability to sell assets and our use of the proceeds from such sales.

Our profitability will be impacted by our obligations to make royalty and milestone payments to the former securityholders of Icon Bioscience, Inc. and other third-party collaborators.

In connection with our acquisition of Icon Bioscience, Inc. (Icon) in March 2018 (the Icon Acquisition), we are obligated to pay certain post-closing contingent cash payments upon the achievement of specified milestones and based upon certain net sales and partnering revenue standards, in each case subject to the terms and conditions set forth in the Merger Agreement, dated March 28, 2018 (the Merger Agreement). These future obligations include (i) sales milestone payments totaling up to $95.0 million, beginning no earlier than three years after the October 1, 2018 effective date of the pass-through reimbursement code approved by CMS, upon the achievement of certain sales thresholds and subject to certain CMS reimbursement conditions set forth in the Merger Agreement, (ii) quarterly earn-out payments equal to 12% on net sales of DEXYCU, which earn-out payments will increase to 16% of net sales of DEXYCU in a given year beginning in the calendar quarter for a given year to the extent aggregate annual consideration of DEXYCU exceeds $200.0 million in such year, (iii) quarterly earn-out payments equal to 20% of partnering revenue received by us for DEXYCU outside of the U.S., and (iv) single-digit percentage quarterly earn-out payments with respect to net sales and/or partnering income, if any, resulting from future clinical development, regulatory approval and commercialization of any other product candidates we might develop utilizing the Verisome technology acquired in the Icon Acquisition. For the year ended December 31, 2022, we accrued DEXYCU product revenue-based royalty expense of $1.6 million. Our profitability with respect to DEXYCU is impacted by our obligations to make payments to the former securityholders of Icon. Our obligations to the former securityholders of Icon and other third-party collaborators could have a material adverse effect on our business, financial condition and results of operations if we are unable to manage our operating costs and expenses at profitable levels. Going forward, we anticipate payments to ICON to be inconsequential pursuant to the CY 2023 Medicare Hospital OPPS and ASC Payment System Final Rule, which was issued November 1, 2022, terminating pass-through related separate payment for certain drugs, including DEXYCU, beyond its current expiration date of December 31, 2022. harmed.

Our ability to use our net operating loss carryforwards and other tax attributes may be limited.

As of December 31, 2022 December 31, 2023, including pre-acquisition amounts related to Icon, we had U.S. net operating loss (NOL) carryforwards of approximately $321.6 million $296.5 million for U.S. federal income tax and approximately $264.2 million $254.7 million for state income tax purposes available to offset future taxable income, and U.S. federal and state research and development tax credits of approximately $7.2 million $8.9 million, prior to consideration of annual limitations that may be imposed under Section 382 of the Internal Revenue Code of 1986, as amended (Section 382). Our U.S. NOL carryforwards begin to expire in 2023 if not utilized.

Our U.S. NOL and tax credit carryforwards could expire unused and be unavailable to offset future income tax liabilities. Under Section 382, and corresponding provisions of U.S. state law, if a corporation undergoes an “ownership change,” generally defined as a greater than 50% change, by value, in its equity ownership over a three-year period, the corporation’s ability to use its pre-change U.S. NOLs and other pre-change tax attributes, such as research and development tax credits, to offset its post-change income may be limited. The latest analysis performed under Section 382, performed through September 30, 2018, confirmed that the exercise of certain warrants in late September 2018 resulted in a greater than 50% cumulative ownership change, which will cause annual limitations on the use of our then existing NOL balances and other pre-change tax attributes. As a result, if we earn net taxable income in future periods, our ability to use our pre-change U.S. NOL carryforwards to offset U.S. federal taxable income will be subject to limitations, which could potentially result in increased future tax liabilities to us.

In addition, we may experience additional ownership changes in the future as a result of subsequent shifts in our stock ownership, including through completed or contemplated financings, some of which may be outside of our control. If we determine that a future ownership change has occurred and our ability to use our historical net operating loss and tax credit carryforwards is materially limited, it would harm our future operating results by effectively increasing our future tax obligations.

RISKS RELATED TO THE REGULATORY APPROVAL AND CLINICAL DEVELOPMENT OF OUR PRODUCT CANDIDATES

The outcomes of clinical trials are uncertain, and delays in the completion of or the termination of any clinical trial of EYP-1901 or our other product candidates could harm our business, financial condition, and prospects.

Our research and development program for our lead product candidate, EYP-1901, and certain of our other product candidates, are still in development. We must demonstrate EYP-1901’s and our other product candidates’ safety and efficacy in humans through extensive clinical testing. Such testing is expensive and time-consuming and requires specialized knowledge and expertise.

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Clinical trials are expensive and difficult to design and implement, in part because they are subject to rigorous regulatory requirements. The clinical trial process is also time-consuming, and the outcome is not certain. We estimate that clinical trials of our product candidates will take multiple years to complete. Failure can occur at any stage of a clinical trial, and we could encounter problems that cause us to abandon or repeat clinical trials. The commencement and completion of clinical trials may be delayed or precluded by a number of factors, including:

- decisions not to pursue development of product candidates due to pre-clinical or clinical trial results or market factors;
- lack of sufficient funding;
- failure to reach agreement with the FDA or other regulatory agency requirements for clinical trial design or scope of the development program;
- delays or inability to attract clinical investigators for trials;
- clinical sites dropping out of a clinical trial;
- time required to add new clinical sites;
- any orders from local, state or federal governments or clinical trial site policies resulting from the COVID-19 pandemic that determine essential and non-essential functio and staff, which may impact the ability of site staff to conduct assessments, or result in delays to the conduct of the assessments, as part of our clinical trial protocols, or ability to enter assessment results into clinical trial databases in a timely manner;
- delays or inability to recruit patients in sufficient numbers or at the expected rate;
- decisions by licensees not to exercise options for products or not to pursue or promote products licensed to them;
- adverse side effects;
- failure of trials to demonstrate safety and efficacy;
- failure to reach agreement with the FDA or other regulatory agency requirements for clinical trial design or scope of the development program;
- patients' delays or failure to complete participation in a clinical trial or inability to follow patients adequately after treatment;
- changes in the design or manufacture of a product candidate;
- failures by, changes in our (or our licensees') relationship with, or other issues at, CROs, vendors, and investigators responsible for pre-clinical testing and clinical trials;
- imposition of a clinical hold following an inspection of our clinical trial operations or trial sites by the FDA or foreign regulatory authorities;
- delays or failures in obtaining required IRB approval;
- inability to obtain supplies and/or to manufacture sufficient quantities of materials for use in clinical trials; trials, including vorolanib;
- our inability to manufacture EYP-1901 to scale, necessary to execute our Phase 3 study in an acceptable time period;
- stability issues with clinical materials;
- failure to comply with GLP, GCP, cGMP or similar foreign regulatory requirements that affect the conduct of pre-clinical and clinical studies and the manufacturing of proc candidates;
- requests by regulatory authorities for additional data or clinical trials;
- governmental or regulatory agency assessments of pre-clinical or clinical testing that differ from our (or our licensees') interpretations or conclusions;
- governmental or regulatory delays, or changes in approval policies or regulations; and
- developments, clinical trial results and other factors with respect to competitive products and treatments. treatments, a process which may also create a more competitiv environment for patient accrual in clinical trials.

We, the FDA, other regulatory authorities outside the United States, or an IRB may suspend a clinical trial at any time for various reasons, including if it appears that the clinical trial is exposing participants to unacceptable health risks or if the FDA or one or more other regulatory authorities outside the United States find deficiencies in our IND investigational new drug application or similar application outside the United States or the conduct of the trial. If we experience delays in the completion of, or the termination of, any clinical trial of any of our product candidates, including EYP-1901, the commercial prospects of such product candidate will be

harmed, and our ability to generate product revenues from such product candidate will be delayed. In addition, any delays in completing our clinical trials will increase our costs, slow down our product candidate development and approval process, and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition, results of operations, cash

flows and prospects significantly. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates.

Clinical trial results may fail to support continued clinical investigations and/or approval of EYP-1901 or our other product candidates.

Even if our clinical trials are successfully completed as planned, the results may not support approval of EYP-1901 or our other product candidates under the laws and regulations of the FDA or other regulatory authorities outside the United States. The clinical trial process may fail to demonstrate that our product candidates are both safe and effective for their intended uses. Pre-clinical and clinical data and analyses are often able to be interpreted in different ways. Even if we view our results favorably, if a regulatory authority has a different view, we may still fail to obtain regulatory approval of our product candidates. This, in turn, would significantly adversely affect our business prospects.

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We may expend significant resources to pursue our lead product candidate, EYP-1901 for the potential treatment of wet AMD, NPDR and DME and fail to capitalize on the potential of EYP-1901, or our other product candidates, for the potential treatment of other indications that may be more profitable or for which there is a greater likelihood of success.

Because we have limited financial and managerial resources, we focus on research programs and product candidates for specific indications. Specifically, with regard to EYP-1901, we initially focused our efforts on the treatment of wet AMD, but have since expanded our efforts to include the treatment of NPDR and DME. As a result, we may forego or delay pursuit of opportunities with EYP-1901 or other product candidates for the treatment of other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable products. Furthermore, until such time as we are able to build a broader product candidate pipeline, if ever, any adverse developments with respect to our leading product candidate, EYP-1901, would have a more significant adverse effect on our overall business than if we maintained a broader portfolio of product candidates.

We have historically based our research and development efforts primarily on our proprietary technologies for the treatment of chronic eye diseases. As a result of pursuing the development of product candidates using our proprietary technologies, we may fail to develop product candidates or address indications based on other scientific approaches that may offer greater commercial potential or for which there is a greater likelihood of success. Research programs to identify new product candidates require substantial technical, financial and human resources. These research programs may initially show promise in identifying potential product candidates, yet fail to yield product candidates for clinical development.

Initial Phase 1 or 2 results from a clinical trial do not ensure that the trial will be successful and success in early stage clinical trials does not ensure success in later-stage clinical trials.

Results from pre-clinical testing, early clinical trials, prior clinical trials, investigator-sponsored studies, and other data and information often do not accurately predict final pivotal clinical trial results. EYP-1901 relies on vorolanib as its active pharmaceutical agent. Vorolanib is a small molecule TKI that has been previously studied by Tyrogenex in Phase 1 and 2 clinical trials as an orally delivered therapy for the treatment of wet AMD. The Phase 2 clinical trial was discontinued due to systemic toxicity. There can be no assurance that such systemic toxicities will not occur in our clinical trial for EYP-1901. In addition, data from one pivotal clinical trial may not be predictive of the results of other pivotal clinical trials for the same product candidate, even if the trial designs are the same or similar. Data obtained from pre-clinical studies and clinical trials are susceptible to varying interpretations, which may delay, limit or prevent regulatory approval. Adverse side effects may be observed in clinical trials that delay, limit or prevent regulatory approval, and even after a product candidate has received marketing approval, the emergence of adverse side effects in more widespread clinical practice may cause the product's regulatory approval to be limited or even rescinded. Additional trials necessary for approval may not be undertaken or may ultimately fail to establish the safety and efficacy of our product candidates.

In addition, while the clinical trials of our product candidates, including our lead product candidate, EYP-1901, are designed based on the available relevant information, in view of the uncertainties inherent in drug development, such clinical trials may not be designed with a focus on indications, patient populations, dosing regimens, safety or efficacy parameters or other variables that will provide the necessary safety and efficacy data to support regulatory approval to commercialize the product. In addition, the methods we select to assess particular safety or efficacy parameters may not yield statistically significant results regarding our product candidates' effects on patients. Even if we believe the data collected from clinical trials of our product candidates are promising, these data may not be sufficient to support approval by the FDA or foreign regulatory authorities. Pre-clinical and clinical data can be

interpreted in different ways. Accordingly, the FDA or foreign regulatory authorities could interpret these data in different ways from us or our partners, which could delay, limit or prevent regulatory approval.

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

We face risks related From time to health epidemics and outbreaks, including the Pandemic, which could significantly disrupt our preclinical studies and clinical trials.

We started conducting Phase 2 clinical trials for EYP-1901 in multiple jurisdictions within the U.S. in 2022. Enrollment of patients in these clinical trials and future clinical trials in these regions time, we may be delayed due to the outbreak of the Pandemic. In addition, we rely on independent clinical investigators, contract research organizations and other third-party service providers to assist us in managing, monitoring and otherwise carrying out publicly disclose preliminary or top-line data from our preclinical studies and clinical trials, which is based on a preliminary analysis of then-available data, and outbreaks the results and related findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial. We also make assumptions, estimations, calculations, and conclusions as part of our analyses of data, and

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we may affect their ability not have received or had the opportunity to devote sufficient time fully and resources to our programs. carefully evaluate all data. As a result, the expected timeline for top-line or preliminary results that we report may differ from future results of the same studies, or different conclusions or considerations may qualify such results, once additional data readouts of have been received and fully evaluated. Top-line and preliminary data also remain subject to audit and verification procedures that may result in the final data being materially different from the top-line or preliminary data we previously published. As a result, top-line and preliminary data should be viewed with caution until the final data are available.

From time to time, we may also disclose interim data from our preclinical studies and clinical trials. Interim data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and certain more patient data become available or as patients from our clinical trials continue other treatments for their disease. Adverse differences between preliminary or interim data and final data could significantly harm our business prospects. Further, disclosure of interim data by us or by our competitors could result in volatility in the price of our common stock. Further, others, including regulatory filings agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions, or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability or commercialization of the particular product candidate or product and our company in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical trial is based on what is typically extensive information, and you or others may not agree with what we determine is material or otherwise appropriate information to include in our disclosure. If the interim, top-line, or preliminary data that we report differ from final results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for, and commercialize, our product candidates may be negatively impacted, harmed, which could harm our business, operating results, prospects, or financial condition.

We may not be successful in our efforts to identify and successfully develop additional product candidates. Part of our strategy involves identifying product candidates. We may fail to identify and develop product candidates for clinical development for a number of reasons, including those discussed in these risk factors and also:

- we may not be able to assemble sufficient resources to acquire or discover additional product candidates; competitors may develop alternatives that render our potent product candidates obsolete or less attractive;
- potential product candidates we develop may nevertheless be covered by third-parties' patent or other intellectual property or exclusive rights;
- potential product candidates may, on further study, be shown to have harmful side effects, toxicities, or other characteristics that indicate that they are unlikely to be pr that will receive marketing approval or achieve market acceptance, if approved;
- we may not be able to meet targeted pharmaceutical formulations of the product candidates that would allow us to initiate clinical trials in patients on time and ahead c competing development programs;
- potential product candidates may not be effective;
- the market for a potential product candidate may change so that the continued development of that product candidate is no longer reasonable;
- a potential product candidate may not be capable of being produced in commercial quantities at an acceptable cost, or at all; or
- the regulatory pathway for a potential product candidate is highly complex and difficult to navigate successfully or economically.

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

We may find it difficult to enroll patients in our clinical trials, which could delay or prevent clinical trials of our product candidates.

Identifying and qualifying patients to participate in clinical trials of our product candidates, including EYP-1901, is critical to our success. The timing of our clinical trials depends in part on the speed at which we can recruit patients to participate in testing our product candidates. If patients are unwilling to participate in our trials because of the COVID-19 pandemic and restrictions on travel or healthcare institution policies, negative publicity from adverse events in the biotechnology industries, public perception of vaccine safety issues or for other reasons, including competitive clinical trials for similar patient populations, the timeline for recruiting patients, conducting studies, and obtaining regulatory approval of potential products may be delayed. These delays could result in increased costs, delays in advancing our product development, delays in testing the effectiveness of our technology or termination of the clinical trials altogether.

We may not be able to identify, recruit, and enroll a sufficient number of patients, or those with required or desired characteristics to achieve diversity in a clinical trial, or complete our clinical trials in a timely manner. Patient enrollment is affected by a variety of factors including, among others:

- severity of the disease under investigation;
- design of the trial protocol and size of the patient population required for analysis of the trial's primary endpoints;
- size of the patient population;
- eligibility criteria for the trial in question;
- perceived risks and benefits of the product candidate being tested;
- willingness or availability of patients to participate in our clinical trials (including due to the COVID-19 pandemic); trials;
- proximity and availability of clinical trial sites for prospective patients;
- our ability to recruit clinical trial investigators with the appropriate competencies and experience, and adequate research staffing to support multiple, concurrent clinical t
- availability of competing vaccines and/or therapies and related clinical trials;
- efforts to facilitate timely enrollment in clinical trials;
- our ability to obtain and maintain patient consents;

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- the risk that patients enrolled in clinical trials will drop out of the trials before completion;
- patient referral practices of physicians; and
- ability to monitor patients adequately during and after treatment.

We may not be able to initiate or continue clinical trials if we cannot enroll a sufficient number of eligible patients to participate in the clinical trials required by regulatory agencies.

Even if we enroll a sufficient number of eligible patients to initiate our clinical trials, we may be unable to maintain participation of these patients throughout the course of the clinical trial as required by the clinical trial protocol, in which event we may be unable to use the research results from those patients. If we have difficulty enrolling and maintaining the enrollment of a sufficient number of patients to conduct our clinical trials as planned, we may need to delay, limit, or terminate ongoing or planned clinical trials, any of which would have an adverse effect on our business.

We are largely dependent on the clinical and future commercial success of our lead product candidate, EYP-1901.

Our ability to generate revenues and become profitable will depend in large part on the future commercial success of our lead product candidate, EYP-1901, if it is approved for marketing. If EYP-1901 or any other product that we commercialize in the future does not gain an adequate level of acceptance among physicians, patients and third parties, we may not generate significant product

revenues or become profitable. Market acceptance by physicians, patients and third party payors of EYP-1901 or other products we may commercialize in the future will depend on a number of factors, some of which are beyond our control, including:

- their efficacy, safety, and other potential advantages in relation to alternative treatments;
- their relative convenience and ease of administration;
- the availability of adequate coverage or reimbursement by third parties, such as insurance companies and other healthcare payors, and by government healthcare programs, including Medicare and Medicaid;
- the prevalence and severity of adverse events;
- their cost of treatment in relation to alternative treatments, including generic products;
- the extent and strength of our third party manufacturer and supplier support;

- the extent and strength of marketing and distribution support;
- the limitations or warnings contained in a product's approved labeling; and
- distribution and use restrictions imposed by the FDA or other regulatory authorities outside the United States.

For example, even if EYP-1901 gains approval by the FDA, physicians and patients may not immediately be receptive to it and may be slow to adopt it. If EYP-1901 does not achieve an adequate level of acceptance among physicians, patients and third party payors, we may not generate meaningful revenues from EYP-1901 and we may not become profitable.

Future public health crises such as the COVID-19 pandemic may adversely impact, and pose risks to, certain elements of our business such as our preclinical studies and clinical trials, the nature and extent of which are highly uncertain and unpredictable.

Our global operations expose us to risks associated with public health crises, including epidemics and pandemics such as the previous COVID-19 pandemic. As it relates to EYP-1901 targeting wet AMD, we expect to start conducting Phase 3 clinical trials for EYP-1901 throughout the world in 2024. We also expect to continue with Phase 2 clinical trials for NPDR and for DME in 2024. Enrollment of patients in these clinical trials and future clinical trials in these regions may be delayed due to the outbreak of the health epidemics and outbreaks, for example, the previous COVID-19 pandemic. In addition, we rely on independent clinical investigators, contract research organizations and other third-party service providers to assist us in managing, monitoring and otherwise carrying out our preclinical studies and clinical trials, and outbreaks may affect their ability to devote sufficient time and resources to our programs. As a result, if a public health crisis were to occur in the future, the expected timeline for data readouts of our preclinical studies and clinical trials and certain regulatory filings may be negatively impacted, which would adversely affect our business.

RISKS RELATED TO THE COMMERCIALIZATION OF OUR PRODUCTS AND PRODUCT CANDIDATES

Our current business strategy relies in part on our ability to successfully commercialize our approved products; product candidates, if approved; however, the products may not achieve market acceptance or be commercially successful.

Our ability to continue to successfully commercialize our product candidates, if approved, products is important to the execution of our business strategy. Such products may not achieve broad market acceptance among retinal specialists and other doctors, patients, government health administration authorities and other third-party payors, and may

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not continue to be commercially successful in the U.S. The degree of market acceptance and commercial success of our approved products product candidates will depend on a number of factors, including the following:

- the acceptance of our products product candidates by patients and the medical community and the availability, perceived advantages and relative cost, safety and effica alternative and competing treatments;
- the effectiveness and timeliness of our preclinical studies and clinical trials, and the usefulness of the data;
- our ability to obtain reimbursement for our products product candidates from third party payors at levels sufficient to support commercial success;
- the sufficiency of our existing cash resources into 2026;
- our access to needed capital;
- the cost effectiveness of our products;
- the effectiveness of our U.S. commercial efforts for DEXYCU after the termination of our Commercial Alliance Agreement with ImprimisRx pursuant to the current lack of separately payable CPT code (i.e., outside of the cataract payment bundle) for the injection of DEXYCU into the posterior chamber of the anterior segment of the eye;
- the effectiveness of current and future license and collaboration agreements, including our agreements with Ocumension Therapeutics (Ocumension), Equinox Science, LLC (Equinox) and Betta Pharmaceuticals Co., Ltd. (Betta);
- the effectiveness of our distribution strategies and operations;
- our ability and the ability of our contract manufacturing organizations, or CMOs, as applicable, to manufacture commercial supplies of our products, to remain in good standing with regulatory agencies, and to develop, validate and maintain commercially viable manufacturing processes that are, to the extent required, compliant with cG regulations;
- the degree to which the approved labeling supports promotional initiatives for commercial success;
- a continued acceptable safety profile of our products;
- results from additional clinical trials of our products or further analysis of clinical data from completed clinical trials of our products by us or our competitors;
- our ability to enforce our intellectual property rights;
- our products' potential advantages over other therapies;
- our ability to avoid third-party patent interference or patent infringement claims; and
- maintaining compliance with all applicable regulatory requirements.

As many of these factors are beyond our control, we cannot assure you that we will ever be able to generate meaningful revenues through product sales. In particular, if governments, private insurers, governmental insurers, and other third-party payors do not provide adequate and timely coverage and reimbursement levels for our products or limit the frequency of administration, the market acceptance of our products and product candidates will be limited. Governments, governmental insurers, private insurers, and other third-party payors attempt to contain healthcare costs by limiting coverage and the level of reimbursement for products and, accordingly, they may challenge the price and cost-effectiveness of our products or refuse to provide coverage for our products. Any inability on

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inability on our part to successfully commercialize YUTIQ in the U.S and DEXYCU internationally, and our other product candidates in the U.S. or any foreign territories where they may be approved, or any significant delay in such approvals, could have a material adverse impact on our ability to execute upon our business strategy and our future business prospects.

Our products product and product candidates, if approved and commercialized, may become subject to unfavorable pricing regulations, third-party reimbursement practices, or healthcare reform initiatives which could harm our business.

The statutes and regulations that govern marketing approvals, pricing and reimbursement for new drug products vary widely from country to country. Some countries require approval of the sale price of a product before it can be marketed. In many countries, the pricing review period begins after marketing or product licensing approval is granted. In some foreign markets, prescription pharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, we might obtain marketing approval for a product candidate in a particular country, but then be subject to price regulations that delay our commercial launch of the product candidate, possibly for lengthy time periods, which could negatively impact the revenues we are able to generate from the sale of the product candidate in that particular country. Adverse pricing limitations may hinder our ability to recoup our investment in one or more of our products.

Our success also depends in part on the extent to which coverage and reimbursement for these products our product candidates, once commercialized, and related treatments will be available from government health administration authorities, private health insurers and other organizations. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, determine which medications they will cover and establish reimbursement levels. A primary trend in the U.S. healthcare industry and elsewhere is cost containment. Government authorities and third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications. Increasingly, third-party payors are requiring that drug companies provide them with predetermined discounts from list prices and are challenging the prices charged for medical products. Third-party payors also may seek additional clinical evidence, beyond the data required to obtain marketing approval, demonstrating clinical benefits and value in specific patient populations, before covering our products for those patients. We cannot be sure that coverage and reimbursement will be available for any product candidate that we commercialize and, if reimbursement is available, what the level of reimbursement will be. Coverage and reimbursement may impact the demand for, or the price of, any product candidate for which we obtain marketing approval. If reimbursement is not available or is available only to limited levels, we may not be able

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to successfully commercialize any product candidate for which we obtain marketing approval. For example, under current Medicare Part B policy, payment to hospital outpatient departments and ASCs for drug and biological products furnished to patients as part of a surgical procedure is typically packaged into the payment for the associated procedure and thus not paid separately. Products granted pass-through status were excluded from this payment packaging policy and receive separate payment from the associated procedure for a period of three years. While DEXYCU had been granted pass-through status and had been receiving separate payment in these settings from Medicare, the CY 2023 Medicare Hospital OPPS and ASC Payment System Final Rule, which was issued November 1, 2022, terminated pass-through related separate payment for certain drugs, including DEXYCU, beyond its current expiration date of December 31, 2022. Effective January 1, 2023, payment for DEXYCU is packaged into the payment for the underlying procedure and no longer reimbursed separately, which will materially decrease our revenues from sales of DEXYCU and correspondingly have a material adverse effect on our results of operations and financial condition.

There may be significant delays in obtaining coverage and reimbursement for newly approved drugs, and coverage may be more limited than the purposes for which the drug is approved by the FDA or comparable foreign regulatory authorities. Moreover, eligibility for coverage and reimbursement does not imply that any drug will be paid for in all cases or at a rate that covers our costs, including research, development, manufacturing, selling and distribution costs. Reimbursement rates may vary according to the use of the drug and the clinical setting in which it is used, may be based on reimbursement levels already set for lower cost drugs and may be incorporated into existing payments for other services. Net prices for products may be reduced by mandatory discounts or rebates required by government healthcare programs or private payors and by any future relaxation of laws that presently restrict imports of products from countries where they may be sold at lower prices than in the U.S. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement policies. Our inability to promptly obtain coverage and profitable reimbursement rates from both government-funded and private payors for any approved products that we develop could have a material adverse effect on our operating results, our ability to raise capital needed to commercialize products, and our overall financial condition.

We Once we commercialize any new products, we may participate in, and have certain price reporting obligations to, the Medicaid Drug Rebate Program. This program requires us to pay a rebate for each unit of drug reimbursed by Medicaid. The amount of the “basic” portion of the rebate for each product is set by law as the larger of: (i) 23.1% of quarterly average manufacturer price, or AMP, or (ii) the difference between quarterly AMP and the quarterly best price available from us to any commercial or non-governmental customer, or Best Price. AMP must be reported on a monthly and quarterly basis and Best Price is reported on a quarterly basis only. In addition, the rebate also includes the “additional” portion, which adjusts the overall rebate amount upward as an “inflation penalty” when the drug’s latest quarter’s AMP exceeds the drug’s AMP from the first full quarter of sales after launch, adjusted for increases in the Consumer Price Index-Urban. The upward adjustment in the rebate amount per unit is equal to the excess amount of the current AMP over the inflation-adjusted AMP from the

first full quarter of sales. The rebate amount is computed each quarter based on our report to CMS the Centers for Medicare and Medicaid Services (CMS) of current quarterly AMP and Best Price for our drug. Rebates under the Medicaid Drug Rebate Program are currently capped at 100 percent of AMP, but that no longer subject to a cap, is set to be removed, effective January 1, 2024, which could increase our rebate liability. We are required to report revisions to AMP or Best Price within a period not to exceed 12 quarters from the quarter in which the data was originally due. Any such revisions could have the impact of increasing or decreasing our rebate liability for prior quarters, depending on the direction of the revision. The Affordable Care Act made significant changes to the Medicaid Drug Rebate Program, and CMS issued a final regulation, which became effective on April 1, 2016, to implement the changes to the Medicaid Drug Rebate program under the Affordable Care Act. On December 21, 2020, CMS issued a final regulation that modified existing Medicaid Drug Rebate Program regulations to permit reporting multiple Best Price figures with regard to value based purchasing arrangements (beginning in

2022) and provided definitions for “line extension,” “new formulation,” and related terms with the practical effect of expanding the scope of drugs considered to be line extensions (beginning in 2022). While the regulatory provisions that purported to affect the applicability of the AMP and Best Price exclusions of manufacturer-sponsored patient benefit programs in the context of pharmacy benefit manager “accumulator” programs were invalidated by a court, accumulator and other such programs may continue to negatively affect us in other ways.

Federal law also requires that any manufacturer that participates in the Medicaid Drug Rebate Program also participate in the Public Health Service’s 340B drug pricing program in order for federal funds to be available for the manufacturer’s drugs under Medicaid and Medicare Part B. The 340B drug pricing program, which is administered by the Health Resources and Services Administration, or HRSA, requires participating manufacturers to agree to charge statutorily-defined covered entities no more than the 340B “ceiling price” for the manufacturer’s covered outpatient drugs. These 340B covered entities include, but are not limited to, a variety of community health clinics and other entities that receive health services grants from the Public Health Service, as well as hospitals that serve a disproportionate share of low-income patients. The 340B ceiling price is calculated using a statutory formula, which is based on the AMP and rebate amount for the covered outpatient drug as calculated under the Medicaid Drug Rebate Program. Any changes to the definition of AMP and the Medicaid rebate amount under the Affordable Care Act or other legislation could affect our 340B ceiling price calculations and negatively impact our results of operations.

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HRSA issued a final regulation regarding the calculation of the 340B ceiling price and the imposition of civil monetary penalties on manufacturers that knowingly and intentionally overcharge covered entities, which became effective on January 1, 2019. It is currently unclear how HRSA will apply its enforcement authority under this regulation. HRSA has also implemented a ceiling price reporting requirement related to the 340B program under which we are required to report 340B ceiling prices to HRSA on a quarterly basis, and HRSA then publishes that information to covered entities. Moreover, under a final regulation effective January 13, 2021, HRSA newly established an administrative dispute resolution (ADR) process for claims by covered entities that a manufacturer has engaged in overcharging, and by manufacturers that a covered entity violated the prohibitions against diversion or duplicate discounts. Such claims are to be resolved through an ADR panel of government officials rendering a decision that could be appealed only in federal court. An ADR proceeding could subject us to onerous procedural requirements and could result in additional liability. In addition, legislation may be introduced that, if passed, would further expand the 340B program to additional covered entities or would require participating manufacturers to agree to provide 340B discounted pricing on drugs used in an inpatient setting.

Federal law also requires that a company that participates in the Medicaid Drug Rebate program report average sales price, or ASP, information each quarter to CMS for certain categories of drugs that are paid under the Medicare Part B program. For calendar quarters effective January 1, 2022, manufacturers are required to report the average sales price for certain drugs under the Medicare program regardless of whether they participate in the Medicaid Drug Rebate Program. Manufacturers calculate the ASP based on a statutorily defined formula as well as regulations and interpretations of the statute by CMS. CMS uses may use these submissions to determine payment rates for drugs under Medicare Part B. Starting in 2023, manufacturers must pay refunds to Medicare for single source drugs or biologicals, or biosimilar biological products, reimbursed under Medicare Part B and packaged in single-dose containers or single-use packages, for units of discarded drug reimbursed by Medicare Part B in excess of 10 percent of total allowed charges under Medicare Part B for that drug. Manufacturers that fail to pay refunds could be subject to civil monetary penalties of 125 percent of the refund amount.

Statutory or regulatory changes or CMS guidance could affect the pricing of our approved products, product candidates, and could negatively affect our results of operations. On August 16, 2022, President Biden signed into law the The IRA, which, among other things, requires the Secretary of Health and Human Services to negotiate, with respect to Medicare units and subject to a specified cap, the price of a set number of certain high Medicare spend drugs and biologicals per year starting in 2026. Effective January 2023, the IRA established a Medicare Part B inflation rebate scheme, under which, generally speaking, manufacturers will owe rebates if the average sales price of a Part B drug increases faster than the pace of inflation. Failure to timely pay a Part B inflation rebate is subject to a civil monetary penalty. Further, starting October 2022, the IRA established a Medicare Part D inflation rebate scheme, under which, generally speaking, manufacturers will owe additional rebates if the AMP of a Part D drug increases faster than the pace of inflation. Failure to timely pay a Part D inflation rebate is subject to a civil monetary penalty. In addition, manufacturers are currently required to provide a 70% discount on brand name prescription drugs utilized by Medicare Part D beneficiaries when those beneficiaries are in the coverage gap phase of the Part D benefit design. The IRA sunsets the coverage gap discount program starting in 2025 and replaces it

with a new manufacturer discount program and makes other reforms to the Part D benefit, which could increase our liability under Part D. These or any other public policy change could impact the market conditions for our products. We further expect continued scrutiny on government price reporting and pricing more generally from Congress, agencies, and other bodies.

In order to be eligible to have our products paid for with federal funds under the Medicaid and Medicare Part B programs and purchased by certain federal agencies and grantees, we must participate in the VA FSS pricing program. Under this program, we would be obligated to make our “innovator” drugs available for procurement on an FSS contract and charge a price to four federal agencies—VA, DoD, Public Health Service and U.S. Coast Guard—that is no higher than the statutory FCP. The FCP is based on the Non-FAMP, which we calculate and report to the VA on a quarterly and annual basis. We do not currently participate in the Tricare

Retail Pharmacy program, under which we would need to pay quarterly rebates on utilization of innovator products that are dispensed through the Tricare Retail Pharmacy network to TRICARE beneficiaries. The rebates are calculated as the difference between the annual Non-FAMP and FCP. The requirements under the 340B, FSS, and TRICARE programs will impact gross-to-net revenue for our current products and any product candidates that are commercialized in the future and could adversely affect our business and operating results.

We are shipping YUTIQ directly to physician offices or clinics to be administered to patients. YUTIQ is being shipped to physician offices or clinics primarily through specialty pharmacies and distributors. Most prefer to buy the product directly through our select distributors under a “buy and bill” model. Physicians who may not be willing to purchase our products through a specialty distributor because they do not prefer the buy and bill method may prefer to have another entity called a specialty pharmacy ship them the product at no cost to the physician. The specialty pharmacy bills the health plan for our product directly and then ships the product to the physician such that no costs are incurred by the physician. We have obtained a permanent “J” code for YUTIQ which assists physicians and hospitals in their ability to bill all payer types for the product.

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We are shipping DEXYCU to ASCs, or to hospital outpatient surgical centers through specialty pharmacies and distributors. DEXYCU was being reimbursed for Medicare Part B patients in these settings through a transitional pass-through related separate payment when billed under the drug's "J" code. The Final Rule did not extend pass-through related separate payment for expiring drugs, and therefore, DEXYCU no longer qualifies for separate payment effective January 1, 2023, and is subject to packaged payment rates, which will significantly limit our ability to gain utilization and subsequent revenues. In addition, in anticipation of the Final Rule, as a result of CY 2023 OPPS/ASC Proposed Rule, the Company entered into the Termination Agreement with ImprimisRx on October 7, 2022, pursuant to which ImprimisRx and the Company agreed to terminate the Agreements effective December 31, 2022. Effective January 1, 2023, there is significantly reduced commercial support for DEXYCU.

If we fail to comply with reporting and payment obligations under the Medicaid Drug Rebate program or other governmental pricing programs, we could be subject to additional reimbursement requirements, penalties, sanctions, and fines which could have a material adverse effect on our business, financial condition, results of operations, and growth prospects.

Our price reporting and other obligations under the Medicaid Drug Rebate Program, Medicare Part B, the 340B program, and the VA/FSS program are described in the risk factor entitled "Our products and product candidates, if approved and commercialized, may become subject to unfavorable pricing regulations, third-party reimbursement practices or healthcare reform initiatives which could harm our business." business". Pricing and rebate calculations vary across products and programs, are complex, and are often subject to interpretation by us, governmental or regulatory agencies, and the courts. In the case of Medicaid pricing data, if we become aware that our reporting for a prior period was incorrect or has changed as a result of a recalculation of the pricing data, we are obligated to resubmit the corrected data for up to three years after those data were originally due. Such restatements and recalculations will increase our costs for complying with the laws and regulations governing the Medicaid Drug Rebate program and could result in an overage or underage in our rebate liability for past quarters. Price recalculations also may affect the ceiling price at which we are required to offer our products under the 340B program and may require us to offer refunds to covered entities.

We are liable for errors associated with our submission of pricing data. That liability could be significant. In addition to retroactive Medicaid rebates and the potential for issuing 340B program refunds, if we are found to have knowingly submitted false AMP, Best Price, or Non-FAMP information to the government, we may be liable for significant civil monetary penalties per item of false information. If we are found to have made a misrepresentation in the reporting of our ASP, the Medicare statute provides for significant civil monetary penalties for each misrepresentation for each day in which the misrepresentation was applied. Our failure to submit monthly/quarterly AMP and Best Brice data on a timely basis could result in a significant civil monetary penalty per day for each day the information is late beyond the due date. Such conduct also could be grounds for CMS to terminate our Medicaid drug rebate agreement, in which case federal payments may not be available under Medicaid or Medicare Part B for our covered outpatient drugs. Significant civil monetary penalties also could apply to late submissions of Non-FAMP information. Civil monetary penalties could also be applied if we are found to have charged 340B covered entities more than the statutorily mandated ceiling price or HRSA could terminate our agreement to participate in the 340B program, in which case federal payments may not be available under Medicaid or Medicare Part B for our covered outpatient drugs. Moreover, under a final regulation effective January 13, 2021, HRSA newly established an ADR process that has jurisdiction over claims by covered entities that a manufacturer has engaged in

overcharging. An ADR proceeding could subject us to onerous procedural requirements and could result in additional liability. In addition, claims submitted to federally-funded healthcare programs, such as Medicare and Medicaid, for drugs priced based on incorrect pricing data provided by a manufacturer can implicate the federal civil False Claims Act. Finally, civil monetary penalties could be due if we fail to offer discounts to beneficiaries under the Medicare Part D coverage gap discount program. Furthermore, under the refund program for discarded drugs, manufacturers that fail to pay refunds could be subject to civil monetary penalties of 125 percent of the refund amount.

If we overcharge the government in connection with our FSS contract or our anticipated Tricare Agreement, whether due to a misstated FCP or otherwise, we are required to refund the difference to the government. Failure to make necessary disclosures and/or to identify contract overcharges can result in allegations against us under the False Claims Act and other laws and regulations. Unexpected refunds to the government, and responding to a government investigation or enforcement action, would be expensive and time-consuming, and could have a material adverse effect on our business, financial condition, results of operations, and growth prospects. We cannot assure you that our submissions will not be found by CMS or another governmental agency to be incomplete or incorrect.

There has been heightened governmental scrutiny in the U.S. of pharmaceutical pricing practices in light of the rising cost of prescription drugs. Such scrutiny has resulted in several recent congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products. At both the federal and state level, legislatures are increasingly passing legislation and implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access, and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. One significant example of recent legislative action is the IRA, which was signed into law on August 16, 2022. IRA. The IRA contains a negotiation provision that requires the Secretary of Health and Human Services to negotiate, with respect to Medicare units and subject to a specified cap, the price of a set number of high Medicare spend drugs and biologicals per year starting in 2026. Under the drug price negotiation program, a drug may not be subjected to a negotiated price until at least nine years post-approval, and a biologic may not be subjected to a negotiated price until at least 13 years post-licensure. The IRA limits the negotiation eligibility for the 2026, 2027 and 2028 program years and afford

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limited additional relief for “small biotech drugs” of certain small manufacturers which, among other things, represent a limited portion (as specified in the text) of Medicare program spending. The IRA also penalizes manufacturers of certain Medicare Part B and D drugs for price increases above inflation and makes several changes to the Medicare Part D benefit, including a limit on annual out-of-pocket costs, and a change in manufacturer liability under the program. The complete impact from the IRA is unknown because negotiated prices will not apply for Part D drugs until 2026, and two years later for Part B drugs. In keeping with this timeline, and the recent passage, we cannot predict the implications the IRA provisions will have on our business.

Even though regulatory approvals for YUTIQ® and DEXYCU® have been obtained in the U.S., we will still face extensive FDA regulatory requirements and may face future regulatory difficulties.

Even though regulatory approvals for YUTIQ® and DEXYCU® have been obtained in the U.S., the FDA and state regulatory authorities may still impose significant restrictions on the indicated uses or marketing of YUTIQ® and DEXYCU®, or impose ongoing requirements for potentially costly post-approval studies or post-marketing surveillance. For example, as part of its approval of DEXYCU® for the treatment of postoperative ocular inflammation, the FDA required under the Pediatric Research Equity Act (PREA), that a Phase 3/4 prospective, randomized, active treatment-controlled, parallel-design multicenter trial be conducted to evaluate the safety of DEXYCU® for the treatment of inflammation following ocular surgery for childhood cataract. This pediatric study will likely require us to undergo a costly and time-consuming development process. If we do not meet our obligations under the PREA for this pediatric study, the FDA may issue a non-compliance letter and may also consider DEXYCU® to be misbranded and subject to potential enforcement action.

We were advised by the FDA to show diligence and enroll at least one patient in the protocolled trial before submitting a new Deferral Extension Request.

We submitted a pediatric study protocol to the FDA as required. We have identified clinical sites and are continuing continued study start-up activities that have resulted in with dosing of a first patient in January 2022. In February 2022, we requested a PREA Deferral Extension because of the unavoidable delays in this program due, among other things, to the Pandemic. The extension was granted by the FDA, extending the study deadline to June 30, 2025. As of December 31, 2023, the study remains ongoing.

We, are and with respect to YUTIQ®, Alimera, is also subject to ongoing FDA requirements governing the labeling, packaging, storage, distribution, safety surveillance, advertising, promotion, record-keeping and reporting of safety and other post-marketing information. The holder of an approved NDA is obligated to monitor and report adverse events and any failure of a product to meet the specifications in the NDA. The holder of an approved NDA must also submit new or supplemental applications and obtain FDA approval for certain changes to the approved

product, product labeling or manufacturing process. Advertising and promotional materials must comply with FDA regulations and may be subject to other potentially applicable federal and state laws. The applicable regulations in countries outside the U.S. grant similar powers to the competent authorities and impose similar obligations on companies.

In addition, manufacturers of drug products and their facilities are subject to payment of substantial user fees and continual review and periodic inspections by the FDA and other regulatory authorities for compliance with cGMP regulations and adherence to commitments made in the NDA. We also need to comply with some of the FDA’s manufacturing regulations for devices with respect to YUTIQ. YUTIQ®. We and our third-party providers are generally required to maintain compliance with cGMP and other stringent requirements and are subject to inspections by the FDA and comparable agencies in other jurisdictions to confirm such compliance. Any delay, interruption or other issues that arise in the manufacture, fill-finish, packaging, or storage of our products as a result of a failure of our facilities or the facilities or operations of third parties to pass any regulatory agency inspection could significantly impair our commercial partners' ability to develop and commercialize our products. Significant noncompliance could also result in the imposition of monetary penalties or other civil or criminal sanctions and damage our reputation.

In addition to cGMP, the FDA requires that YUTIQ® and DEXYCU® manufacturers comply with certain provisions of the Quality System Regulation, or QSR, particularly in light of the D.C. Circuit Court of Appeals decision in Genus Medical Technologies LLC v. FDA. The QSR sets forth the FDA’s manufacturing quality standards for medical devices, and other applicable government regulations and corresponding foreign standards. If we, or a regulatory authority, discover previously unknown problems with YUTIQ® or DEXYCU®, such as adverse events of unanticipated severity or frequency, or problems with a facility where the product is manufactured, a regulatory authority may impose restrictions relative to YUTIQ®, DEXYCU® or their respective manufacturing facilities, including requiring recall or withdrawal of the product from the market, suspension of manufacturing, or other FDA action or other action by foreign regulatory authorities.

If we, and with respect to YUTIQ®, Alimera, fail to comply with applicable regulatory requirements for YUTIQ® or DEXYCU®, a regulatory authority may:

- issue a warning letter asserting that we are in violation of the law;
- seek an injunction or impose civil or criminal penalties or monetary fines;
- suspend, modify or withdraw regulatory approval;

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- suspend any ongoing clinical trials;
- refuse to approve a pending NDA or a pending application for marketing authorization or supplements to an NDA or to an application for marketing authorization submitt by us;
- seize our product; and/or
- refuse to allow us to enter into supply contracts, including government contracts.

Our relationships with physicians, patients and payors in the U.S. are subject to applicable anti-kickback, fraud and abuse laws and regulations. In addition, we are subject to patient privacy regulation by both the federal government and the states in which we conduct our business. Our failure to comply with these laws could expose us to criminal, civil and administrative sanctions, reputational harm, and could harm our results of operations, and financial conditions.

Our current and future operations with respect to the commercialization of YUTIQ and DEXYCU new product candidates are subject to various U.S. federal and state healthcare laws and regulations. These laws impact, among other things, our proposed sales, marketing, support and education programs and constrain our business and financial arrangements and relationships with third-party payors, healthcare professionals and others who may prescribe, recommend, purchase or provide our products, and other parties through which we may market, sell and distribute our products. product candidates. Finally, our current and future operations are subject to additional healthcare-related statutory and regulatory requirements and enforcement by foreign regulatory authorities in jurisdictions in which we conduct our business. The Refer to "Healthcare Fraud and Abuse Laws" section of Government Regulation for a more in-depth description of these laws, which include, but are not limited to, the following:

- The U.S. federal Anti-Kickback Statute prohibits persons or entities from, among other things, knowingly and willfully soliciting, offering, receiving or paying any remuneration, directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, lease, order, or arran for or recommending the purchase, lease or order of, any good or service, for which payment may be made, in whole or in part, under federal healthcare programs such Medicare and Medicaid. A person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. Th statute has been interpreted to apply to arrangements between pharmaceutical companies on one hand and Medicare patients, prescribers, purchasers and formulary managers on the other. In addition, the government may assert that a claim including items or services resulting from a violation of the federal anti-kickback statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act. Although there are a number of statutory exemptions and regulatory safe harbor protecting certain common manufacturer business arrangements and activities from prosecution and administrative sanction, the exemptions and safe harbors are draw narrowly, and practices or arrangements that involve remuneration may be subject to scrutiny if they do

not qualify for an exemption or safe harbor. Our practices may not in all cases meet all of the criteria for safe harbor protection, and therefore would be subject to a facts and circumstances analysis to determine potential Anti-Kickback Statute liability.
- The federal civil False Claims Act (which can be enforced through "qui tam," or whistleblower actions, by private citizens on behalf of the federal government) prohibits a person from, among other things, knowingly presenting, or causing to be presented false or fraudulent claims for payment of government funds, or knowingly making, us or causing to be made or used, a false record or statement material to an obligation to pay money to the government, or knowingly and improperly avoiding, decreasing concealing an obligation to pay money to the U.S. federal government. Many pharmaceutical and other healthcare companies have been investigated or subject to laws by whistleblowers and have reached substantial financial settlements with the federal government under the False Claims Act for a variety of alleged improper marketing activities, including providing free product to customers with the expectation that the customers would bill federal programs for the product; providing consulting fees, gra free travel, and other benefits to physicians to induce them to prescribe the company's products; and inflating prices reported to private price publication services, which used to set drug reimbursement rates under government healthcare programs. In addition, the government and private whistleblowers have pursued False Claims Act c against pharmaceutical companies for causing false claims to be submitted as a result of the marketing of their products for unapproved uses. Pharmaceutical and other healthcare companies also are subject to other federal false claim laws, including federal criminal healthcare fraud and false statement statutes that extend to non-government health benefit programs.
- HIPAA imposes criminal and civil liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, or knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement, in connection with the delivery of, or payment for healthcare benefits, items or services by a healthcare benefit program, which includes both government and privately funded benefits programs; similar to th U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation.
- HIPAA, and its implementing regulations, impose certain obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information and impose notification obligations in the event of a breach of the privacy or security of individually identifiable health information.
- Numerous federal and state laws and regulations that address privacy and data security, including state data breach notification laws, state health information and/or ge privacy laws, and federal and state consumer protection laws (e.g., Section 5 of the Federal Trade Commission Act, or FTC Act), govern the collection, use, disclosure a protection of health-related and other personal information, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts. Compliance with these laws is difficult, constantly evolving, and time consuming, and companies that do not comply with these state law may face civil penalties.
- The majority of states have adopted analogous laws and regulations, including state anti-kickback and false claims laws, that may apply to our business practices, includ but not limited to, research, distribution, sales and marketing arrangements and claims involving healthcare items or services reimbursed by any third-party payer, includ private insurers. Other states have adopted laws that, among other things, require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the U.S. federal government, or otherwise restrict payments that may be made to healthca providers and other potential referral sources; and state laws and regulations that require drug manufacturers to file reports relating to pricing and marketing information which requires tracking gifts and other remuneration and items of value provided to healthcare professionals and entities. In addition, some states have laws requiring pharmaceutical sales representatives to be registered or licensed, and still others impose limits on co-pay assistance that pharmaceutical companies can offer to patient
- The Physician Payments Sunshine Act, implemented as the Open Payments program, and its implementing regulations, require certain manufacturers of drugs, devices

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biologics, and medical supplies that are reimbursable under Medicare,

Medicaid, or the Children's Health Insurance Program to report annually to the CMS information related to certain payments made in the preceding calendar year and ot transfers of value to physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, certified nurse-midwives, and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members. As of 2022, manufacturers must also report transfers o value made to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, and certified nurse-midwives.

The shifting commercial compliance environment and the need to build and maintain robust and expandable systems to comply with different compliance or reporting requirements in multiple jurisdictions increase the possibility that a healthcare or pharmaceutical company may fail to comply fully with one or more of these requirements. Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations may involve substantial costs. It is possible that governmental authorities will conclude that our business practices do not comply with applicable fraud and abuse or other healthcare laws and regulations or guidance. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines, imprisonment, exclusion from government funded healthcare programs, such as Medicare and Medicaid, additional oversight

and reporting requirements if we become subject to a corporate integrity agreement to resolve allegations of non-compliance with these laws, and the curtailment or restructuring of our operations. If any of the physicians or other providers or entities with whom we expect to do business is found not to be in compliance with applicable laws, they may be subject to the same criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs. Even if we are not determined to have violated these laws, government investigations into these issues typically require the expenditure of significant resources and generate negative publicity, which could harm our financial condition and divert resources and the attention of our management from operating our business.

The occurrence of any event or penalty described above may inhibit our ability to commercialize YUTIQ our product candidates in the U.S. and generate revenues, which would have a material adverse effect on our business, financial condition, and results of operations.

If the market opportunities for our products and product candidates, including EYP-1901, are smaller than we believe they are, our results of operations may be adversely affected and our business may suffer.

We focus our research and product development primarily on treatments for eye diseases. Our projections of both the number of people who have these diseases, as well as the subset of people with these diseases who have the potential to benefit from treatment with our products and product candidates, such as our projections of the number of patients with wet AMD, NPDR, and DME who may benefit from treatment with EYP-1901 if it is approved for use, are based on estimates. These estimates may prove to be incorrect and new studies or clinical trials may change the estimated incidence or prevalence of these diseases. The number of patients in the U.S. and elsewhere may turn out to be lower than expected, may not be otherwise amenable to treatment with our products, or new patients may become increasingly difficult to identify or gain access to, all of which would adversely affect our results of operations and our business. For example, we are developing our leading product candidate, EYP-1901, for the treatment of wet AMD. Although we believe wet AMD is a common condition and a leading cause of vision loss for people age 50 and older, our estimates of the potential market opportunity for EYP-1901 may be incorrect.

If any of our products have newly discovered or developed safety problems, our business would be seriously harmed.

All of our approved products are and will be subject to continued oversight by the FDA or other foreign regulatory bodies, and we cannot assure you that newly discovered or developed safety issues will not arise. Although we have observed there were no material safety issues to date, reported EYP-1901-related ocular or systematic serious adverse events (SAEs) in our Phase 2 clinical data, we cannot rule out that issues may arise in the future. For example, with the use of any newly marketed drug by a wider patient population, serious adverse events may occur from time to time that initially do not appear to relate to the drug itself. If such events are subsequently associated with the drug, or if any other safety issue emerges, we or our collaboration partners may voluntarily, or FDA or other regulatory authorities may require that we suspend or cease marketing of our approved products, or modify how we or they market our approved products. In addition, newly discovered safety issues may subject us to substantial potential liabilities and adversely affect our financial condition and business.

The Affordable Care Act and any changes in healthcare laws may increase the difficulty and cost for us to commercialize our approved products in the U.S. and affect the prices we may obtain.

The U.S. and state governments have enacted and proposed legislative and regulatory changes affecting the healthcare system that could affect our ability to profitably sell our approved products, prevent or delay marketing of our other product candidates and restrict or regulate post-approval activities. The U.S. and state governments also have shown significant interest in implementing cost-containment programs to limit the growth of government-paid healthcare costs, including price controls, restrictions on reimbursement, and requirements for substitution of generic products for branded prescription products.

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For example, the Affordable Care Act was intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add transparency requirements for the healthcare and health insurance industries, impose new taxes and fees on the health industry, and impose additional health policy reforms.

Among the provisions of the Affordable Care Act that have been implemented since enactment and are of importance to the commercialization of our approved products product candidates in the U.S. are the following:

- an annual, nondeductible fee on any entity that manufactures or imports specified branded prescription drugs or biologic agents;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program;

- expansion of healthcare fraud and abuse laws, including the U.S. civil False Claims Act and the Anti-Kickback Statute, new government investigative powers, and enhar penalties for noncompliance;

- a Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% point-of-sale discounts off negotiated prices of applicable brand dru to eligible beneficiaries during their coverage gap period, as a condition for a manufacturer's outpatient drugs to be covered under Medicare Part D (such manufacturer discounts were increased from 50% to 70% effective as of January 1, 2019 as required by the Bipartisan Budget Act of 2018) (the IRA sunsets the coverage gap discou program effective 2025);
- extension of manufacturers' Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- price reporting requirements for drugs that are inhaled, infused, instilled, implanted, or injected;
- expansion of eligibility criteria for Medicaid programs;
- addition of entity types eligible for participation in the Public Health Service Act's 340B drug pricing program;
- a requirement to annually report certain information regarding drug samples that manufacturers and distributors provide to physicians; and
- a Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

Certain provisions of the Affordable Care Act have been subject to judicial challenges as well as efforts to modify them or to alter their interpretation or implementation. For example, Congress eliminated starting January 1, 2019, the tax penalty for not complying with the Affordable Care Act's individual mandate to carry health insurance Further, the Bipartisan Budget Act of 2018, among other things, amended the Medicare statute to reduce the coverage gap in most Medicare drugs plans, commonly known as the "donut hole," by raising the required manufacturer point-of-sale discount from 50% to 70% off the negotiated price (the IRA sunsets the coverage gap discount program effective as of January 1, 2019 2025). Additional legislative changes, regulatory changes, and judicial challenges related to the Affordable Care Act remain possible. It is unclear how the Affordable Care Act and its implementation, as well as efforts to modify or invalidate the Affordable Care Act, or portions thereof or its implementation, will affect our business, financial condition, and results of operations. It is possible that the Affordable Care Act, as currently enacted or as it may be amended in the future, and other healthcare reform measures, including those that may be adopted in the future, could have a material adverse effect on our industry generally and on our ability to maintain or increase sales of successfully commercialize our approved products product candidates in the U.S. or to continue to successfully commercialize in the U.S.

We also expect that the Affordable Care Act, as well as other healthcare reform measures that have been adopted and that may be adopted in the future, may result in more rigorous coverage criteria and additional downward pressure on the price that we receive for our approved products in the U.S., and could seriously harm our future revenues. Any reduction in reimbursement from Medicare, Medicaid, or other government programs may result in a similar reduction in payments from private payors. The implementation of cost containment measures or other healthcare reforms may prevent us from being able to generate revenues, attain profitability, or successfully commercialize our approved products in the U.S.

There has been increasing legislative, regulatory, and enforcement interest in the United States with respect to drug pricing and marketing practices. For example, in November 2020, the OIG issued a Special Fraud Alert to highlight certain inherent fraud and abuse risks associated with speaker fees, honorariums and expenses paid by pharmaceutical and medical device companies to healthcare professionals participating in company-sponsored events. The Special Fraud Alert sent a clear signal that speaker programs will be subject to potentially heightened enforcement scrutiny.

The Inflation Reduction Act of 2022 and other changes in healthcare law may impact the prices we are able to obtain for our products and our obligations to make payments to the government.

At both the federal and state level, legislatures are increasingly passing legislation and implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints. For example, the IRA includes a number of provisions that impact the pricing of pharmaceutical products. Among the provisions of the IRA that are important to our commercialized products are the following:

- requires the U.S. Department of Health and Human Services Secretary to negotiate, with respect to Medicare units and subject to a specified cap, the price of a set nu of certain high Medicare spend drugs and biologicals for each year starting for Medicare Part D drugs with "initial price applicability year" 2026 and for Medicare Part E

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- drugs with “initial price applicability year” 2028, which prices are used to set reimbursement rates for such drugs and biologicals under Medicare Part B and Part D;
- penalizes manufacturers of certain Medicare Part B and Part D drugs for price increases above inflation; and
- makes changes to the Medicare Part D benefit, including changes in manufacturer liability under the program through a new Medicare Part D manufacturer discount program.

Civil monetary penalties (CMPs) could accrue for a failure to comply with certain drug price negotiation program, inflation rebate program, or Part D manufacturer discount program requirements. In addition, excise taxes could accrue for a failure to comply with certain drug price negotiation program requirements.

With respect to the drug price negotiation program, if any of our products were selected for negotiation and, as a result, a “maximum fair price” for such product were set, our Medicare revenue would materially decrease, and our Medicaid drug rebate program rebate and 340B drug pricing program liability would materially increase in addition. We anticipate imposition of a maximum fair price also would generate downward pricing pressure in the commercial market. As we anticipate that CMS’s implementation of the drug price negotiation program will evolve, and that there will be related legislative, administrative, and legal developments, our understanding of whether our products are likely to be selected for negotiation under this program, and whether they may be subject to additional downward pricing pressure, is likely to evolve as well, which could impact our understanding of our business and financial condition.

With respect to the inflation rebate programs, we have at times increased the price of certain of our products. We may need to make similar price adjustments to our products in the future and cannot guarantee that such price adjustments will not trigger an inflation rebate, which could negatively affect our business. A manufacturer that does not timely pay a rebate is subject to a CMP in an amount at least equal to 125 percent of the rebate amount.

With respect to the Medicare Part D benefit redesign, we participate in the Medicare Part D program and thus expect to participate in the new Part D manufacturer discount program starting in 2025. Changes to the manufacturer discount program could change our overall discount liability under the Part D program, as participating manufacturers, as a general matter, will be required to offer discounts on the negotiated price of a drug on a larger universe of units but at a lower discount rate. Reductions in patient out of pocket spending could lead to an improvement in patient medication adherence and overall Part D utilization. It is unclear how these changes will affect our business as a whole, and whether they will have an overall positive or negative impact. In addition, under the program, manufacturers that fail to provide a discounted price for an applicable drug can be subject to a CMP equal to 1.25 percent times the discount that the manufacturer should have paid under the program agreement.

We anticipate that there will be additional legislative and regulatory reforms that seek to address drug pricing in the U.S. As such, we expect the impact of, not only the IRA, but also all other such public policies on our business to evolve in ways that we cannot fully anticipate.

Patient assistance programs for pharmaceutical products have come under increasing scrutiny by governments, legislative bodies and enforcement agencies. These activities may result in actions that have the effect of reducing prices or demand for our products, harming our business or reputation, or subjecting us to fines or penalties.

We sponsor previously sponsored patient assistance programs, which are were available to qualified patients for our products, including insurance premium and copay assistance programs. We also make made donations to third-party charities that provide such assistance. Recently, there has been enhanced scrutiny of such company-sponsored programs and services. If we, our vendors or donation recipients, are deemed to have failed to comply with relevant laws, regulations or government guidance in any of these areas, we could be subject to criminal and civil sanctions, including significant fines, civil monetary penalties and exclusion from participation in government healthcare programs, including Medicare and Medicaid, and burdensome remediation measures. Actions could also be brought against executives overseeing our business or other employees.

It is possible that any actions taken by the Department of Justice (DOJ) as a result of this industry-wide inquiry could reduce demand for our products and/or reduce coverage of our products, including by federal and state health care programs such as Medicare and Medicaid. If any or all of these events occur, our business, prospects and stock price could be materially and adversely affected.

If competitive products are more effective, have fewer side effects, are more effectively marketed and/or cost less than our products or product candidates, or receive regulatory approval or reach the market earlier, our product candidates may not be approved and our products or product candidates may not achieve the sales we anticipate and could be rendered noncompetitive or obsolete.

We believe that pharmaceutical, drug delivery and biotechnology companies, research organizations, governmental entities, universities, hospitals, other nonprofit organizations, and individual scientists are seeking to develop drugs, therapies, products, approaches or methods to treat our targeted diseases or their underlying causes. For our targeted diseases, competitors have alternate therapies that are already commercialized or are in various stages of development, ranging from discovery to advanced clinical trials. Any of these drugs, therapies, products, approaches, or methods may receive government approval or gain market acceptance more rapidly than our products and product candidates, may offer therapeutic or cost advantages, or may more effectively treat our targeted diseases or their underlying causes, which could result in our product candidates not being approved, reduce demand for our products and product candidates or render them noncompetitive or obsolete.

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Many of our competitors and potential competitors for our leading product candidate, EYP-1901, and our commercialized products have substantially greater financial, technological, research and development, marketing, and personnel resources than we

do. Our competitors may succeed in developing alternate technologies and products that, in comparison to the products or product candidates we have, and are seeking to, develop:

- are more effective and easier to use;
- are more economical;
- have fewer side effects;
- offer other benefits; or
- may otherwise render our products less competitive or obsolete.

Many of these competitors have greater experience in developing products, conducting clinical trials, obtaining regulatory approvals or clearances, and manufacturing and marketing products than we do.

DEXYCU® is an intraocular suspension that delivers dexamethasone, a corticosteroid that is associated with certain adverse side effects in the eye, which may affect the success of DEXYCU® for the treatment of post-operative inflammation.

DEXYCU® is an intraocular suspension that delivers dexamethasone, a corticosteroid, which is associated with certain adverse side effects in the eye. The safety analyses from DEXYCU's DEXYCU®'s clinical trials revealed that the most commonly reported adverse reactions were increases in intraocular pressure (IOP), corneal edema and iritis, a type of uveitis affecting the front of the eye. These side effects may adversely affect sales of DEXYCU. DEXYCU®.

If the FDA or other applicable regulatory authorities approve generic products that compete with any of our products or product candidates, it could reduce our the future sales of those products or our product candidates.

In the U.S., after an NDA is approved, the product generally becomes a "listed drug" which can, in turn, be relied upon by potential competitors in support of approval of an ANDA. The Federal Food, Drug, and Cosmetic Act, FDA regulations, and other applicable regulations and policies provide incentives to manufacturers to create generic, non-infringing versions of a drug to facilitate the approval of an ANDA. These manufacturers might show that their product has the same active ingredients, dosage form, strength, route of administration, conditions of use, and labeling as our product candidate and might conduct a relatively inexpensive study to demonstrate that the generic product is absorbed in the body at the same rate and to the same extent as, or is bioequivalent to, our product. These generic equivalents would be significantly less costly than ours to bring to market, and companies that produce generic equivalents are generally able to offer their products at lower prices. Thus, after the introduction of a generic competitor, a significant percentage of the sales of any branded product are typically lost to the generic product. Accordingly, competition from generic equivalents to our products would substantially limit our ability to generate revenues and therefore to obtain a return on the investments we have made in our products.

Product liability lawsuits against us could cause us to incur substantial liabilities and to limit manufacturing or commercialization of YUTIQ® and DEXYCU®, and any other product candidates that we may develop and commercialize, including EYP-1901.

We face the risk of product liability exposure as we commercialize manufacture YUTIQ® and DEXYCU® for our commercialization partners and other product candidates that we may develop and commercialize. We also may face product liability claims from patients who are treated with any of our product candidates in clinical trials. If we cannot successfully defend ourselves against claims that our products or product candidates caused injuries, we could incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- decreased demand for our products;
- injury to our reputation and significant negative media attention;

- termination of clinical trial sites or entire trial programs that we conduct in the future relating to YUTIQ, DEXYCU, EYP-1901 or our other product candidates;
- withdrawal of clinical trial participants from any future clinical trial relating to YUTIQ, DEXYCU, EYP-1901, or and EYP-2301or our other product candidates;
- significant costs to defend the related litigation;
- substantial money awards to patients;
- loss of revenue;
- diversion of management and scientific resources from our business operations; and
- an increase in product liability insurance premiums or an inability to maintain product liability insurance coverage.

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We currently carry product liability insurance with coverage up to $30.0 million in the aggregate, with a per incident limit of $30.0 million, which may not be adequate to cover all liabilities that we may incur. Further, we may not be able to maintain insurance coverage at a reasonable cost or in an amount adequate to satisfy any liability that may arise. Our inability to maintain sufficient product liability insurance at an acceptable cost could prevent or inhibit the commercialization manufacture of YUTIQ® and DEXYCU, our ability to meet our

obligations to our commercialization partners, or could prevent or inhibit the development and commercialization of our other product candidates, including EYP-1901.

Additionally, any agreements we have entered into, or we may enter into into. in the future with collaborators in connection with the development or commercialization of YUTIQ, DEXYCU, EYP-1901 or any of our other product candidates, may entitle us to indemnification against product liability losses, but such indemnification may not be available or adequate should any claim arise. In addition, several of our agreements require us to indemnify third parties and these indemnification obligations may exceed the coverage under our product liability insurance policy.

RISKS RELATED TO OUR INTELLECTUAL PROPERTY

If we are unable to protect our intellectual property rights or if our intellectual property rights are inadequate to protect our product candidates, our competitors could develop and commercialize technology and products similar to ours, and our competitive position could be harmed.

Our commercial success will depend in large part on our ability to obtain and maintain patent and other intellectual property protection in the U.S. and other countries with respect to our proprietary technology and products. We rely on trade secret, patent, copyright and trademark laws, and confidentiality and other agreements with employees and third parties, all of which offer only limited protection. We seek patent protection for many different aspects of our product candidates, including their compositions, their methods of use, processes for their manufacture, and any other aspects that we deem to be commercially important to the development of our business.

The patent prosecution process is expensive and time-consuming, and we and any licensors and licensees may not be able to apply for or prosecute patents on certain aspects of our product candidates or delivery technologies at a reasonable cost, in a timely fashion, or at all. For technology licensed to third parties, we may not have the right to control the preparation, filing and/or prosecution of the corresponding patent applications, or to maintain patent rights corresponding to such technology. Therefore, these patents and applications may not be prosecuted and enforced in a manner consistent with the best interests of our business. It is also possible that we, or any licensors or licensees, will fail to identify patentable aspects of inventions made in the course of development and commercialization activities before it is too late to obtain patent protection on them. It is possible that defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, such as with respect to proper priority claims, inventorship, claim scope, or patent term adjustments. If any licensors or licensees are not fully cooperative or disagree with us as to the prosecution, maintenance, or enforcement of any patent rights, such patent rights could be compromised, and we might not be able to prevent third parties from making, using, and selling competing products. If there are material defects in the form or preparation of our patents or patent applications, such patents or applications may be invalid or unenforceable. Moreover, our competitors may independently develop equivalent knowledge, methods, and know-how. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business, financial condition, and operating results.

The patent positions of pharmaceutical companies generally are highly uncertain, involve complex legal and factual questions and have in recent years been the subject of much litigation. As a result, the issuance, scope, validity, enforceability and commercial value of any patents that issue, are highly uncertain. For example, recent changes to the patent laws of the U.S. provide additional procedures for third parties to challenge the validity of issued patents. Under the Leahy-Smith America Invents Act, or AIA, which was signed into law on September 16, 2011, patents issued from applications with an effective filing date after March 15, 2013, may be challenged by third parties using the post-grant review procedure which allows challenges for a number of reasons, including prior art, sufficiency of disclosure, and subject matter eligibility. Under the AIA, patents may also be challenged under the *inter partes* review procedure. *Inter partes* review provides a mechanism by which any third party may challenge the validity of any issued U.S.

Patent in the USPTO on the basis of prior art. Because of a lower evidentiary standard necessary to invalidate a patent claim in USPTO proceedings as compared to the evidentiary standard relied on in U.S. federal court, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action.

With respect to foreign jurisdictions, the laws of foreign countries may not protect our rights to the same extent as the laws of the U.S. or vice versa. For example, European patent law restricts the patentability of methods of treatment of the human body more than U.S. law does. Also, patents granted by the European Patent Office may be opposed by any person within nine months from the publication of their grant.

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Our patents and patent applications, even if unchallenged by a third party, may not adequately protect our intellectual property or prevent others from designing around our claims. The steps we have taken to protect our proprietary rights may not be adequate to

preclude misappropriation of our proprietary information or infringement of our intellectual property rights, both inside and outside the U.S. Further, the examination process may require us to narrow the claims of pending patent applications, which may limit the scope of patent protection that may be obtained if these applications issue. The rights that may be granted under future issued patents may not provide us with the proprietary protection or competitive advantages we are seeking. If we are unable to obtain and maintain patent protection for our technology and products, or if the scope of the patent protection obtained is not sufficient, our competitors could develop and commercialize technology and products similar or superior to ours, and our ability to successfully commercialize our technology and products product candidates may be impaired.

As of February 28, 2023 March 1, 2024, we had owned proprietary know-how and several patents and pending applications, including patents and pending applications covering our Durasert®, Verisome EYP-1901,VERISOME® and other technologies. With respect to these patent rights, we do not know whether any of our patent applications will result in issued patents or, if any of our patent applications do issue, whether such patents will protect our technology in whole or in part, or whether such patents will effectively prevent others from commercializing competitive technologies and products. There is no guarantee that any of our issued or granted patents will not later be found invalid or unenforceable. Furthermore, since patent applications in the U.S. and most other countries are confidential for a period of time after filing, we cannot be certain that we were the first to either (i) file any patent application related to our product candidates or (ii) invent any of the inventions claimed in our patents or patent applications. For applications with an effective filing date before March 16, 2013, or patents issuing from such applications, an interference proceeding can be provoked by a third party or instituted by the USPTO to determine who was the first to invent any of the subject matter covered by the patent claims of our applications and patents. As of March 16, 2013, the U.S. transitioned to a “first-to-file” system for deciding which party should be granted a patent when two or more patent applications are filed by different parties claiming the same invention. A third party that files a patent application in the USPTO before us could therefore be awarded a patent covering an invention of ours even if we had made the invention before it was made by the third party. This will require us to be cognizant going forward of the time from invention to filing of a patent application. The change to “first-to-file” from “first-to-invent” is one of the changes to the patent laws of the U.S. resulting from the AIA.

Publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the U.S. and other jurisdictions are typically not published until 18 months after filing or in some cases not at all, until they are issued as a patent. Therefore, we cannot be certain that we were the first to make the inventions claimed in our pending patent applications, that we were the first to file for patent protection of such inventions, or that we have found all of the potentially relevant prior art relating to our patents and patent applications that could invalidate one or more of our patents or prevent one or more of our patent applications from issuing. Even if patents do successfully issue and even if such patents cover our product candidates, third parties may initiate oppositions, interferences, re-examinations, post-grant reviews, *inter partes* reviews, nullification or derivation actions in court or before patent offices or similar proceedings challenging the validity, enforceability, or scope of such patents, which may result in the patent claims being narrowed or invalidated. Furthermore, even if they are unchallenged, our patents and patent applications may not adequately protect our intellectual property, provide exclusivity for our product candidates, or prevent others from designing around our claims. Any of these outcomes could impair our ability to prevent competition from third parties.

Furthermore, the issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and our owned and licensed patents may be challenged in the courts or patent offices in the U.S. and abroad. Such challenges may result in loss of exclusivity or freedom to operate or in patent claims being narrowed, invalidated or held unenforceable, in whole or in part, which could limit our ability to stop others from using or commercializing similar or identical technology and products, or limit the duration of the patent protection of our technology and products. product candidates. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such product candidates might expire before or shortly after such product candidates are commercialized. As a result, our owned and licensed patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

We may become involved in lawsuits to protect or enforce our patents or the patents of our licensors, which could be expensive, time consuming and unsuccessful.

Competitors may infringe our patents or the patents of any party from whom we may license patents from in the future. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time-consuming. In a patent litigation in the U.S., defendant counterclaims alleging invalidity or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, for example, lack of novelty, obviousness or non-enablement. Grounds for an unenforceability assertion could be an allegation that someone connected with prosecution of the patent withheld relevant information from the USPTO or made a misleading statement during prosecution. The outcome following legal assertions of invalidity and unenforceability during patent litigation is unpredictable. A court may decide that a patent of ours or of any of our future licensors is not valid, or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. In addition, to the extent that we have to file patent litigation in a federal court against a U.S. patent holder, we would be required to initiate the proceeding in the state of incorporation or residency of such entity. With respect to the validity question, for example, we cannot be certain that no invalidating

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prior art exists. An adverse result in any litigation or defense proceedings could put one or more of our patents at risk of being invalidated, found unenforceable, or interpreted narrowly, and it could put our patent applications at risk of not issuing. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. If a defendant were to prevail on a legal assertion of invalidity or unenforceability, we would lose at least part, and perhaps all, of the patent protection on one or more of our products. Such a loss of patent protection could compromise our ability to pursue our business strategy.

As noted above, interference proceedings brought by the USPTO for applications with an effective filing date before March 16, 2013, or for patents issuing from such applications may be necessary to determine the priority of inventions with respect to our patents and patent applications or those of our collaborators or licensors. An unfavorable outcome could require us to cease using the technology or to attempt to license rights to it from the prevailing party. Our business could be harmed if a prevailing party does not offer us a license on terms that are acceptable to us. Litigation or interference proceedings may fail and, even if successful, may result in substantial costs and distraction of our management and other employees. We may not be able to prevent, alone or with any of our future licensors, misappropriation of our proprietary rights, particularly in countries where the laws may not protect those rights as fully as in the U.S. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock.

Moreover, we may be subject to a third-party pre-issuance submission of prior art to the USPTO or other foreign patent offices, or become involved in opposition, derivation, reexamination, *inter partes* review, post-grant review or interference proceedings challenging our patent rights or the patent rights of others. An adverse determination in any such submission, proceeding or litigation could invalidate or reduce the scope of, our patent rights, allow third parties to commercialize our technology or drugs and compete directly with us, without payment to us, or result in our inability to manufacture or commercialize drugs without infringing third-party patent rights. In addition, if the breadth or strength of protection provided by our patents and patent applications is threatened, it could dissuade companies from collaborating with us to license, develop, or commercialize current or future product candidates.

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

Filing, prosecuting, and defending patents on our product candidates throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the U.S. may be less extensive than those in the U.S. In addition, the laws and practices of some foreign countries do not protect intellectual property rights, especially those relating to life sciences, to the same extent as federal and state laws in the U.S. For example, novel formulations of drugs and manufacturing processes may not be patentable in certain jurisdictions, and the requirements for patentability may differ in certain countries, particularly developing countries. Also, some foreign countries, including EU countries, India, Japan, and China, have compulsory licensing laws under which a patent owner may be compelled under certain circumstances to grant licenses to third parties. Consequently, we may have limited remedies if patents are infringed or if we are compelled to grant a license to a third party, and we may not be able to prevent third parties from practicing our inventions in all countries outside the U.S., or from selling or importing products made using our inventions into or within the U.S. or other jurisdictions. This could limit our potential revenue opportunities. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products, and may export otherwise infringing products to territories where we have patent protection, but where enforcement is not as strong as that in the U.S. These , these products may compete with our products product candidates in jurisdictions where we do not have any issued patents and our patent claims or other intellectual property rights may not be effective or sufficient to prevent them from competing with us in these jurisdictions. Accordingly, our efforts to enforce intellectual property rights around the world may be inadequate to obtain a significant commercial

advantage from our intellectual property. We may not prevail in any lawsuits that we initiate in these foreign countries and the damages or other remedies awarded, if any, may not be commercially meaningful.

Further, the complexity and uncertainty of European patent laws have increased in recent years. In Europe, a new unitary patent system will likely be introduced by the end of 2023, which would significantly impact European patents, including those granted before the introduction of such a system. came into force on June 1, 2023. Under the unitary patent system, European applications will soon have the option, upon grant of a European patent, of becoming a Unitary Patent may be elected, which will be affected in the EU member states that have ratified the Unitary Patent Court (UPC). Agreement and will be subject to the jurisdiction of the Unitary Patent Court (UPC). UPC. As the UPC is a new court system, there is no precedent for the court, increasing the uncertainty of any litigation. Patents granted before the implementation of the UPC will have the option of opting out of the jurisdiction of the UPC and remaining as national patents in the UPC countries. Patents that remain under the jurisdiction of the UPC will be potentially vulnerable to a single UPC-based revocation challenge that, if successful, could invalidate the patent in all countries who are signatories to have ratified the UPC. We cannot predict with certainty the long-term effects of any potential changes.

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

Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and applications are required to be paid to the USPTO and various governmental patent agencies outside of the U.S. in several stages over the lifetime of the patents and applications. The USPTO and various non-U.S. governmental patent agencies require compliance with a number of procedural, documentary, fee payment, and other similar provisions during the patent application process and after a patent has issued. There are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction.

Third parties may initiate legal proceedings alleging that we are infringing their intellectual property rights, the outcome of which could be uncertain and could harm our business.

Our commercial success depends upon our ability, and the ability of our partners and collaborators, to develop, manufacture, market, and sell our products and product candidates, if approved, and use our proprietary technologies without infringing the proprietary rights of third parties. Although our product candidates are in pre-clinical studies and clinical trials, we believe that the use of our product candidates in these pre-clinical studies and clinical trials falls within the scope of the exemptions provided by 35 U.S.C. Section 271(e) in the U.S., which exempts from patent infringement liability activities reasonably related to the development and submission of information to the FDA. As our other product candidates progress toward commercialization, the possibility of a patent infringement claim against us increases. Accordingly, we may invest significant time and expense in the development of our product candidates only to be subject to significant delay and expensive and time-consuming patent litigation before our product candidates may be commercialized. There can be no assurance that our products or product candidates do not infringe other parties' patents or other proprietary rights, and competitors or other parties may assert that we infringe their proprietary rights in any event.

There is considerable intellectual property litigation in the biotechnology and pharmaceutical industries. We may become party to, or threatened with, future adversarial proceedings or litigation regarding intellectual property rights with respect to our product candidates, including interference or derivation proceedings before the USPTO. Numerous U.S. and foreign issued patents and pending patent applications owned by third parties exist in the fields in which we are developing our product candidates. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future.

If we are found to infringe a third party's intellectual property rights, we could be required to obtain a license from such third party to continue commercializing our products or product candidates. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if a license can be obtained on acceptable terms, the rights may be non-exclusive, which could give our competitors access to the same technology or intellectual property rights licensed to us. If we fail to obtain a required license, we may be unable to effectively market products or product candidates based on our technology, which could limit our ability to generate revenues or achieve profitability and possibly prevent us from generating revenues sufficient to sustain our operations. Alternatively, we may need to redesign our infringing products, which may be impossible or require substantial time and monetary expenditure. Under certain circumstances, we could be forced, including by court order, to cease commercializing our products or product candidates. In addition, in any such proceeding or litigation, we could be found liable for substantial monetary damages, potentially including treble damages and attorneys' fees, if we are found to have willfully infringed. A finding of infringement could prevent us from commercializing our products or product candidates or force us to cease some of our business operations, which could harm our business. Any claims by third parties that we have misappropriated their confidential information or trade secrets could have a similar negative impact on our business.

The cost to us in defending or initiating any litigation or other proceeding relating to patent or other proprietary rights, even if resolved in our favor, could be substantial, and litigation would divert our management's attention. Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could compromise our commercialization efforts, delay our research and development efforts and limit our ability to continue our operations. There could also be public announcements of the results of the hearing, motions, or other interim proceedings or developments. If securities analysts or investors perceive those results to be negative, it could cause the price of shares of our common stock to decline.

Our competitors may be able to circumvent our patents by developing similar or alternative technologies or products in a non-infringing manner.

Our competitors may seek approval to market their own products that are the same as, similar to or otherwise competitive with our products or product candidates. In these circumstances, we may need to defend or assert our patents by various means, including filing lawsuits alleging patent infringement requiring us to engage in complex, lengthy and costly litigation, or other proceedings. In any of these types of proceedings, a court or government agency with jurisdiction may find our patents invalid, unenforceable or not

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infringed. We may also fail to identify patentable aspects of our research and development before it is too late to obtain patent protection. Even if we have valid and enforceable patents, these patents still may not provide protection against competing products or processes sufficient to achieve our business objectives.

Changes in either U.S. or foreign patent law or interpretation of such laws could diminish the value of patents in general, thereby impairing our ability to protect our products or product candidates.

As is the case with other pharmaceutical companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the pharmaceutical industry involve both technological and legal complexity, and it therefore is costly, time-consuming and inherently uncertain. As noted above, the AIA has significantly changed U.S. patent law. In addition to transitioning from a "first-to-invent" to "first-to-file" system, the AIA also limits where a patentee may file a patent infringement suit and provides opportunities for third parties to challenge issued patents in the USPTO via post-grant review or *inter partes* review, for example. All of our U.S. patents, even those issued before March 16, 2013, may be challenged by a third party seeking to institute *inter partes* review.

Depending on decisions by the U.S. Congress, the federal courts, the USPTO, or similar authorities in foreign jurisdictions, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future.

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

Although we try to ensure that our employees, consultants, independent contractors and advisors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that these individuals or we have inadvertently or otherwise used or disclosed confidential information and/or intellectual property, including trade secrets or other proprietary information, of the companies that any such individual currently or formerly worked for or provided services to. Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to our business.

In addition, while we require our employees and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property.

Intellectual property rights do not prevent all potential threats to competitive advantages we may have.

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

The following examples are illustrative:

- others may be able to make drug and device components that are the same as or similar to our product candidates but that are not covered by the claims of the patents we own or have exclusively licensed;
- we or any of our licensors or collaborators might not have been the first to make the inventions covered by the issued patent or pending patent application that we own c have exclusively licensed;
- we or any of our licensors or collaborators might not have been the first to file patent applications covering certain of our inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing our intellectual property rights;
- the prosecution of our pending patent applications may not result in granted patents;
- granted patents that we own or have licensed may not cover our products or may be held not infringed, invalid or unenforceable, as a result of legal challenges by our competitors;
- with respect to granted patents that we own or have licensed, especially patents that we either acquire or in-license, if certain information was withheld from or misrepresented to the patent examiner, such patents might be held to be unenforceable;

- patent protection on our product candidates may expire before we are able to develop and commercialize the product, or before we are able to recover our investment ir product;
- our competitors might conduct research and development activities in the U.S. and other countries that provide a safe harbor from patent infringement claims for such activities, as well as in countries in which we do not have patent rights, and may then use the information learned from such activities to develop competitive products fo

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sale in markets where we intend to market our product candidates;
- we may not develop additional proprietary technologies that are patentable;
- the patents of others may have an adverse effect on our business; and
- we may choose not to file a patent application for certain technologies, trade secrets or know-how, and a third party may subsequently file a patent covering such intelle property.

Should any of these events occur, they could significantly harm our business, financial condition, results of operations and prospects.

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

In addition to seeking patent protection for certain aspects of our product candidates and technologies, we also consider trade secrets, including confidential and unpatented know-how, important to the maintenance of our competitive position. We protect trade secrets and confidential and unpatented know-how, in part, by customarily entering into non-disclosure and confidentiality agreements with parties who have access to such knowledge, such as our employees, outside scientific and commercial collaborators, CROs, CMOs, consultants, advisors, and other third parties. We also enter into confidentiality and invention or patent assignment agreements with our employees and consultants that obligate them to maintain confidentiality and assign their inventions to us. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. In addition, our trade secrets may otherwise become known, including through a potential cybersecurity breach, or may be independently developed by competitors.

Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts in the U.S. and certain foreign jurisdictions are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed.

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

We expect to rely on trademarks as one means to distinguish any of our approved products from the products of our competitors. We have received registrations for EYEPOINT®, YUTIQ®, DEXYCU®, DELIVERING INNOVATION TO THE EYE® and , DURASERT®. The Verisome ,and WITH AN EYE ON PATIENTS® technology is exclusively licensed to us by Ramscor, Inc and the Verisome® mark is owned by Ramscor, Inc. Our and our licensees' trademarks may be challenged, infringed, circumvented or declared generic or determined to be infringing on other marks. For our trademarks, we have entered into a co-existence agreement with Sun Pharma and a settlement agreement with Merck allowing continued, though somewhat limited, use of two of our marks. If we are unable to establish name recognition based on our trademarks, we may not be able to compete effectively.

ILUVIEN® is Alimera's trademark. . Retisert®and Vitrasert® are Bausch & Lomb's trademarks. YUTIQ® is licensed to Alimera Sciences and Ocumension Therapeutics in their respective territories. ILUVIEN® is Alimera Sciences Inc.'s trademark. The reports we file or furnish with the SEC, including this Annual Report on Form 10-K, also contain trademarks, trade names and service marks of other companies, which are the property of their respective owners.

RISKS RELATED TO OUR RELIANCE ON THIRD PARTIES

The development and commercialization of our lead product candidate, EYP-1901, is dependent on intellectual property we license from Equinox Science and API active pharmaceutical ingredient (API) supply of vorolanib. If we breach our agreement with Equinox Science, or the agreement is terminated, we could lose license rights that are material to our business.

Pursuant to our license agreement with Equinox, we acquired exclusive rights to patents, patent applications and know-how owned or controlled by Equinox relating to the compound vorolanib, a tyrosine kinase inhibitor. Our lead product candidate, EYP-1901, utilizes vorolanib in combination with our proprietary Durasert E™ sustained release technology. At present, Betta, an affiliate of Equinox also provides us with is a provider of the API supply of vorolanib to support our clinical trials. Our license agreement with Equinox imposes various development, regulatory, commercial, financial, and other obligations on us. If we fail to comply with our obligations under the agreement with Equinox, or otherwise materially breach the agreement with Equinox, and fail to remedy such failure or cure such breach within 90 days, Equinox will have the right to terminate the agreement. If our agreement with Equinox is terminated by Equinox for our uncured material breach, we would lose our license and all rights to the use of vorolanib, from Equinox, for EYP-1901. The loss of the license from Equinox would could prevent us from developing and commercializing EYP-1901 and could subject us to claims of breach of contract and patent infringement from Equinox if any continued research, development, manufacture or commercialization of EYP-1901 is covered by the affected patents. Accordingly, the loss of our license from Equinox would materially harm our business.

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The development of our lead product candidate, EYP-1901, is dependent on our supply of its active pharmaceutical ingredient (API) API vorolanib, which we source from third-parties. If any manufacturer or partner we rely upon fails to supply vorolanib in the amounts we require on a timely basis, or fails to comply with stringent regulations applicable to pharmaceutical drug manufacturers, we may be unable to meet demand for our products and may lose potential revenues.

We currently source vorolanib, the API in EYP-1901, from Betta, Pharmaceuticals and have plans to source vorolanib from additional third parties, and we also source various raw materials and components for both EYP-1901 and its injector from third-party vendors. We are also working with a third party manufacturer to develop the process for manufacturing vorolanib and become the U.S. supplier of vorolanib for use in EYP-1901. We do not manufacture any of our supply of vorolanib, and we do not currently plan to develop any capacity to do so. Our dependence upon third parties for the manufacture of our vorolanib could adversely affect our profit margins or our ability to develop and deliver products on a timely and competitive basis. If for any reason we are unable to obtain or retain third-party manufacturers on commercially acceptable terms, we may not be able to sell EYP-1901 as planned. Furthermore, if we encounter delays or difficulties with manufacturers in producing vorolanib, the distribution, marketing and subsequent sales of EYP-1901 could be adversely affected. A long-term inability to meet demand for our products could result in impairment of our brands overall future and the carrying value of the assets associated with our brands. The recent COVID-19 pandemic has and may continue to create issues for our third party-manufacturers and introduce delays in our manufacturing process.

Due to the loss of pass-through related separate payment of DEXYCU as of January 1, 2023, we agreed to terminate our ongoing Commercial Alliance Agreement with ImprimisRx to co-promote DEXYCU, which could also have a material adverse effect on our business, financial condition and results of operations due to a reduction of cash flow associated with DEXYCU.

In August 2020, to complement and augment the efforts of our internal sales team for DEXYCU, we entered into a Commercial Alliance Agreement, effective as of August 1, 2020 and amended as of November 12, 2020 (the Commercial Alliance Agreement) with ImprimisRx for the sale of DEXYCU to its customers. On December 6, 2021, we entered into a letter agreement (the Letter Agreement) to expand the commercial alliance previously established by the parties pursuant to the Commercial Alliance Agreement. During the two-year term of the Letter Agreement, ImprimisRx assumed full responsibility for the sales and marketing of DEXYCU and absorbed the majority of our DEXYCU commercial organization. We continued to recognize net product revenue and maintain manufacturing and distribution responsibilities for DEXYCU along with non-sales related regulatory compliance responsibilities. We paid ImprimisRx a commission based on the net sales of DEXYCU in the U.S. and will retain control over all regulatory approvals and commercial rights for DEXYCU. The Letter Agreement was effective as of January 1, 2022 and was to continue through December 31, 2023, unless such term is amended by mutual agreement of the parties or terminated in accordance therewith.

The Letter Agreement provided that either party may terminate the Commercial Alliance Agreement upon 30 days' prior written notice in the event DEXYCU ceases to have Medicare Part B "pass-through" payment status for a period of not less than six months. ImprimisRx had an additional right to terminate the Letter Agreement with 30 days' written notice if (i) a proposed or final Hospital Outpatient Prospective Payment System (HOPPS) rule issued by CMS during calendar year 2022 did not contain an extension of the pass-through payment period for DEXYCU beyond December 31, 2022, and (ii) we had not otherwise waived any minimum sales for a respective quarterly period.

We entered into (the Termination Agreement) with ImprimisRx on October 7, 2022, pursuant to which we and ImprimisRx agreed (a) that ImprimisRx would continue to support the sales and marketing of DEXYCU through the fourth quarter of 2022, consistent with ImprimisRx's level of effort during the January through June 2022 period, (b) decrease the required minimum quarterly sales levels based on DEXYCU unit demand for the fourth quarter of 2022, and (c) terminate the previously entered into Commercial Alliance Agreement, made effective as of August 1, 2020, as modified by the Agreements, effective January 1, 2023 due to the loss of pass-through related separate payment of DEXYCU. The December 2022 termination of our arrangement with ImprimisRx could have a material adverse effect on our business, financial condition, results of operations and induce a reduction of cash flow.

If we encounter issues with our CMOs or suppliers, we may need to qualify alternative manufacturers or suppliers, which could impair our ability to sufficiently and timely manufacture and supply DEXYCU.

We currently depend on CMOs and suppliers for DEXYCU. Although we could obtain the drug product and other components for DEXYCU from other CMOs and suppliers, we would need to qualify and obtain FDA approval for such CMOs or suppliers as alternative sources, which could be costly and cause significant delays. In addition, the manufacturer of the drug product in DEXYCU conducts its manufacturing operations for us at a single facility. Unless and until we qualify additional facilities, we may face limitations in our ability to respond to manufacturing issues. For example, if regulatory, manufacturing or other problems require this manufacturer to discontinue production at its facility, or if the equipment used for the production of the drug product in this facility is significantly damaged or destroyed by fire, flood, earthquake, power loss or similar events, the ability of such manufacturer to manufacture DEXYCU may be significantly impaired. In the event that this party suffers a temporary or protracted loss of its materials, facility or equipment, we would still be required to obtain FDA approval to qualify a new manufacturer as an alternate manufacturer for the drug product before any drug product manufactured by such manufacturer could be sold or used. Any production shortfall that impairs the supply of DEXYCU could adversely affect our ability to satisfy demand for DEXYCU, which could have a material adverse effect on our product sales, results of operations and financial condition.

The Pandemic may also have an adverse impact on our CMOs or suppliers as a result of employees or other key personnel becoming infected, preventive and precautionary measures that governments or such third parties are taking, such as social distancing, quarantines, and other restrictions, and shortages of supplies necessary for the manufacture of DEXYCU. Any of these circumstances could adversely impact the ability of third parties on which we rely to manufacture and distribute adequate volumes of DEXYCU.

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We use our own facility for the manufacturing of YUTIQ and rely on third party suppliers for key components, and any disruptions to our suppliers' operations could adversely affect YUTIQ's commercial viability.

We currently manufacture commercial supplies of YUTIQ ourselves at our Watertown, MA facility and rely on third party suppliers for key components of YUTIQ. We have, and will continue, to perform extensive audits of our suppliers, vendors and contract laboratories. The cGMP requirements govern, among other things, recordkeeping, production processes and controls, personnel and quality control. To ensure that we continue to meet these requirements, we have and will continue to expend significant time, money and effort.

The commercial manufacture of medical products is complex and requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Manufacturers of medical products often encounter difficulties in production, particularly in scaling out and validating initial production and ensuring the absence of contamination. These problems include difficulties with production costs and yields, quality control, including stability of the product, quality assurance testing, operator error, shortages of qualified personnel, as well as compliance with strictly enforced federal, state and foreign regulations. We cannot assure you that any issue relating to the manufacture of YUTIQ will not occur in the future.

The FDA also may, at any time following approval of a product for sale, audit our manufacturing facilities. If any such inspection or audit identifies a failure to comply with applicable regulations or if a violation of our product specifications or applicable regulation occurs independent of such an inspection or audit, FDA may issue a Form FDA-483 and/or an untitled or warning letter, or we or the FDA may require remedial measures that may be costly and/or time consuming for us to implement and that may include the temporary or permanent suspension of commercial sales, recalls, market withdrawals, seizures or the temporary or permanent closure of a facility. For example, we received a Form FDA-483 at the conclusion of an FDA inspection in September 2021. Although we believe we have successfully addressed and responded to FDA concerning those observations, FDA has not yet determined whether our facility will remain classified as Official Action Indicated (OAI), which could lead to enforcement action or affect the approval of an application. As of the date of this filing, the FDA has not yet posted the September 2021 inspection in the FDA Inspections database. We are monitoring the database closely, as it is expected that the inspection should be posted soon. The FDA has cited issues related to the Pandemic as a reason for the delay in much of their inspection activity. Any such remedial measures imposed upon us could materially harm our business.

In addition, although we could contract with other third parties to manufacture YUTIQ, we would need to qualify and obtain FDA approval for a contract manufacturer or supplier as an alternative source for YUTIQ, which could be costly and cause significant delays.

Our YUTIQ manufacturing operations depend on our Watertown, MA facility. If this facility is destroyed or is out of operation for a substantial period of time, our business may be adversely impacted.

We currently conduct our manufacturing operations related to YUTIQ in our facility located in Watertown, MA. If regulatory, manufacturing or other problems, including Pandemic-related impacts on our employees, require us to suspend or discontinue production at our Watertown, MA facility, we will not be able to have or maintain adequate commercial supply of YUTIQ, which would adversely impact our business. If the facility or the equipment in it is significantly damaged or destroyed by fire, flood, power loss or similar events, we may not be able to quickly or inexpensively replace our facility. In the event of a temporary or protracted loss of either facility or equipment, we might not be able to transfer manufacturing to a third party. Even if we could transfer manufacturing to a third party, the shift would likely be expensive and time-consuming, particularly since the new facility would need to comply with necessary regulatory requirements.

The Pandemic may also have an adverse impact on our manufacturing activities for YUTIQ as a result of employees or other key personnel becoming infected, preventive and precautionary measures that governments or such third parties are taking, such as social distancing, quarantines, and other restrictions, and shortages of supplies necessary for the manufacture of YUTIQ. Any of these circumstances could adversely impact our ability to manufacture and distribute adequate volumes of YUTIQ.

If third-party manufacturers, wholesalers and distributors fail to devote sufficient time and resources to DEXYCU or their performance is substandard, our product supply may be impacted.

Our reliance on a limited number of manufacturers, wholesalers and distributors exposes us to the following risks, any of which could limit commercial supply of our products, result in higher costs, or deprive us of potential product revenues:

- our CMOs, or other third parties we rely on, may encounter difficulties in achieving the volume of production needed to satisfy commercial demand, may experience technical issues that impact quality or compliance with applicable and strictly enforced regulations governing the manufacture of pharmaceutical products, and may experience shortages of qualified personnel to adequately staff production operations;
- our wholesalers and distributors could become unable to sell and deliver DEXYCU for regulatory, compliance and other reasons;
- our CMOs, wholesalers and distributors could default on their agreements with us to meet our requirements for commercial supply of DEXYCU;
- our CMOs, wholesalers and distributors may not perform as agreed or may not remain in business for the time required to successfully produce, store, sell and distribute DEXYCU and we may incur additional cost; and
- if our CMOs, wholesalers and distributors were to terminate our arrangements or fail to meet their contractual obligations, we may be forced to delay the commercializat of DEXYCU.

Our reliance on third parties reduces our control over our development and commercialization activities but does not relieve us of our responsibility to ensure compliance with all required legal, regulatory and scientific standards. For example, the FDA and other regulatory authorities require that our product candidates and any products that we may eventually commercialize be manufactured according to cGMP and similar foreign standards. Any failure by our third-party manufacturers to comply with cGMP or failure to scale up

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manufacturing processes, including any failure to deliver sufficient quantities of product candidates in a timely manner, could lead to a delay in, or failure to obtain, regulatory approval of any of our product candidates or supply our commercial volume of DEXYCU. In addition, such failure could be the basis for the FDA to issue a warning or untitled letter, withdraw approvals for products previously granted to us, or take other regulatory or legal action, including recall or seizure, total or partial suspension of production, suspension of ongoing clinical trials, refusal to approve pending applications or supplemental applications, detention or product, refusal to permit the import or export of products, injunction, imposing civil penalties or pursuing criminal prosecution.

If our CROs, vendors and investigators do not successfully carry out their responsibilities or if we lose our relationships with them, our development efforts with respect to our product candidates could be delayed.

We are dependent on CROs, vendors, and investigators for pre-clinical testing and clinical trials related to our product development programs, including for EYP-1901. These parties are not our employees, and we cannot control the amount or timing of resources that they devote to our programs. If they do not timely fulfill their responsibilities or if their performance is inadequate, the development and commercialization of our product candidates could be delayed. The parties with which we contract for execution of clinical trials play a significant role in the conduct of the trials and the subsequent collection and analysis of data. Their failure to meet their obligations could adversely affect clinical development of our product candidates. In addition, if we or our CROs fail to comply

with applicable current Good Clinical Practices (GCP), the clinical data generated in our clinical trials may be deemed unreliable and the FDA may require us to perform additional clinical trials before approving any marketing applications. Upon inspection, the FDA may determine that our clinical trials did not comply with GCP.

Switching or adding additional CROs involves additional cost and requires management time and focus. Identifying, qualifying and managing performance of third-party service providers can be difficult, time-consuming and cause delays in our development programs. In addition, there is a natural transition period when a new CRO commences work and the new CRO may not provide the same type or level of services as the original provider. Though we carefully manage our relationships with our CROs, there can be no assurance that we will not encounter challenges or delays in the future or that these delays or challenges will not have a material adverse impact on our business, financial condition and prospects. If any of our relationships with our CROs terminate, we may not be able to enter into arrangements with alternative CROs or to do so on commercially reasonable terms. As a result, delays may occur, which can materially impact our ability to meet our desired clinical development timelines.

Because we have relied on third parties, our internal capacity to perform these functions is limited. Outsourcing these functions involves risks that third parties may not perform to our standards, may not produce results in a timely manner or may fail to perform at all. In addition, the use of third-party service providers requires us to disclose our proprietary information to these parties, which could increase the risk that this information will be misappropriated. We currently have a small number of employees, which limits the internal resources we have available to identify and monitor our third-party providers. To the extent we are unable to identify and successfully manage the performance of third-party service providers in the future, our ability to advance our product candidates through clinical trials will be compromised. Though we carefully manage our relationships with our CROs, there can be no assurance that we will not encounter similar challenges or delays in the future or that these delays or challenges will not have a material adverse impact on our business, financial condition, and prospects.

We use our own facility for the manufacturing of YUTIQ® and rely on third party suppliers for key components, and any disruptions to our suppliers' operations could adversely affect YUTIQ®'s commercial viability.

Pursuant to our agreements with our commercialization partners, we currently manufacture commercial supplies of YUTIQ® ourselves at our Watertown, MA facility and rely on third party suppliers for key components of YUTIQ®. We have, and will continue, to perform extensive audits of our suppliers, vendors and contract laboratories. The cGMP requirements govern, among other things, recordkeeping, production processes and controls, personnel and quality control. To ensure that we continue to meet these requirements, we have and will continue to expend significant time, money, and effort.

The commercial manufacture of medical products is complex and requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Manufacturers of medical products often encounter difficulties in production, particularly in scaling out and validating initial production and ensuring the absence of

contamination. These problems include difficulties with production costs and yields, quality control, including stability of the product, quality assurance testing, operator error, shortages of qualified personnel, as well as compliance with strictly enforced federal, state, and foreign regulations. We cannot assure you that any issue relating to the manufacture of YUTIQ® will not occur in the future.

The FDA also may, at any time following approval of a product for sale, audit our manufacturing facilities. If any such inspection or audit identifies a failure to comply with applicable regulations or if a violation of our product specifications or applicable regulation occurs independent of such an inspection or audit, FDA may issue a Form FDA-483 and/or an untitled or warning letter, or we or the FDA may require remedial measures that may be costly and/or time consuming for us to implement and that may include the

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temporary or permanent suspension of commercial sales, recalls, market withdrawals, seizures or the temporary or permanent closure of a facility. In addition, although we could contract with other third parties to manufacture YUTIQ®, we would need to qualify and obtain FDA approval for a contract manufacturer or supplier as an alternative source for YUTIQ®, which could be costly and cause significant delays.

Our manufacturing operations currently depend on our Watertown, MA facility and we are currently developing an additional manufacturing facility in Northbridge, MA. If our Watertown location is destroyed or out of operation, or, if the Northbridge development is delayed for a substantial period of time, our business may be adversely impacted.

We currently conduct our manufacturing operations related to YUTIQ® in our facility located in Watertown, MA. If regulatory, manufacturing or other problems, require us to suspend or discontinue production at our Watertown, MA facility, we will not be able to have or maintain adequate commercial supply of YUTIQ®, which would adversely impact our business. If the facility or the equipment in it is significantly damaged or destroyed by fire, flood, power loss, or similar events, we may not be able to quickly or inexpensively replace our facility. In the event of a temporary or protracted loss of either facility or equipment, we might not be able to transfer manufacturing to a third party. Even if we could transfer manufacturing to a third party, the shift would likely be expensive and time-consuming, particularly since the new facility would need to comply with necessary regulatory requirements. On January 23, 2023, the Company entered into a lease agreement for its new standalone manufacturing facility, including office and lab space located at 600 Commerce Drive, Northbridge, Massachusetts. The facility will be Good Manufacturing Practice (GMP) compliant to meet U.S. FDA and European Medicines Agency (EMA) standards and support EYP-1901's clinical supply and commercial readiness upon regulatory approval. In addition, the building will have the capacity and capabilities to support our commercial business and expanding pipeline. The new facility, customized for our requirements, is expected to be operational in the second half of 2024. If the new facility is delayed for a substantial period of time, then we may not be able to accelerate future production for EYP-1901, as well as support global demand for our U.S. FDA and China NMPA approved therapy, YUTIQ, as currently planned.

If we encounter issues with our CMOs or suppliers, we may need to qualify alternative manufacturers or suppliers, which could impair our ability to sufficiently and timely manufacture and supply DEXYCU®.

We currently depend on CMOs and suppliers for DEXYCU®. Although we could obtain the drug product and other components for DEXYCU® from other CMOs and suppliers, we would need to qualify and obtain FDA approval for such CMOs or suppliers as alternative sources, which could be costly and cause significant delays. In addition, the manufacturer of the drug product in DEXYCU® conducts its manufacturing operations for us at a single facility. Unless and until we qualify additional facilities, we may face limitations in our ability to respond to manufacturing issues. For example, if regulatory, manufacturing or other problems require this manufacturer to discontinue production at its facility, or if the equipment used for the production of the drug product in this facility is significantly damaged or destroyed by fire, flood, earthquake, power loss or similar events, the ability of such manufacturer to manufacture DEXYCU® may be significantly impaired. In the event that this party suffers a temporary or protracted loss of its materials, facility or equipment, we would still be required to obtain FDA approval to qualify a new manufacturer as an alternate manufacturer for the drug product before any drug product manufactured by such manufacturer could be sold or used. Any production shortfall that impairs the supply of DEXYCU® could adversely affect our ability to satisfy demand for DEXYCU®, which could have a material adverse effect on our product sales, results of operations and financial condition.

Our employees, collaborators, service providers, independent contractors, principal investigators, consultants, co-promotion partners, vendors and CROs may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements.

We are exposed to the risk that our employees, collaborators, independent contractors, principal investigators, consultants, co-promotion partners, vendors, and CROs may engage in fraudulent or other illegal activity with respect to our business. Misconduct by these employees could include intentional, reckless and/or negligent conduct or unauthorized activity that violates:

- FDA regulations, including those laws requiring the reporting of true, complete and accurate information to the FDA;
- manufacturing standards;
- federal and state healthcare fraud and abuse laws and regulations; or

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- laws that require the true, complete, and accurate reporting of financial information or data.

In particular, sales, marketing, and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, kickbacks, self-dealing, and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Misconduct by these parties could also involve individually identifiable information, including, without limitation, the improper use of information obtained in the course of clinical trials, or illegal misappropriation of drug product, which could result in regulatory sanctions and serious harm to our reputation. Any incidents or any other conduct that leads to an employee receiving an FDA debarment could result in a loss of business from third parties and severe reputational harm.

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Although we have adopted a Code of Business Conduct to govern and deter such behaviors, it is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of civil, criminal and administrative penalties, damages, monetary fines, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, additional reporting requirements and oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, and curtailment of our operations.

RISKS RELATED TO OWNERSHIP OF OUR COMMON STOCK

The trading price of the shares of our common stock has been highly volatile, and purchasers of our common stock could incur substantial losses.

The price of our common stock is highly volatile and may be affected by developments directly affecting our business, as well as by developments out of our control or not specific to us. The pharmaceutical and biotechnology industries, in particular, and the stock market generally, are vulnerable to abrupt changes in investor sentiment. Prices of securities and trading volumes of companies in the pharmaceutical and biotechnology industries, including ours, can swing dramatically in ways unrelated to, or that bear a disproportionate relationship to, our performance. The price of our common stock and their trading volumes may fluctuate based on a number of factors including, but not limited to:

- clinical trials and their results, and other product and technological developments and innovations;
- the timing, costs and progress of our commercialization efforts;
- FDA and other domestic and international governmental regulatory actions, receipt and timing of approvals of our product candidates, and any denials and withdrawal of approvals;
- the duration, scope, and outcome of any governmental inquiries or investigations;
- competitive factors, including the commercialization of new products in our markets by our competitors;
- advancements with respect to treatment of the diseases targeted by our products or product candidates;
- developments relating to, and actions by, our collaborative partners, including execution, amendment and termination of agreements, achievement of milestones and receipt of payments;
- the success of our collaborative partners in marketing any approved products and the amount and timing of payments to us;
- availability and cost of capital and our financial and operating results;
- actions with respect to pricing, reimbursement and coverage, and changes in reimbursement policies or other practices relating to our products or the pharmaceutical or biotechnology industries generally;
- meeting, exceeding or failing to meet analysts' or investors' expectations, and changes in evaluations and recommendations by securities analysts;
- the use of social media platforms by customers or investors;
- the issuance of additional shares upon the exercise of currently outstanding options or warrants or upon the settlement of stock units;
- future sales of substantial amounts of shares of our common stock in the market;
- economic, industry and market conditions, changes or trends; and
- other factors unrelated to us or the pharmaceutical and biotechnology industries.

In addition, low trading volume in our common stock may increase their price volatility. Holders of our common stock may not be able to liquidate their positions at the desired time or price. Finally, we will need to continue to meet the listing requirements of Nasdaq including the minimum stock price, for our stock to continue to be traded on Nasdaq.

A small concentration of approximately ten stockholders beneficially own 63% 65% of our total outstanding common stock, which gives certain stockholders significant control over matters subject to stockholder approval, which would prevent new investors from influencing significant corporate decisions.

Franklin Resources, EW Healthcare, RA Capital Management, Suvretta Capital Management, Ocumension, and Adage Capital shareholders Approximately ten stockholders beneficially own an aggregate of over 63% 65% of our outstanding shares of common stock, as of March 2, 2023 February 23, 2024. These stockholders have the ability to significantly influence the outcome of matters submitted to our stockholders for approval, including the election and removal of directors, and any merger, consolidation or sale of all or substantially all of our assets. In addition, the concentration of voting power in these certain stockholders may: (i) delay, defer or prevent a change in control; (ii) entrench our management and Board; or (iii) delay or prevent a merger, consolidation, takeover, or other business combination involving us on terms that other stockholders may desire. Two of the stockholders, EW Healthcare and Ocumension have agreed that, for so long as such investor owns a number of shares equal to at least 75% of the shares of common stock it owns as of December 31, 2020, at any meeting of our stockholders, however called, ***Substantial future sales or at any adjournment thereof, or in any other circumstances in which EW Healthcare or Ocumension, as applicable, are entitled to vote, consent or give any other approval, except as otherwise agreed to in writing in advance by us, EW Healthcare and Ocumension shall (a) appear at each such meeting or***

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otherwise cause the shares issuances of our common stock owned by such investor or their respective affiliates to be counted as present thereat could depress the market for purposes of calculating a quorum; and (b) vote (or cause to be voted), in person or by proxy, all such shares of our common stock that are beneficially owned by such investor or as to which such investor has, directly or indirectly, the right to vote or direct the voting, (i) in favor of any proposals recommended by our board of directors for approval; and (ii) against any proposals that our board of directors recommends our stockholders vote against; provided, however, that stock.

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the foregoing does not apply to meetings or proposals that are inconsistent with the investor's rights and obligations under certain agreements between the applicable investor and us.

In addition, each Sales of EW Healthcare and Ocumension currently have the right to nominate one or more individuals to our board of directors. While the directors appointed by EW Healthcare and Ocumension are obligated to act in accordance with their fiduciary duties under Delaware law, they may have equity or other interests in EW Healthcare or Ocumension and, accordingly, their personal interests may be aligned with EW Healthcare's or Ocumension's interests, which may not always coincide with our corporate interests or the interests of our other stockholders. The directors are required to disclose any potential material conflicts of interest. EW Healthcare nominated Dr. Göran Ando as a director in 2018. The current Ocumension nominated director is Ye Liu.

Certain covenants related to our share purchase agreement with Ocumension may restrict our ability to obtain future financing and cause additional dilution for our stockholders.

On December 31, 2020 we entered into a Share Purchase Agreement (the Share Purchase Agreement) with Ocumension Therapeutics, incorporated in the Cayman Islands with limited liability (Ocumension), pursuant to which we offered and sold to the Ocumension 3,010,722 shares of our common stock at a purchase price of $5.2163 per share, which was the five-day volume weighted average price of our common stock as of the close of trading on December 29, 2020 (the Ocumension Transaction). Pursuant to the Share Purchase Agreement, for so long as Ocumension owns a substantial number of shares of our common stock, equal to at least 75% of or the shares perception by the market that those sales could occur, could cause the market price of our common stock to decline or could make it acquired at more difficult for us to raise funds through the closing sale of equity in the Ocumension Transaction, Ocumension is entitled to participate in subsequent issuances future.

In addition, certain of our equity securities in order to maintain its ownership percentage, subject to certain exceptions employees, executive officers, and directors have entered or may enter into Rule 10b5-1 trading plans providing for among other things, the issuance of equity awards pursuant to equity incentive plans, inducement awards and/or employee stock purchase plans and the issuance sales of shares of our common stock from time to time. Under a Rule 10b5-1 trading plan, a broker executes trades pursuant to "at-the-market" parameters established by the employee, director, or officer when entering into the plan, without further direction from the employee, officer, or director. A Rule 10b5-1 trading plan may be amended or terminated in some circumstances. Our employees, executive officers, and directors also may buy or sell additional shares outside of a Rule 10b5-1 trading plan when they are not in possession of material, nonpublic information, subject to the expiration of lock-up agreements, if applicable.

Future issuances of our common stock or our other equity offering programs. Any participation rights granted securities could further depress the market for our common stock. We expect to Ocumension continue to incur commercialization, drug development and selling, general and administrative costs, and to satisfy our funding requirements, we may need to sell additional equity securities. The sale or the proposed sale of substantial amounts of our common stock or our other equity securities may adversely affect the market price of our common stock and our stock price may decline substantially. Our stockholders may experience substantial dilution and a reduction in the Share Purchase Agreement would be effected via a separate private placement. These participation price that they are able to obtain upon sale of their shares. New equity securities issued may have greater rights, could severely impact our ability to engage investment bankers to structure a financing transaction and raise additional financing on favorable terms. Furthermore, negotiating and obtaining a waiver to these participation rights may either not be possible preferences, or may be costly to us. If Ocumension exercises its participation rights, privileges than our existing stockholders would common stock.

We do not currently intend to pay dividends on our common stock, and any return to investors is expected to come, if at all, only from potential increases in the price of our common stock.

We have never declared or paid cash dividends on our capital stock, and you should not rely on an investment in our common stock to provide dividend income. We currently intend to retain all of our future earnings, if any, to finance the growth and development of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. As a result, capital appreciation, if any, of our common stock will be further diluted to your sole source of gain for the extent of the number of shares Ocumension acquires to maintain its ownership percentage. foreseeable future.

Provisions in our charter documents could prevent or delay stockholders' attempts to takeover our company.

Our board of directors is authorized to issue "blank check" preferred stock, with designations, rights and preferences as they may determine. Accordingly, our board of directors may in the future, without stockholder approval, issue shares of preferred stock with dividend, liquidation, conversion, voting or other rights that could adversely affect the voting power or other rights of the holders of our common stock. This type of preferred stock could also be issued to discourage, delay, or prevent a change in our control. The ability to issue "blank check" preferred stock is a traditional anti-takeover measure. This provision in our charter documents makes it difficult for a majority stockholder to gain control of our company. Provisions like this may be beneficial to our management and our board of directors in a hostile tender offer and may have an adverse impact on stockholders who may want to participate in such a tender offer.

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Provisions in our bylaws provide for indemnification of officers and directors, which could require us to direct funds away from our business and the development of our product candidates.

Our bylaws provide for the indemnification of our officers and directors. We may in the future be required to advance costs incurred by an officer or director and to pay judgments, fines and expenses incurred by an officer or director, including reasonable attorneys' fees, as a result of actions or proceedings in which our officers and directors are involved by reason of being or having been an officer or director of our company. Funds paid in satisfaction of judgments, fines, and expenses may be funds we need for the operation of our business and the development of our product candidates, thereby affecting our ability to attain profitability.

GENERAL RISK FACTORS

We will need to grow the size of our organization, and we may experience difficulties in managing this growth.

Implementation of our development Development and commercialization of our product candidate strategies will require additional managerial, operational, sales, marketing, financial, and other resources. Our current management, personnel, and systems may not be adequate to effectively manage the expansion of our operations, which may result in weaknesses in our infrastructure, give rise to operational mistakes, loss of business opportunities, employee turnover, and reduced productivity. Future growth could require significant capital expenditures and may divert financial resources from other projects, such as the development of our existing or future product candidates. Future growth would impose significant added responsibilities on members of management, including:

- overseeing our clinical trials for EYP-1901 effectively;

- managing the commercialization of YUTIQ;
- identifying, recruiting, maintaining, motivating and integrating additional employees, including any research and development personnel engaged in our clinical trials for EYP-1901, as well as sales and marketing personnel engaged in connection with the commercialization of YUTIQ; EYP-1901;
- managing our internal development efforts effectively while complying with our contractual obligations to licensors, licensees, contractors and other third parties; and improving our managerial, development, operational and financial systems, and procedures.

As our operations expand, we will need to manage additional relationships with various strategic collaborators, suppliers, and other third parties. Our future financial performance and our ability to commercialize our product candidates and to compete effectively will depend, in part, on our ability to manage any future growth effectively. To that end, we must be able to manage our development efforts and clinical trials effectively and hire, train and integrate additional management, administrative, and sales and marketing personnel. Failure to accomplish any of these activities could prevent us from successfully growing our company.

Our business and operations would suffer in the event of computer system failures, cyberattacks or a deficiency in our cybersecurity.

Despite the implementation of security measures, our internal computer systems and those of our contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures, cyberattacks or cyber-intrusions over the Internet, attachments to emails, persons inside our organization, or persons with access to systems inside our organization. The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. Such an event could cause interruption of our operations. As part of our business, we and our vendors maintain large amounts of confidential information, including non-public personal information on patients and our employees. Breaches in security could result in the loss or misuse of this information, which could, in turn, result in potential regulatory actions or litigation, including material claims for damages, interruption to our operations, damage to our reputation or otherwise have a material adverse effect on our business, financial condition and operating results. We expect to have appropriate information security policies and systems in place in order to prevent unauthorized use or disclosure of confidential information, including non-public personal information, but there can be no assurance that such use or disclosure will not occur.

If we fail to comply with data protection laws and regulations, we could be subject to government enforcement actions, which could include civil or criminal penalties, as well as private litigation and/or adverse publicity, any of which could negatively affect our operating results and business.

We may be subject to laws and regulations that address privacy and data security in the U.S. and in states in which we conduct our business. The legislative and regulatory landscape for privacy and data protection continues to evolve, and there has been an increasing focus on privacy and data protection issues which may affect our business. In the U.S., numerous federal and state laws and regulations govern the collection, use, disclosure, and protection of health-related and other personal information, including state data breach notification laws, state health information privacy laws, state genetic privacy laws, and federal and state consumer protection and privacy laws (including, for example, Section 5 of the FTC Act and the CCPA). Compliance with these laws is difficult, constantly evolving, and time consuming. In addition, state laws govern the privacy and security of health, research and genetic information in specified circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating

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compliance efforts. Failure to comply with these laws and regulations could result in government enforcement actions and create liability for us, which could include civil and/or criminal penalties, as well as private litigation and/or adverse publicity that could negatively affect our operating results and business.

For instance, HIPAA imposes certain obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information and imposes notification obligations in the event of a breach of the privacy or security of individually identifiable health information on entities subject to HIPAA and their business

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associates that perform certain activities that involve the use or disclosure of protected health information on their behalf. We may obtain health information from third parties (e.g., research institutions from which we obtain clinical trial data) that are subject to privacy and security requirements under HIPAA. Although we are not directly subject to HIPAA – other than potentially with respect to providing certain employee benefits – we could potentially be subject to criminal penalties if we, our affiliates, or our agents knowingly obtain, use, or disclose individually identifiable health information maintained by a HIPAA-covered entity in a manner that is not authorized or permitted by HIPAA.

In addition, the CCPA establishes certain requirements for data use and sharing transparency and provides California consumers (as defined in the law) certain rights concerning the use, disclosure, and retention of their personal data. In November 2020, California voters approved the California Privacy Rights Act (CPRA) ballot initiative which introduced significant amendments

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to the CCPA and established and funded a dedicated California privacy regulator, the California Privacy Protection Agency (CPPA). The amendments introduced by the CPRA went into effect on January 1, 2023, and new implementing regulations are expected to be introduced by the CPPA. Failure to comply with the CCPA may result in, among other things, significant civil penalties and injunctive relief, or statutory or actual damages. In addition, California residents have the right to bring a private right of action in connection with certain types of incidents. These claims may result in significant liability and damages. Similarly, there are a number of legislative proposals in the United States, at both the federal and state level, that could impose new obligations or limitations in areas affecting our business. For example, other states, including Virginia, Colorado, Utah, Indiana, Iowa, Tennessee, Montana, Texas, and Connecticut have enacted privacy laws similar to the CCPA that impose new obligations or limitations in areas affecting our business. These laws and regulations are evolving and subject to interpretation and may impose limitations on our activities or otherwise adversely affect our business. The obligations to comply with the CCPA and evolving legislation may require us, among other things, to update our notices and develop new processes internally and with our partners. We may be subject to fines, penalties, or private actions in the event of non-compliance with such laws. In addition, we could be subject to regulatory actions and/or claims made by individuals and groups in private litigation involving privacy issues related to data collection and use practices and other data privacy laws and regulations, including claims for misuse or inappropriate disclosure of data, as well as unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act (FTC Act). The FTC expects a company's data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards. With respect to privacy, the FTC also sets expectations that companies honor the privacy promises made to individuals about how the company handles consumers' personal information; any failure to honor promises, such as the statements made in a privacy policy or on a website, may also constitute unfair or deceptive acts or practices in violation of the FTC Act. Enforcement by the FTC under the FTC Act can result in civil penalties or decades-long enforcement actions.

If we, our agents, or our third party partners fail to comply or are alleged to have failed to comply with these or other applicable data protection and privacy laws and regulations, or if we were to experience a data breach involving personal information, we could be subject to government enforcement actions or private lawsuits. Any associated claims, inquiries, or investigations or other government actions could lead to unfavorable outcomes that have a material impact on our business including through significant penalties or fines, monetary judgments or settlements including criminal and civil liability for us and our officers and directors, increased compliance costs, delays or impediments in the development of new products, negative publicity, increased operating costs, diversion of management time and attention, or other remedies that harm our business, including orders that we modify or cease existing business practices.

Outside the U.S., the legislative and regulatory landscape for privacy and data security continues to evolve. There has been increased attention to privacy and data security issues that could potentially affect our business, including the EU General Data Protection Regulation including as implemented in the UK, (collectively, GDPR), which imposes penalties for the most serious breaches of up to EUR 20 million or 4% of a noncompliant company's annual global revenue, whichever is greater. The GDPR regulates the processing of personal data (including health data from clinical trials) and places certain obligations on the processing of personal data including ensuring the lawfulness of processing personal data (including obtaining valid consent of the individuals to whom the personal data relates, where applicable), the processing details disclosed to the individuals, the adequacy, relevance and necessity of the personal data collected, the retention of personal data, the sharing of personal data with third parties, the transfer of personal data out of the European Economic Area/UK to third countries including the U.S., contracting requirements (such as with clinical trial sites and vendors), the use of personal data in accordance with individual rights, the security of personal data and security breach/incident notifications. Data protection authorities from the different European Member States and the UK may interpret the GDPR and applicable related national laws differently and impose requirements additional to those provided in the GDPR and that sit alongside the GDPR, as set out under applicable local data protection law. In addition, guidance on implementation and compliance practices may be issued, updated or otherwise

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revised. Enforcement by European and UK regulators is generally active, and failure to comply with the GDPR or applicable Member State/UK local law may result in fines, amongst other things (such as notices requiring compliance within a certain timeframe). Further, the UK Government may amend/update UK data protection law, which may result in changes to our business operations and potentially incur commercial cost.

European/UK data protection laws, including the GDPR, generally restrict the transfer of personal data from the European Economic Area (EEA), including the EU, United Kingdom, and Switzerland, to the U.S. and most other countries (except those deemed to be adequate by the European Commission/UK Secretary of State as applicable) unless the parties to the transfer have implemented specific safeguards to protect the transferred personal data. While previously U.S. companies could rely on self-certification to the EU-U.S. Some available lawful transfer mechanisms are under scrutiny and Swiss-U.S. Privacy Shield frameworks administered by the U.S. Department of Commerce in flux, such as one of these safeguards to legitimize transfers from the EU and Switzerland to the U.S., this has been invalidated by the Court of Justice of the European Union (CJEU). The CJEU found that the Commission's Standard Contractual Clauses (SCCs). On July 10, 2023, one of the primary safeguards for legitimizing data transfers, were valid in principle, but placed obligations on the parties entering into them including to verify whether an adequate level of protection is provided in the recipient jurisdiction, and whether additional measures are required to bring the level

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of protection in line with EU standards. Following this decision, the European Data Protection Board issued guidance on how organizations should approach international data transfers of GDPR-covered personal data, including the supplemental measures companies can adopt to help protect against overarching surveillance outside of the EU. In June 2021, the European Commission adopted a new set of SCCs aimed at enabling lawful transfers of its adequacy decision for the EU-U.S. Data Privacy Framework, meaning that personal data to non-adequate countries outside can now flow freely from the EEA to U.S. companies that participate in the deadline for the adoption of which was December 27 2022. Data Privacy Framework. There are also recent developments regarding data transfers in the UK, which formally approved two mechanisms for transferring UK data overseas and that came into force on March 21, 2022: the International Data Transfer Agreement or the International Data Transfer Addendum to the SCCs. The UK Information Commissioner's Office also issued guidance on how to approach undertaking risk assessments for transfers of UK data to non-adequate countries outside the UK.

A lack of valid transfer mechanisms for GDPR-covered data could increase exposure to enforcement actions as described above, and may affect our business operations and require commercial cost (including potentially limiting our ability to collaborate/work with certain third parties and/or requiring an increase in our data processing capabilities in the EU/UK). Further, the European/UK data protection laws (including laws on data transfers as set out above) may also be updated/revised, accompanied by new guidance and/or judicial/regulatory interpretations, which could entail further impacts on our compliance efforts and increased cost.

Additionally, other countries outside of Europe/UK have enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our business. The type of challenges we face in Europe/UK will likely also arise in other jurisdictions that adopt laws similar in construction to the GDPR or regulatory frameworks of equivalent complexity.

In March 2022, the European Commission and the U.S. announced that they have agreed in principle on a new Trans-Atlantic Data Privacy Framework, as a successor arrangement to the EU-U.S. Privacy Shield. On December 13, 2022, the European Commission adopted a draft adequacy decision for the EU-U.S. Data Privacy Framework. This draft decision follows the signature of a U.S. Executive Order by President Biden on October 7, 2022, along with the regulations issued by the U.S. Attorney General Merrick Garland. These two instruments implemented into U.S. law the agreement in principle announced by President von der Leyen and President Biden in March 2022. The draft adequacy decision, which reflects the assessment by the European Commission of the U.S. legal framework has now been published and transmitted to the EDPB for its opinion. The draft decision concludes that the U.S. ensures an adequate level of protection for personal data transferred from the EU to U.S. companies. The two sides are now expected to finalize the details of this agreement in principle and translate it into legal texts that will form the basis of a draft adequacy decision to be proposed by the European Commission.

Furthermore, following the UK's exit from the EU, the UK became a third country to the EU in terms of personal data transfers. The European Commission has adopted an Adequacy Decision concerning the level of personal data protection in the UK under which personal data may now flow freely from the EU to the UK. However, personal data transfers from the EU to the UK may nevertheless be at a greater risk than before because the Adequacy Decision may be suspended.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

We are increasingly dependent on sophisticated software applications and computing infrastructure to conduct key operations. We depend on both our own systems, networks, and technology as well as the systems, networks and technology of our contractors, consultants, vendors, and other business partners.

Cybersecurity Program

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Given the importance of cybersecurity to our business, we maintain a robust cybersecurity program to support both the effectiveness of our systems and our preparedness for information security risks. This program includes a number of administrative, physical, and technical safeguards with regular evaluations of our cybersecurity program, including periodic internal and external audits, penetration tests, and incident response simulations. We also require cybersecurity training when onboarding new employees and contractors, as well as required cybersecurity awareness training for our employees and contractors/other workforce members. Our program leverages industry frameworks, including the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) to strengthen our program effectiveness and reduce cybersecurity risks.

We use a risk-based approach with respect to our use and oversight of third-party service providers. We use a number of means to assess cyber risks related to our third-party service providers, including maintaining vendor questionnaires/conducting due diligence in connection with onboarding new vendors and engaging in periodic reviews thereafter as appropriate.

Process for Assessing, Identifying and Managing Material Risks from Cybersecurity Threats

In the event of a cybersecurity incident, we maintain a regularly tested incident response program. Pursuant to the program and its escalation protocols, designated personnel are responsible for assessing the severity of an incident and associated threat, and handling it in accordance with that severity level. We have relationships with a number of third-party service providers to assist with cybersecurity containment and remediation efforts.

Governance

Upon a notification of concerning factors which may be indicative that a notable cybersecurity incident has occurred, the Cyber Security Subcommittee (Cyber Security Subcommittee) consisting of the Chief Legal Officer, Chief People Officer & SVP of IT, Associate General Counsel, Head of Information Technology, and a member of the Financial Reporting team, meets to make an initial assessment. If the Cyber Security Subcommittee determines there is a reasonable likelihood a notable cybersecurity incident has occurred, then notice will promptly be given to certain members of the Company Executive Team including our President/Chief Executive Officer, Chief Financial Officer, Chief Legal Officer & Corporate Secretary, and Chief People Officer/SVP of IT.

Our team leverages over 25 years of experience in various cyber security functions. Our SVP of IT, and her team, is responsible for the day-to-day management of the cybersecurity program.

The SVP of IT provides periodic briefings for our senior management team on cybersecurity matters, including the prevention, detection, mitigation, and remediation of cybersecurity incidents and cybersecurity threats.

Board Oversight

While the Board of Directors has overall responsibility for risk oversight, our Audit Committee oversees cybersecurity risk matters. The Audit Committee is responsible for reviewing, discussing with management, and overseeing the Company's cybersecurity and privacy risk exposures and policies. On a quarterly basis, the SVP of IT reports to the Audit Committee on information technology and cybersecurity matters, including key information technology risks. The SVP of IT also apprises the Audit Committee and full Board of Cyber Security Incidents consistent with our incident response program, promptly.

Cybersecurity Risks

Our cybersecurity risk management processes are integrated into our overall Enterprise Risk Management ("ERM") process. As part of our ERM process, department leaders identify, assess, and evaluate risks impacting our operations across the Company, including those risks related to cybersecurity. Department leaders are asked to consider the severity and likelihood of certain risk factors, drawing upon their company knowledge and past business experience. While we maintain a robust cybersecurity program, the techniques used to infiltrate information technology systems continue to evolve. Accordingly, we may not be able to timely detect threats or anticipate and implement adequate security measures. For additional information, see "Item 1A—Risk Factors." To date, we have not experienced any material cybersecurity incidents or threats.

ITEM 2. PROPERTIES

We do not own any real property. We are headquartered in Watertown, Massachusetts, where we rent office, laboratory and manufacturing operations space. We entered into the original lease agreement on November 1, 2013, which included approximately 13,650 square feet of combined office and laboratory space for a term of five years, and was set to expire in April 2019. On May 17, 2018, we entered into an amendment to rent an additional 6,590 square feet of space and extend the term of the lease through May 31, 2025. We took occupancy of the additional space on September 10, 2018. On April 5, 2021, we further amended the lease by renting an additional 1,409 square feet of space and extending the term of the lease through May 31, 2025. We took occupancy of the additional space on July 1, 2021.

On March 8, 2022, we entered into an amendment (i) to extend the term of the lease to May 31, 2028 for 13,650 square feet of laboratory and manufacturing operations space; (ii) to rent an additional 11,999 square feet of office space through May 31, 2028, which commenced during the third quarter of 2022; and (iii) to terminate a portion of the

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lease comprising 7,999 square feet of office space in accordance with its existing contractual term on May 31, 2025. The amendment also reinstated our right to extend the lease for the space we occupy after May 31, 2025, for one additional period of five years. Rent for the extension period would be at the fair market rent for comparable space in comparable properties in the Watertown area.

On January 23, 2023, we entered into a lease agreement with V.E. Properties IX, LLC for a new standalone manufacturing facility, including office and lab space located at 600 Commerce Drive, Northbridge, Massachusetts. The new leased premises will consist of approximately 40,000 square feet. The lease includes a lease term of fifteen years and four months, with two options to extend the lease term for either five years or ten years at 95% of the then-prevailing fair market rent. The lease term will commence upon the substantial completion of construction to prepare the premises for our intended use, which is currently expected to occur during in the second half of 2024. 2024 (the "Lease Commencement Date"). Our obligation to pay base rent will begin four months following the Lease Commencement Date. We have the option to extend the lease for one additional 5-year term.

We believe our leased facilities are adequate for our present and anticipated needs. Please refer to Note 9 8 to the Consolidated Financial Statements, included under Item 15, "Exhibits and Financial Statement Schedules," for further details.

ITEM 3. LEGAL PROCEEDINGS

We are subject to various routine legal proceedings and claims incidental to our business, which management believes will not have a material effect on our financial position, results of operations or cash flows.

U.S. Department of Justice Subpoena

We previously disclosed that in August 2022, we received a subpoena from the U.S. Attorney's Office for the District of Massachusetts seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU®. We are cooperating fully with the government in connection with this matter. At this time, we are unable to predict the duration, scope, or outcome of this matter or whether it could have a material impact on our financial condition, results of operation or cash flow.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock is traded on the Nasdaq Global Market under the trading symbol "EYPT." As of March 2, 2023 February 29, 2024, we had approximately 46 38 holders of record of our common stock. This number does not include beneficial owners whose shares are held by nominees in street name.

Equity Compensation Plan Information

Information required by Item 5 of Form 10-K regarding our equity compensation plans is incorporated herein by reference to Item 12 of Part III of this Annual Report on Form 10-K.

Recent Sales of Unregistered Securities

Other than as previously disclosed in our Current Reports on Form 8-K or Quarterly Reports on Form 10-Q filed with the SEC, we did not issue any unregistered equity securities during the 12 months ended December 31, 2022 December 31, 2023.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

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None.

ITEM 6. [RESERVED]

ITEM 7. 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 audited Consolidated Financial Statements and related Notes beginning on page F-1 of this Annual Report on Form 10-K. This discussion contains forward-looking statements, based on current expectations and related to future events and our future financial performance, that involve risks and uncertainties. Our actual results may differ significantly from those anticipated or implied in these forward-looking statements as a result of many important factors, including, but not limited to, those set forth under Item 1A, "Risk Factors," and elsewhere in this report.

The following Management's Discussion and Analysis (MD&A) provides a narrative of our results of operations for the year ended December 31, 2022 December 31, 2023, and the comparable period ended December 31, 2021 December 31, 2022, respectively, and our financial position as of December 31, 2022 December 31, 2023 and 2021, 2022, respectively. The MD&A should be read together with our consolidated financial statements and related notes included on pages F-1 through F-33 F-29 of this Annual Report on Form 10-K.

Overview

We are a company committed to developing and commercializing innovative therapeutics to help improve the lives of patients with serious eye disorders. retinal diseases. Our pipeline leverages our proprietary Durasert E® ™ technology for sustained intraocular drug delivery including delivery. The Company's lead product candidate, EYP-1901, is an investigational sustained delivery intravitreal anti-VEGF treatment currently for anti-vascular endothelial growth factor (anti-VEGF) -mediated retinal diseases combining vorolanib, a selective and patent-protected tyrosine kinase inhibitor with Durasert E™. EYP-1901 is presently in Phase 2 clinical trials as a sustained delivery treatment for wet AMD, age-related macular degeneration (wet AMD), the leading cause of vision loss among people 50 years of age and older in the United States, non-proliferative diabetic retinopathy (NPDR), and NPDR. diabetic macular edema (DME). We also have two commercial products: YUTIQ®, a once every three-year treatment for posterior segment uveitis, and DEXYCU®, a single dose treatment for postoperative inflammation following ocular surgery. expect to initiate pivotal Phase 3 clinical trials in wet AMD in the second half of 2024.

Fiscal 2022 2023 Overview

The fiscal year ended December 31, 2022 December 31, 2023, was highlighted by the following events:

- The ongoing Pandemic has had a material and adverse impact on the Company's business pursuant to a reduction in physician office visits impacting YUTIQ, specificall early 2022. The emergence of new variants of the coronavirus may continue to cause intermittent or prolonged periods of reduced patient services at our customers' facilities, which may negatively affect customer demand. The future progression of the Pandemic and its effects on our business and operations are uncertain at this tim Although the U.S. government has announced its intention to terminate the public health crisis associated with the Pandemic as of May 2023, there remains uncertainty about the potential future impact of the Pandemic on the Company's business. Depending on future developments that are uncertain and difficult to predict, including ne information that may emerge concerning the Pandemic, our customer demand may be adversely affected in the future as well. During the Pandemic, our sales organizat has continued to call on physician offices, though at a reduced frequency. There have been no disruptions to the supply chains for YUTIQ and DEXYCU during the Pandemic and we continue to produce finished product for commercial sale.
- In March 2022, we entered into a loan agreement for senior secured credit facilities in the aggregate amount of $45 million with Silicon Valley Bank to replace our existin credit facility with CRG.
- In May 2022, we entered into an Exclusive License Agreement (the Betta License Agreement) with Betta Pharmaceuticals Co., Ltd. (Betta). Under the Betta License Agreement, we granted to Betta an exclusive, sublicensable, royalty-bearing license to develop, use (but not make or have made), sell, offer for sale and import EYP-19 in the field of ophthalmology (the Betta Field) in the Greater Area of China, including China, the Hong Kong Special Administrative Region, the Macau Special Administra Region, and Taiwan (the Betta Territory). Under the terms of the Betta License Agreement, we retained all ophthalmic rights to EYP-1901 outside of the Betta Territory a to, among other things, conduct clinical trials on EYP-1901 in the Betta Field in the Betta Territory.
- Concurrently with the execution of the Betta License Agreement, we entered into Amendment #1 (the First Amendment) to that certain Exclusive License Agreement, da February 3, 2020, with Equinox Sciences, LLC (Equinox), regarding our exclusive, sublicensable, royalty-bearing right and license to certain patents and other Equinox intellectual property to research, develop, make, have made, use, sell, offer for sale and import the compound vorolanib and any pharmaceutical products comprising th compound for local delivery to the eye for the prevention or treatment of wet AMD, DR and RVO using our proprietary localized delivery technologies (the Original Field) each case, throughout the world except China, Hong Kong, Taiwan and Macau. Pursuant to the First Amendment, the Original Field was expanded to cover the preventi or treatment of all ophthalmology indications, using our proprietary localized delivery technologies.
- In June 2022, China's Center for Drug Evaluation (CDE) of the National Medical Products Administration (NMPA) approved YUTIQ 0.18mg for the treatment of posterior segment uveitis of the eye.

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- In June 2022, we announced the appointment of Anthony (Tony) Adamis, M.D. to our Board of Directors. Dr. Adamis is a highly accomplished ophthalmology executive w more than 30 years or research and development experience in the biopharmaceutical industry.
- In July 2022, we announced the appointment of Karen Zaderej to our Board of Directors. Ms. Zaderej is currently the President, Chief Executive Officer, and Chair of the Board at AxoGen Corporation, and brings more than 35 years of biopharmaceutical and medical device experience to the role.
- In August 2022, we received a subpoena from the U.S. Attorney's Office for the District of Massachusetts seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU®. If the DOJ commences an action against us, the action could have a material adverse effect on our business, financial condition, results of operations and cash flows. In addition, we have expended and expect to continue to expend significant financial and managerial resources responding to the DOJ subpoena, which could also have a material adverse effect on our business, financial condition, results of operations and cash flows.
- In October 2022, we entered into a Mutual Termination Agreement (the Termination Agreement) with ImprimisRx, pursuant to which we and ImprimisRx agreed (a) that ImprimisRx would continue to support the sales and marketing of DEXYCU through the fourth quarter of 2022, consistent with ImprimisRx's level of effort during the Jan through June 2022 period, (b) decrease the required minimum quarterly sales levels based on DEXYCU unit demand for the fourth quarter of 2022, and (c) terminate the previously entered into Commercial Alliance Agreement, made effective as of August 1, 2020, as modified by the Letter Agreement dated November 12, 2020 and the L Agreement dated December 6, 2021, effective January 1, 2023 due to the loss of pass-through related separate payment of DEXYCU.
- In November 2022, CMS announced in the Final Rule it would not provide further extension of pass-through related separate payment for certain drugs, including DEXY DEXYCU lost eligibility for pass-through related separate payment on December 31, 2022, and effective January 1, 2023, payment is instead packaged into reimbursem for the underlying procedure. The loss of pass-through status will have a material negative impact to DEXYCU revenue and the value of the net intangible asset related DEXYCU.
- In January 2023, we announced that Jay S. Duker, M.D., who has served as the company's Company's Chief Operating Officer (COO) since November 2021, has had b promoted to the additional role of President. In addition to continuing to oversee his duties as COO, in his expanded role, Dr. Duker will has also oversee been overseein regulatory affairs.

R&D Highlights

- In January 2022, we announced that we completed a positive Type C meeting with the U.S. Food and Drug Administration (FDA) and expect to initiate a Phase 2 trial of EYP-1901 for wet AMD in Q3 2022 and in NPDR in the second half of 2022 with initial top-line data for the wet AMD trial anticipated in the second half of 2023.
- In February 2022, we announced updated positive interim safety and efficacy data from the ongoing Phase 1 DAVIO clinical trial evaluating EYP-1901 for the treatment of wet AMD. We presented eight-month data from the DAVIO Phase 1 clinical trial of EYP-1901 for wet AMD at the Angiogenesis, Exudation, and Degeneration 2022 virtual meeting. The data showed no dose limiting toxicities, no reports of ocular serious adverse events (SAEs) and no drug-related systemic SAEs, consistent with the six-month data presented in November 2021. The DAVIO data has also shown that following a single dose of EYP-1901, 53% and 41% of patients did not require a supplemental anti-VEGF treatment up to six and nine months, respectively. The treatment burden was reduced by 79% and 75% at six months and eight months respectively compared to prior to dosing with EYP-1901. Additionally, the eight-month data confirmed continued stable and sustained best corrected visual acuity (BCVA) (-3.0 ETDRS letters) and central subfield thickness (CST) on optical coherence tomography (OCT) (+13 µm).
- The FDA has recently updated the regulatory requirements for combination drug/device products such as YUTIQ 50. Based on updated guidance from the FDA, these regulatory changes will require us to conduct additional clinical trials for YUTIQ 50 beyond what was originally contemplated for the efficacy supplement of our NDA, resulting in a significant increase in the program's anticipated cost. Accordingly, we have decided to pause enrollment for the YUTIQ 50 clinical trial and evaluate if there is a viable path for resumption of the program.
- In July 2022, we announced positive 12-month safety and efficacy data from the DAVIO Phase 1 clinical trial evaluating EYP-1901 for the treatment of wet AMD. The fin twelve-month data presented from the Phase 1 DAVIO clinical trial showed no reports of ocular SAEs or drug-related systemic SAEs. There were no reported events of vitreous floaters, endophthalmitis, retinal detachment, implant migration in the anterior chamber, retinal vasculitis, posterior segment inflammation, or retinal vascular occlusive events. Additionally, updated data from the twelve-month follow-up confirm stable BCVA (-4.12 ETDRS letters), CST/OCT (-2.76 µm), and an expected late increase in supplemental anti-VEGF therapy given the insert's expected drug depletion, with 53% supplement free up to six months and 35% of eyes supplement free up twelve months. Additionally, there was positive treatment burden reduction of 75% at six months and 73% at twelve months.

- In July 2022, we announced that the first patient was dosed in the Phase 2 DAVIO2 clinical trial of EYP-1901 for the potential treatment of wet AMD. The twelve-month, randomized, controlled DAVIO2 trial is expected to enroll approximately 144 patients previously treated with a standard-of-care anti-VEGF therapy, and top-line data is expected in the fourth quarter of 2023.
- In September 2022, we announced that the first patient was dosed in the Phase 2 PAVIA clinical trial of EYP-1901 for the potential treatment of NPDR. The twelve-mont randomized, controlled PAVIA trial is expected to enroll approximately 105 patients randomly assigned to one of two doses of EYP-1901 (approximately 2 mg or 3 mg), the control group receiving a sham injection.

Recent Developments

- Customer demand for YUTIQ in Q4, represented as units purchased by physicians from our distributors, was up 11% over Q3, driven by underlying growth.
- Customer demand for DEXYCU in Q4, represented as units purchased by ambulatory surgical centers, was down 70% compared to Q3, driven by loss of pass-through coverage by CMS.
- In January 2023, we entered into a lease agreement to design and construct a 40,000-square-foot manufacturing facility in Northbridge, Massachusetts to support the gl manufacturing of programs, including EYP-1901 and YUTIQ. YUTIQ®.
- In May 2023, we entered into a definitive agreement pursuant to which we granted an exclusive license and rights to YUTIQ® to Alimera Sciences, Inc. (Alimera). Under the terms of the agreement, Alimera received global rights to YUTIQ® outside of China, Hong Kong, Taiwan, Macau and Southeast Asia, where YUTIQ® is exclusively licensed to Ocumension Therapeutics (Ocumension) and we will continue to receive royalties from Ocumension for its YUTIQ® sales. In exchange for the rights granted to Alimera under the agreement, we received a $75 million upfront cash payment at closing and will receive an additional $7.5 million in equal $1.875 million quarterly installments in 2024. In addition, commencing in 2025, we will receive a low to mid double-digit royalty on Alimera's related U.S. net sales above defined thresholds for the calendar years 2025-2028.

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- In May 2023, we received confirmation from the FDA that the September 2021 inspection of our Watertown, MA facility had been classified as Voluntary Action Indicated (VAI) and was no longer considered Official Action Indicated. A VAI classification means that the agency is not prepared to take or recommend further regulatory action.
- In July 2023, we announced the appointment of Jay S. Duker, M.D. as President and Chief Executive Officer (CEO). Dr. Duker transitioned from his most recent role as President and Chief Operating Officer (COO). Dr. Duker was also appointed to the Board of Directors of the Company (Board), effective July 10, 2023. Nancy S. Lurker transitioned to the role of Executive Vice Chair from the position of CEO.
- In October 2023, we announced the promotion of George O. Elston, our Chief Financial Officer, to Executive Vice President and Chief Financial Officer.
- In October 2023, we announced the appointment of Stuart Duty to the Company's Board of Directors. Mr. Duty is an experienced financial executive with over 30 years o experience in finance and investment banking. Mr. Duty has focused primarily on biotechnology and specialty pharmaceuticals clients for much of his career, advising se executives and boards on a range of financing activities and strategic transactions.

- On December 8, 2023, we announced the closing of an underwritten public offering of 13,529,411 shares of our common stock, which included the exercise in full by the underwriters of their option to purchase an additional 1,764,705 shares of common stock, at the public offering price of $17.00 per share. Gross proceeds to the Compar the offering, before underwriting discounts and estimated expenses of the offering, were approximately $230.0 million.

R&D Highlights

- In February 2023, we entered into a research collaboration with Rallybio Corporation to evaluate sustained delivery of their inhibitor of complement component 5 (C5) using EyePoint's our proprietary Durasert E™ technology for sustained intraocular drug delivery. The initial focus will be on geographic atrophy, an advanced form of age-related macular degeneration that leads to irreversible vision loss.
- In March 2023, we completed enrollment in the Phase 2 "Durasert E™ and Vorolanib in Ophthalmology 2" (DAVIO 2) clinical trial evaluating EYP-1901 as a potential six-month maintenance treatment for wet AMD. The trial enrolled a total of 160 patients. All patients were previously treated with a standard-of-care anti-VEGF therapy and were randomly assigned to one of two doses of EYP-1901 or to an aflibercept on-label control.
- In June 2023, we completed enrollment in the Phase 2 clinical trial evaluating EYP-1901 as a potential nine-month treatment for moderately severe to severe NPDR. Th trial enrolled 77 patients randomly assigned to one of two doses of EYP-1901 (approximately 2 mg or 3 mg), or to the control group receiving a sham injection. EYP-190 delivered with a single intravitreal injection at the physician's office. The primary efficacy endpoint of the trial is improvement of at least two diabetic retinopathy severity scale (DRSS) levels as of week 36 after the EYP-1901 injection. Secondary endpoints include reduction in vision-threatening complications, occurrence of diabetic macu edema and/or proliferative disease, retinal ischemia/nonperfusion and safety.
- In July 2023 we presented the interim safety and patient demographics of the DAVIO 2 clinical trial in wet AMD at the OIS Retina Innovation Summit. As of July 1, 2023, there were no reported drug related ocular serious adverse events (SAEs) or drug related systemic SAEs. An analysis of the reported patient demographics suggests th Phase 2 DAVIO 2 patients have, on average, better starting visual acuity and less central subfield thickness than the Phase 1 DAVIO cohort.
- In September 2023 we announced positive interim masked safety data for our lead product candidate EYP-1901 from the ongoing Phase 2 PAVIA trial evaluating EYP-1 as a potential nine-month treatment for moderately severe to severe NPDR, and DAVIO 2 trial as a potential six-month maintenance treatment for wet AMD. All treatmer arms in the PAVIA trial have reached at least three-months post-dosing follow-up as of September 1, 2023. Approximately 170 patients have received EYP-1901 with a minimum of three months of follow-up post injection from the ongoing Phase 2 PAVIA and DAVIO 2 clinical trials and the completed DAVIO 1 trial with no reported drug-related ocular severe adverse events (SAEs) and no reported drug-related systemic SAEs.
- In September 2023, we disclosed the advancement of pipeline program EYP-2301 into pre-clinical development. EYP-2301 delivers razuprotafib, a small molecule inhib of vascular endothelial protein tyrosine phosphatase (VE-PTP) with potential vasculature stabilizing activity, utilizing Durasert E™.
- On December 4, 2023, we announced positive topline data for our lead product candidate, EYP-1901, from our Phase 2 DAVIO 2 clinical trial in wet age-related macular degeneration. Data from the DAVIO 2 clinical trial demonstrated that EYP-1901 achieved all primary and secondary endpoints.

Recent Developments

- In January 2024, we announced that the first patient had been dosed in the Phase 2 VERONA clinical trial of EYP-1901 for DME.
- In February 2024, we announced two presentations of topline data with additional subgroup analyses from the Phase 2 DAVIO 2 clinical trial of EYP-1901 for the treatm of wet age-related macular degeneration.
- In March 2024, we announced the appointment of Ramiro Ribeiro, M.D., Ph.D. as Chief Medical Officer to succeed Dario Paggiarino, M.D. who has served as EyePoint' Chief Medical Officer since 2016. Dr. Ribeiro is a trained retinal specialist and joins EyePoint from Apellis Pharmaceuticals, where he served as Vice President, Head of Clinical Development.

Summary of Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles, (U.S. GAAP). The preparation of these financial statements requires that we make certain estimates, judgments and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting periods. We base our estimates on historical experience, anticipated results and trends and various other factors believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily available from other sources. By their nature, these estimates, judgments and assumptions are subject

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to an inherent degree of uncertainty, and management evaluates them on an ongoing basis for changes in facts and circumstances. Changes in estimates are recorded in the period in which they become known. Actual results may differ from our estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in Note 2 in the accompanying Notes to the Consolidated Financial Statements contained in this Annual Report on Form 10-K, we believe that the following accounting policies are critical to understanding the judgments and estimates used in the preparation of our financial statements. It is important that the discussion of our operating results that follows be read in conjunction with the critical accounting policies discussed below.

Revenue Recognition

Revenue is recognized when a customer obtains control of promised goods or services, in an amount that reflects the consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, *Revenue from Contracts with Customers* (ASC 606), we perform the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. We only apply the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, we assess the goods or services promised within each contract, determines those that are performance obligations and assesses whether each promised good or service is distinct. We then recognize as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied. Sales, value add, and other taxes collected on behalf of third parties are excluded from revenue.

Product sales, net — We sell sold YUTIQ® and DEXYCU® to a limited number of specialty distributors and specialty pharmacies (collectively the Distributors) in the U.S., with whom we have had entered into formal agreements, for delivery to physician practices for YUTIQ® and to hospital outpatient departments and ambulatory surgical centers (ASCs) for DEXYCU. DEXYCU®. We recognize recognized revenue on sales of our products when Distributors obtain obtained control of the products, which occurs occurred at a point in time, typically upon delivery. In addition to agreements with Distributors, we also enter entered into arrangements with healthcare providers, ASCs, and payors that provide provided for

government mandated and/or privately negotiated rebates, chargebacks, and discounts with respect to their purchase of our products from Distributors.

Reserves for variable consideration — Product sales are were recorded at the wholesale acquisition costs, net of applicable reserves for variable consideration. Components of variable consideration include included trade discounts and allowances, provider chargebacks and discounts, payor rebates, product returns, and other allowances that are were offered within contracts between us and our Distributors, payors, and other contracted purchasers relating to our product sales. These reserves as detailed below, are were based on the amounts earned, or to be claimed on the related sales, and are were classified either as reductions of product revenue and accounts receivable or a current liability, depending on how the amount is was to be settled. Overall, these reserves reflect reflected our best estimates of the amount of consideration to which it is was entitled based on the terms of the respective underlying contracts. Actual The actual amounts of consideration ultimately received may differ from our estimates. If actual results in the future vary from the estimates, we adjust these estimates, which would affect product revenue and earnings in the period such variances become known.

Distribution fees — We compensate our Distributors for services explicitly stated in our contracts and they are recorded as a reduction of revenue in the period the related product sale is recognized.

Provider chargebacks and discounts — Chargebacks are discounts that represent the estimated obligations resulting from contractual commitments to sell products at prices lower than the list prices charged to our Distributors. These Distributors charge us for the difference between what they pay for the product and our contracted selling price. These reserves are established in the same period that the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability. Reserves for chargebacks consist of amounts that we expect to pay for units that remain in the distribution channel inventories at each reporting period-end that we expect will be sold under a contracted selling price, and chargebacks that Distributors have claimed, but for which we have not yet settled.

Government rebates — We are subject to discount obligations under state Medicaid programs and Medicare. These reserves are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability which is included in accrued expenses and other current liabilities on the consolidated balance sheets. Our liability for these rebates consists of invoices received for claims from prior quarters that have not been paid or for which an invoice has not yet been received, estimates of claims for the current quarter, and estimated future claims that will be made for product that has been recognized as revenue, but which remains in the distribution channel inventories at the end of each reporting period.

Payor rebates — We contract with certain private payor organizations, primarily insurance companies, for the payment of rebates with respect to utilization of our products. We estimate these rebates and records such estimates in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability.

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Co-Payment assistance — We offer co-payment assistance to commercially insured patients meeting certain eligibility requirements. The calculation of the accrual for co-pay assistance is based on an estimate of claims and the cost per claim that we expect to receive associated with product that has been recognized as revenue.

Product returns — We generally offer a limited right of return based on our returned goods policy, which includes damaged product and remaining shelf life. We estimate the amount of our product sales that may be returned and record this estimate as a reduction of revenue in the period the related product revenue is recognized, as well as reductions to trade receivables, net on the consolidated balance sheets.

License and collaboration agreement revenue — We analyze each element of our license and collaboration arrangements to determine the appropriate revenue recognition. The terms of the license agreement may include payment to us of non-refundable upfront license fees, milestone payments if specified objectives are achieved, and/or royalties on product sales. We recognize revenue from upfront payments at a point in time, typically upon fulfilling the delivery of the associated intellectual property to the customer. For licenses that are combined with other promises, we determine whether the combined performance obligation is satisfied over time or at a point in time, when (or as) the associated performance obligation in the contract is satisfied.

If the contract contains a single performance obligation, the entire transaction price is allocated to the single performance obligation. Contracts that contain multiple performance obligations require an allocation of the transaction price based on the estimated relative standalone selling prices of the promised products or services underlying each performance obligation. We determine standalone selling prices based on the price at which the performance obligation is sold separately. If the standalone selling price is not observable through past transactions, we estimate the standalone selling price taking into account available information such as market conditions and internally approved pricing guidelines related to the performance obligations.

We recognize sales-based milestone payments as revenue upon the achievement of the cumulative sales amount specified in the contract in accordance with ASC 606-10-55-65. For those milestone payments which are contingent on the occurrence of particular future events, we determine that these need to be considered for inclusion in the calculation of total consideration from the contract as a component of variable consideration using the most-likely amount method. As such, we assess each milestone to determine the

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probability and substance behind achieving each milestone. Given the inherent uncertainty associated with these future events, we will not recognize revenue from such milestones until there is a high probability of occurrence, which typically occurs near or upon achievement of the event.

When determining the transaction price of a contract, an adjustment is made if payment from a customer occurs either significantly before or significantly after performance, resulting in a significant financing component. Applying the practical expedient in paragraph 606-10-32-18, we do not assess whether a significant financing component exists if the period between when we perform our obligations under the contract and when the customer pays is one year or less. None of our contracts contained a significant financing component as of December 31, 2022 December 31, 2023.

Reimbursement of costs — We may provide research and development services and incur maintenance costs of licensed patents under collaboration arrangements to assist in advancing the development of licensed products. We act primarily as a principal in these transactions and, accordingly, reimbursement amounts received are classified as a component of revenue to be recognized consistent with the revenue recognition policy summarized above. We record the expenses incurred and reimbursed on a gross basis.

Royalties — We recognize revenue from license arrangements with our commercial partners' net sales of products. Such revenues are included as royalty income. In accordance with ASC 606-10-55-65, royalties are recognized when the subsequent sale of the commercial partner's products occurs. Our commercial partners are obligated to report their net product sales and the resulting royalty due to us typically within 60 days from the end of each quarter. Based on historical product sales, royalty receipts and other relevant information, we recognize royalty income each quarter and subsequently determine a true-up when we receive royalty reports and payment from our commercial partners. Historically, these true-up adjustments have been immaterial.

Sale of Future Royalties — We have sold our rights to receive certain royalties on product sales. In the circumstance where we have sold our rights to future royalties under a royalty purchase agreement and also maintains limited continuing involvement in the arrangement (but not significant continuing involvement in the generation of the cash flows that are due to the purchaser), we defer recognition of the proceeds we receive for the sale of royalty streams and recognizes such unearned revenue as revenue under the units-of-revenue method over the life of the underlying license agreement. Under the units-of-revenue method, amortization for a reporting period is calculated by computing a ratio of the proceeds received from the purchaser to the total payments expected to be made to the purchaser over the term of the agreement, and then applying that ratio to the period's cash payment.

Estimating the total payments expected to be received by the purchaser over the term of such arrangements requires management to use subjective estimates and assumptions. Changes to our estimate of the payments expected to be made to the purchaser over the term of such arrangements could have a material effect on the amount of

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revenues recognized in any particular period.

Research Collaborations — We recognize revenue over the term of the statements of work under any funded research collaborations. Revenue recognition for consideration, if any, related to a license option right is assessed based on the terms of any such future license agreement or is otherwise recognized at the completion of the research collaborations. Please refer to Note 3 for further details on the license and collaboration agreements into which we have entered and corresponding amounts of revenue recognized during the current and prior year periods.

Deferred Revenue

Amounts received prior to satisfying the above revenue recognition criteria are recorded as deferred revenue on the accompanying consolidated balance sheets. Amounts not expected to be recognized within one year following the balance sheet date are classified as non-current deferred revenue.

Please refer to Note 3 for further details on the license and collaboration agreements into which we have entered and corresponding amounts of revenue recognized for the years ended December 31, 2022 December 31, 2023 and 2021. 2022.

Recognition of Expense in Outsourced Clinical Trial Agreements

We recognize research and development expense with respect to outsourced agreements for clinical trials with contract research organizations (CROs) as the services are provided, based on information provided by CROs and our assessment of the services performed. We make our assessments of the services performed based on various factors, including evaluation by the reporting from third-party CROs and our own internal review tracking of the work performed during the period, measurements of progress by us or by the third-party CROs, data analysis with respect which are subject to work completed and our management's judgment. Our financial obligations under the agreements are determined by the services that we request from time to time under the agreements. The actual amounts owed under the agreements and the timing of those obligations will depend on various factors, including changes to the protocols and/or services requested, the number of patients to be enrolled and the rate of patient enrollment, achievement of pre-defined direct cost milestone events, and other factors relating to the clinical trials.

We can terminate the agreements at any time without penalty, and if terminated, we would be liable only for services through the termination date plus non-cancellable CRO obligations to third parties.

Valuation of Intangible Assets 68

Our finite-lived intangible asset consisted of the DEXYCU product (utilizing the Verisome technology) following the March 2018 acquisition of Icon. The DEXYCU intangible asset was being amortized on a straight-line basis over its estimated useful life of 13 years. The intangible asset life was determined based on the anticipated period that we would derive future cash flows from the intangible asset, considering the effects of legal, regulatory, contractual, competitive and other economic factors. We continually monitor whether events or circumstances have occurred that indicate that the remaining estimated useful life of our intangible asset may warrant revision. We assess potential impairments to our intangible asset when there is evidence that events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. An impairment loss is recognized when the future undiscounted net cash flows expected to result from the use of an asset are less than its carrying value. If we consider an asset to be impaired, the impairment charge to be recognized is measured as the amount by which the carrying value of the asset exceeds its estimated fair value. In connection with a change in CMS reimbursement rules on November 1, 2022, we determined that the DEXYCU intangible asset was not recoverable and recorded a $20.7 million impairment charge in the fourth quarter of fiscal 2022, related to the acquired technology in connection with the acquisition of DEXYCU, and was included in amortization and impairment of acquired intangible assets in our statement of comprehensive loss. The aggregate amount of the intangible assets related to DEXYCU was zero as of December 31, 2022 (see Note 6).

Results of Operations

Years Ended December 31, 2022 December 31, 2023 and 2021 2022 (in thousands except percentages)

	Year Ended December 31,		Change		Year Ended December 31,		Change	
	2022	2021	Amounts	%	2023	2022	Amounts	%
Revenues:								

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Product sales, net	$ 39,905	$ 35,312	$ 4,593	13%	$ 14,232	$ 39,905	$ (25,673)	-64%
License and collaboration agreements	362	756	(394)	-52%	30,797	362	30,435	8407%
Royalty income	1,137	871	266	31%	989	1,137	(148)	-13%
Total revenues	41,404	36,939	4,465	12%	46,018	41,404	4,614	11%
Operating expenses:								
Cost of sales, excluding amortization of acquired intangible assets	8,326	8,177	149	2%	4,632	8,326	(3,694)	-44%
Research and development	49,642	28,500	21,142	74%	64,662	49,642	15,020	30%
Sales and marketing	25,507	27,503	(1,996)	-7%	11,689	25,507	(13,818)	-54%
General and administrative	34,817	25,575	9,242	36%	40,102	34,817	5,285	15%
Amortization of acquired intangible assets					—	2,050	(2,050)	-100%
Impairment of acquired intangible assets	20,699	—	20,699	100%	—	20,699	(20,699)	-100%
Amortization of acquired intangible assets	2,050	2,460	(410)	-17%				
Total operating expenses	141,041	92,215	48,826	53%	121,085	141,041	(19,956)	-14%
Loss from operations	(99,637)	(55,276)	(44,361)	80%	(75,067)	(99,637)	24,570	-25%
Other income (expense):								
Interest and other income, net	2,131	292	1,839	630%	6,949	2,131	4,818	226%
Interest expense	(3,189)	(5,498)	2,309	-42%	(1,247)	(3,189)	1,942	-61%
Gain (loss) on extinguishment of debt	(1,559)	2,065	(3,624)	-175%	(1,347)	(1,559)	212	-14%
Total other income (expense), net	(2,617)	(3,141)	524	-17%	4,355	(2,617)	6,972	-266%
Net loss before income taxes					$ (70,712)	$ (102,254)	$ 31,542	-31%
Provision for income taxes					$ (83)	$ —	$ (83)	
Net loss	$ (102,254)	$ (58,417)	$ (43,837)	75%	$ (70,795)	$ (102,254)	$ 31,459	-31%
Net loss per share - basic and diluted					$ (1.82)	$ (2.74)	$ 0.92	-34%
Weighted average shares outstanding - basic and diluted					38,904	37,317	1,587	4%
Net loss					$ (70,795)	$ (102,254)	$ 31,459	-31%

Product Sales, net

Product sales, net represents the gross sales of YUTIQ® and DEXYCU® less provisions for product sales allowances. Product sales, net increased decreased by $4.6 million $25.7 million, or 64%, to $14.2 million for 2023 compared to $39.9 million for 2022 compared to $35.3 million in the prior year. The increase This decrease was driven by a return of customer demand license and rights for both products as patient procedures at physician offices YUTIQ® to Alimera in May 2023 and ambulatory service centers resumed de minimis DEXYCU® sales in 2023 due to facility closures driven by the Pandemic. loss of pass-through reimbursement as of January 1, 2023. During the year ended December 31, 2023, the Company recognized $2.1 million of revenue from sales of product supply to Alimera under the commercial supply agreement (CSA).

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Customer demand has had a direct impact on product orders from our specialty distributors that we record recorded as net product sales. Net product revenue represents represented product purchased by our distributors whereas customer demand represents represented purchases of product by physician practices and ASCs from our specialty distributors. The progression of the Pandemic and its effects on our business and operations remain uncertain at this time. Depending on the future developments that are uncertain and

difficult to predict, including new information that may emerge concerning the Pandemic, our customer demand may be adversely affected in the future as well.

License and collaboration agreement

License and collaboration agreement revenues decreased increased by $394,000, or 52% $30.4 million, to $362,000 $30.8 million in 2022 2023 compared to $756,000 $0.4 million in 2021. The decrease 2022. This increase was primarily due to driven by revenue recognized as the reduction of revenue from Ocumension for technical assistance by $352,000 in combined performance obligations under the current year period. Alimera license and supply agreement are fulfilled.

Royalty Income

Royalty income increased decreased by $266,000, $0.1 million, or 31% 13%, to $1.0 million in 2023 compared to $1.1 million in 2022 compared to $871,000 in 2021. 2022. The increase decrease was primarily attributable to Ocumension Royalties of $269,000 in 2022. There were no Ocumension royalties in 2021. Royalties.

Cost of Sales, Excluding Amortization of Acquired Intangible Assets

Cost of sales, excluding amortization of acquired intangible assets, increased decreased by $149,000 $3.7 million to $8.3 million $4.6 million for fiscal 2022 2023 from $8.2 million $8.3 million in the prior year. This increase decrease was primarily attributable to reduced revenue driven by a $758,000 increase in YUTIQ product cost related to higher U.S. sales, a $419,000 increase in YUTIQ product cost related to Ocumension sales, a $200,000 increase significant reduction in DEXYCU inventory reserves related® units shipped due to the loss of passthrough coverage, pass-through reimbursement as of January 1, 2023, as well as the license and rights for YUTIQ® to Alimera on May 17, 2023, and associated costs for costs of goods, royalties, and distribution fees, partially offset by a $1.2 million decrease in $0.5 million inventory reserve for DEXYCU product cost® finished goods and royalties from lower volumes components. These decreases were partially offset by additional distribution costs passed back to Alimera as part of the transition services agreement. Revenue related to the loss of passthrough coverage. these costs passed back to Alimera are included in license and collaboration revenues.

Research and Development

Research and development expenses increased by $21.1 million $15.0 million, or 74% 30%, to $49.6 million $64.7 million for 2022 2023 from $28.5 million for the same period $49.6 million in the prior year. This increase was attributable primarily to (i) $10.0 million $11.8 million in increased clinical trial costs, related to the ongoing Phase 2 DAVIO2 and PAVIA clinical trials, and (ii) $3.5 million of increased personnel related costs for investment in new employees across the research and clinical organizations, including $3.8 million of stock-based compensation, and (ii) $8.5 million organizations. These increases were partially offset by a $0.2 million decrease in increased clinical costs, primarily related to the completion of our EYP-1901 Phase 1 DAVIO clinical trial and initiation of Phase 2 DAVIO2 and PAVIA clinical trials, (iii) $1.8 million of increased facilities cost associated with laboratory and personnel expansion, and (iv) $782,000 of other research and development activities. administrative costs.

Sales and Marketing

Sales and marketing expenses decreased by $2.0 million $13.8 million, or 7% 54%, to $25.5 million $11.7 million for 2022 2023 from $27.5 million $25.5 million in the prior year. This decrease was primarily attributable to lower DEXYCU promotional activities driven by (i) $10.5 million related to the transition discontinuation of YUTIQ® commercialization activities due to our commercial partner, ImprimisRx, including (i) a $1.7 million decrease the agreement that granted the license and rights to YUTIQ® to Alimera in May 2023, (ii) discontinuation of promotional activities for DEXYCU® in 2023 of $3.9 million, and (iii) $0.4 million of other marketing expense, and (ii) a $835,000 decrease in DEXYCU personnel expense. activities. These decreases reductions were partially offset by (i) a $551,000 increase restructuring charge in commission due to our commercial partner the second quarter 2023 of $0.9 million for higher DEXYCU sales, and (ii) a $29,000 increase in other expenses. restructuring resulting from the license of the YUTIQ® franchise.

General and Administrative

General and administrative expenses increased by $9.2 million $5.3 million, or 36% 16%, to $40.1 million for 2023 from $34.8 million for 2022 from $25.6 million for in the prior year. This increase was attributable primarily to a (i) $7.0 million $3.4 million increase in personnel expense, and related expenses, including $2.4 million a $0.7 million increase of stock-based compensation, for organizational expansion across Executive, Finance, Corporate Development, HR, and IT functions, a (ii) $2.0 million $2.2 million increase in

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consulting, legal, and other professional services, and (iii) $443,000 in facilities and IT expenses. fees. These increases were partially offset by a $232,000 $0.3 million decrease in other expenses. administrative costs.

Amortization and Impairment of Acquired Intangible Assets

Amortization and impairment Impairment of acquired intangible assets increased by $20.3 million was $20.7 million for 2022 from $2.5 million for the prior year. 2022. This amount was attributable to the impairment of the DEXYCU® product intangible asset that resulted from impairment test related to the termination of pass-through payment by CMS on November 1, 2022 (see Note 6). Amortization of acquired intangible assets totaled $2.1 million for 2022. This amount was attributable to the DEXYCU® product intangible asset that resulted from our acquisition of Icon Bioscience, Inc. (Icon) in March 2018 (the Icon Acquisition). There was no amortization or impairment of acquired intangible assets for 2023 due to the write-off of the DEXYCU® intangible asset in the fourth quarter of 2022.

Interest (Expense) Income

Interest expense totaled $3.2 million for 2022. We incurred lower interest expense due to the conversion of debt from the CRG Loan to the SVB Loan, which carries a lower interest rate. Interest expense in 2021 was $5.5 million.

Interest income from investments in marketable securities and institutional money market funds increased $4.8 million, to $6.9 million for 2023 compared to $2.1 million for fiscal 2022 compared to $292,000 in the prior year, year. This increase was due primarily to higher an increase in cash balances invested in marketable securities and higher interest rates in 2023.

Interest expense decreased $1.9 million, or 61%, to $1.2 million for 2023, compared to $3.2 million in the current prior year. We incurred lower interest expense due to the repayment of the SVB Loan (as the term is defined below) on May 17, 2023.

Gain Loss on Extinguishment of Debt

Loss on extinguishment of debt in 2023 was for the early repayment of the loan made to the Company by Silicon Valley Bank (SVB) on March 9, 2022 (SVB Loan) resulting in a $1.3 million non-cash write-off of the remaining balance of unamortized debt discount.

Loss on extinguishment of debt in 2022 was for the early repayment of the loan made to the Company by CRG Loan Servicing LLC on February 13, 2019 (CRG Loan) resulting in a $1.6 million non-cash write-off of the remaining balance of unamortized debt discount.

Gain on extinguishment of debt in 2021 was for forgiveness by the SBA of our PPP Loan, which consisted of approximately (i) $2.0 million of principal and (ii) $24,000 of interest. 70

Recently Adopted and Recently Issued Accounting Pronouncements

For a full discussion of recently adopted and recently issued accounting pronouncements, see Note 2, "Significant Accounting Policies" to the Consolidated Financial Statements included under Item 15, "Exhibits and Financial Statement Schedules."

Liquidity and Capital Resources

We have had a history of operating losses and an absence of significant recurring cash inflows from revenue, and at December 31, 2022 December 31, 2023, we had a total accumulated deficit of $671.3 million $742.1 million. Our operations have been financed primarily from sales public and private offerings of our equity securities, common stock, issuance of debt and a combination of license fees, milestone payments, royalty income and other fees received from collaboration partners. In the first quarter of 2019, we commenced the U.S. launch of our first two commercial products, YUTIQ and DEXYCU. However, we have not received sufficient revenues from our product sales to fund operations and we do not expect revenues from our product sales to generate sufficient funding to sustain our operations in the near-term. In January 2023, we entered into a lease agreement to design and construct a manufacturing facility in Northbridge, Massachusetts to support global manufacturing programs, including EYP-1901 and YUTIQ. The agreement requires only a modest financial upfront requirement, as rent obligations do not begin until we occupy the facility in the second half of 2024.

Financing Activities

Our operations for fiscal 2022 were financed primarily from $211.6 million of cash and cash equivalents as of December 31, 2021. During 2022, we did not sell any shares of our common stock under the at-the-market facility but the program remains available for use.

On March 9, 2022 (the SVB Closing Date), we entered into a loan and security agreement (the SVB Loan Agreement) with Loan) among us, as borrower, and Silicon Valley Bank, as lender (SVB), providing for (i) a senior secured term loan facility of $30.0 million $30 million (the Term Facility) and (ii) a senior secured revolving credit facility of up to $15.0 million (the Revolving Facility and together with the Term Facility, the Credit Facilities) Facility). The maximum amount available for borrowing at any time SVB Loan under the

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Revolving Facility is limited an agreement (the SVB Loan Agreement) with First Citizens BancShares, as successor to a borrowing base valuation of our eligible accounts receivable. On the SVB Closing Date, $30.0 million of the Term Facility and $11.5 million of the Revolving Facility, were advanced, to pay off the CRG Loan, including the accrued interest through that date. We utilized the proceeds from the Credit Facilities, together with cash on hand, for the repayment in full of all outstanding obligations under our term loan agreement with CRG Servicing LLC.

The loans under the Credit Facilities are Silicon Valley Bank (SVB), as lender (the Lender) was originally due and payable on January 1, 2027 (the SVB Maturity Date). The Credit Facilities bear interest that is payable monthly On May 17, 2023, we utilized a portion of the Upfront Payment from the Alimera PRA (see Note 3) to repay in arrears at a per annum rate (subject to increase during an event of default) equal to (i) with respect to the Term Facility, the greater of (x) the Wall Street Journal prime rate plus 2.25% and (y) 5.50% and (ii) with respect to the Revolving Facility, the Wall Street Journal Prime Rate. An unused commitment fee of 0.25% per annum applies to unutilized borrowing capacity full all outstanding amounts under the Revolving Facility. Commencing on February 1, 2024, we are required SVB Loan Agreement. The SVB Loan Agreement was terminated, and all security interests and other liens granted to repay or held by the Lender were terminated and released. This payment included (i) the remaining $30.0 million principal portion of the Term Facility in 36 consecutive equal monthly installments. At maturity or if earlier prepaid, we will also be required to pay an exit SVB Loan, (ii) a $0.6 million prepayment fee equal to 2.00% of the aggregate principal amount of the Term Facility.

The repayment Facility, (iii) a $0.6 million exit fee, (iv) accrued and unpaid interest of all unpaid principal $0.1 million through the pay-off date, and accrued interest under the Credit Facilities may be accelerated upon consummation (v) $0.2 million of other related fees. As a specified change of control transaction or the occurrence of certain other events of default (as specified in the SVB Loan Agreement). Subject to certain exceptions, we are also required to make mandatory prepayments of outstanding loans under the Credit Facilities with the proceeds of asset sales and insurance proceeds, which amounts in the case result of the Revolving Facility, subject to the conditions set forth in the SVB Loan Agreement, may be re-borrowed. In addition, we may make a voluntary prepayment early repayment of the SVB Loan, in whole but not in part, at any time. All mandatory and voluntary prepayments we recorded a loss on extinguishment of debt of $1.4 million related to the write-off of the Term Facility remaining balance of unamortized debt discount. At December 31, 2023, there are subject to the payment of prepayment premiums as follows: (i) if prepayment occurs on or prior to March 9, 2023, 3% of the aggregate outstanding principal amount of the Term Facility being prepaid, (ii) if prepayment occurs after March 9, 2023 but on or prior to March 9, 2024, an amount equal to 2% of the aggregate outstanding principal amount of the Term Facility being prepaid, (iii) if prepayment occurs after March 9, 2024 but on or prior to March 9, 2025, an amount equal to 1% of the aggregate outstanding principal amount of the Term Facility being prepaid, and (iv) if prepayment occurs after March 9, 2025 but prior to January 1, 2027, an amount equal to 0.5% of the aggregate outstanding principal amount of the Term Facility being prepaid. The prepayment of the Term Facility in full is also subject

to the payment of an exit fee of $600,000. We may voluntarily terminate the Revolving Facility at any time, subject to the payment of a termination fee as follows: (i) if such termination occurs on or prior to March 9, 2023, an amount equal to 3.0% of the Revolving Facility and (ii) if such termination occurs after March 9, 2023, 1.0% of the Revolving Facility.

Certain of our future subsidiaries will be required to become co-borrowers under the SVB Loan Agreement or guarantee the no remaining obligations of ours under the SVB Loan Agreement. Our obligations under the SVB Loan Agreement and the guarantee of such obligations are secured by a pledge of substantially all of our and such subsidiaries' assets, excluding intellectual property.

The SVB Loan Agreement contains affirmative and negative covenants customary for financings of this type, including limitations on our and our subsidiaries' abilities, among other things, to incur additional debt, grant or permit additional liens, make investments and acquisitions, merge or consolidate with others, dispose of assets, pay dividends and distributions, enter into affiliate transactions and change our line of business, in each case, subject to certain exceptions. On March 7, 2023, the Company and SVB entered into an amendment relating to the SVB Loan Agreement, modifying Loan.

During the quarterly financial covenants of the agreement. Pursuant to the amendment, commencing upon December 31, 2022 fiscal year ended December 31, 2023, the Company is required to maintain, at all times, unrestricted and unencumbered cash and cash equivalents in an amount equal to the greater of (i) $50,000,000 and (ii) the Company's six-month Cash Burn (as defined we sold 15,294,116 shares in the SVB Loan Agreement) December 2023 underwritten stock offering for gross proceeds of $230.0 million, and we sold 902,769 shares of our Common Stock utilizing our at-the-market facility (ATM) at a weighted average price of $11.05 per share for gross proceeds of approximately $10.0 million.

Future Funding Requirements

At December 31, 2022 December 31, 2023, we had cash, cash equivalents, and investments in marketable securities of $144.6 million $331.0 million. We expect that our cash cash equivalents, results from and investments in marketable securities and anticipated net cash inflows from product sales will fund our operating plan through topline data for the planned Phase 3 wet AMD pivotal trials into the second half of 2024, under current expectations regarding the timing and outcomes of our Phase 2 clinical trials for EYP-1901. 2026. Due to the difficulty and uncertainty associated with the design and implementation of clinical trials, we will continue to assess our cash and cash equivalents, results from investments in marketable securities, and future funding requirements. However, there is no assurance that additional funding will be achieved and that we will succeed in our future operations.

Actual cash requirements could differ from management's projections due to many factors including cash generation from sales of YUTIQ and DEXYCU, additional investments in research and development programs, clinical trial expenses for EYP-1901, EYP-1901and potentially EYP-2301, competing technological and market developments and the costs of any strategic acquisitions and/or development of complementary business opportunities. In addition, the Pandemic has had, and may continue to have, a material and adverse impact on our business, including as a result of preventive and precautionary measures that we, other businesses, and governments are taking. Due to these impacts

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and measures, we have experienced and will likely continue to experience significant and unpredictable reductions in the demand for our commercial products as customers have shut down their facilities and non-essential surgical procedures have been postponed in an effort to promote social distancing and to redirect medical resources and priorities towards the treatment of COVID-19.

The amount of additional capital we will require will be influenced by many factors, including, but not limited to:

1. the potential for scope, progress, results, and costs of clinical trials of EYP-1901, as a sustained delivery intravitreal anti-VEGF VEGF treatment for wet AMD, NPDR, an DME
2. our expectations regarding the timing and clinical development of our product candidates, including EYP-1901; EYP-1901 and EYP-2301;
3. the duration, scope and outcome of the DOJ Investigation Subpoena and its impact on our financial condition, results of operations, or cash flows;
4. our ability to sustain and enhance an effective commercial infrastructure and enter into and maintain commercial agreements for the commercialization of YUTIQ;
5. the cost of commercialization activities for YUTIQ and DEXYCU, including product manufacturing, marketing, sales and distribution;
6. the December 31, 2022 expiration of pass-through related separate payment under which DEXYCU is reimbursed for Medicare Part B patients treated in hospital outpat department and ASC settings of care;
7. whether and to what extent we internally fund, whether and when we initiate, and how we conduct additional pipeline product development programs;
8. 5. payments we receive under any new collaboration agreements or payments expected from existing agreements;
9. the effectiveness of current and future license and collaboration agreements, including our agreements with Ocumension Therapeutics (Ocumension), Equinox Science, LLC (Equinox), and Betta Pharmaceuticals Co., LTD. (Betta);
10. 6. whether and when we are able to enter into strategic arrangements for our products or product candidates and the nature of those arrangements;
11. 7. the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing any patent claims;
12. 8. changes in our operating plan, resulting in increases or decreases in our need for capital; and
13. 9. our views on the availability, timing, and desirability of raising capital; and capital.

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14. the extent to which our business could be adversely impacted by the effects of the Pandemic or by other pandemics, epidemics or outbreaks.

We do not know if additional capital will be available when needed or on terms favorable to us or our stockholders. Collaboration, licensing, or other agreements may not be available on favorable terms, or at all. We do not know the extent to which we will receive funds from the commercialization of YUTIQ or DEXYCU. If we seek to sell our equity securities, we do not know whether and to what extent we will be able to do so, or on what terms. If available, additional equity financing may be dilutive to stockholders, debt financing may involve restrictive covenants or other unfavorable terms and dilute our existing stockholders' equity, and funding through collaboration, licensing, or other commercial agreements may be on unfavorable terms, including requiring us to relinquish rights to certain of our technologies or products. If adequate financing is not available if and when needed, we may delay, reduce the scope of, or eliminate research or development programs, independent commercialization of YUTIQ and DEXYCU, or other new products, if any, postpone or cancel the pursuit of product candidates, or otherwise significantly curtail our operations to reduce our cash capital requirements and extend our capital. cash runway.

Our consolidated statements of historical cash flows are summarized as follows (in thousands):

	Year Ended December 31,			Year Ended December 31,		
	2022	2021	Change	2023	2022	Change
Cash flows from operating activities:						
Net loss	$ (102,254)	$ (58,417)	$ (43,837)	$ (70,795)	$ (102,254)	$ 31,459
Changes in operating assets and liabilities	(3,023)	$ (1,739)	$ (1,284)	58,882	(3,023)	61,905
Other adjustments to reconcile net loss to cash flows from operating activities:	$ 40,272	10,059	30,213	13,788	40,272	(26,484)
Net cash used in operating activities	$ (65,005)	$ (50,097)	$ (14,908)			
Net cash used in investing activities	(17,265)	(33,121)	15,856			
Net cash (used in) provided by operating activities				$ 1,875	$ (65,005)	$ 66,880
Net cash (used in) provided by investing activities				$ (3,315)	$ (17,265)	$ 13,950
Net cash (used in) provided by financing activities	(690)	216,902	(217,592)	$ 187,070	$ (690)	$ 187,760

Operating cash inflows for the year ended December 31, 2023, totaled $1.9 million, primarily due to our net loss of $70.8 million reduced by $13.8 million of non-cash expenses, which included $12.1 million of stock-based compensation, $1.3 million of loss on extinguishment of debt, and $0.7 million for the provision of excess and obsolete

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inventory. This was further offset by changes in working capital of $58.9 million, including $44.5 million of deferred revenue related to the agreement to license YUTIQ® product rights to Alimera, and $14.4 million of other working capital changes.

Operating cash outflows for the year ended December 31, 2022 totaled $65.0 million, primarily due to our net loss of $102.3 million, reduced by $40.3 million of non-cash expenses, which included $20.7 million of impairment of the DEXYCU® finite-lived intangible asset, $14.2 million of stock-based compensation, $2.1 million of amortization of intangible assets, $1.9 million of provision for excess and obsolete inventory, and $1.6 million of loss on extinguishment of debt, partially offset by $162,000 of other non-cash gains. debt. This was partially offset by increases of $3.0 million in changes in operating assets and liabilities, primarily in accounts receivable and other current assets.

Operating Net cash outflows used in investing activities for the year ended December 31, 2021 totaled $50.1 million December 31, 2023, primarily due to our consisted of $3.5 million for the purchase of property and equipment, partially offset by $0.2 million of net loss cash provided by the sale of $58.4 million, reduced by $10.1 million of non-cash expenses, which included $7.5 million of stock-based compensation and $2.5 million of amortization of the DEXYCU finite-lived intangible asset, $628,000 of amortization of debt discount and a $2.1 million gain on extinguishment of debt from the forgiveness of our PPP Loan. marketable securities.

Net cash used in investing activities for the year ended December 31, 2022, consisted of $15.1 million of net cash used to purchase marketable securities, as well as $2.2 million for the purchase of property and equipment.

Net cash used in investing provided by financing activities for the year ended December 31, 2021 fiscal 2023 totaled $187.1 million and consisted of the following:

(i) $215.9 million of net proceeds from the issuance of 15,294,116 shares of our common stock;
(ii) $40.5 million used to pay off the SVB loan;
(iii) $1.4 million used to pay debt extinguishment costs related to the SVB loan;
(iv) $9.6 million of net proceeds from the issuance of 902,769 shares of our common stock sold utilizing our ATM
(v) $3.4 million of proceeds from exercise of employee stock options and stock issued under our employee stock purchase of $33.0 million of marketable securities, and purchases of property and equipment of $155,000.

plan

Net cash used in financing activities for fiscal 2022 totaled $690,000 $0.7 million and consisted of the following:

(i) $38.2 million used to pay off the CRG loan;
(ii) $2.3 million used to extinguish pay debt extinguishment costs related to the CRG loan;
(iii) $30.0 million of proceeds from the issuance for long-term debt related to the SVB loan; and
(iv) $10.5 million of net proceeds from the revolving facility.

Net cash provided by financing activities for fiscal 2021 totaled $216.9 million and consisted of the following: 72

(i) $108.2 million of net proceeds from the issuance of 5,122,273 shares of our common stock and 3,272,727 pre-funded warrants;
(ii) $107.9 million of net proceeds from the issuance of 10,465,000 shares of our common stock;
(iii) $499,000 of net proceeds from the issuance of 48,538 shares of our common stock sold utilizing our ATM; and
(iv) $273,000 of proceeds from stock issued under our employee stock purchase plan.

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Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have, or are reasonably likely to have, a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources that would be material to investors.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are a smaller reporting company as defined by Rule 12b-2 of the Securities Exchange Act of 1934 and are not required to provide the information under this Item.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information required by this item may be found on pages F-1 through F-33 F-29 of this Annual Report on Form 10-K.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

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ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2022 December 31, 2023. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Management recognizes that any control or procedure, no matter how well designed and operated, can provide only reasonable assurance of achieving its desired objectives, and our management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of December 31, 2022 December 31, 2023, our principal executive officer and principal financial officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

(a) Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. The term "internal control over financial reporting," as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, means a process designed by, or under the supervision of, the issuer's principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP and includes those policies and procedures that:

(1) Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;
(2) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that receipt and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and
(3) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material el on the financial statements.

Management recognizes that all internal control systems, no matter how well designed, have inherent limitations and may not prevent or detect misstatements. Projections of any evaluations of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2022 December 31, 2023. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control — Integrated Framework (2013)*. Based on this assessment, our management concluded that, as of such date, our internal control over financial reporting was effective based on those criteria.

(b) Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting during the last quarter of the period covered by this Annual Report on Form 10-K that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

On March 7, 2023December 8, 2023, Michael Pine, the Company Company's Chief Business Officer, terminated a 10b5-1 trading plan. Mr. Pine's 10b5-1 plan was originally adopted on June 12, 2023, and SVB entered into an amendment was designed to be in effect until June 12, 2024. The aggregate number of shares of common stock to be sold pursuant to Mr. Pine's 10b5-1 plan was 93,634, including the SVB Loan Agreement, modifying potential exercise of vested stock options and the quarterly financial covenants associated sale. Mr. Pine's 10b5-1 plan was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) under the agreement. Pursuant to the amendment, commencing upon December 31, 2022 Exchange Act.

On December 21, 2023, Michael Pine, the Company Company's Chief Business Officer, adopted a 10b5-1 trading plan, which is required to maintain, at all times, unrestricted and unencumbered cash and cash equivalents in an amount equal to the greater of (i) $50,000,000 and (ii) the Company's six-month Cash Burn (as defined in the SVB Loan Agreement). There were no other material changes to the SVB Loan Agreement. The foregoing description of the amendment does not purport designed to be complete in effect until December 21, 2024. The aggregate number of shares of common stock to be sold pursuant to Mr. Pine's 10b5-1 plan, which provides for the potential exercise of vested

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stock options and the associated sale, is qualified in its entirety by reference40,625. Mr. Pine's 10b5-1 plan is intended to satisfy the full text affirmative defense conditions of Rule 10b5-1(c) under the amendment, which is filed as Exhibit 10.41 to this Annual Report on Form 10-K and incorporated herein by reference. Exchange Act.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

Certain information required by Part III is omitted from this Annual Report on Form 10-K and is incorporated herein by reference from our definitive proxy statement relating to our 2023 2024 annual meeting of stockholders, pursuant to Regulation 14A of the Exchange Act of 1934, also referred to in this Annual Report on Form 10-K as our 2023 2024 Proxy Statement, which we expect to file with the SEC no later than May 1, 2023 April 30, 2024.

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE

Corporate Governance

We have adopted a written Code of Business Conduct that applies to all of our employees, officers officer,s and directors. This Code of Business Conduct is designed to ensure that our business is conducted with integrity and in compliance with SEC regulations and Nasdaq listing standards. The Code of Business Conduct covers adherence to laws and regulations as well as professional conduct, including employment policies, conflicts of interest, and the protection of confidential information. The Code of Business Conduct is available under "Governance Overview" within the "Investors – Corporate Governance" section of our website at www.eyepointpharma.com.

We intend to disclose any future amendments to, or waivers from, the Code of Business Conduct that affect our directors or senior financial and executive officers within four business days of the amendment or waiver by posting such information on the website address and location specified above.

Other Information

The other information required to be disclosed in Item 10 is hereby incorporated by reference to our 2023 2024 Proxy Statement.

ITEM 11. EXECUTIVE COMPENSATION

The information required to be disclosed in Item 11 is hereby incorporated by reference to our 2023 2024 Proxy Statement.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required to be disclosed in Item 12 is hereby incorporated by reference to our 2023 2024 Proxy Statement.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required to be disclosed in Item 13 is hereby incorporated by reference to our 2023 2024 Proxy Statement.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required to be disclosed in Item 14 is hereby incorporated by reference to our 2023 2024 Proxy Statement.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENTS

(a)(1) Financial Statements

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The financial statements filed as part of this report are listed on the Index to Consolidated Financial Statements on page F-1.

(a)(2) Financial Statement Schedules

Schedules have been omitted because of the absence of conditions under which they are required or because the required information is included in our Consolidated Financial Statements or Notes thereto.

(a)(3) Exhibits

Exhibit No.	Exhibit Description	Incorporated by Reference to SEC Filing		
		Form	SEC Filing Date	Exhibit No.
	Articles of Incorporation and By-Laws			
3.1	Certificate of Incorporation of pSivida Corp.	8-K12G3	06/19/08	3.1
3.2	Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	10-K	09/13/17	3.2
3.3	Certificate of Correction to Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	8-K	04/02/18	3.1
3.4	Certificate of Amendment of Certificate of Incorporation, as amended of EyePoint Pharmaceuticals, Inc.	8-K	06/27/18	3.1
3.5	By-Laws of EyePoint Pharmaceuticals, Inc.	10-K	09/18/18	3.5
3.6	Amendment No. 1 to the By-Laws of EyePoint Pharmaceuticals, Inc.	8-K	11/06/18	3.1
3.7	Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc.	8-K	06/23/20	3.1
3.8	Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc.	8-K	12/08/20	3.1
	Instruments Defining the Rights of Security Holders			
4.1	Form of Specimen Stock Certificate for Common Stock	8-K12G3	06/19/08	4.1
4.2	Warrant to Purchase Common Stock of pSivida Corp., issued March 28, 2018, to SWK Funding, LLC	8-K	03/29/18	4.1
4.3	Registration Rights Agreement, dated as of March 28, 2018, by and among pSivida Corp. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P.	8-K	03/29/18	10.3
4.4	Second Registration Rights Agreement, dated as of June 25, 2018, by and among EyePoint Pharmaceuticals, Inc. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. and each other person identified on the signature pages thereto	8-K	06/27/18	10.1
4.5(a)	Description of Securities of EyePoint Pharmaceuticals, Inc.			
4.6	Form of Pre-Funded Warrant to Purchase Common Stock	8-K	11/19/21	4.1

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	Material Contracts - Management Contracts and Compensatory Plans			
10.1	2008 Equity Incentive Plan, as amended on November 19, 2009	10-K	09/10/15	10.6
10.2+	Form of Stock Option Certificate for grants to executive officers under the pSivida Corp. 2008 Incentive Plan	8-K	09/10/08	10.1
10.3	pSivida Corp. 2016 Long Term Incentive Plan, as amended	10-Q	02/09/17	4.1
10.4+	Form of Restricted Stock Unit Award for grants to executive officers under the pSivida Corp. 2016 Long Term Incentive Plan, as amended	10-K	09/13/17	10.18
10.5+	Form of Performance-Based Stock Unit Award for grants under the pSivida Corp. 2016 Long Term Incentive Plan, as amended	10-K	09/13/17	10.19
10.6	EyePoint Pharmaceuticals, Inc. Amended and Restated 2016 Long Term Incentive Plan, as amended	8-K	11/14/22	10.1
10.7+	Form of Stock Option Certificate for grants to executive officers under the EyePoint Pharmaceuticals, Inc. 2016 Long Term Incentive Plan, as amended	10-Q	02/08/18	10.1

Exhibit No.	Exhibit Description	Incorporated by Reference to SEC Filing		
		Form	SEC Filing Date	Exhibit No.
	Articles of Incorporation and By-Laws			
3.1	Certificate of Incorporation of pSivida Corp.	8-K12G3	06/19/08	3.1
3.2	Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	10-K	09/13/17	3.2
3.3	Certificate of Correction to Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	8-K	04/02/18	3.1
3.4	Certificate of Amendment of Certificate of Incorporation, as amended of EyePoint Pharmaceuticals, Inc.	8-K	06/27/18	3.1
3.5	By-Laws of EyePoint Pharmaceuticals, Inc.	10-K	09/18/18	3.5
3.6	Amendment No. 1 to the By-Laws of EyePoint Pharmaceuticals, Inc.	8-K	11/06/18	3.1
3.7	Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc.	8-K	06/23/20	3.1
3.8	Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc.	8-K	12/08/20	3.1
	Instruments Defining the Rights of Security Holders			
4.1	Form of Specimen Stock Certificate for Common Stock	8-K12G3	06/19/08	4.1
4.2	Warrant to Purchase Common Stock of pSivida Corp., issued March 28, 2018, to SWK Funding, LLC	8-K	03/29/18	4.1
4.3(a)	Description of Securities of EyePoint Pharmaceuticals, Inc.			
4.4	Form of Pre-Funded Warrant to Purchase Common Stock	8-K	11/19/21	4.1
	Material Contracts - Management Contracts and Compensatory Plans			

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10.1	2008 Equity Incentive Plan, as amended on November 19, 2009	10-K	09/10/15	10.6
10.2+	Form of Stock Option Certificate for grants to executive officers under the pSivida Corp. 2008 Incentive Plan	8-K	09/10/08	10.1
10.3	EyePoint Pharmaceuticals, Inc. Amended and Restated 2016 Long Term Incentive Plan, as amended	8-K	11/14/22	10.1
10.4	Form of Stock Option Certificate for grants to executive officers under the EyePoint Pharmaceuticals, Inc. 2016 Long Term Incentive Plan, as amended	10-Q	02/08/18	10.1
10.5	Form of Stock Option Award Agreement for Inducement grants to executive officers under the EyePoint Pharmaceuticals, Inc. Amended and Restated 2016 Long Term Incentive Plan	10-K	09/18/18	10.15
10.6	EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended	8-K	06/24/21	10.2
10.7	EyePoint Pharmaceuticals Inc. 2023 Long-Term Incentive Plan	8-K	06/21/23	10.1
10.8	Employment Agreement between pSivida Corp. and Nancy Lurker, dated September 15, 2016	10-Q	11/08/16	10.1
10.9	First Amendment to Employment Letter Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Nancy Lurker	8-K	01/06/23	10.2
10.10	Nonstatutory Stock Option Inducement Award granted to Nancy Lurker, subject to shareholder approval, with effect from September 15, 2016	10-Q	11/08/16	10.3

Exhibit No.	Exhibit Description	Incorporated by Reference to SEC Filing		
		Form	SEC Filing Date	Exhibit No.
10.8+	Form of Deferred Stock Unit Award for grants to non-executive directors under the EyePoint Pharmaceuticals, Inc. 2016 Long Term Incentive Plan, as amended	10-Q	02/08/18	10.2
10.9+	Form of Stock Option Award Agreement for Inducement grants to executive officers under the EyePoint Pharmaceuticals, Inc. Amended and Restated 2016 Long Term Incentive Plan	10-K	09/18/18	10.15
10.10	EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended	8-K	06/24/21	10.2
10.11	Employment Agreement between pSivida Corp. and Nancy Lurker, dated September 15, 2016	10-Q	11/08/16	10.1
10.12	First Amendment to Employment Letter Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Nancy Lurker	8-K	01/06/23	10.2
10.13	Nonstatutory Stock Option Inducement Award granted to Nancy Lurker, subject to shareholder approval, with effect from September 15, 2016	10-Q	11/08/16	10.3

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10.14(a)	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Dario Paggiarino			
10.15	Employment Agreement, effective November 1, 2021, between EyePoint Pharmaceuticals, Inc. and Jay S. Duker, M.D.	8-K	11/01/21	10.1
10.16	First Amendment to Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Jay S. Duker	8-K	01/06/23	10.1
10.17	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and George O. Elston	8-K	01/06/23	10.3
10.18	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Scott Jones	8-K	01/06/23	10.4
10.19(a)	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Michael C. Pine			
10.20(a)	Form of Indemnification Agreement between EyePoint Pharmaceuticals, Inc. and its officers and directors			
	Material Contracts - Leases			
10.21	Lease Agreement between pSivida Corp. and Farley White Aetna Mills, LLC dated November 1, 2013	10-Q	11/13/13	10.1
10.22	First Amendment of Lease, dated February 6, 2014, between Farley White Aetna Mills and pSivida Corp.	10-K	09/18/18	10.24
10.23	Second Amendment of Lease, dated May 17, 2018, between Whetstone Riverworks Holdings, LLC and EyePoint Pharmaceuticals, Inc.	10-K	09/18/18	10.25
10.24	Third Amendment to Lease, dated April 5, 2021, between GRE Riverworks, LLC and EyePoint Pharmaceuticals, Inc.	10-Q	05/05/21	10.1
10.25	Fourth Amendment to Lease, dated March 8, 2022, between GRE Riverworks, LLC and EyePoint Pharmaceuticals, Inc.	10-K	03/14/22	10.28
10.26#(a)	Lease Agreement, dated January 23, 2023, between V.E. Properties IX, LLC and EyePoint Pharmaceuticals, Inc.			
	Material Contracts - License and Collaboration Agreements			
10.27#	Exclusive License Agreement between EyePoint Pharmaceuticals, Inc. and Equinox Science, LLC	10-K	03/16/20	10.32

		Incorporated by Reference to SEC Filing		
Exhibit No.	**Exhibit Description**	**Form**	**SEC Filing Date**	**Exhibit No.**
10.11	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Dario Paggiarino	10-K	03/10/23	10.14
10.12	Employment Agreement, effective November 1, 2021, between EyePoint Pharmaceuticals, Inc. and Jay S. Duker, M.D.	8-K	11/01/21	10.1

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10.13	First Amendment to Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Jay S. Duker	8-K	01/06/23	10.1
10.14	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and George O. Elston	8-K	01/06/23	10.3
10.15	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Scott Jones	8-K	01/06/23	10.4
10.16	Amended and Restated Employment Agreement, dated January 3, 2023, by and between EyePoint Pharmaceuticals, Inc. and Michael C. Pine	10-K	03/10/23	10.19
10.17(a)	Form of Indemnification Agreement between EyePoint Pharmaceuticals, Inc. and its officers and directors			
10.18	Second Amendment to Employment Agreement, dated July 10, 2023, by and between EyePoint Pharmaceuticals, Inc. and Nancy S. Lurker	8-K	07/10/23	10.1
10.19	Second Amendment to Employment Agreement, dated July 10, 2023, by and between EyePoint Pharmaceuticals, Inc. and Jay S. Duker	8-K	07/10/23	10.2
10.20(a)+	Form of Stock Option Award for Inducement Grants to executive officer pursuant to the 2023 LTIP			
10.21(a)#	Consulting Agreement dated December 18, 2023 by and between Eyepoint Pharmaceuticals, Inc. and John Landis, PhD			
	Material Contracts - Leases			
10.22	Lease Agreement between pSivida Corp. and Farley White Aetna Mills, LLC dated November 1, 2013	10-Q	11/13/13	10.1
10.23	First Amendment of Lease, dated February 6, 2014, between Farley White Aetna Mills and pSivida Corp.	10-K	09/18/18	10.24
10.24	Second Amendment of Lease, dated May 17, 2018, between Whetstone Riverworks Holdings, LLC and EyePoint Pharmaceuticals, Inc.	10-K	09/18/18	10.25
10.25	Third Amendment to Lease, dated April 5, 2021, between GRE Riverworks, LLC and EyePoint Pharmaceuticals, Inc.	10-Q	05/05/21	10.1
10.26	Fourth Amendment to Lease, dated March 8, 2022, between GRE Riverworks, LLC and EyePoint Pharmaceuticals, Inc.	10-K	03/14/22	10.28
10.27	Lease Agreement, dated January 23, 2023, between V.E. Properties IX, LLC and EyePoint Pharmaceuticals, Inc.	10-K	03/10/23	10.26
	Material Contracts - License and Collaboration Agreements			
10.28	Exclusive License Agreement between EyePoint Pharmaceuticals, Inc. and Equinox Science, LLC	10-K	03/16/20	10.32
10.29	Amendment #1 to Exclusive License Agreement, dated May 2, 2022, by and between EyePoint Pharmaceuticals, Inc. and Equinox Sciences, LLC	10-Q	08/05/22	10.1
10.30	Exclusive License Agreement, dated May 2, 2022, by and between EyePoint Pharmaceuticals, Inc. and Betta Pharmaceuticals, Co., Ltd.	10-Q	08/05/22	10.2

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Exhibit No.	Exhibit Description	Incorporated by Reference to SEC Filing		
		Form	SEC Filing Date	Exhibit No.
10.28	Amendment #1 to Exclusive License Agreement, dated May 2, 2022, by and between EyePoint Pharmaceuticals, Inc. and Equinox Sciences, LLC	10-Q	08/05/22	10.1
10.29#	Exclusive License Agreement, dated May 2, 2022, by and between EyePoint Pharmaceuticals, Inc. and Betta Pharmaceuticals, Co., Ltd.	10-Q	08/05/22	10.2
	Material Contracts - Other Agreements			
10.30	Securities Purchase Agreement, dated as of March 28, 2018, by and among pSivida Corp. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P.	8-K	03/29/18	10.1
10.31	Second Securities Purchase Agreement, dated as of March 28, 2018, by and among pSivida Corp. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. and each other person identified on the signature pages thereto	8-K	03/29/18	10.2
10.32	Agreement and Plan of Merger, dated March 28, 2018, by and among pSivida Corp., Oculus Merger Sub, Inc., Icon Bioscience, Inc. and Shareholder Representative Services LLC	8-K	03/29/18	10.5
10.33	Controlled Equity OfferingSM Sales Agreement, dated August 5, 2020, by and between EyePoint Pharmaceuticals, Inc. and Cantor Fitzgerald & Co.	8-K	08/05/20	1.1
10.34	Share Purchase Agreement, dated December 31, 2020, by and between EyePoint Pharmaceuticals, Inc. and Ocumension Therapeutics.	8-K	01/04/21	10.1
10.35	Voting and Investor Rights Agreement, dated December 31, 2020, by and among EyePoint Pharmaceuticals, Inc., Ocumension Therapeutics, and EW Healthcare Partners, L.P. and EW Healthcare Partners-A,L.P.	8-K	01/04/21	10.2
10.36	First Amendment to Share Purchase Agreement, dated February 1, 2021, by and between EyePoint Pharmaceuticals, Inc. and Ocumension Therapeutics	8-K	02/03/21	10.1
10.37	Royalty Purchase Agreement, dated December 17, 2020, by and between EyePoint Pharmaceuticals, Inc. and SWK Funding, LLC	10-K	03/12/21	10.36
10.38#	Loan and Security Agreement, dated March 9, 2022, among EyePoint Pharmaceuticals, Inc., EyePoint Pharmaceuticals US, Inc., Icon Bioscience, Inc. and Silicon Valley Bank	10-K	03/14/22	10.46
10.39#	First Amendment to Loan and Security Agreement, dated June 2, 2022, by and among EyePoint Pharmaceuticals, Inc., EyePoint Pharmaceuticals US, Inc., Icon Bioscience, Inc. and Silicon Valley Bank	10-Q	08/05/22	10.3
10.40(a)	Second Amendment to Loan and Security Agreement, dated December 6, 2022, by and among EyePoint Pharmaceuticals, Inc., EyePoint Pharmaceuticals US, Inc., Icon Bioscience, Inc. and Silicon Valley Bank			
10.41#(a)	Third Amendment to Loan and Security Agreement, dated March 7, 2023, by and among EyePoint Pharmaceuticals, Inc., EyePoint Pharmaceuticals US, Inc., Icon Bioscience, Inc. and Silicon Valley Bank			

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10.42#(a)	Mutual Termination of the Commercial Alliance Agreement, dated October 7, 2022, between EyePoint Pharmaceuticals, Inc. and ImprimisRx, LLC
21.1(a)	Subsidiaries of EyePoint Pharmaceuticals, Inc.
23.1(a)	Consent of Independent Registered Public Accounting Firm, Deloitte & Touche LLP
31.1(a)	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended

		Incorporated by Reference to SEC Filing		
Exhibit No.	Exhibit Description	Form	SEC Filing Date	Exhibit No.
31.2(a)	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended			
32.1(b)	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002			
32.2(b)	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002			
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document.			
101.SCH	Inline XBRL Taxonomy Extension Schema Document			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document			
104	Cover Page Interactive Data File (Embedded within the Inline XBRL document and included in Exhibit 101).			

		Incorporated by Reference to SEC Filing		
Exhibit No.	Exhibit Description	Form	SEC Filing Date	Exhibit No.
10.31	Product Rights Agreement, dated May 17, 2023, by and between EyePoint Pharmaceuticals, Inc. and Alimera Sciences, Inc.	8-K	05/18/23	2.1
10.32	Commercial Supply Agreement, dated May 17, 2023, by and between EyePoint Pharmaceuticals, Inc. and Alimera Sciences, Inc.	8-K	05/18/23	10.1
	Material Contracts - Other Agreements			
10.33	Agreement and Plan of Merger, dated March 28, 2018, by and among pSivida Corp., Oculus Merger Sub, Inc., Icon Bioscience, Inc. and Shareholder Representative Services LLC	8-K	03/29/18	10.5
10.34	Controlled Equity OfferingSM Sales Agreement, dated August 5, 2020, by and between EyePoint Pharmaceuticals, Inc. and Cantor Fitzgerald & Co.	8-K	08/05/20	1.1
10.35	Royalty Purchase Agreement, dated December 17, 2020, by and between EyePoint Pharmaceuticals, Inc. and SWK Funding, LLC	10-K	03/12/21	10.36
21.1(a)	Subsidiaries of EyePoint Pharmaceuticals, Inc.			

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23.1(a)	Consent of Independent Registered Public Accounting Firm, Deloitte & Touche LLP
31.1(a)	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended
31.2(a)	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended
32.1(b)	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2(b)	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
97.1(a)	EyePoint Pharmaceuticals, Inc. Incentive Compensation Recovery Policy, dated September 17, 2023
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema With Embedded Linkbases Document
104	Cover Page Interactive Data File (Embedded within the Inline XBRL document and included in Exhibit 101).

Portions of this exhibit have been omitted in compliance with Item 601 of Regulation S-K.

+ The final versions of documents denoted as “form of” have been omitted pursuant to Rule 12b-31. Such final versions are substantially identical in all material respects to the filed versions of such documents, provided that the name of the investor, and the investor’s and/or the Company’s signatures are included in the final versions.

(a) Filed herewith

(b) Furnished herewith

ITEM 16. FORM 10-K SUMMARY

Not applicable.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

EYEPOINT PHARMACEUTICALS, INC.

By: /s/ Nancy Lurker Jay S. Duker

Nancy Lurker Jay S. Duker, M.D.

President and Chief Executive Officer

(Principal Executive Officer)

Date: March 10, 2023 March 8, 2024

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

Name	Title	Date

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/S/ GÖRAN ANDO **Göran Ando, M.D.**	Chair of the Board of Directors	March 10, 2023 8, 2024
/S/ NANCY LURKER **Nancy Lurker**	Executive Vice Chair of the Board of Directors	March 8, 2024
/S/ JAY S. DUKER **Nancy Lurker Jay S. Duker, M.D.**	President, Chief Executive Officer and Director (Principal Executive Officer)	March 10, 2023 8, 2024
/S/ GEORGE O. ELSTON **George O. Elston**	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 10, 2023 8, 2024
/S/ WENDY DICICCO **Wendy DiCicco**	Director	March 10, 2023 8, 2024
/S/ YE LIU **Ye Liu**	Director	March 10, 2023 8, 2024
/S/ JOHN LANDIS **John Landis**	Director	March 10, 2023 8, 2024
/S/ DAVID R. GUYER **David R. Guyer, M.D.**	Director	March 10, 2023 8, 2024
/S/ ANTHONY P. ADAMIS **Anthony P. Adamis, M.D.**	Director	March 10, 2023 8, 2024
/S/ KAREN ZADEREJ **Karen Zaderej**	Director	March 10, 2023 8, 2024
/S/ STUART DUTY **Stuart Duty**	Director	March 8, 2024

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Consolidated Financial Statements:

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of EyePoint Pharmaceuticals, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of EyePoint Pharmaceuticals, Inc. and subsidiaries (the "Company") as of December 31, 2022 December 31, 2023 and 2021, 2022, the related consolidated statements of comprehensive loss, stockholders' equity, and cash flows, for each of the years then ended, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 December 31, 2023 and 2021, 2022, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter Matters

The critical audit matter matters communicated below is a matter are matters arising from the current-period audit of the financial statements that was were communicated or required to be communicated to the audit committee and that (1) relates relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter matters below, providing a separate opinion on the critical audit matter matters or on the accounts or disclosures to which it relates. they relate.

Prepaid and Accrued Clinical Trial Expenses— Expenses — *Refer to Note Notes 2, 4, and 8 7 to the financial statements. statements*

Critical Audit Matter Description

As disclosed in Note 2 to the financial statements, the Company records accrued expenses and prepaid expenses associated with ongoing research and development costs, as including costs associated with outsourced agreements for clinical trials with contract research organizations (CROs). Estimates of expenses incurred which include costs relating to clinical trial activities. Expenses related to clinical trial studies are based on estimates of the services received and efforts expended pursuant to contracts with each of the Contract Research Organizations ("CROs") and investigative sites. Tracking the determined by analyzing progress of the clinical trials, studies, including phase or completion of events, invoices received, payments made, by communication with third-party CROs, and internal tracking of work completed to date. Expenses incurred in excess of amounts invoiced are recorded as accrued expenses. Payments made in excess of expenses incurred are recorded as prepaid costs. As of December 31, 2023, the Company has recorded accrued clinical trial costs of $3.3 million and by the CROs, allows the Company to record the appropriate expense, prepayments, and accruals under the terms prepaid clinical trial expenses of the agreements. $6.3 million.

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We identified auditing the accruals for research and development expenses and clinical trials estimates of the progress to completion of events performed by CROs as a critical audit matter due to the (i) the significant level of judgment required by management in determining the prepaid or accrued costs and (ii) the high degree of auditor judgment, subjectivity, and an increased extent of effort in performing procedures and evaluating audit evidence, including factors related to percent completion evaluate the reasonableness of the research and development activities or studies, invoicing management's estimates of progress to date under the contracts, and communications from vendors and internal personnel of any actual costs incurred during the period that have not yet been invoiced. completion.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to prepaid accrued and accrued prepaid clinical trial costs included the following, among others:

- We tested the design and implementation of relevant controls over the estimation of accrued and prepaid clinical trial costs.
- For a sample of contracts with third-party CROs performing research and development, we performed the following:
  - Evaluated the appropriateness of the method used by management to develop its estimates of progress to completion of specific events.

  - Tested the completeness and accuracy of the underlying data used in the estimates of progress to completion through inspection of the terms of contracts and statements of wo between the Company the third-party CROs and testing of actual billed expenses under the contracts.
  - Performed corroborating inquiries with Company personnel responsible for overseeing the activities performed by the Company's contract research service providers, which ma include the CROs' estimate of completed tasks or progress of completion of certain tasks within the arrangement.

License Revenue Recognition – Alimera License Agreement – Refer to Note 2 and 3 to the financial statements

Critical Audit Matter Description

In May 2023, the Company granted an exclusive license and rights to its YUTIQ product to Alimera Sciences, inc. ("Alimera") for $82.5 million, consisting of a $75.0 million upfront cash payment and an additional $7.5 million payment in equal quarterly installments in 2024. The Company and Alimera also entered into a commercial supply agreement ("supply agreement"), during the term of the product rights agreement the Company agreed to manufacture and exclusively supply to Alimera agreed-upon quantities of YUTIQ necessary for Alimera to commercialize YUTIQ. Referred together herein as "the transaction".

The Company accounts for the revenue under license and supply arrangements under ASC 606, *Revenue from Contracts with Customers*, or ASC 606. Management has identified a single, combined performance obligation for the license and supply agreements. The combined performance obligation will be satisfied over the term of the supply agreement using the units delivered output method.

We identified auditing the Company's accounting treatment for the identification of performance obligations under the Alimera agreement as a critical audit matter due to the (i) the level of judgment required by management and (ii) the high degree of auditor judgment, subjectivity, and an increased extent of effort in performing procedures to evaluate the nature of performance obligations within the agreements.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the Alimera Agreement included the following, among others:

- We tested the design and implementation of relevant controls over management's review of the inputs to accounting conclusions for the prepaid and accrued clinical trial expenses, trans including the percent complete estimate identification of the performance obligation.
- We evaluated obtained and read the appropriateness of license agreement, the method used by management to develop the estimates

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- We tested the completeness supply agreement and accuracy of inputs through inspection of the terms of other relevant contracts and statements of work between documents related to the Company and third-party vendors and testing of actual billed expenses under the contracts transaction.
- We read the Company's accounting analysis for conclusions reached related to the transaction and performed procedures, including the following:
  - We evaluated the reasonableness Company's conclusions regarding the identification of a single performance obligation and considered the assumptions used relevant auth guidance.
  - With the assistance of professionals in developing our firm having expertise in revenue recognition, we evaluated the estimates (including conclusion regarding the progress t completion identification of specific tasks and the associated cost incurred for services the Company has not yet been invoiced or otherwise notified of the actual cost at peri through inquiries of Company personnel responsible for overseeing the research and development activities to understand progress of the activities, and inspec correspondence between the Company and these organizations a single performance obligation.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

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March 10, 2023 8, 2024

We have served as the Company's auditor since 2008.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands except share data)

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Assets				
Current assets:				
Cash and cash equivalents	$ 95,633	$ 178,593	$ 281,263	$ 95,633
Marketable securities	48,928	32,965	49,787	48,928
Accounts and other receivables, net	15,503	18,354	805	15,503
Prepaid expenses and other current assets	9,858	4,217	9,039	9,858
Inventory	2,886	3,616	3,906	2,886
Total current assets	172,808	237,745	344,800	172,808
Property and equipment, net	1,360	476	5,251	1,360
Operating lease right-of-use assets	6,038	2,252	4,983	6,038
Intangible assets, net	—	22,749		
Restricted cash	150	150	150	150
Total assets	$ 180,356	$ 263,372	$ 355,184	$ 180,356
Liabilities and stockholders' equity				
Current liabilities:				
Accounts payable	$ 5,919	$ 7,385	$ 6,504	$ 5,919
Accrued expenses	16,359	14,422	17,521	16,359
Deferred revenue	1,205	1,069	38,592	1,205
Short-term borrowings	10,475	—	—	10,475
Other current liabilities	579	782	646	579
Total current liabilities	34,537	23,658	63,263	34,537
Long-term debt	29,310	36,562	—	29,310
Deferred revenue - noncurrent	13,557	14,560		
Operating lease liabilities - noncurrent	5,984	1,860		
Deferred revenue – noncurrent			20,692	13,557
Operating lease liabilities – noncurrent			4,906	5,984
Other long-term liabilities	600	2,352	—	600
Total liabilities	83,988	78,992	88,861	83,988
Contingencies (Note 17)				
Stockholders' equity:				
Preferred stock, $.001 par value, 5,000,000 shares authorized, no shares issued and outstanding	—	—		

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Common stock, $.001 par value, 300,000,000 shares authorized at December 31, 2022 and 2021, respectively; 34,082,934 and 33,905,826 shares issued and outstanding at December 31, 2022 and 2021, respectively	34	34		
Preferred stock, $.001 par value, 5,000,000 shares authorized, no shares issued and outstanding			—	—
Common stock, $.001 par value, 300,000,000 shares authorized at December 31, 2023 and 2022, respectively; 49,043,074 and 34,082,934 shares issued and outstanding at December 31, 2023 and 2022, respectively			49	34
Additional paid-in capital	766,899	752,602	1,007,556	766,899
Accumulated deficit	(671,351)	(569,097)	(742,146)	(671,351)
Accumulated other comprehensive income	786	841	864	786
Total stockholders' equity	96,368	184,380	266,323	96,368
Total liabilities and stockholders' equity	$ 180,356	$ 263,372	$ 355,184	$ 180,356
			—	—

See notes to consolidated financial statements.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(In thousands except per share data)

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
Revenues:				
Product sales, net	$ 39,905	$ 35,312	$ 14,232	$ 39,905
License and collaboration agreements	362	756	30,797	362
Royalty income	1,137	871	989	1,137
Total revenues	41,404	36,939	46,018	41,404
Operating expenses:				
Cost of sales, excluding amortization of acquired intangible assets	8,326	8,177	4,632	8,326
Research and development	49,642	28,500	64,662	49,642
Sales and marketing	25,507	27,503	11,689	25,507
General and administrative	34,817	25,575	40,102	34,817
Amortization of acquired intangible assets	2,050	2,460	—	2,050
Impairment of acquired intangible assets	20,699	—	—	20,699
Total operating expenses	141,041	92,215	121,085	141,041
Loss from operations	(99,637)	(55,276)	(75,067)	(99,637)
Other income (expense):				
Interest and other income, net	2,131	292	6,949	2,131
Interest expense	(3,189)	(5,498)	(1,247)	(3,189)
(Loss) gain on extinguishment of debt	(1,559)	2,065		
Total other expense, net	(2,617)	(3,141)		

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Loss on extinguishment of debt			(1,347)	(1,559)
Total other income (expense), net			4,355	(2,617)
Net loss before income taxes			$ (70,712)	$ (102,254)
Provision for income taxes			$ (83)	$ —
Net loss	$ (102,254)	$ (58,417)	$ (70,795)	$ (102,254)
Net loss per share:				
Basic and diluted	$ (2.74)	$ (2.03)	$ (1.82)	$ (2.74)
Weighted average common shares outstanding:				
Basic and diluted	37,317	28,758	38,904	37,317
Net loss	$ (102,254)	$ (58,417)	$ (70,795)	$ (102,254)
Other comprehensive loss:				
Unrealized loss on available-for-sale securities, net of tax of $0 for periods presented	(55)	—		
Other comprehensive gain (loss):				
Unrealized gain (loss) on available-for-sale securities, net of tax of $0 for periods presented			78	(55)
Comprehensive loss	$ (102,309)	$ (58,417)	$ (70,717)	$ (102,309)

See notes to consolidated financial statements.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands except share data)

	Common Stock		Additional	Accumulated	Accumulated Other	Total
	Number of Shares	Par Value Amount	Paid-In Capital	Deficit	Comprehensive Income	Stockholders' Equity
Balance at January 1, 2021	18,513,981	$ 1	$ 52,836	$ (51,080)	$ 841	$ 18,598
Net loss	—	—	—	(58,417)	—	(58,417)

Issuance of stock and pre-funded warrants, net of issue costs	15,63 5,811	1 6	21 6, 57 0	—	—	216 ,58 6						
Employee stock purchase plan	43,36 5	—	27 3	—	—	273						
Exercise of stock options	8,112	—	10 0	—	—	100						
Vesting of stock units	78,55 7	—	(1 50)	—	—	(15 0)						
Stock-based compensation	—	—	7, 44 7	—	—	7,4 47						
Balance at December 31, 2021	33,90 5,826	3 $ 4	75 2, 60 $ 2	(56 9,0 $ (97)	$ 841	184 ,38 $ 0						
Balance at January 1, 2022							33,905,826	$ 34	$ 752,602	$ (569,097)	$ 841	$ 184,380
Net loss	—	—	—	(10 2,2 54)	—	(10 2,2 54)	—	—	—	(102,254)	—	(102,254)
Other comprehensive loss	—	—	—	—	(55)	(55)	—	—	—	—	(55)	(55)
Issuance of stock, net of issue costs	—	—	20	—	—	20	—	—	20	—	—	20
Employee stock purchase plan	47,78 7	—	35 4	—	—	354	47,787	—	354	—	—	354
Exercise of stock options	4,479	—	41	—	—	41	4,479	—	41	—	—	41
Vesting of stock units	12 4,842	—	(2 95)	—	—	(29 5)	124,842	—	(295)	—	—	(295)
Stock-based compensation	—	—	14 ,1 77	—	—	14, 177	—	—	14,177	—	—	14,177
Balance at December 31, 2022	34,08 2,934	3 $ 4	76 6, 89 $ 9	(67 1,3 $ (51)	$ 786	96, $ 368	34,082,934	$ 34	$ 766,899	$ (671,351)	$ 786	$ 96,368
Net loss							—	—	—	(70,795)	—	(70,795)
Other comprehensive gain							—	—	—	—	78	78

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Issuance of stock, net of issue costs	14,432,180	15	225,392	—	—	225,407
Employee stock purchase plan	107,056	—	422	—	—	422
Exercise of stock options	260,321	—	2,955	—	—	2,955
Vesting of stock units	160,583	—	(169)	—	—	(169)
Stock-based compensation	—	—	12,057	—	—	12,057
Balance at December 31, 2023	49,043,074	$ 49	$ 1,007,556	$ (742,146)	$ 864	$ 266,323

See notes to consolidated financial statements.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
Cash flows from operating activities:				
Net loss	$ (102,254)	$ (58,417)	$ (70,795)	$ (102,254)
Adjustments to reconcile net loss to cash flows used in operating activities:				
Amortization of intangible assets	2,050	2,460	—	2,050
Impairment of intangible assets	20,699	—	—	20,699
Depreciation of property and equipment	396	311	464	396
Amortization of debt discount and premium and discount on available-for-sale marketable securities	(558)	628	(856)	(558)
Loss (gain) on extinguishment of debt	1,559	(2,065)		
Loss on extinguishment of debt			1,347	1,559
Provision for excess and obsolete inventory	1,949	1,278	693	1,949
Stock-based compensation	14,177	7,447	12,057	14,177
Deferred income tax			83	—
Changes in operating assets and liabilities:				
Accounts receivable and other current assets	(2,662)	(10,603)	14,432	(2,662)
Inventory	(760)	1,347	(1,553)	(760)
Accounts payable and accrued expenses	1,198	8,476	1,519	1,198
Right-of-use assets and operating lease liabilities	69	(28)	(39)	69
Deferred revenue	(868)	(931)	44,523	(868)
Net cash used in operating activities	(65,005)	(50,097)		

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Net cash provided by (used in) operating activities			1,875	(65,005)
Cash flows from investing activities:				
Purchases of marketable securities	(139,115)	(32,965)	(55,116)	(139,115)
Sales and maturities of marketable securities	124,000	—	55,284	124,000
Purchases of property and equipment	(2,150)	(156)	(3,483)	(2,150)
Net cash used in investing activities	(17,265)	(33,121)	(3,315)	(17,265)
Cash flows from financing activities:				
Proceeds from issuance of stock and pre-funded warrants, net of issuance costs	—	216,825		
Proceeds from issuance of stock			226,174	—
Proceeds from issuance of long-term debt	30,000	—	—	30,000
Payment of equity and debt issue costs	(599)	—	(451)	(599)
Payment of long-term debt	(38,235)	—	(30,000)	(38,235)
Payment of extinguishment of debt costs	(2,294)	—	(1,350)	(2,294)
Borrowings under revolving facility	43,875	—	5,300	43,875
Repayment under revolving facility	(33,400)	—	(15,775)	(33,400)
Net settlement of stock units to satisfy statutory tax withholding	(295)	(150)	(169)	(295)
Proceeds from exercise of stock options	395	373		
Proceeds from exercise of stock options and employee stock purchase plan			3,377	395
Principal payments on finance lease obligations	(137)	(146)	(36)	(137)
Net cash (used in) provided by financing activities	(690)	216,902		
Net (decrease) increase in cash, cash equivalents and restricted cash	(82,960)	133,684		
Net cash provided by (used in) financing activities			187,070	(690)
Net increase (decrease) in cash, cash equivalents and restricted cash			185,630	(82,960)
Cash, cash equivalents and restricted cash at beginning of year	178,743	45,059	95,783	178,743
Cash, cash equivalents and restricted cash at end of year	$ 95,783	$ 178,743	$ 281,413	$ 95,783
Reconciliation of cash, cash equivalents and restricted cash				
Cash and cash equivalents			$ 281,263	$ 95,633
Restricted cash			$ 150	$ 150
Total cash, cash equivalents and restricted cash			$ 281,413	$ 95,783
Supplemental cash flow information:				
Cash interest paid	$ 2,600	$ 4,846	$ 1,405	$ 2,600
Supplemental disclosure of non-cash investing and financing activities:				
Accrued term loan exit fee			$ —	$ 600
Stock issuance costs	$ —	$ 294	$ 325	$ —
Accrued term loan exit fee	$ 600	$ —		
Payments forgiven under paycheck protection program loan	$ —	$ 2,041		

See notes to consolidated financial statements.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Operations

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EyePoint Pharmaceuticals, Inc., a Delaware corporation (together with its subsidiaries, the Company), is a clinical-stage biopharmaceutical company committed to developing and commercializing therapeutics to help improve the lives of patients with serious eye disorders. retina diseases. The Company's pipeline leverages its proprietary Durasert bioerodible DURASERT E® ™ technology (Durasert) (Durasert E™) for sustained intraocular drug delivery including delivery. The Company's lead product candidate, EYP-1901, is an investigational sustained delivery intravitreal treatment for anti-vascular endothelial growth factor (anti-VEGF) mediated retinal diseases combining vorolanib, a selective and patent-protected tyrosine kinase inhibitor with Durasert E™, currently in Phase 2 clinical trials for wet age-related macular degeneration (wet AMD), the leading cause of vision loss among people 50 years of age and older in the United States and non-proliferative diabetic retinopathy (NPDR), a largely untreated disease due to limitations of available therapies. therapies, and diabetic macular edema (DME). The Company is also commercializes advancing EYP-2301, a promising TIE-2 agonist, razuprotafib, f/k/a AKB-9778, formulated in Durasert E™ to potentially improve outcomes in serious retinal diseases.

In May 2023, the Company granted an exclusive license and rights to its YUTIQ®, (fluocinolone acetonide intravitreal implant 0.18 mg) product to Alimera Sciences, Inc. (Alimera) for $82.5 million, consisting of a once every three-year treatment for chronic non-infectious uveitis affecting the posterior segment of the eye that utilizes a non-erodible formulation of Durasert. YUTIQ is currently being sold $75.0 million upfront cash payment (Upfront Payment) and an additional $7.5 million payment in the United States and equal quarterly installments in 2024. In addition, commencing in 2025, the Company has focused will receive a low-to-mid double-digit royalty on its use with both uveitis and retinal specialist physicians. DEXYCU®, a single-dose treatment Alimera's related U.S. net sales above defined thresholds for postoperative inflammation following ocular surgery, is also being sold in the United States, but no longer actively marketed due to loss of pass-through reimbursement by the Center for Medicare & Medicaid Services (CMS) as of January 1, 2023 (see Note 6). calendar years 2025-2028.

The Company plans to identify and advance additional pipeline product candidates through clinical and regulatory development. development for its pipeline. This may be accomplished through internal discovery efforts, research collaborations, and/or in-licensing arrangements with partner molecules and potential acquisitions of additional ophthalmic products, product candidates, or technologies that complement the Company's current product portfolio.

Effects of the COVID-19 Coronavirus Pandemic

The ongoing COVID-19 coronavirus pandemic (the Pandemic) has had a material and adverse impact on the Company's business pursuant to a reduction in physician office visits impacting YUTIQ, specifically in early 2022. Going forward, the duration and full extent to which the Pandemic impacts the Company's business, revenues, financial condition and cash flows depend on future developments that are highly uncertain, subject to change and are difficult to predict, including new information that may emerge concerning the Pandemic, and may cause intermittent or prolonged periods of reduced patient services at the Company's customers' facilities, which may negatively affect customer demand. The Company's revenues, financial condition and cash flows may be adversely affected in the future as well. The Company is continuously monitoring the Pandemic and its potential effect on the Company's financial position, results of operations and cash flows. Although the U.S. government has announced its intention to terminate the public health crisis associated with the Pandemic as of May 2023, there remains an uncertainty about the potential future impact of the Pandemic on the Company's business. This uncertainty could have an impact in future periods on certain estimates used in the preparation of the Company's periodic financial results, including reserves for variable consideration related to product sales, realizability of certain receivables and assessment for excess or obsolete inventory. Uncertainty around the extent and length of time of the Pandemic, and any future related financial impact cannot be reasonably estimated at this time. technologies.

Liquidity

The Company had cash, cash equivalents and investments in marketable securities of $144.6 331.0 million at December 31, 2022 December 31, 2023. The Company has a history of operating losses and has not had significant recurring cash inflows from revenue. The Company's operations have been financed primarily from sales of its equity securities, issuance of debt, and a combination of license fees, milestone payments, royalty income and other fees received from its collaboration partners. The Company anticipates that it will continue to incur losses as it continues the research and development of its product candidates, and the Company does not expect revenues from its product sales to generate sufficient funding to sustain its operations in the near-term. The Company expects to continue fulfilling its funding needs through cash inflows from revenues, of its product sales, licensing and research collaboration transactions, additional equity capital raises and other arrangements. The Company believes that its cash, cash equivalents and investments in marketable securities of $144.6 331.0 million at December 31, 2022 coupled with expected net cash inflows from its product sales December 31, 2023, will enable the Company to fund its current and planned operations for at least the next twelve months from the date these consolidated financial statements were issued. Actual cash requirements could differ from management's projections due to many factors, including the uncertainty and potential effect of the Pandemic on the Company's business and the medical community, the timing and results of the Company's clinical trials for EYP-1901, additional investments in research and development programs, the success of ongoing commercialization efforts for YUTIQ, the actual costs of these ongoing commercialization efforts, competing technological and market developments, and the costs of any strategic acquisitions, and/or development of complementary business opportunities.

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2. Significant Accounting Policies

Basis of Presentation

The consolidated financial statements are presented in U.S. dollars in accordance with U.S. generally accepted accounting principles (U.S. GAAP) and include the accounts of EyePoint Pharmaceuticals, Inc. and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated.

Use of Estimates

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The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions that affect the reported amounts and disclosure of assets and liabilities at the date of the consolidated financial statements and the reported amounts and disclosure of revenues and expenses during the reporting periods. Significant management estimates and assumptions include, among others, those related to reserves for variable consideration related to product sales, revenue recognition for multiple-deliverable arrangements, recognition of expense in outsourced clinical trial agreements, recording of excess or obsolete inventory write-offs and reserves, recoverability of acquired intangible assets, and realization of deferred tax assets, and determining grant date fair value of stock options and other equity awards. Actual results could differ from these and other estimates and there may be changes to the Company's estimates in future periods.

Foreign Currency

The functional currency of the Company and each of its subsidiaries is the currency of the primary economic environment in which each such entity operates—the U.S. dollar or the Pound Sterling.

Assets and liabilities of the Company's foreign subsidiary are translated at period-end exchange rates. Amounts included in the consolidated statements of comprehensive loss and cash flows are translated at the weighted average exchange rates for the period. Gains and losses from currency translation are included in accumulated other comprehensive income as a separate component of stockholders' equity on the consolidated balance sheets. The balance of accumulated other comprehensive income attributable to foreign currency translation was $841,000 0.9 million and $841,000 0.8 million at December 31, 2022 December 31, 2023 and 2021, 2022, respectively. Foreign currency gains or losses arising from transactions denominated in foreign currencies, whether realized or unrealized, are recorded in interest and other income, net in the consolidated statements of comprehensive loss and were not material for all periods presented.

Cash Equivalents

Cash equivalents represent highly liquid investments with maturities of three months or less at the date of purchase, principally consisting of institutional money market funds and investment-grade commercial paper and U.S. Treasury securities.

Marketable Securities

Marketable securities consist of investments with an original or remaining maturity of greater than three months but less than one year at the date of purchase. The Company has historically classified its marketable securities as available-for-sale. Accordingly, the Company records these investments at fair value, with unrealized gains and losses excluded from earnings and reported, net of tax, in accumulated other comprehensive income, which is a component of stockholders' equity. If the Company determines that a decline of any investment is other-than-temporary, the investment is written down to fair value. Marketable securities consisted of investment-grade commercial paper, U.S. Treasury securities, and U.S. Agency securities at December 31, 2022 December 31, 2023. Marketable securities consisted of investment-grade commercial paper and U.S. Treasury securities. Marketable securities at December 31, 2021 consisted of investment-grade commercial paper. December 31, 2022. The Company's investment policy, approved by the Board of Directors, includes guidelines relative to diversification and maturities designed to preserve principal and liquidity. During fiscal 2022, $139.1 million of marketable securities were purchased and $124.0 million matured.

The fair value of marketable securities is determined based on quoted market prices at the balance sheet date of the same or similar instruments. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts through to the earlier of sale or maturity. Such amortization and accretion amounts are included in interest and other income, net in the consolidated statements of comprehensive loss. The cost of marketable securities sold is determined by the specific identification method.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash, cash equivalents, and investments in marketable securities. securities, and accounts receivable. The Company deposits its cash in financial institutions. At times, such deposits may be in excess of insured limits.

The At December 31, 2023, the Company's interest-bearing cash equivalent balances are were concentrated in one institutional money market fund that has investments consisting primarily of Repurchase Agreements, U.S Treasuries, and U.S. Government Agency Debts. At December 31, 2022, the Company's interest-bearing cash equivalent balances were concentrated in one institutional money market fund that has investments consisting primarily of certificates of deposit, commercial paper, time deposits, Treasury repurchase agreements and investment-grade U.S. Treasury securities. Generally, these investments may be sold upon demand and, therefore, the Company believes they have minimal risk.

Marketable securities at December 31, 2022 and 2021 consist of investment-grade commercial paper and U.S. Treasury securities. The Company's investment policy, approved by the Company's Board of Directors, includes guidelines relative to diversification and maturities designed to preserve principal and liquidity.

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As of December 31, 2023, accounts receivable from Alimera and Ocumension Therapeutics accounted for 67.8% and 15.7% of total accounts receivable, respectively. For the year ended December 31, 2023, revenues from Alimera and Besse Medical accounted for 73.2% and 17.2% of total revenues, respectively.

As of December 31, 2022, accounts receivable from ASD Specialty Healthcare LLC and McKesson Specialty Care Distribution LLC accounted for 57.1% and 30.2% of total accounts receivable, respectively. For the year ended December 31, 2022, revenues from ASD Specialty Healthcare LLC and McKesson Specialty Care Distribution LLC accounted for 51.1% and 39.5% of total revenues, respectively.

54.7% and 38.3% of total accounts receivable, respectively. For the year ended December 31, 2021, revenues from McKesson Specialty Care Distribution LLC and ASD Specialty Healthcare LLC accounted for 46.6% and 43.1% of total revenues, respectively.

Fair Value Measurements

The Company accounts for certain assets and liabilities at fair value. The hierarchy below lists three levels of fair value based on the extent to which inputs used in measuring fair value are observable in the market. The Company categorizes each of its fair value measurements in one of these three levels based on the lowest level input that is significant to the fair value measurement in its entirety. These levels are:

- Level 1 – Inputs are quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets and liabilities.
- Level 2 – Inputs are directly or indirectly observable in the marketplace, such as quoted prices for similar assets or liabilities in active markets or quoted prices for identic assets or liabilities with insufficient volume or infrequent transaction (less active markets).
- Level 3 – Inputs are unobservable estimates that are supported by little or no market activity and require the Company to develop its own assumptions about how marke participants would price the assets or liabilities.

The Company's cash equivalents and marketable securities are classified within Level 1 or Level 2 on the basis of valuations using quoted market prices or alternative pricing sources and models utilizing market observable inputs, respectively. The marketable securities have been valued on the basis of valuations provided by third-party pricing services, as derived from such services' pricing models. Inputs to the models may include, but are not limited to, reported trades, executable bid and ask prices, broker/dealer quotations, prices or yields of securities with similar characteristics, benchmark curves or information pertaining to the issuer, as well as industry and economic events. The pricing services may use a matrix approach, which considers information regarding securities with similar characteristics to determine the valuation for a security, and have been classified as Level 2.

The carrying amounts of accounts receivable, accounts payable and accrued expenses approximate fair value because of their short-term maturity.

Accounts and Other Receivables, Net

Receivables arise primarily from the Company's products sold in the U.S. The balance in accounts and other receivables, net consists primarily of amounts due from customers, net of applicable revenue reserves. The majority of the Company's accounts receivable have standard payment terms that require payment within 120 30-127 60 days. The Company performs ongoing credit evaluations of its customers' financial condition and continuously monitor collections and payments from its customers and analyzes accounts that are past due for collectability. The allowance for credit losses is estimated based on the Company's analysis of trends in overall receivables aging, specific identification of certain receivables that are at risk of not being paid, past collection experience and current economic trends. Given the nature and limited history of collectability of the Company's accounts receivable, the Company recorded no allowance for credit losses as of December 31, 2022 December 31, 2023 and 2021. 2022.

Inventory

Inventory is stated at the lower of cost or net realizable value, net on a first-in, first-out (FIFO) basis.

Capitalization of inventory costs begins after FDA approval of a product. Prior thereto, inventory costs of products and product candidates are recorded as research and development expense, even if this inventory may later be sold as commercial product.

The Company assesses the recoverability of inventory and writes down any excess and obsolete inventories to their estimated realizable value in the period in which the impairment is first identified. Write-downs are based on the age of the inventory, lower of cost or market, along with significant management judgments concerning future demands for the inventory. Such impairment charges, should they occur, are recorded within cost of sales, excluding amortization of acquired intangible assets. The determination of whether inventory costs will be realizable requires estimates by management. If actual market conditions are less favorable than management's projections, additional write-downs of inventory might be recorded in future periods.

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Cost of sales, excluding amortization of acquired intangible assets, consists of costs associated with the manufacture of YUTIQ® and DEXYCU®, certain period costs for DEXYCU® product revenue, product shipping, and, as applicable, royalty expense. The inventory costs for YUTIQ® include purchases of various components, the active pharmaceutical ingredient (API) and direct labor and overhead for the product manufactured in the Company's Watertown, Massachusetts facility. The inventory costs for DEXYCU® include purchased components, the API and third-party manufacturing and assembly.

On November 1, 2022, the CMS published in the Federal Register the Calendar Year (CY) 2023 Medicare Hospital Outpatient Prospective Payment System and ASC Payment System Final Rule (Final Rule). The Final Rule terminated the pass-through related separate payment for DEXYCU, which was no longer separately reimbursed by Medicare as of January 1, 2023, when furnished in hospital outpatient departments and ASC settings. In connection with the change in CMS reimbursement rules on November 1, 2022, the Company accrued DEXYCU product revenue-based royalty expense recorded impairment charge of $1.6 0.5

million and $2.5 1.4 million for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively, as a component associated with the write-off of cost of sales. excess DEXYCU® units.

Debt and Equity Instruments

Debt and equity instruments are classified as either liabilities or equity in accordance with the substance of the contractual arrangement.

Property and Equipment

Property and equipment are recorded at cost and depreciated over their estimated useful lives (generally three to five years) using the straight-line method. Leasehold improvements are amortized on a straight-line basis over the shorter of the remaining non-cancellable lease term or their estimated useful lives. Repair and maintenance costs are expensed as incurred. When assets are retired or sold, the assets and accumulated depreciation are derecognized from the respective accounts and any gain or loss is recognized.

Capitalized Software Development Cost

The Company purchases cloud computing arrangements, such as software business applications that are used in the normal course of business, and as a result, capitalizes certain implementation costs incurred in a cloud computing agreement that is a service contract. Eligible implementation costs associated with cloud computing arrangements are capitalized in accordance with ASC 350, *Intangibles – Goodwill and Other*, and classified as a prepaid asset on the consolidated balance sheets. These costs are recognized on a straight-line basis on the same line of the consolidated statements of comprehensive loss as the fees for the associated cloud computing arrangement, over the term of the arrangement, plus renewal and termination periods the Company is reasonably certain to exercise.

Leases

The Company is a party to one operating lease for its headquarters in Watertown, Massachusetts, in which it leases office, laboratory, and manufacturing operations facilities. The Company is also a party to one finance lease for laboratory equipment. In January 2023, the Company entered into a lease agreement for its new standalone manufacturing facility, including office and lab space located at 600 Commerce Drive, Northbridge, Massachusetts (see Note 19) 8).

The Company determines whether an arrangement is or contains a lease at inception. Leases are recognized on the consolidated balance sheets as ROU assets, current lease liabilities and, if applicable, noncurrent lease liabilities. ROU assets represent the Company's right to use an underlying asset for the lease term, and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Lease liabilities and their corresponding ROU assets are recorded based on the present value of lease payments over the expected remaining lease term. For this purpose, the Company considers only payments that are fixed and in-substance fixed at lease commencement. ROU assets may also be adjusted for items such as prepayments and lease incentives. The interest rate implicit in a lease contract is typically not readily determinable. As a result, the Company utilizes its incremental borrowing rate, which is the rate incurred to borrow on a collateralized basis over a similar term an amount equal to the lease payments in a similar economic environment. Lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. For operating leases, lease expense is recognized on a straight-line basis over the lease term. For finance leases, amortization expense and interest expense are recognized over the lease term.

Impairment of Intangible Assets

The Company's finite-lived intangible asset consisted of the DEXYCU product (utilizing the Verisome technology) following the March 2018 acquisition of Icon. The DEXYCU intangible asset was being amortized on a straight-line basis over its estimated useful life of 13 years. The intangible asset life was determined based on the anticipated period that the Company would derive future cash flows from the intangible asset, considering the effects of legal, regulatory, contractual, competitive and other economic factors.

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The Company continually monitors whether events or circumstances have occurred that indicate that the remaining estimated useful life of its intangible asset may warrant revision. The Company assesses potential impairments to its intangible asset when there is evidence that events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. recoverable or that the useful life of the asset is no longer appropriate. An impairment loss is recognized when the future undiscounted net cash flows expected to result from the use of an asset are less than its carrying value. If the Company considers an asset to be impaired, the impairment charge to be recognized is measured as the amount by which the carrying value of the asset exceeds its estimated fair value. In connection with a change in CMS reimbursement rules on November 1, 2022, the Company determined that the DEXYCU® intangible asset was not recoverable and recorded a $20.7 million impairment charge (see Note 6). charge.

Revenue Recognition

Revenue is recognized when a customer obtains control of promised goods or services, in an amount that reflects the consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, *Revenue from Contracts with Customers* (ASC 606), the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v)

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recognize revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within the contract, determines those that are performance obligations and assesses whether each promised good or service is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied. Sales, value-add and other taxes collected on behalf of third parties are excluded from revenue.

Product sales, net — Effective January 2023 and May 2023, the Company is no longer commercially selling DEXYCU and YUTIQ, respectively. The Company sells continues to sell YUTIQ under a commercial supply agreement with Alimera and Ocumension (see Note 3).

Prior to the above dates, the Company sold YUTIQ®and DEXYCU® primarily to a limited number of specialty distributors and specialty pharmacies (collectively the Distributors) in the U.S., with whom the Company has had entered into formal agreements, for delivery to physician practices for YUTIQ® and to hospital outpatient departments and ambulatory surgical centers (ASCs) for DEXYCU. DEXYCU®. The Company recognizes recognized revenue on sales of its products when Distributors obtain obtained control of the products, which occurs occurred at a point in time, typically upon delivery. In addition to agreements with Distributors, the Company also enters entered into arrangements with healthcare providers, ASCs, and payors that provide provided for government mandated and/or privately negotiated rebates, chargebacks, and discounts with respect to the purchase of the Company's products from Distributors.

Reserves for variable consideration — Product sales are were recorded at the wholesale acquisition costs, net of applicable reserves for variable consideration. Components of variable consideration include included trade discounts and allowances, provider chargebacks and discounts, payor rebates, product returns, and other allowances that are were offered within contracts between the Company and its Distributors, payors and other contracted purchasers relating to the Company's product sales. These reserves as detailed below, are were based on the amounts earned, or to be claimed on the related sales, and are were classified either as reductions of product revenue and accounts receivable or a current liability, depending on how the amount is was to be settled. Overall, these reserves reflect reflected the Company's best estimates of the amount of consideration to which it is was entitled based on the terms of the respective underlying contracts.Actual The actual amounts of consideration ultimately received may differ from the Company's estimates. If actual results in the future vary from the estimates, the Company adjusts product revenue and earnings in the period such variances become known.

Distribution fees — The Company compensates compensated its Distributors for services explicitly stated in the Company's contracts and are were recorded as a reduction of revenue in the period the related product sale is was recognized.

Provider chargebacks and discounts — Chargebacks are were discounts that represent represented the estimated obligations resulting from contractual commitments to sell products at prices lower than the list prices charged to the Company's Distributors. These Distributors charge charged the Company for the difference between what they pay paid for the product and the Company's contracted selling price. These reserves are were established in the same period that the related revenue is was recognized, resulting in a reduction of product revenue and the establishment of a current liability. Reserves for chargebacks consist consisted of amounts that the Company expects expected to pay for units that remain remained in the distribution channel inventories at each reporting period-end that the Company expects will expected to be sold under a contracted selling price, and chargebacks that Distributors have had claimed, but for which the Company has had not yet settled.

Government rebates— The Company is was subject to discount obligations under state Medicaid programs and Medicare. These reserves are were recorded in the same period the related revenue is was recognized, resulting in a reduction of product revenue and the establishment of a current liability which is was included in accrued expenses and

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other current liabilities on the consolidated balance sheets. The Company's liability for these rebates consists consisted of invoices received for claims from prior quarters that have had not been paid or for which an invoice has had not yet been received, estimates of claims for the current quarter, and estimated future claims that will would be made for product that has had been recognized as revenue, but which remains remained in the distribution channel inventories at the end of each reporting period.

Payor rebates — The Company contracts contracted with certain private payor organizations, primarily insurance companies, for the payment of rebates with respect to utilization of its products. The Company estimates estimated these rebates and records recorded such estimates in the same period the related revenue is was recognized, resulting in a reduction of product revenue and the establishment of a current liability.

Co-Payment assistance — The Company offers offered co-payment assistance to commercially insured patients meeting certain eligibility requirements. The calculation of the accrual for co-pay assistance is was based on an estimate of claims and the cost per claim that the Company expects expected to receive associated with product that has had been recognized as revenue.

Product returns — The Company generally offers offered a limited right of return based on its returned goods policy, which includes included damaged product and remaining shelf life. The Company estimates estimated the amount of its product sales that may be returned and records recorded

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this estimate as a reduction of revenue in the period the related product revenue is was recognized, as well as reductions to trade receivables, net on the consolidated balance sheets.

License and collaboration agreement revenue — The Company analyzes each element of its license and collaboration arrangements to determine the appropriate revenue recognition. The terms of the license agreement may include payment to the Company of non-refundable upfront license fees, milestone payments if specified objectives are achieved, and/or royalties on product sales. The Company recognizes revenue from upfront payments at a point in time, typically upon fulfilling the delivery of the associated intellectual property to the customer. For licenses that are combined with other promises, the Company determines whether the combined performance obligation is satisfied over time or at a point in time, when (or as) the associated performance obligation in the contract is satisfied.

If the contract contains a single performance obligation, the entire transaction price is allocated to the single performance obligation. Contracts that contain multiple performance obligations require an allocation of the transaction price based on the estimated relative standalone selling prices of the promised products or services underlying each performance obligation. The Company determines standalone selling prices based on the price at which the performance obligation is sold separately. If the standalone selling price is not observable through past transactions, the Company estimates the standalone selling price taking into account available information such as market conditions and internally approved pricing guidelines related to the performance obligations.

The Company recognizes sales-based milestone payments as revenue upon the achievement of the cumulative sales amount specified in the contract in accordance with ASC 606-10-55-65. For those milestone payments which are contingent on the occurrence of particular future events, the Company determines that these need to be considered for inclusion in the calculation of total consideration from the contract as a component of variable consideration using the most-likely amount method. As such, the Company assesses each milestone to determine the probability and substance behind achieving each milestone. Given the inherent uncertainty associated with these future events, the Company will not recognize revenue from such milestones until there is a high probability of occurrence, which typically occurs near or upon achievement of the event.

When determining the transaction price of a contract, an adjustment is made if payment from a customer occurs either significantly before or significantly after performance, resulting in a significant financing component. Applying the practical expedient in paragraph 606-10-32-18, the Company does not assess whether a significant financing component exists if the period between when the Company performs its obligations under the contract and when the customer pays is one year or less. None of the Company's contracts contained a significant financing component as of December 31, 2022. December 31, 2023 and 2022, respectively, nor during the respective years then ended.

Royalties — The Company recognizes revenue from license arrangements with its commercial partners' net sales of products. Such revenues are included as royalty income. In accordance with ASC 606-10-55-65, royalties are recognized when the subsequent sale of the commercial partner's products occurs. The Company's commercial partners are obligated to report their net product sales and the resulting royalty due to the Company typically within 60-days from the end of each quarter. Based on historical product sales, royalty receipts, and other relevant information, the Company recognizes royalty income each quarter and subsequently determines a true-up when it receives royalty reports and payment from its commercial partners. Historically, these true-up adjustments have been immaterial.

Sale of Future Royalties — The Company has sold its rights to receive certain royalties on product sales. In the circumstance where the Company has sold its rights to future royalties under a royalty purchase agreement (RPA) and also maintains limited continuing involvement in the arrangement (but not significant continuing involvement in the generation of the cash flows that are due

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to the purchaser), the Company defers recognition of the proceeds it receives for the sale of royalty streams and recognizes such unearned revenue as revenue under the units-of-revenue method over the life of the underlying license agreement. Under the units-of-revenue method, amortization for a reporting period is calculated by computing a ratio of the proceeds received from the purchaser to the total payments expected to be made to the purchaser over the term of the agreement, and then applying that ratio to the period's cash payment.

Estimating the total payments expected to be received by the purchaser over the term of such arrangements requires management to use subjective estimates and assumptions. Changes to the Company's estimate of the payments expected to be made to the purchaser over the term of such arrangements could have a material effect on the amount of revenues recognized in any particular period.

Research Collaborations — The Company recognizes revenue over the term of the statements of work under any funded research collaborations. Revenue recognition for consideration, if any, related to a license option right is assessed based on the terms of any such future license agreement or is otherwise recognized at the completion of the research collaborations.

Please refer to Note 3 for further details on the license and collaboration agreements into which the Company has entered and corresponding amounts of revenue recognized during the current and prior year periods.

Deferred Revenue

Amounts received prior to satisfying the above revenue recognition criteria are recorded as deferred revenue on the accompanying consolidated balance sheets. Amounts not expected to be recognized within one year following the balance sheet date are classified as non-current deferred revenue.

Research and Development

Research and development costs are charged to operations as incurred. These costs include all direct costs, including cash and stock-based compensation and benefits for research, clinical development, quality assurance, quality control, operations and medical affairs personnel, amortization of intangible assets, third-party costs and services for clinical trials, clinical materials, pre-clinical programs, regulatory and medical affairs, external consultants, and other operational costs related to the Company's research and development of its product candidates.

The Company records accruals for estimated ongoing research and development costs, including costs with respect to outsourced agreements for clinical trials with contract research organizations (CROs). When recording these prepaid and accrued expenses, the Company analyzes progress of the studies, including the phase or completion of events, invoices received, payments made, contracted costs, communications with third-party vendors, and internal tracking of the work performed to date. Judgments and estimates are made in determining the prepaid and accrued balances at the end of any reporting period. Payments made in advance of services provided are recorded as prepaid research and development costs and recognized as expense in the period the expense is incurred. In determining the prepaid and accrued balances, management makes its assessments of the services performed based on various factors, including reporting from third-party CROs and internal tracking of work performed during the period, which are subject to management's judgment. Actual results could differ from the Company's estimates.

Stock-Based Compensation

Compensation cost related to share-based payment awards is based on the fair value of the instrument on the grant date and is recognized on a graded vesting basis over the requisite service period for each separately vesting tranche of the awards.

The Company may also grant share-based payment awards that are subject to objectively measurable performance and service criteria. Compensation expense for performance-based awards begins at such time as it becomes probable that the respective performance conditions will be achieved. The Company continues to recognize the grant date fair value of performance-based awards through the vesting date of the respective awards so long as it remains probable that the related performance conditions will be satisfied.

The Company estimates the fair value of stock option awards using the Black-Scholes option valuation model and the fair value of performance stock units, restricted stock units, and deferred stock units based on the observed grant date fair value of the underlying common stock.

Net Loss per Share

Basic net loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period. For periods in which the Company reports net income, diluted net income per share is determined by adding to the basic weighted average number of common shares outstanding the total number of dilutive common equivalent shares using the treasury stock method, unless the effect is anti-dilutive.

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As of December 31, 2021, The Company issued 3,272,727 shares of pre-funded warrants Pre-Funded Warrants (PFW) to purchase common stock, issued in connection with the November 2021 underwritten public offering (see Note 11), offering. The PFWs were included in the basic and diluted net loss per share calculation. calculation during the years ended December 31, 2023 and 2022, respectively.

Potential common stock equivalents excluded from the calculation of diluted earnings per share because the effect would have been anti-dilutive were as follows:

	Year Ended December 31, 2022	Year Ended December 31, 2021
Stock options	4,082,555	2,517,680
ESPP	30,174	23,965
Warrants	48,683	48,683
Restricted stock units	509,170	291,575
Total	4,670,582	2,881,903

	December 31,	
	2023	2022
Stock options	6,304,767	4,082,555
ESPP	21,000	30,174
Warrants	48,683	48,683
Restricted stock units	1,333,192	509,170
Total	7,707,642	4,670,582

Comprehensive Loss

Comprehensive loss is comprised of net loss, foreign currency translation adjustments and unrealized gains and losses on available-for-sale marketable securities.

Income Tax

The Company accounts for income taxes under the asset and liability method. Deferred income tax assets and liabilities are computed for the expected future impact of differences between the financial reporting and income tax bases of assets and liabilities and for the expected future benefit to be derived from tax credits and loss carry forwards. Such deferred income tax computations are measured based on enacted tax laws and rates applicable to the years in which these temporary differences are expected to be recovered or settled. A valuation allowance is provided against net deferred tax assets if, based on the available evidence, it is more likely than not that some or all of the net deferred tax assets will not be realized.

The Company determines whether it is more likely than not that a tax position will be sustained upon examination. If it is not more likely than not that a position will be sustained, none of the benefit attributable to the position is recognized. The tax benefit to be recognized for any tax position that meets the more likely than not recognition threshold is calculated as the largest amount that is more than 50% likely of being realized upon resolution of the uncertainty. The Company accounts for interest and penalties related to uncertain tax positions as part of its income tax benefit.provision.

Recently Adopted and Recently Issued Accounting Pronouncements

New accounting pronouncements are issued periodically by the Financial Accounting Standards Board (FASB) and are adopted by the Company as of the specified effective dates. Unless otherwise disclosed below, the Company believes that recently issued and adopted pronouncements will not have a material impact on the Company's financial position, results of operations and cash flows or do not apply to the Company's operations.

Recently Adopted Issued Accounting Pronouncements

In May 2021, November 2023, the FASB issued ASU No. 2021-04, 2023-07—*Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)* (ASU 2021-04)*: Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options*. The amendments are designed to clarify an issuer's accounting for certain modifications

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or exchanges of freestanding equity-classified written call options that remain equity-classified after modification or exchange. The ASU provides guidance on how an issuer would measure and recognize the effects of these transactions. The standard provides a principles-based framework to determine whether an issuer should recognize the modification or exchange as an adjustment to equity or an expense. The Company adoptedSegment Reporting ASU 2021-04 on (Topic 280): *January 1, 2022Improvements to Reportable Segment Disclosures*.

Recently Issued Accounting Pronouncements

In September 2022, the FASB issued ASU 2022-04—*Liabilities—Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations* (ASU 2022-04). This ASU was issued to enhance the transparency of supplier finance programs because there are no explicit improve reportable segment disclosure requirements, in U.S. GAAP that pertain to such programs. primarily through enhanced disclosures about significant segment expenses. This ASU applies to all public entities that use supplier finance programs are required to report segment information in connection accordance with the purchase of goods and services (i.e., buyer parties). Topic 280, Segment Reporting. ASU 2022-04 2023-07 is effective for fiscal years beginning after December 15, 2022 December 15, 2023, including and interim periods within those fiscal years, except for one of the amendments that requires rollforward information, which is effective for fiscal years beginning after December 15, 2023 December 15, 2024. Early adoption is permitted and the standard should be applied retrospectively. ASU 2023-07 will be effective for the Company for the annual period of its fiscal year ending December 31, 2024. The Company does not anticipate the adoption of this ASU will have a material impact on its consolidated financial statements.

In December 2023, the FASB issued ASU 2023-09—*Income Taxes* (Topic 740)*: Improvements to Income Tax Disclosures.* This ASU was issued to address investor requests for more transparency about income tax information through improvements to income tax disclosure primarily related to the rate reconciliation and income taxes paid information, and to improve the effectiveness of income tax disclosures. This ASU is effective for public entities for annual periods beginning after December 15, 2024. Early adoption is permitted. ASU 2022-04 2023-09 will be effective for the Company in the first quarter of its fiscal year ending December 31, 2023 December 31, 2025. The Company is currently evaluating the impact the adoption of this ASU will have on its consolidated financial statements.

3. Product Revenue Reserves and Allowances

The From January 1, 2023 through May 17, 2023 (the date the Company entered into the product rights agreement (PRA) with Alimera), the Company's product revenues have been were primarily from sales of YUTIQ® in the U.S. Since the execution of the PRA, the

Company's product revenues are primarily from the Company's commercial supply agreement with Alimera of YUTIQ® in the U.S., pursuant to which, during the term of the PRA, the Company agreed to manufacture and exclusively supply to Alimera agreed-upon quantities of YUTIQ® necessary for Alimera to commercialize YUTIQ®in the United States at certain cost plus amounts. For the year ended December 31, 2022, the Company's product revenues were primarily from sales of YUTIQ® and DEXYCU® in the U.S.

Net product revenues by product for the years ended December 31, 2022 December 31, 2023 and 2021 2022 were as follows (in thousands):

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
YUTIQ (A)	$ 28,329	$ 16,959	$ 14,232	$ 28,329
DEXYCU (B)	11,576	18,353	—	11,576
Total product sales, net	$ 39,905	$ 35,312	$ 14,232	$ 39,905

(A) Included Includes approximately $343 452 and $25 343 of revenue from YUTIQ® product sales to Ocumension Therapeutics under a supply agreement for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

(B) Included Includes approximately $20 82 and $283 20 of revenue from DEXYCU® product sales to Ocumension Therapeutics under a supply agreement for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

The following table summarizes activity in each of the product revenue allowance and reserve categories for the years ended December 31, 2022 December 31, 2023 and 2021 2022 (in thousands):

	Chargebacks	Government

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	Chargebacks, Discounts and Fees	Government and Other Rebates	Returns	Total
Beginning balance at January 1, 2022	$ 1,153	$ 1,821	$ ~~379~~	$ ~~3,353~~
Provision related to sales in the current year	10,970	5,520	816	17,306
Adjustments related to prior period sales	—	—	—	—
Deductions applied and payments made	(11,264)	(7,183)	(324)	(18,771)
Ending balance at December 31, 2022	$ 859	$ 158	$ 871	$ 1,888

	Chargebacks, Discounts and Fees	Government and Other Rebates	Returns	Total
Beginning balance at January 1, 2021	$ 574	$ 535	$ 603	$ 1,712
Provision related to sales in the current year	7,274	5,337	785	13,396
Adjustments related to prior period sales	(50)	(22)	(200)	(272)
Deductions applied and payments made	(6,645)	(4,029)	(809)	(11,483)
Ending balance at December 31, 2021	$ 1,153	$ 1,821	$ 379	$ 3,353

	Chargebacks, Discounts and Fees	Government and Other Rebates	Returns	Total
Beginning balance at January 1, 2023	$ 859	$ 158	$ 871	$ 1,888
Provision related to sales in the current year	1,612	—	25	1,637
Adjustments related to prior period sales	65	(55)	(54)	(44)
Deductions applied and payments made	(2,453)	(103)	(165)	(2,721)
Ending balance at December 31, 2023	$ 83	$ —	$ 677	$ 760

Returns As of December 31, 2023, returns, chargebacks, discounts and fees, and rebates are recorded as a component of accrued expenses on the consolidated balance sheets (see Note 7)

	Chargebacks, Discounts and Fees	Government and Other Rebates	Returns	Total
Beginning balance at January 1, 2022	$ 1,153	$ 1,821	$ 379	$ 3,353
Provision related to sales in the current year	10,970	5,520	816	17,306
Adjustments related to prior period sales	—	—	—	—
Deductions applied and payments made	(11,264)	(7,183)	(324)	(18,771)
Ending balance at December 31, 2022	$ 859	$ 158	$ 871	$ 1,888

As of December 31, 2022, returns are recorded as a reduction of accounts receivable on the consolidated balance sheets. Chargebacks, discounts and fees, and rebates are recorded as a component of accrued expenses on the consolidated balance sheets (see Note 8) 7).

License and Collaboration Agreements and Royalty Income

Alimera Product Rights Agreement and Commercial Supply Agreement

Pursuant to On May 17, 2023 (the Closing Date), the Company entered into a licensing and development agreement, as amended, PRA with Alimera Sciences, Inc. (Alimera) has a worldwide. Under the PRA, the Company granted to Alimera an exclusive and sublicensable right and license (the License) under the Company's and its affiliates' interest in certain of the Company's and its affiliates' intellectual property to develop, manufacture, sell, commercialize, and otherwise exploit certain products, including YUTIQ®, for the treatment and prevention of uveitis in the entire world except Europe, the Middle East and Africa (EMEA). The License also excludes any rights to YUTIQ® for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye the Company granted to Ocumension Therapeutics (Ocumension) under the license agreements and a

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Memorandum of Understanding for YUTIQ® (the Ocumension Agreement), pursuant to which rights have been exclusively licensed to Ocumension in China and certain other countries and regions in Asia.

Additionally, pursuant to the PRA, the Company transferred and assigned to Alimera certain assets (the Transferred Assets) and certain contracts with third parties related to YUTIQ®, including the new drug application for YUTIQ® (collectively, the Asset Transfer). The Transferred Assets consist primarily of agreements and internally developed intangible assets which had zero carrying value at the date of transfer. Pursuant to the PRA, Alimera paid the Company a $75.0 million upfront payment. Alimera will also make market four quarterly payments of $1.875 million to the Company totaling $7.5 million during 2024. Alimera will also pay royalties to the Company from 2025 to 2028 at a percentage of low-to-mid double digits of Alimera's related U.S. annual net sales of certain products (including YUTIQ®) in excess of certain thresholds, beginning at $70 million in 2025, and sell ILUVIEN increasing annually thereafter. Upon Alimera's payment of the Upfront Payment and the 2024 quarterly payments, the licenses and rights granted to Alimera will automatically become perpetual and irrevocable. Payments received from Alimera are non-refundable.

On the Closing Date, the Company and Alimera also entered into a commercial supply agreement (CSA), pursuant to which, during the term of the PRA, the Company agreed to manufacture and exclusively supply to Alimera agreed-upon quantities of YUTIQ® necessary for Alimera to commercialize YUTIQ®in return the United States at certain cost plus amounts, subject to adjustments set forth in the CSA (the Supply Transaction and together with the License and the Asset Transfer, the Transaction). The initial term of the CSA is two years following the Closing Date, subject to certain changes set forth in the CSA. The CSA shall thereafter automatically renew for royalties successive one (1) year terms; provided, that the term of the CSA automatically terminates upon the successful completion of the transfer of manufacturing for YUTIQ®to Alimera or its designee in accordance with the CSA.

In addition, the Company entered into a transition services agreement (TSA) under which the Company agreed to provide agreed upon transition services to Alimera on a cost-plus pricing arrangement for up to six months following the closing of the Transaction. As part of the TSA, the Company agreed to fulfill Alimera sales orders for YUTIQ® in the United States, to the extent requested by Alimera, during the period up to six months following the Closing Date, to the Company's third-party customers on behalf of Alimera, including by invoicing for YUTIQ® and receiving payments for such invoiced YUTIQ® for fulfilling Alimera sales orders of YUTIQ® and remit such payments to Alimera (see Note 7) (the Sales Services). The Sales Services were completed during fiscal 2023.

The Company classified the cash proceeds of the $75.0 million Upfront Payment received from Alimera as deferred revenue at the Closing Date, pursuant to the PRA and the CSA because the License and supply units to be delivered under both agreements comprise a single, combined performance obligation as Alimera will not have the right or ability to manufacture YUTIQ® (or have YUTIQ® manufactured by a third-party contract manufacturing organization) over the initial two-year term pursuant to the CSA. The combined performance obligation is satisfied over time using the units delivered output method to measure progress based on sales initial estimated supply units of YUTIQ® over the two-year term for purposes of recognizing revenue, such that revenue is recognized based on the value transferred in the form of units of product in the satisfaction of a performance obligation. Through this method, the Company compares the actual units delivered to date with the current estimated total to be delivered in the contractual term to measure the satisfaction of the performance obligation and patent fee reimbursements. recognize revenue. The Company will monitor its estimate of total units to be delivered to determine if an adjustment is needed to ensure that revenue is recognized proportionally for units delivered to date relative to the total units expected to be delivered for the combined performance obligation. Such estimates of the total delivery will be reassessed on an ongoing basis. If the Company determines that a change in estimate is necessary, it will adjust revenue using a cumulative catch-up method.

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During the year ended December 31, 2023, the Company recognized revenue of $43,000 2.1 million of revenue from sales of product supply to Alimera under the CSA and $ recorded this amount in product sales, net on the consolidated statements of comprehensive loss. The Company recognized $2954,000 .5 million of license and collaboration revenue related to the PRA for the years ended December 31, 2022 December 31, 2023. Under the TSA, the Company also recognized approximately $1.0 million of license and 2021, respectively. No royalty income was recognized collaboration revenue related to additional transitional services for the years year ended December 31, 2022 December 31, 2023. As of December 31, 2023, the Company had $37.2 million and 2021, $8.3 million as current and non-current deferred revenue recognized under the PRA, respectively.

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SWK Royalty Purchase Agreement

On December 17, 2020, the Company entered into an RPA Pursuant to a royalty purchase agreement (RPA) with SWK Funding LLC (SWK). Under the RPA, , the Company sold its right to receive royalty payments on future sales of products subject to a licensing and development agreement, as amended, with Alimera (the Amended Alimera Agreement) for an upfront cash payment of $16.5 million. Except for the rights to the royalties, the Company retains all rights and obligations under the Amended Alimera Agreement, pursuant to which, Alimera owns worldwide rights to the Company's Durasert technology in ILUVIEN for diabetic macular edema and rights for ILUVIEN (currently marketed by the Company as YUTIQ in the U.S.) for posterior segment uveitis in Europe, the Middle East, and Africa. Alimera has the sole rights to utilize the intellectual property

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developed under the Amended Alimera Agreement. There has been no intellectual property developed jointly by Alimera and the Company as part of the Amended Alimera Agreement. The Company cannot utilize the intellectual property for the indication licensed to Alimera in order to manufacture and sell ILUVIEN.

The Company's ongoing efforts under the Amended Alimera Agreement will consist of continuing to maintain and enforce its patents as well as providing safety data and regulatory support as necessary. None of these obligations require significant efforts on the part of the Company with respect to the generation of sales in the market. The Company will only be required to expend more extensive efforts if litigation were to arise that requires the Company to protect its patents rights pursuant to the terms of the Amended Alimera Agreement. Historically, such a defense has not been required. Similarly, regulatory support and safety data is only provided on an ad-hoc basis depending on the regulatory requests, which has been minimal historically. It remains Alimera's sole responsibility to manufacture, actively market and promote the products under the Amended Alimera Agreement to generate the sales, which ultimately generate the royalties to be paid to SWK.

The Company classified the proceeds received from SWK as deferred revenue to be recognized as revenue under the units-of-revenue method over the life at inception of the RPA because of the Company's limited continuing involvement in the Amended Alimera Agreement. SWK has no recourse, and the Company assumes no credit risk in event that Alimera fails to make a is recognizing revenue as royalty payment. The Company must only forward all material correspondence payments are made from Alimera to SWK, including royalty reports, notices and any other correspondence with respect to royalties to SWK. SWK has the right to audit and inspect the books and records pertaining to net sales and royalties under the Amended Alimera Agreement. Neither the Company nor SWK has the unilateral ability to cancel the agreement. There is no cap or limitation on the royalties to be received by SWK in the future and its return will reflect all royalties paid by Alimera. Because the transaction was structured as a non-cancellable sale, the Company does not have significant continuing involvement in the generation of the cash flows due to SWK and there is no limitation on the rates of return to SWK, the Company recorded the total proceeds of $16.5 million as deferred revenue under royalty sale agreement. The deferred revenue is being recognized as revenue over the life of the RPA under the "units-of-revenue" method. Under this method, amortization for a reporting period is calculated by computing a ratio of the proceeds received from SWK to the payments expected to be made by Alimera to SWK over the term of the Amended Alimera Agreement, and then applying that ratio to the period's cash payment.

The Company recognized $868,000 and $872,000 of royalty revenue, respectively, related to the RPA, in connection with the royalty payment of $2.7 1.0 million and $2.8 0.9 million respectively, of royalty revenue related to the RPA for the years ended December 31, 2022 December 31, 2023 and 2021 from Alimera to SWK, pursuant to the Amended Alimera Agreement. 2022, respectively. As of December 31, 2022 and 2021, December 31, 2023, the Company had classified $1.4 million and $12.4 million as current and non-current deferred revenue recognized under the RPA, respectively. As of December 31, 2022, the Company classified $1.2 million and $1.1 13.6 million as current deferred revenue, respectively, and $13.6 million and $14.6 million, as non-current deferred revenue respectively, recognized under the RPA.

OncoSil Medical

The Company entered into an exclusive, worldwide royalty-bearing license agreement in December 2012, amended and restated in March 2013, with OncoSil Medical UK Limited (f/k/a Enigma Therapeutics Limited), a wholly-owned subsidiary of OncoSil Medical Ltd (OncoSil) for the development of BrachySil, the Company's previous product candidate for the treatment of pancreatic and other types of cancer. The Company received an upfront fee of $100,000 and is entitled to 8% sales-based royalties, 20% of sublicense consideration and milestone payments based on aggregate product sales. OncoSil is obligated to pay an annual license maintenance fee of $100,000 by the end of each calendar year, the most recent of which was received in November 2022. For each calendar year commencing with 2014, the Company is entitled to receive reimbursement of any patent maintenance costs, sales-based royalties and sub-licensee sales-based royalties earned, but only to the extent such amounts, in the aggregate, exceed the $100,000 annual license maintenance fee. In March 2020, the U.S. Food and Drug Administration granted Breakthrough Device Designation for the OncoSil™ device for treatment of unresectable locally advanced pancreatic cancer (LAPC) in combination with chemotherapy. In April 2020, the British Standards Institute (BSI) grants European CE marking for the OncoSil™ System and designates OncoSil™ a breakthrough device for the treatment of locally advanced pancreatic cancer (LAPC) in combination with chemotherapy. As of December 31, 2022, OncoSil has received regulatory approval in the EU, United Kingdom, Switzerland, Singapore, Malaysia, Hong Kong, New Zealand, Turkey, and Israel. The Company has no consequential performance obligations under the OncoSil license

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agreement. For the years ended December 31, 2022 and 2021, revenue of $100,000 and $100,000 was recorded for this agreement, RPA, respectively.

Ocumension Therapeutics

In November 2018, Pursuant to the Ocumension Agreement signed with the Company, entered into an Ocumension has:

- An exclusive license agreement with Ocumension for the development and commercialization of its three-year micro insert using the Durasert technology for the treatment of posterior segment uveitis of the eye (YUTIQ® in the U.S.) in Mainland China, Hong Kong, Macau, and Taiwan. The Company received a one-time upfront payment of $1.75 million from Ocumension Taiwan at its own cost and is eligible to receive up to (i) $7.25 million upon the achievement by Ocumension of certain prescribed development and regulatory milestones, and (ii) $3.0 million commercial sales-based milestones. In addition, expense in return for royalties based on sales with the Company is entitled to receive mid-single digit sales-based royalties. Ocumension has also received a special approval by the Hainan Province People's Government to market this product supplying products for posterior segment uveitis in the Hainan Bo Ao Lecheng International Medical Tourism Pilot Zone (Hainan Pilot Zone). In March 2019, the Company entered into a Memorandum of Understanding (2019 MOU), pursuant to which, the Company will supply product for the clinical trials and Hainan Pilot Zone use. Paralleling to Ocumension's normal registration process of the product with the Chinese Regulatory Authorities, the 2019 MOU modified the Company's entitlement to the development and regulatory milestones of up to $7.25 million under the license agreement to product supply milestones or development milestones, whichever comes first, totaling up to $7.25 million. In August 2019, the Company began shipping this product to Ocumension.

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The Company was required to provide a fixed number of hours of technical assistance support to Ocumension at no cost. This support has been completed and no future performance obligation exists. Ocumension is responsible for all development, regulatory and commercial costs, including any additional technical assistance requested. Ocumension has a first right of negotiation for an additional sale;

- An exclusive license to the Company's shorter-duration line extension candidate for this indication.

In August 2019, the Company received a $1.0 million development milestone payment from Ocumension triggered by the approval of its Investigational New Drug (IND) in China for this program. The IND allows the importation of finished product into China for use in a clinical trial to support regulatory filing.

In January 2020, the Company entered into an exclusive license agreement with Ocumension for the development and commercialization in Mainland China, Hong Kong, Macau and Taiwan of DEXYCU® for the treatment of post-operative inflammation following ocular surgery. Pursuant to the terms of the license agreement, the Company received upfront payments of $2.0 million from Ocumension in February 2020 and will be eligible to receive up to (i) $6.0 million upon the achievement by Ocumension of certain prescribed development and regulatory milestones, and (ii) $6.0 million commercial sales-based milestones. In addition, the Company is entitled to receive mid-single digit sales-based royalties. In exchange, Ocumension will receive exclusive rights to develop and commercialize DEXYCU in Mainland China, Hong Kong, Macau and Taiwan, surgery at its own cost and expense in return for royalties based on sales with the Company supplying product for clinical trials and commercial sale. In addition, Ocumension will receive a fixed number of hours of technical assistance support from the Company at no cost. sale; and

In August 2020, the Company entered into a Memorandum of Understanding, pursuant to which, the Company received a one-time non-refundable payment of $

- 9.5 million (the Accelerated Milestone Payment) from Ocumension as a full and final payment of the combined remaining development, regulatory and sales milestone payments under the Company's license agreements with Ocumension for the treatment of posterior segment uveitis of the eye and for the treatment of post-operative inflammation following ocular surgery, respectively. Upon payment of the Accelerated Milestone Payment, the remaining $11.75 million in combined remaining development and sales milestone payments under the Company's original license agreement with Ocumension upon the achievement by Ocumension of (i) remaining development and regulatory milestones of $6.25 million and commercial sales-based milestones of $3.0 million for the development and commercialization of its three-year micro insert using the Durasert technology for the treatment of posterior segment uveitis of the eye; and (ii) $6.0 million upon the achievement by Ocumension of certain prescribed development and regulatory milestones, and $6.0 million commercial sales-based milestones for the development and commercialization in Mainland China, Hong Kong, Macau and Taiwan of DEXYCU for the treatment of post-operative inflammation following ocular surgery, totaling up to $21.25 million, were permanently extinguished and will no longer be due and owed to the Company. In exchange, Ocumension also received exclusive Exclusive rights to develop and commercialize YUTIQ® and DEXYCU® products under its own brand names in South Korea and other jurisdictions across Southeast Asia in Brunei, Burma (Myanmar), Cambodia, Timor-Leste, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam, at its own cost and expense in return for royalties based on sales with the Company supplying product for clinical trials and commercial sale. The Company continues to be entitled to royalties on future product sales by Ocumension. In April 2021, Ocumension announced its filing of a New Drug Application (NDA) for YUTIQ under Ocumension's distinct name to Chinese regulatory authorities and it is under review. Ocumension has been granted approval to have its NDA submission reviewed based on the U.S. NDA data and the real-world data Ocumension has collected from marketing the product in Hainan Pilot Zone. In September 2021, Ocumension announced its receipt of approval from Chinese regulatory authorities for DEXYCU under Ocumension's distinct name to conduct a Phase 3 clinical trial in China. In June 2022, Ocumension announced its receipt of approval of the NDA from Chinese regulatory authorities for YUTIQ under Ocumension's distinct name.

Other than a fixed number of hours of technical assistance support to be provided at no cost by the Company, Ocumension is responsible for all development, regulatory and commercial costs, including any additional technical assistance requested. All technical assistance was provided during 2020. The Chief Executive Officer of Ocumension became a director of the Company starting December 31, 2020, pursuant to a Share

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Purchase Agreement pursuant to which the Company sold to Ocumension 3,010,722 shares of common stock, at which time, Ocumension became a related party of the Company.

During the years ended December 31, 2022 December 31, 2023 and 2021, in addition to 2022, the Company recognized $363,000 0.5 million and $308,000 0.4 million, respectively, of revenue from sales of product supply to Ocumension under the supply agreement and recorded this amount in product sales, respectively, net on the condensed consolidated statements of operations and comprehensive loss. The Company recognized approximately $191,000 0.1 million and $543,000 0.2 million, of license and collaboration revenue, respectively, including $188,000 and $499,000 of revenue related to additional technical assistance respectively. during the years ended December 31, 2023 and 2022. The Company also recorded royalty income of $269,000 0 and $0 0.3 for million during the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively. As

The Chief Executive Officer of December 31, 2022 and 2021, no deferred revenue was recorded for this agreement. Ocumension is a member of the Company's board of directors.

Exclusive License Agreement with Betta Pharmaceuticals, Co., Ltd.

On May 2, 2022, the Company entered into an Exclusive License Agreement exclusive license agreement (the Betta License Agreement) with Betta Pharmaceuticals Co., Ltd. (Betta), an affiliate of Equinox Sciences, LLC (Equinox) (see Note 13). Under the Betta License Agreement, the Company granted to Betta an exclusive, sublicensable, royalty-bearing license under certain of the Company's intellectual property to develop, use (but not make or have made), sell, offer for sale and import the Company's product candidate, EYP-1901, an investigational sustained delivery intravitreal anti-VEGF treatment that combines for anti-VEGF-mediated retinal diseases combining vorolanib, a bioerodible formulation of the Company's proprietary sustained-release technology selective and patent-protected tyrosine kinase inhibitor (TKI) with the compound vorolanib Durasert E™ (the Licensed Product), in the field of ophthalmology (the Betta Field) in the Greater Area greater area of China, including China, the Hong Kong Special Administrative Region, the Macau Special Administrative Region, and Taiwan (the Betta Territory). The Company retained rights under the Company's intellectual property to, among other things, conduct clinical trials on the Licensed Product in the Betta Field in the Betta Territory.

In consideration for the rights granted by the Company, Betta agreed to pay the Company tiered, mid-to-high single-digit royalties based upon annual net sales of Licensed Products in the Betta Territory. The royalties are payable on a Licensed Product-by-Licensed Product and region-by-region basis commencing on the first commercial sale of a Licensed Product in a region and continuing until the later of (i) the date that is twelve (12) years after first commercial sale of such Licensed Product in such region, and (ii) the first day of the month following the month in which a generic product corresponding to such Licensed Product is launched in the relevant region. The royalty rate is subject to reduction under certain circumstances, including when there is no valid claim of a licensed patent that covers a Licensed Product in a particular region.

Betta is responsible for all costs relating to development, registration, manufacturing, marketing, advertising, promotional, launch, and sales activities in connection with the Licensed Products in the Betta Field in the Betta Territory. Betta is required to use commercially reasonable efforts to develop, seek regulatory approval for, and commercialize at least one Licensed Product in the Betta Field in the Betta Territory. The Betta License Agreement also requires Betta to achieve certain diligence milestones relating to

regulatory filings, patient dosing, and regulatory approval by certain specified deadlines set forth in the Betta License Agreement, subject to certain exceptions and extensions as set forth in the Betta License Agreement. Betta's development activities will be conducted pursuant to a development plan subject to periodic updates. In the event that the Company conducts a global registrational clinical trial for a Licensed Product in the Betta Field, Betta will have the right to participate in such clinical trial by including clinical trial sites in the Betta Territory in accordance with the terms of the Betta License Agreement. The Company has also agreed to provide certain technology transfer and other support services to Betta subject to certain conditions and limitations set forth in the Betta License Agreement.

Research Collaborations

The Company from time to time enters into agreements to evaluate the potential use of its technologies for sustained release of third-party partner drug candidates. Consideration received is generally recognized as revenue over the term of the research collaborations. Revenue recognition for consideration, if any, related to a license option right is assessed based on the terms of any such future license agreement or is otherwise recognized at the completion of the research collaborations. Revenues recognized under research collaborations were $ recorded 0 no revenue from product sales, license and $60,000collaboration revenue, or royalty income for the years ended December 31, 2022 December 31, 2023 and 2021, respectively. As of December 31, 2022 and 2021, no deferred revenue was recorded for the research collaborations. 2022, related to this agreement.

4. Prepaid Expenses and Other Current Assets

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Prepaid expenses and other current assets consisted of the following (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Prepaid expenses	$ 2,723	$ 3,372	$ 1,695	$ 2,723
Prepaid clinical	6,353	328		
Prepaid clinical trials			6,335	6,353
Other	782	517	1,009	782
Total prepaid expenses and other current assets	$ 9,858	$ 4,217	$ 9,039	$ 9,858

The Company incurred a $0.3 million charge to sales and marketing expense related to the write-downs of DEXYCU sample units associated with expiration of DEXYCU sample units for the year ended December 31, 2022. In connection with the change in CMS reimbursement rules on November 1, 2022 (see Note 6), the Company recorded impairment charges of $0.1 million to cost of sales, excluding amortization of acquired intangible assets, associated with the write-off of excess DEXYCU units, and $0.1 million to sales and marketing expense, associated with the write-off of excess DEXYCU sample units, respectively, whose prepaid manufacturing levels were higher than the Company's updated forecasts of future demand for those units.

5. Inventory

Inventory consisted of the following (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Raw materials	$ 1,410	$ 2,727	$ 1,303	$ 1,410
Work in process	1,078	405	882	1,078
Finished goods	398	484	1,721	398
Total inventory	$ 2,886	$ 3,616	$ 3,906	$ 2,886

In connection with the change in CMS reimbursement rules on November 1, 2022 (see Note 6), the Company recorded impairment charges of $1.4 million to cost of sales, excluding amortization of acquired intangible assets, associated with the write-off of excess inventory of DEXYCU units, whose inventory levels were higher than the Company's updated forecasts of future demand for those units.

6. Intangible Assets

The reconciliation of intangible assets for the years ended December 31, 2022 and 2021 was as follows (in thousands):

	Year Ended December 31, 2022	Year Ended December 31, 2021
Patented technologies		
Gross carrying amount at beginning of period	$ 68,322	$ 68,322
Impairment of acquired intangible assets	(20,699)	—
Gross carrying amount at end of period	47,623	68,322
Accumulated amortization at beginning of period	(45,573)	(43,113)
Amortization expense	(2,050)	(2,460)
Accumulated amortization at end of period	(47,623)	(45,573)
Net book value at end of period	$ —	$ 22,749

The net book value of the Company's intangible assets at December 31, 2022 and 2021 is summarized as follows (in thousands):

	December 31, 2022	December 31, 2021	Estimated Remaining Useful Life at December 31, 2022

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			(Years)
Patented technologies			
DEXYCU / Verisome	$ —	$ 22,749	—
Total intangible assets, net	$ —	$ 22,749	

On November 1, 2022, the CMS published in the Federal Register the Calendar Year (CY) 2023 Medicare Hospital Outpatient Prospective Payment System and ASC Payment System Final Rule (Final Rule). The Final Rule terminated the pass-through related separate payment for DEXYCU, which was no longer separately reimbursed by Medicare as of January 1, 2023, when furnished in hospital outpatient departments and ASC settings. The Final Rule will reduce the amount of Medicare reimbursement provided to the Company's DEXYCU customers and is expected to result in a significant reduction in the Company's DEXYCU product revenues (see Note 3). The Final Rule and a reduced revenue forecast of the DEXYCU asset group were determined to be the impairment indicator of the Company's finite-lived intangible assets related to DEXYCU with carrying value of $20.7 million.

The Company performed an impairment test based on the projected future cash flows. As of November 1, 2022, the forecasted probability-weighted undiscounted cash flows for the intangible assets were not expected to recover the intangible assets related to DEXYCU. To assess the recoverability of the intangible assets, the Company used income-based valuation methodologies. Under the income-based approach, the forecasted cash flows expected for the intangible assets were discounted using after-tax cost of capital rates taking into account Company-specific risks. Based on the above analyses, the Company recorded an impairment charge of $20.7 million in the fourth quarter of fiscal 2022, related to the acquired technology in connection with the acquisition of DEXYCU, and was included in impairment of acquired intangible assets in the Company's statement of comprehensive loss. The aggregate amount of the intangible assets related to DEXYCU was zero as of December 31, 2022.

The Company amortizes its intangible assets with finite lives on a straight-line basis over their respective estimated useful lives. Amortization expense for intangible assets totaled $2.1 million and $2.5 million for the years ended December 31, 2022 and 2021, respectively. Amortization expense was reported as a component of cost of sales for the years ended December 31, 2022 and 2021, respectively.

7. Property and Equipment, Net

Property and equipment, net consisted of the following (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Property and equipment	$ 2,459	$ 1,477	$ 3,086	$ 2,459
Construction in process			$ 3,728	$ —
Leasehold improvements	1,008	255	1,008	1,008
Gross property and equipment	3,467	1,732	7,822	3,467
Accumulated depreciation and amortization	(2,107)	(1,256)	(2,571)	(2,107)
Property and equipment, net	$ 1,360	$ 476	$ 5,251	$ 1,360
			—	—

Depreciation expense totaled $396,000 0.5 million and $311,000 0.4 million in the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

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8. 7. Accrued Expenses

Accrued expenses consisted of the following (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Personnel costs	$ 9,515	$ 7,321	$ 12,631	$ 9,515
Clinical trial costs	3,308	753	3,305	3,308
Professional fees			666	761
Sales chargebacks, rebates and other revenue reserves	1,017	2,974	760	1,017
Professional fees	761	712		

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Commissions due to DEXYCU commercial partner	752	1,518		
Other	1,006	1,144	159	1,758
Total accrued expenses	$ 16,359	$ 14,422	$ 17,521	$ 16,359

9. 8. Leases

On May 17, 2018March 8, 2022, the Company amended the lease for its headquarters in Watertown, Massachusetts. The original Massachusetts totaling five-year lease for approximately 13,650 21,649 square feet of combined office and laboratory space was set to expire in April 2019. Under the amendment, the Company leased an additional 6,590 square feet of rentable area of the building, with a commencement date of September 10, 2018. The amendment extended the term of the lease for the combined space through May 31, 2025, and the landlord provided the Company a construction allowance of up to $670,750 to be applied toward renovations and improvements within the total space. On April 5, 2021, the Company further amended the lease to include an additional 1,409 square feet of rentable area of the building, through May 31, 2025, with a commencement date of July 1, 2021.

On March 8, 2022, the Company further amended the lease (i) to extend the term to May 31, 2028, for 13,650 square feet of laboratory and manufacturing operations space, with the landlord agreeing to provide the Company a construction allowance of up to $555,960 0.7 million to be applied toward upgrades and improvements within the space; (ii) to rent an additional 11,999 square feet of office space within the building through May 31, 2028 (New Premises); and (iii) to terminate a portion of the lease comprising 7,999 square feet of office space in the building in accordance with its existing contractual term on May 31, 2025. The amendment also reinstated the Company's right to extend the lease for the space it occupies after May 31, 2025, for one additional period of five years. Rent for the extension period would be at the fair market rent for comparable space in comparable properties in the Watertown area. During the second quarter of 2022, the Company recognized a $2.9 million increase to its lease liabilities and right-of-use (ROU) assets resulting from the lease amendment for the term extension of the laboratory and manufacturing operations space.

The lease for the New Premises commenced during the third quarter of 2022. The Company occupied the New Premises when the landlord substantially completed its construction for the space, after which the Company's obligation to pay base rent began. The Company recognized an increase of $1.6 million to its lease liabilities and $1.7 million to its ROU assets resulting from the lease for the New Premises.

The Company previously provided a cash-collateralized $150,000 0.2 million irrevocable standby letter of credit as security for the Company's obligations under the lease, which will remain in effect through the period that is four months beyond the expiration date of the amended lease. The Company will also be required to pay its proportionate share of certain operating costs and property taxes applicable to the leased premises in excess of new base year amounts.

On January 23, 2023, the Company entered into a lease agreement for its new standalone manufacturing facility, including office and lab space located at 600 Commerce Drive, Northbridge, Massachusetts. The Company identified new leased premises will consist of approximately 40,000 square feet. The lease includes a non-cancellable lease term of fifteen years and assessed four months, with twooptions to extend the following significant assumptions in recognizing its ROU assets lease term for two additional terms of either five years or ten years at 95% of the then-prevailing fair market rent.The lease term will commence upon the substantial completion of construction of the facility and corresponding lease liabilities:

- As related leasehold improvements, which are owned by the lessor, to prepare the premises for the Company's leases do not specify an implicit rate, intended use, whicl currently expected to occur during the Company estimated its incremental borrowing rate second half of 2024. The Company's obligation to calculate pay base rent will begin four months following the present value commencement of the lease payments. term. The Company utilized the borrowing rate under its CRG term loan facility as basis lease will create significant rights and obligations for the discount rate for all leases, with Company, including the exception payment of the amendment dated Marc 2022, for base rent on monthly basis, of which the Company utilized estimates will total approximately $40.8 million during the borrowing rate under its SVB initial non-cancellable term loan facility (see Note 10) of the lease (i.e., fifteen years and four months). The Company will be responsible for real estate taxes, maintenance, and oth operating expenses applicable to the leased premises. As of December 31, 2023, a lease commencement date in accordance with ASC 842, *Leases,* had not occurred, the basis for the discount rate.

such,- no ROU or lease liability has been recorded as of December 31, 2023.

Since the Company elected to account for each lease component and its associated non-lease components as a single combined component, all contract consideration was allocated to the respective lease components.

- The expected lease terms include non-cancellable lease periods. Renewal option periods have not been included in the determination of the lease terms as they are not deemed reasonably certain of exercise.
- Variable lease payments, such as common area maintenance, real estate taxes, and property insurance are not included in the determination of the lease's ROU asset lease liability.

As of December 31, 2022 December 31, 2023, the weighted average remaining term of the Company's operating leases was 5.2 4.3 years and the weighted average discount rate was 5.84%.

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Supplemental balance sheet information related to operating leases as of December 31, 2022 December 31, 2023 and 2021, 2022, respectively, is as follows (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Other current liabilities – operating lease current portion	$ 543	$ 645	$ 563	$ 543
Operating lease liabilities – noncurrent portion	5,984	1,860	4,906	5,984
Total operating lease liabilities	$ 6,527	$ 2,505	$ 5,469	$ 6,527

Operating lease expense recognized was $1.2 1.4 million and $885,000 1.2, million, excluding $63,000 0.2 million and $30,000 0.06 million of variable lease costs, for the years ended December 31, 2022 December 31, 2023 and 2021, respectively, which consisted of $1.1 million and $606,000 for research and development expense, $0 and $112,000 for sales and marketing expense, and $58,000 and $167,000 for general and administrative expense, 2022, respectively, and were was included in the Company's statement accompanying consolidated statements of comprehensive loss.

Cash paid for amounts included in the measurement of operating lease liabilities was $834,000 1.4 million and $920,000 0.8 million for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

The Company is a party to one finance lease for laboratory equipment, which expires in June 2023.

Supplemental balance sheet information related to finance leases as of December 31, 2022 and 2021, respectively, is as follows (in thousands):

	December 31, 2022	December 31, 2021
Property and equipment, at cost	$ 270	$ 371
Accumulated amortization	(237)	(205)
Property and equipment, net	$ 33	$ 166
Other current liabilities – finance lease current portion	$ 36	$ 137
Other long-term liabilities	—	36
Total finance lease liabilities	$ 36	$ 173

The components of finance lease expense recognized during the years ended December 31, 2022 and 2021 included amortization expense of $133,000 and $151,000, respectively. Interest on lease liabilities was $12,000 and $23,000 during the years ended December 31, 2022 and 2021, respectively. Cash paid for amounts included in the measurement of finance lease liabilities included operating cash flows of $12,000 and financing cash flows of $137,000 during the year ended December 31, 2022. Cash paid for amounts included in the measurement of finance lease liabilities included operating cash flows of $23,000 and financing cash flows of $146,000 during the year ended December 31, 2021.

As of December 31, 2022, the weighted average remaining term of the Company's finance lease was 0.5 years and the weighted average discount rate was 12.5%.

The Company's total future minimum lease payments under non-cancellable leases at December 31, 2022 December 31, 2023, were as follows (in thousands):

	Operating Leases	Finance Leases
2023	$ 910	$ 37
2024	1,392	—
2025	1,494	—
2026	1,589	—
2027	1,637	—
Thereafter	693	—
Total lease payments	$ 7,715	$ 37
Less imputed interest	(1,188)	(1)
Total	$ 6,527	$ 36

	Operating Leases
2024	$ 877

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2025		1,494
2026		1,589
2027		1,637
2028		693
Total lease payments	$	6,290
Less imputed interest		(821)
Total	$	5,469

10. 9. Loan Agreements

CRG Term Loan Agreement

On February 13, 2019 (the CRG Closing Date), the Company entered into the CRG Loan Agreement among the Company, as borrower, CRG Servicing LLC, as administrative agent and collateral agent, and the lenders party thereto from time to time, providing for a senior secured term loan of up to $60 million (the CRG Loan). On the CRG Closing Date, $35 million of the CRG Loan was advanced (the CRG Initial Advance). The Company utilized the proceeds from the CRG Initial Advance for the repayment in full of all outstanding obligations under its prior credit agreement with SWK. In April 2019, the Company exercised its option to borrow an additional $15 million of the CRG Loan (the CRG Second Advance). The Company did not draw any additional funds under the CRG Loan by the final draw deadline of March 31, 2020.

The total debt discount related to the CRG Initial Advance was approximately $3.2 million and consisted of (i) the accrual of a $2.1 million exit fee; (ii) the $525,000 upfront fee; and (iii) $591,000 of legal and other transaction costs. The discount is being amortized as additional interest expense over the term of the Loan using the effective interest rate method.

The total debt discount related to the CRG Second Advance was approximately $1.1 million and consisted of (i) the accrual of a $900,000 exit fee; and (ii) the $225,000 upfront fee. The discount is being amortized as additional interest expense over the term of the Loan using the effective interest rate method.

The CRG Loan was originally scheduled to mature on December 31, 2023 and bore interest at a fixed rate of 12.5% per annum payable in arrears on the last business day of each calendar quarter. On December 17, 2020, the Company paid $15.0 million against the CRG Loan obligations in connection with the consummation of the RPA agreement (see Note 3). This payment included (i) a $13.8 million principal portion of the CRG Loan (ii) the $828,000 Exit Fee, and (iii) accrued and unpaid interest of $378,000 through that date. In connection with the partial prepayment of the CRG Loan, the Company recorded a loss on partial extinguishment of debt of $905,000 in the year ended December 31, 2020, associated with the write-off of the remaining balance of unamortized debt discount related to the partial prepayment of the CRG Loan.

On March 9, 2022, the Company repaid the remaining CRG Loan balance totaling $41.4 million with the proceeds from the SVB Loan Agreement (discussed below). This payment included (i) the remaining $38.2 million principal portion of the CRG Loan, (ii) a $2.3 million exit fee of 6% of the aggregate principal amount advanced under the CRG Loan, and (iii) accrued and unpaid interest of $0.9 million through the pay-off date. As a result of the early repayment of the CRG Loan, the Company recorded a loss on extinguishment of debt of $1.6 million for the quarter ended March 31, 2022 related to the write-off of the remaining balance of unamortized debt discount.

Amortization of debt discount under the CRG Loan totaled $122,000 and $628,000 for the years ended December 31, 2022 and 2021, respectively.

SVB Loan Agreement

On March 9, 2022 (the SVB Closing Date), the Company entered into a loan and security The Company's loans (SVB Loan) under an agreement (the SVB Loan Agreement) with First Citizens BancShares, as successor to Silicon Valley Bank (SVB) providing for (i) a senior secured term loan facility of $30.0 million , as lender (the Term Facility) and (ii) a senior secured revolving credit facility of up to $15.0 million (the Revolving Facility and together with the Term Facility, the Credit Facilities). The maximum amount available for borrowing at any time under the Revolving Facility is limited to a borrowing base valuation of the Company's eligible accounts receivable. On the SVB Closing Date, $30.0 million of the Term Facility and $11.5 million of the Revolving Facility, Lender), were advanced, to pay off the CRG Loan, including the accrued interest through that date. The Revolving Facility is classified as short-term borrowings in the consolidated balance sheets.

The loans under the Credit Facilities are originally due and payable on January 1, 2027 (the SVB Maturity Date). The Credit Facilities bear loans bore interest that is was payable monthly in arrears at a per annum rate (subject to increase during an event of default) equal to (i) with respect to the Term Facility, term facility, the greater of (x) the Wall Street Journal prime rate plus 2.25% and (y) 5.50% and (ii) with respect to the Revolving Facility, revolving facility, the Wall Street Journal Prime Rate. An unused commitment fee of 0.25% per annum applies to unutilized borrowing capacity under the Revolving Facility. Commencing on February 1, 2024, the Company is required was scheduled to repay begin repaying the principal of the Term Facility term facility in 36 consecutive equal monthly installments. At maturity or if earlier prepaid, the Company will was also be required to pay an exit fee equal to 2.00% of the aggregate principal amount of the Term Facility. term facility.

The repayment On May 17, 2023, the Company utilized a portion of the upfront payment from the PRA with Alimera (see Note 3) to repay in full all unpaid principal and accrued interest outstanding amounts under the Credit Facilities may be accelerated upon consummation of a specified change of control transaction or the occurrence of certain other events of default (as specified in the SVB Loan Agreement). Subject Agreement. The SVB Loan Agreement was terminated, and all security interests and other liens granted to certain exceptions, or held by the Company is also required to make mandatory prepayments Lender were terminated and released. This payment included (i) the remaining $30.0 million principal portion of outstanding loans under

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the Credit Facilities with the proceeds of assets sales and insurance proceeds, which amounts in the case of the Revolving Facility, subject to the conditions set forth in the SVB Loan, Agreement, may be re-borrowed. All voluntary and mandatory prepayments of the Term Facility are subject to the payment of (ii) $0.6 million, representing a prepayment premiums as follows: (i) if prepayment occurs on or prior to the first anniversary of the SVB Closing Date, an amount fee equal to 3.0 2.00% of the aggregate outstanding principal amount of the Term Facility being prepaid, (ii) if prepayment occurs after term facility, (iii) a $0.6 million exit fee, (iv) accrued and unpaid interest of $0.1 million through the first anniversary pay-off date, and (v) $0.2 million, representing in the aggregate a statement fee, termination fee and unused credit line fee under the revolving facility. As a result of the early repayment of the SVB Closing Date and Loan, the Company recorded a loss on or prior extinguishment of debt of $1.4 million for the year ended December 31, 2023, related to the second anniversary write-off of the SVB Closing Date, 2.0% remaining balance of the aggregate outstanding principal amount of the Term Facility being prepaid, (iii) if prepayment occurs after the second anniversary of the SVB Closing Date unamortized debt discount and on or prior to the third anniversary of the SVB Closing Date, 1.0% of the aggregate outstanding principal amount of the Term Facility being prepaid and (iv) if prepayment occurs after the third anniversary of the SVB Closing Date but prior to the SVB Maturity Date, an amount equal to 0.50% of the aggregate outstanding principal amount of the Term Facility being prepaid. The prepayment of the Term Facility in full is also subject to the payment of an exit fee of $600,000. The Company may voluntarily terminate the Revolving Facility at any time, subject to the payment of a termination fee as follows: (i) if such termination occurs on or prior to the first anniversary of the SVB Closing Date, an amount equal to 3.0% of the Revolving Facility and (ii) if such termination occurs after the first anniversary of the SVB Closing Date, 1.0% of the Revolving Facility.

The obligations of the Company under the SVB Loan Agreement are secured by a pledge of substantially all of the Company's assets, excluding intellectual property. Certain of the Company's future subsidiaries will be required to become co-borrowers under the SVB Loan Agreement or guarantee the obligations of the Company under the SVB Loan Agreement. In addition, such subsidiaries will be required to pledge substantially all of their assets, excluding intellectual property, to secure the obligations of the Company under the SVB Loan Agreement.

The SVB Loan Agreement contains affirmative and negative covenants customary for financings of this type, including limitations on the Company and its subsidiaries' abilities, among other things, to incur additional debt, grant or permit additional liens, make investments and acquisitions, merge or consolidate with others, dispose of assets, pay dividends and distributions, enter into affiliate transactions and change its line of business, in each case, subject to certain exceptions.

On March 7, 2023, the Company and SVB entered into an amendment to the SVB Loan Agreement, modifying the quarterly financial covenants of the agreement. Pursuant to the amendment, commencing upon December 31, 2022, the Company is required to maintain, at all times, unrestricted and unencumbered cash and cash equivalents in an amount equal to the greater of (i) $50,000,000 and (ii) the Company's six-month Cash Burn (as defined in the SVB Loan Agreement). extinguishment fees.

Amortization of debt discount under the SVB Loan Agreement totaled $222,000 0.1 million and $0.2 million for the year years ended December 31, 2022. Commitment fees under the revolving facility were $19,000. December 31, 2023 and 2022, respectively.

The Company's scheduled principal payments for debt at December 31, 2022 were as follows (in thousands):

2023		—
2024		9,167
2025		10,000
2026		10,000
2027		833
Thereafter		—
Total	$	30,000

11. 10. Stockholders' Equity

Equity Financings

Common Stock Offerings

There were no equity financings during the year ended December 31, 2022.

In November 2021, December 2023, the Company sold 5,122,273 13,529,411 shares of its common stock in an underwritten public offering at a price of $13.75 17.00 per share, including the exercise in full by the underwriters of their option to purchase an additional 1,095,000 1,764,705 shares of the Company's common stock, and pre-funded

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warrants to purchase up to an aggregate of 3,272,727 shares of its common stock at a price of $13.74 per pre-funded warrant. stock. The gross proceeds of the offering to the Company were approximately $115.4 230 million. Underwriter discounts and commissions and other share issue costs totaled approximately $7.2 14.6 million.

The pre-funded warrants There were classified as a component of permanentno equity because they met financings during the permanent equity criteria classification. The pre-funded warrants are freestanding financial instruments that are legally detachable and separately exercisable

from the shares of common stock with which they were issued, are immediately exercisable and permit the holders to receive a fixed number of shares of common stock upon exercise. The pre-funded warrants do not embody an obligation for the Company to repurchase its shares and do not provide any guarantee of value or return.

In February 2021, the Company sold 10,465,000 shares of its common stock in an underwritten public offering at a price of $11.00 per share, including the exercise in full by the underwriters of their option to purchase up to 1,365,000 additional shares of the Company's common stock. The gross proceeds of the offering to the Company were approximately $115.1 million. Underwriter discounts and commissions and other share issue costs totaled approximately $7.2 million. year ended December 31, 2022.

ATM Facility

In August 2020, the Company entered into an at-the-market facility (the ATM Facility) with Cantor Fitzgerald & Co (Cantor). Pursuant to the ATM Facility, the Company may, at its option, offer and sell shares of its common stock from time to time, through or to Cantor, acting as sales agent. The Company will pay Cantor a commission of 3.0% of the gross proceeds from any future sales of such shares.

During the year ended December 31, 2023, the Company sold 902,769 shares of its common stock under the ATM Facility at a weighted average price of $11.05 per share for gross proceeds of approximately $10 million. Share issue costs, including sales agent commissions, totaled approximately $0.4 million.

During the year ended December 31, 2022, the Company did not sell any shares of its common stock under the ATM Facility.

During the year ended December 31, 2021, the Company sold 48,538 shares of its common stock at a weighted average price of $11.37 per share for gross proceeds of approximately $552,000. Share issue costs, including sales agent commissions, totaled approximately $53,000 for the year ended December 31, 2021.

Warrants to Purchase Common Shares

The following table provides a reconciliation of fixed price warrants to purchase shares of the Company's common stock for the years ended December 31, 2022 and 2021:

	Year Ended December 31, 2022		Year Ended December 31, 2021	
	Number of Warrants	Weighted Average Exercise Price	Number of Warrants	Weighted Average Exercise Price
Balance at beginning of period	48,683	$ 12.33	48,683	$ 12.33
Balance and exercisable at end of period	48,683	$ 12.33	48,683	$ 12.33

Pursuant to a credit agreement, the Company issued a warrant to SWK to purchase (i) 40,910 shares of the Company's common stock on March 28, 2018, at an exercise price of $11.00 per share with a seven-year term and (ii) 7,773 shares of the Company's common stock on June 26, 2018, at an exercise price of $19.30 per share with a seven-year term. The weighted average exercise price for the warrants as of December 31, 2023 and 2022 was $12.33 per share. At December 31, 2022 December 31, 2023, the weighted average remaining life of the warrant was approximately 2.3 1.28 years.

12. 11. Share-Based Payment Awards

Equity Incentive Plans

The Prior to June 20, 2023, the Company had authorized the issuance of 5,900,000 shares of the Company's common stock under the 2016 Long-Term Incentive Plan (the 2016 Plan), approved by the Company's stockholders on December 12, 2016 (the Adoption Date), provides for the issuance of up to which 300,000 184,904 shares of the Company's common stock reserved for issuance under the 2016 Plan plus any additional shares of the Company's common stock that were remained available for grant under the 2008 Incentive Plan (the 2008 Plan) at the Adoption Date or would otherwise become available for grant under the 2008 Plan as a result of subsequent termination or forfeiture of awards under the 2008 Plan. future grants.

At the Company's Annual Meeting of Stockholders held on June 25, 2019June 20, 2023, the Company's stockholders approved an amendment the adoption of the 2023 Long Term Incentive Plan (the 2023 Plan) and authorized up to3,500,000 shares of common stock reserved for issuance to participating employees plus the 184,904 shares that remained available for grant under the 2016 Plan to increase upon adoption of the number of 2023 Plan plus any shares authorized that would have otherwise have become available for issuance by 1,100,000 shares. At grant under the Company's Annual Meeting of Stockholders held on June 22, 2021, the Company's stockholders approved an

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amendment to Company's 2008 Plan or the 2016 Plan to increase as a result of termination or forfeiture of awards under such plan. The 2023 Plan replaced the number of shares authorized for issuance by 2,500,000 shares. At the Company's Special Meeting of Stockholders held on November 10, 2022, the Company's stockholders approved an amendment to 2008 Plan and the 2016 Plan to increase the number of shares authorized for issuance by 2,000,000 shares. Plan. At December 31, 2022 December 31, 2023, a total of approximately 2.1 2,274,000 million shares were available for new awards.

awards under the 2023 Plan.

Starting March 2022, the Company also granted non-statutory stock options to new employees as inducement awards to enter into employment with the Company. The grants were approved by the Compensation Committee of the Board of Directors and awarded in accordance with Nasdaq Listing Rule 5635(c)(4). Although not awarded under the 2016 2023 Plan or the 2008 2016 Plan, the grants are subject to and governed by the terms and conditions of the 2016 Plan. plan in effect at the time of the grant.

Stock Options

The following table provides a reconciliation of stock option activity under the Company's equity incentive plans and for inducement awards for the year ended December 31, 2022 December 31, 2023:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands)	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2022	2,517,680	$ 16.49						
Outstanding at January 1, 2023					4,082,555	$ 13.79		
Granted	1,868,400	10.05			2,923,861	4.76		
Exercised	(4,479)	9.20			(260,321)	11.33		
Forfeited	(284,010)	12.91			(385,075)	7.38		
Expired	(15,036)	21.24			(56,253)	26.71		
Outstanding at December 31, 2022	4,082,555	$ 13.79	7.88	$ 20,555				
Exercisable at December 31, 2022	1,567,503	$ 18.54	6.24	$ —				
Outstanding at December 31, 2023					6,304,767	$ 9.98	7.89	$ 85,536
Exercisable at December 31, 2023					2,325,480	$ 15.61	6.31	$ 20,178

The Company has granted stock options with 25% 25% of the option vesting after one year followed by ratable monthly vesting over the remaining three years. Nonemployee awards are granted similar to the Company's employee awards. All option grants have a 10-year term. Options to purchase a total of 732,000 1,128,000 shares of the

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Company's common stock vested during the year ended December 31, 2022. Starting February 2021, the Company (i) ceased vesting ratable monthly over four years and (ii) retained 25% vesting after one year followed by ratable monthly vesting over the remaining three yearsDecember 31, 2023.

In determining the grant date fair value of option awards during the years ended December 31, 2022 December 31, 2023 and 2021, 2022, the Company applied the Black-Scholes option pricing model based on the following key assumptions:

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
Option life (in years)	5.50 - 6.09	4.75 - 6.08	5.27 - 6.08	5.50 - 6.09
Stock volatility	76% - 78%	72% - 83%	78% - 97%	76% - 78%
Risk-free interest rate	1.46% - 4.15%	0.42% - 1.44%	3.44% - 4.68%	1.46% - 4.15%
Expected dividends	0.0%	0.0%	0.0%	0.0%

The following table summarizes information about employee, non-executive director and external consultant stock options for the years ended December 31, 2022 December 31, 2023 and 2021 2022 (in thousands except per share amounts):

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
Weighted average grant date fair value per share	$ 6.79	$ 8.20	$ 3.46	$ 6.79
Total cash received from exercise of stock options	41	100	2,955	41
Total intrinsic value of stock options exercised	14	10	1,970	14

Time-Vested Restricted Stock Units

Time-vested restricted stock units (RSUs) issued to date under the 2016 Plan and the 2023 Plan generally vest on a ratable annual basis over three years. The related stock-based compensation expense is recorded over the requisite service period, which is the vesting period. The fair value of all time-vested RSUs is based on the closing share price of the Company's common stock on the date of grant.

The following table provides a reconciliation of RSU activity under the 2016 Plan and the 2023 Plan for the year ended December 31, 2022 December 31, 2023:

	Number of Restricted Stock Units	Weighted Average Grant Date Fair Value	Number of Restricted Stock Units	Weighted Average Grant Date Fair Value
Nonvested at January 1, 2022	291,575	$ 13.19		
Nonvested at January 1, 2023			509,170	$ 10.81
Granted	415,500	10.06	1,071,354	3.92
Vested	(155,660)	13.25	(201,414)	11.04
Exercised			—	—
Forfeited	(42,245)	10.93	(45,918)	8.60
Nonvested at December 31, 2022	509,170	$ 10.81		
Nonvested at December 31, 2023			1,333,192	$ 5.31

At December 31, 2022 December 31, 2023, the weighted average remaining vesting term of the RSUs was 1.4 1.46 years.

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Employee Stock Purchase Plan

On June 25, 2019, the The Company's stockholders approved the adoption of the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan (the ESPP) and authorized up to 110,000 shares of common stock reserved for issuance to participating employees. At the Company's Annual Meeting of Stockholders held on June 22, 2021, the Company's stockholders approved an amendment to the ESPP to increase the number of shares authorized for issuance by 250,000 shares. The ESPP allows qualified participants to purchase the Company's common stock twice a year at 85% of the lesser of the average of the high and low sales price of the Company's common stock on (i) the first trading day of the relevant offering period and (ii) the last trading day of the relevant offering period. The number of shares of the Company's common stock each employee may purchase under this plan, when combined with all other employee stock purchase plans, is limited to the lower of an aggregate fair market value of $25,000 during each calendar year, or 5,000 shares of the Company's common stock in any one offering period. The Company has maintained consecutive six-month offering periods since August 1, 2019. As of December 31, 2022 During the year ended December 31, 2023, 47,787 107,056 shares of the Company's common stock were issued pursuant to the ESPP.

The Company estimated the fair value of the option component of the ESPP shares at the date of grant using a Black-Scholes valuation model. For the years ended December 31, 2022 December 31, 2023 and 2021, 2022, the compensation expense from ESPP shares was $169,000 0.2 million and $113,000 0.2, million, respectively.

Stock-Based Compensation Expense

The Company's consolidated statements of comprehensive loss included total compensation expense from stock-based payment awards for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively, as follows (in thousands):

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
Compensation expense included in:				
Research and development	$ 6,130	$ 2,294	$ 4,650	$ 6,130
Sales and marketing	1,650	1,187	289	1,650
General and administrative	6,397	3,966	7,118	6,397
Total stock-based compensation expense	$ 14,177	$ 7,447	$ 12,057	$ 14,177

At December 31, 2022 December 31, 2023, there was approximately $10.4 11.1 million of unrecognized compensation expense related to outstanding equity awards under the 2016 2023 Plan, the 2008 2016 Plan, the inducement awards and the ESPP that is expected to be recognized as expense over a weighted average period of approximately 1.6 1.62 years.

13. 12. License and Asset Purchase Agreements

Aerpio Pharmaceuticals, Inc.

In August 2021, the Company entered into an Asset Purchase Agreement with Aerpio Pharmaceuticals, Inc. (Aerpio), pursuant to which Aerpio sold to the Company all of its right, title and interest in and to certain of its patents and patent applications and other intellectual property, including but not limited to patents covering certain human protein tyrosine phosphate inhibitors and methods of use.

In consideration for the rights purchased from Aerpio, the Company made a one time, non-refundable, non-creditable upfront cash payment of $450,000 to Aerpio in August 2021. The Company recorded $0 and $450,000 of R&D expense for the years ended December 31, 2022 and 2021, respectively, due to the early stage of its preclinical drug development activities.

Exclusive License Agreement with Equinox Science, LLC

In February 2020, the Company entered into an Exclusive License Agreement (the Equinox License Agreement) with Equinox, pursuant to which Equinox granted the Company an exclusive, sublicensable, royalty-bearing right and license to certain patents and other Equinox intellectual property to research, develop, make, have made, use, sell, offer for sale and import the compound vorolanib and any pharmaceutical products comprising the compound for local delivery to the eye for the prevention or treatment of age-related macular degeneration, diabetic retinopathy, and retinal vein occlusion using the Company's proprietary localized delivery technologies (the Original Field), in each case, throughout the world except China, Hong Kong, Taiwan, and Macau (the Territory).

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In consideration for the rights granted by Equinox, the Company (i) made a one time, non-refundable, non-creditable upfront cash payment of $1.0 million to Equinox in February 2020, and (ii) agreed to pay milestone payments totaling up to $50 50.0 million upon the achievement of certain development and regulatory milestones, consisting of (a) completion of a Phase II clinical trial for the compound or a licensed product, (b) the filing of an NDA a new drug application or foreign equivalent for the compound or a licensed product in the United States, European Union, or United Kingdom and (c) regulatory approval of the compound or a licensed product in the United States, European Union, or United Kingdom.

The Company also agreed to pay Equinox tiered royalties based upon annual net sales of licensed products in the Company Territory. The royalties are payable with respect to a licensed product in a particular country in the Company Territory on a country-by-country and licensed product-by-licensed product basis until the later of (i) twelve years after the first commercial sale of such licensed product in such country and (ii) the first day of the month following the month in which a generic product corresponding to such licensed product is launched in such country. The royalty rates range from the high-single digits to low-double digits depending on the level of annual net sales. The royalty rates are subject to reduction during certain periods when there is no valid patent claim that covers a licensed product in a particular country.

On May 2, 2022, concurrent with the Company entering into the Betta License Agreement, the Company entered into Amendment #1 to the Equinox License Agreement, pursuant to which the Original Field was expanded to cover the prevention or treatment of ophthalmology indications using the Company's proprietary localized delivery technologies and certain conforming changes were made to the Equinox License Agreement in connection therewith.

No R&D expense was recorded for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively, for this license.

13. Restructuring Charges

Fiscal Year 2023 Restructuring Plan

On May 17, 2023, the Company executed a restructuring plan (the Restructuring Plan) with regard to its commercial operations. The Restructuring Plan is a result of the PRA with Alimera (see Note 3). In connection with the Restructuring Plan, the Company, among other things, downsized its current workforce, with reductions coming primarily from its YUTIQ® sales force and supporting commercial operations. The Company recorded approximately $1.4 million of YUTIQ® sales force personnel and employee severance for discretionary termination benefits during the year ended December 31, 2023, upon notification of the affected YUTIQ® sales force personnel and employees in accordance with ASC 420, *Exit or Disposal Cost Obligations*. The charges of $1.4 million were recognized in the Company's operating results, of which $0.3 million, $0.9 million, and $0.2 million were included in research and development expense, sales and marketing expense and general and administrative expense, respectively.

The Company expects the implementation of the Restructuring Plan will be substantially completed during the first quarter of fiscal year 2024. The charges that the Company expects to incur in connection with the Restructuring Plan are subject to a number of assumptions, and actual results may differ materially.

The following table summarizes the restructuring activities related to the Plan for the year ended December 31, 2023 (in thousands):

	Employee Severance and Benefits
Beginning balance at January 1, 2023	$ —
Restructuring charges	1,405
Cash payments	(1,345)
Ending balance at December 31, 2023	$ 60

14. Fair Value Measurements

The following tables summarize the Company's assets by significant categories carried at fair value measured on a recurring basis at December 31, 2022 December 31, 2023 and 2021, 2022, respectively, by valuation hierarchy (in thousands):

December 31, 2022	December 31, 2023

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	Carrying Value	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	Cash Equivalents	Marketable Securities	Carrying Value	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	Cash Equivalents	Marketable Securities
	December 31, 2021						December 31, 2022					
Level 1:												
Money market funds	$ 1,917	$ —	$ —	$ 1,917	$ 1,917	$ —	$ 270,476	$ —	$ —	$ 270,476	$ 270,476	$ —
Subtotal	$ 1,917	$ —	$ —	$ 1,917	$ 1,917	$ —	$ 270,476	$ —	$ —	$ 270,476	$ 270,476	$ —
Level 2:												
Commercial paper	$ 1,870	$ —	$ —	$ 1,870	$ —	$ 700	$ 19,295	$ 8	$ —	$ 19,303	$ 1,998	$ 17,305
U.S. Treasury securities	3,526	—	(55)	3,471	4,929	30,227	17,762	8	—	17,771	2,990	14,781
U.S. Agency securities							17,694	8	(1)	17,701	—	17,701
Subtotal	$ 5,396	$ —	$ (55)	$ 5,341	$ 4,929	$ 30,927	$ 54,751	$ 24	$ (1)	$ 54,775	$ 4,988	$ 49,787
Total	$ 7,313	$ —	$ (55)	$ 7,258	$ 6,846	$ 30,927	$ 325,227	$ 24	$ (1)	$ 325,251	$ 275,464	$ 49,787

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	Carrying Value	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	Cash Equivalents	Marketable Securities	Carrying Value	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	Cash Equivalents	Marketable Securities
Level 1:												
Money market funds	$ 155,551	$ —	$ —	$ 155,551	$ 155,551	$ —	$ 77,191	$ —	$ —	$ 77,191	$ 77,191	$ —
Subtotal	$ 155,551	$ —	$ —	$ 155,551	$ 155,551	$ —	$ 77,191	$ —	$ —	$ 77,191	$ 77,191	$ —
Level 2:												
Commercial paper	$ 49,514	$ —	$ —	$ 49,514	$ 16,549	$ 32,965	$ 18,701	$ —	$ —	$ 18,701	$ —	$ 18,701
U.S. Treasury securities							35,266	—	(55)	35,211	4,984	30,227
Subtotal	$ 49,514	$ —	$ —	$ 49,514	$ 16,549	$ 32,965	$ 53,967	$ —	$ (55)	$ 53,912	$ 4,984	$ 48,928
Total	$ 205,065	$ —	$ —	$ 205,065	$ 172,100	$ 32,965	$ 131,158	$ —	$ (55)	$ 131,103	$ 82,175	$ 48,928

At December 31, 2022 and 2021, December 31, 2023, a total of $77.2 million and $155.6 270.5 million or 93.9% and 90.4 98.2% of the Company's interest-bearing cash equivalent balances respectively, were concentrated in one institutional money market fund that has investments consisting primarily of Repurchase Agreements, U.S Treasuries, and U.S. Government Agency Debts. The Company had $5.0 million or 1.8% of the Company's interest-bearing cash equivalent balance which consisted of investment-grade Commercial paper and investment-grade U.S. Treasury securities at December 31, 2023.

At December 31, 2022, a total of $77.2 million, or 93.9% of the Company's interest-bearing cash equivalent balances were concentrated in one institutional money market fund that has investments consisting primarily of certificates of deposit, commercial paper, time deposits, Treasury repurchase agreements and U.S. Treasury securities. A total of $5.0 million, and $16.5 million, or 6.1% and 9.6%, of the Company's interest-bearing cash equivalent balances respectively, consisted of investment-grade U.S. Treasury securities and commercial paper, respectively. at December 31, 2022. Generally, these deposits may be redeemed upon demand and, therefore, the Company believes they have minimal risk.

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Marketable securities consist of investments with an original or remaining maturity of greater than three months but less than one year at the date of purchase. The Company had investments of $48.9 million and $33.0 million in marketable securities at December 31, 2022 and 2021, respectively.

The Company's cash equivalents and marketable securities are classified within Level 1 or Level 2 on the basis of valuations using quoted market prices or alternative pricing sources and models utilizing market observable inputs, respectively. The marketable securities have been valued on the basis of valuations provided by third-party pricing services, as derived from such services' pricing models. Inputs to the models may include, but are not limited to, reported trades, executable bid and ask prices, broker/dealer quotations, prices or yields of securities with similar characteristics, benchmark curves or information pertaining to the issuer, as well as industry and economic events. The pricing services may use a matrix approach, which considers information regarding securities with similar characteristics and have been classified as Level 2 to determine the valuation for a security.

The carrying amounts of accounts receivable, accounts payable, and accrued expenses approximate fair value because of their short-term maturity.

The fair value of the Company's CRG Loan is determined using a discounted cash flow analysis based on market rates for observable similar instruments as of the consolidated balance sheet dates. Accordingly, the fair value of the CRG Loan is categorized as Level 2 within the fair value hierarchy. At December 31, 2021, the fair value of the CRG Loan was approximately $ F-2638.7

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million, and the carrying value of the CRG Loan was approximately $38.9 million, and consisted of $36.6 million of its carrying amount as reported in long-term debt, and $2.3 million of debt exit fee as reported in other long-term liabilities on the consolidated balance sheets, respectively. At December 31, 2022, the fair value and the carrying value of the CRG Loan was zero.

The carrying amounts of short-term borrowings and long-term debt under the Company's SVB Loan Agreement approximate the estimated fair value. These borrowings under the Credit Facilities have a variable interest rate structure and are classified as Level 2 within the fair value hierarchy.

Nonrecurring Fair Value Measurements

For the year ended December 31, 2022, the Company recorded impairment charges of $20.7 million related to DEXYCU intangible assets. As a result, the remaining carrying value associated with DEXYCU intangible assets was reduced to zero (see Note 6).

15. Retirement Plans

The Company operates a defined contribution plan intended to qualify under Section 401(k) of the U.S. Internal Revenue Code. Participating U.S. employees may contribute a portion of their pre-tax compensation, as defined, subject to statutory maximums. The Company matches employee contributions up to 5 6% of eligible compensation, subject to a stated calendar year Internal Revenue Service maximum.

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The Company contributed a total of $1.6 million and $1.0 1.6 million for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively, in connection with these retirement plans.

16. Income Taxes

The components of loss before income taxes are as follows (in thousands):

	Year Ended December 31, 2022	Year Ended December 31, 2021	Year Ended December 31, 2023	Year Ended December 31, 2022
U.S. operations	$ (102,354)	$ (58,517)	$ (70,812)	$ (102,354)
Non-U.S. operations	100	100	100	100
Loss before income taxes	$ (102,254)	$ (58,417)	$ (70,712)	$ (102,254)

The difference between A reconciliation of the U.S. federal statutory income tax rate to the Company's expected effective income tax benefit, rate is as computed by applying the blended statutory U.S. federal tax rate of 21% for the year ended December 31, 2022 and 21% for the year ended December 31, 2021, to loss before income taxes, and actual income tax benefit is reconciled in the following table (in thousands): follows:

Year Ended December 31,	Year Ended December 31,	December 31, 2023	December 31, 2022

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	2022	2021		
Income tax benefit at statutory rate	$ (21,473)	$ (12,268)		
Federal statutory income tax rate			21.0 %	21.0 %
State income taxes, net of federal benefit	(5,932)	(2,890)	7.5	5.8
Non-U.S. income tax rate differential	—	—	—	—
Change in fair value of derivative	—	—	—	—
Change in federal tax rate	—	—	—	—
Research and development tax credits	(1,034)	(693)	1.3	1.0
Permanent items	1,514	729	(0.5)	(1.5)
Changes in valuation allowance	26,083	15,748	(30.4)	(25.5)
Other, net	842	(626)	1.0	(0.8)
Income tax benefit	$ —	$ —		
Effective income tax rate			(0.1) %	— %

The significant components of deferred income taxes are as follows (in thousands):

	December 31, 2022	December 31, 2021	December 31, 2023	December 31, 2022
Deferred tax assets:				
Net operating loss carryforwards	$ 88,584	$ 84,026	$ 82,599	$ 88,584
Capitalized R&D	12,226	—	23,652	12,226
Deferred revenue	4,033	4,270	16,196	4,033
Lease liability	1,793	722	1,635	1,793
Stock-based compensation	9,461	7,822	11,720	9,461
Tax credits	6,916	5,446	8,473	6,916
Other	3,433	3,005	3,515	3,433
Total deferred tax assets	126,446	105,291	147,790	126,446
Deferred tax liabilities:				
Intangible assets	—	5,963		
Right-of-use assets	1,650	615	1,361	1,650
Total deferred tax liabilities	1,650	6,578	1,361	1,650
Deferred tax assets, net	124,796	98,713	146,429	124,796
Valuation allowance	124,796	98,713	146,429	124,796
Total deferred tax liability	$ —	$ —	$ —	$ —

Beginning in 2022, the Tax Cuts and Jobs Act of 2017 (TCJA) eliminated the option to deduct research and development expenditures in the current year and requires taxpayers to amortize them over five or fifteen years pursuant to IRC Section 174. During 2022, 2023, the Company capitalized approximately $49.6 57.2 million of research and development expenditures.

The valuation allowance generally reflects limitations on the Company's ability to use the tax attributes and reduces the value of such attributes to the more-likely-than-not realizable amount. Management assessed the available positive and negative evidence to estimate if sufficient taxable income will be generated to use the existing net deferred tax assets. Based on a weighting of the objectively verifiable negative evidence in the form of cumulative operating losses over the three-year period ended December 31, 2020, management believes that it is not more likely than not that the deferred tax assets will be realized and, accordingly, a full valuation allowance has been established. The valuation

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allowance increased $26.1 21.6 million and $15.7 26.1 million for the years ended December 31, 2022 December 31, 2023 and 2021, 2022, respectively, with such increases attributed to the re-measurement of the net deferred tax assets at the year-end dates.

The Company has tax net operating loss and tax credit carry forwards in its individual tax jurisdictions. Including approximately $49.3 million related to the our 2018 acquisition of Icon Acquisition Bioscience, Inc. at December 31, 2022 December 31, 2023, the Company had U.S. federal net operating loss carry forwards of approximately $321.6 296.5 million. The net operating losses consist of $151.8 million, which expire at various dates between calendar years 2023 and 2038 2039. The utilization of certain of these loss and tax credit carry forwards may be limited by Sections 382 and 383 of the Internal Revenue Code as a result of historical or future changes in the Company's ownership. At December 31, 2022 December 31, 2023, the Company had state net operating loss carry forwards of approximately $264.2 254.7 million, which expire between 2033 and 2039 2040, as well as U.S. federal and state research and development tax credit carry forwards of approximately $7.2 8.9 million, which expire at various dates between calendar years 2022 2023 and 2039 2040. In addition, at December 31, 2022 December 31, 2023, the Company had net operating loss carry forwards in the UK of £20.9 million (approximately $25.3 million), which are not subject to any expiration dates.

The Company's U.S. federal income tax returns for calendar years 2003 2014 through 2021 2022remain subject to examination by the Internal Revenue Service. The Company's UK tax returns for fiscal years 2006 through 2021 remain subject to examination.

Through December 31, 2022 December 31, 2023, the Company had no unrecognized tax benefits in its consolidated statements of comprehensive loss and no unrecognized tax benefits in its consolidated balance sheets as of December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

As of December 31, 2022 December 31, 2023 and 2021, 2022, the Company had no accrued penalties or interest related to uncertain tax positions.

17. Contingencies

Legal Proceedings

The Company is subject to various routine legal proceedings and claims incidental to its business, which management believes will not have a material effect on the Company's financial position, results of operations or cash flows.

U.S. Department of Justice Subpoena

In August 2022, the Company received a subpoena from the U.S. Attorney's Office for the District of Massachusetts (DOJ) seeking production of documents related to sales, marketing and promotional practices, including as pertain to DEXYCU® (DOJ Investigation) Subpoena). The Company is cooperating fully with the government in connection with this matter. At this time, the Company is unable to predict the duration, scope or outcome of this matter or whether it could have a material impact on the Company's financial condition, results of operation or cash flow.

18. Segment and Geographic Area Information

Business Segment

The Company operates in one business segment, which is the business of developing and commercializing innovative ophthalmic products for the treatment of eye diseases. Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision maker in making decisions regarding resource allocation and assessing performance. The chief operating decision maker made such decisions and assessed performance at the company Company level, as one segment.

Geographic Area Information

The following table summarizes the Company's revenues and long-lived assets, net by geographic area (in thousands):

Revenues		Long-Lived Assets, Net		Revenues		Long-Lived Assets, Net	
Year Ended	Year Ended			Year Ended	Year Ended		
December 31,	December 31,	December 31,	December 31,	December 31,	December 31,	December 31,	December 31,

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	2022	2021	2022	2021	2023	2022	2023	2022
U.S.	40,48	35,98	1,36					
	$ 1	$ 8	$ 0	$ 476	$ 45,270	$ 40,481	$ 5,251	$ 1,360
China	823	851	—	—	648	823	—	—
UK	100	100	—	—	100	100	—	—
Consolidated	41,40	36,93	1,36					
	$ 4	$ 9	$ 0	$ 476	$ 46,018	$ 41,404	$ 5,251	$ 1,360

19. Related Party Transactions

On December 18, 2023, the Company entered into a consulting agreement with Dr. John Landis who also serves as the Company's Chair of the Science Committee and a member of the Board of Directors (the Board). Pursuant to the terms of the consulting agreement, Dr. Landis is entitled to receive an annual compensation payment of up to $0.6 million in exchange for performing certain research and development services as the Company's interim head of development. On January 5, 2024, pursuant to the consulting agreement, the Company granted Dr. Landis (i) stock options to purchase 20,000 shares of the Company's common stock and (ii) 10,000 of restricted stock units. All equity grants to Dr. Landis vest after one year. He also received the Board stock option award to purchase 25,014 shares of the Company's common stock. The compensation expense related to the consulting agreement recognized by the Company for the year ended December 31, 2023, was immaterial.

The former Chief Executive Officer and current Executive Vice Chair of the Company joined Board is a member of the Board of Directors of Altasciences, Company Inc. (Altasciences) in April 2021. In May 2021, Altasciences acquired the parent company of Calvert Laboratories, Inc. (Calvert Labs), an entity with which the Company conducts business. The Company recorded $1.9 million and $1.7 million of research and development expense in the accompanying consolidated statements of comprehensive loss related to preclinical and analytical services provided by Altasciences for the year years ended December 31, 2022, December 31, 2023 and $1.6 million for the period from May 2021 through December 31, 2021. 2022, respectively. Additionally, the Company recorded amountsaccounts payable of $201,000 0.3 million and $685,000 0.2, million, and prepaid expenses of $752,000 0.5 million and $88,000 0.8 million in the accompanying consolidated balance sheets related to services provided by Altasciences, as of December 31, 2022 December 31, 2023 and 2021, 2022, respectively.

20. Subsequent Events

On January 23, 2023, the Company entered into a lease agreement with V.E. Properties IX, LLC for its new standalone manufacturing facility, including office and lab space located at 600 Commerce Drive, Northbridge, Massachusetts. The new leased premises will consist of approximately 40,000 square feet. The lease includes a lease term of fifteen years and four months, with twooptions to extend the lease term for two additional terms of either five years or ten years at 95% of the then-prevailing fair market rent. The lease term will commence upon the substantial completion of construction to prepare the premises for the Company's intended use, which is currently expected to occur during the second half of 2024, provided, however, that the Company's obligation to pay base rent will begin four months following the commencement of the lease term. The lease will create significant rights and obligations for the Company, including the payment of base rent on monthly basis, of which the Company estimates will total approximately $40.8 million during the initial noncancellable term of the lease (i.e., fifteen years and four months). The Company is responsible for real estate taxes, maintenance, and other operating expenses applicable to the leased premises.F-29

Exhibit 4.5 4.3

DESCRIPTION OF THE REGISTRANT'S SECURITIES
REGISTERED PURSUANT TO SECTION 12 OF THE
SECURITIES EXCHANGE ACT OF 1934

As of the date of the Annual Report on Form 10-K of which this exhibit forms a part, the only class of securities of EyePoint Pharmaceuticals, Inc. ("we," "us" and "our") registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is our common stock, $0.001 par value per share.

COMMON STOCK

The following description of our common stock summarizes provisions of our certificate of incorporation, as amended, our by-laws, as amended, and the Delaware General Corporation Law. For a complete description, refer to our certificate of incorporation, our by-laws and the amendments thereto, which are incorporated by reference as exhibits to the Annual Report on Form 10-K of which this exhibit is a part, and to the applicable provisions of the Delaware General Corporation Law.

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Our certificate of incorporation authorizes us to issue up to 300,000,000 305,000,000 shares, 300,000,00 of which are designated as common stock with a par value of $0.001 per share. As of March 2, 2023, there were 34,301,709 shares of common stock outstanding. The shares of common stock currently outstanding are fully paid and nonassessable.

On December 8, 2020, we effected a 1-for-10 reverse split of shares of our common stock. All share and per share data in the following description of our securities gives effect to the reverse stock split.

Rights

Voting Rights. Holders of shares of our common stock are entitled to one vote for each share held of record on all matters to be voted on by stockholders, including the election of directors. When a quorum is present at any meeting, a plurality of the votes properly cast for election to any office shall elect to such office and a majority of the votes properly cast upon any question other than an election to an office shall decide the question, except when a larger vote is required by law, by our certificate of incorporation or by our by-laws.

Our certificate of incorporation and by-laws do not provide for cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose.

Dividends. Subject to the preferences that may be applicable to any then outstanding preferred stock, the holders of our outstanding shares of common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

Liquidation Rights. In the event of our liquidation, dissolution or winding up, holders of our common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities, subject to the satisfaction of any liquidation preference granted to the holders of any outstanding shares of preferred stock.

Other Rights and Preferences. The terms of our common stock do not include any preemptive, conversion or subscription rights, nor any redemption or sinking fund provisions. The common stock is not subject to future calls or assessments by us.

Preferred Stock. Our board of directors is authorized to issue up to 5,000,000 shares of preferred stock in one or more series, with such rights, preferences and privileges as shall be determined by our board of directors. The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of shares of any series of our preferred stock that we may classify and issue in the future.

Registration Rights.

On March 28, 2018, we entered into (i) a Securities Purchase Agreement, or the First Tranche Securities Purchase Agreement, with EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P., or collectively, the First Tranche Investors, pursuant to which we offered and sold to such investors an aggregate of 860,632 shares of our common stock, or the First Tranche Transaction, and (ii) a Second Securities Purchase Agreement, or the Second Tranche Securities Purchase Agreement, with the First Tranche Investors and certain other accredited investors signatory thereto, or the Second Tranche Investors, pursuant to which we sold to such investors an aggregate of 2,018,422 units, with each unit consisting of (a) one share of our common stock and (b) one warrant to purchase a share of our common stock, or the Second Tranche Transaction. In connection with the First Tranche Transaction, we entered into a Registration Rights Agreement with the First Tranche Investors with respect to the shares issued to the First Tranche Investors. In connection with the closing of the Second Tranche Transaction, we entered into a Second Registration Rights Agreement with the Second Tranche Investors with respect to the shares of common stock underlying the units. In addition, pursuant to the terms of that certain warrant, or the SWK Warrant, issued to SWK Funding LLC, or the Agent, we granted the Agent certain registration rights with respect to an aggregate of 48,683 shares of our common stock issuable upon the exercise of the SWK Warrant. A registration statement relating to such shares was filed with the Securities and Exchange Commission, or the SEC, on July 25, 2018 and declared effective by the SEC on November 1, 2018.

On December 31, 2020, or the Ocumension Closing Date, we entered into a Share Purchase Agreement, or the Share Purchase Agreement, with Ocumension Therapeutics, incorporated in the Cayman Islands with limited liability, or Ocumension, pursuant to which we offered and sold to Ocumension 3,010,722 shares of our common stock at a purchase price of $5.2163 per share, or the Ocumension Transaction. Pursuant to the Share Purchase Agreement, we were required, within 45 days following the Ocumension Closing Date, to file a shelf registration statement with the SEC registering for resale the shares of our common stock issued to Ocumension in the Ocumension Transaction, and use commercially reasonable efforts to cause such shelf registration statement to be declared effective by the SEC within 120 days following the Ocumension Closing Date. A registration statement relating to such shares was filed with the SEC on February 12, 2021.

Director Nomination Rights.

Per the terms of the First Tranche Securities Purchase Agreement, the First Tranche Investors have the right, subject to certain customary limitations and restrictions, to nominate one individual to our board of directors for so long as they beneficially own shares of our common stock. Mr. Ron Eastman, a Managing Director of EW Healthcare Partners, which is an affiliate of both of the First Tranche Investors was appointed to our board of directors, as the designee of the First Tranche Investors pursuant to the First Tranche Securities Purchase Agreement.

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Per the terms of the Second Tranche Securities Purchase Agreement, the First Tranche Investors have the right, subject to certain customary limitations and restrictions, to nominate one individual to our board of directors for so long as they beneficially own shares of our common stock. Dr. Göran Ando, Senior Advisor to EW Healthcare Partners, which is an affiliate of both of the First Tranche Investors, was appointed to our board of directors as the designee of the First Tranche Investors pursuant to the Second Tranche Securities Purchase Agreement.

Per the terms of that certain Voting and Investor Rights Agreement, dated December 31, 2020, with Ocumension and the First Tranche Investors, or the Voting Agreement, for so long as Ocumension owns a number of shares of our common stock equal to at least 75% of the shares of our common stock it acquired on the Ocumension Closing Date, and subject to compliance with applicable law and our guidelines with respect to the nomination of directors, Ocumension is entitled to designate for nomination one person, or the Ocumension Designee, to serve as a member of our board of directors, the Science Committee of our board of directors and certain other ad-hoc committees of our board of directors. Notwithstanding the foregoing, in accordance with Nasdaq Listing Rule 5640, Ocumension will not be entitled to designate for nomination any person to serve as a member of our board of directors if, at any time, Ocumension owns a number of shares of our common stock representing less than 5% of the shares of our common stock outstanding. Pursuant to the Voting Agreement, for so long as the First Tranche Investors beneficially own at least 10% of the outstanding shares of our common stock, the

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First Tranche Investors agreed to vote in favor of the Ocumension Designee at each election of our board of directors. Mr. Ye Lie, the Chief Executive Officer of Ocumension, was appointed to our board of directors as the Ocumension Designee pursuant to the Voting Agreement.

Participation Rights. Per the terms of the Share Purchase Agreement, for so long as Ocumension owns a number of shares of our common stock equal to at least 75% of the shares of our common stock it acquired on the Ocumension Closing Date, Ocumension is entitled to participate in subsequent issuances of our equity securities in order to maintain its ownership percentage, subject to certain exceptions for, among other things, the issuance of equity awards pursuant to equity incentive plans, inducement awards and/or employee stock purchase plans and the issuance of shares of our common stock pursuant to "at-the-market" equity offering programs. Any participation rights granted to Ocumension in the Share Purchase Agreement would be effected via a separate private placement.

Additional Voting Rights. Per the terms of the Voting Agreement, Ocumension and the First Tranche Investors agreed that, for so long as such investor owns a number of shares equal to at least 75% of the shares of our common stock it owns on the Ocumension Closing Date, at any meeting of our stockholders, however called, or at any adjournment thereof, or in any other circumstances in which Ocumension or the First Tranche Investors, as applicable, are entitled to vote, consent or give any other approval, except as otherwise agreed to in writing in advance by us, Ocumension and the First Tranche Investors shall (a) appear at each such meeting or otherwise cause the shares of our common stock owned by such investor or their respective affiliates to be counted as present thereat for purposes of calculating a quorum; and (b) vote (or cause to be voted), in person or by proxy, all such shares of our common stock that are beneficially owned by such investor or as to which such investor has, directly or indirectly, the right to vote or direct the voting, (i) in favor of any proposals recommended by our board of directors for approval; and (ii) against any proposals that our board of directors recommends our stockholders vote against; provided, however, that the foregoing does not apply to meetings or proposals that are inconsistent with the investor's rights and obligations under certain agreements between the applicable investor and us.

Anti-Takeover Effects of Our Certificate of Incorporation and By-laws and Delaware Law

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Exhibit 4.3

Certificate of Incorporation and By-laws. Provisions of our certificate of incorporation and by-laws may delay or discourage transactions involving an actual or potential change of control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares, or transactions that our stockholders might otherwise deem to be in their best interests. Among other things, our certificate of incorporation and our by-laws:

- permit our board of directors to issue up to 5,000,000 shares of preferred stock, with any rights, preferences and privileges as it may designate, which issuance could result in the loss of voting control by other stockholders;

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d stock, with any rights, preferences and privileges as it may designate, which issuance could result in the loss of voting control by other stockholders;

- provide that all vacancies on our board of directors, including as a result of newly created directorships, may, except as otherwise required by law, be filled only by the affirmative vote of a majority of directors then in office, even if less

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than a quorum;
• provide that, stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide advance notice in writing, and also specify requirements as to the form and content of a stockholder's notice;
• do not provide for cumulative voting rights, thereby allowing

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the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election; and

- provide that special meetings of our stockholders may be called only by the (i) the chairperson of the board; (ii) the president of our company; or (iii) a majority of the members of our board of directors then in office.

- provide that all vacancies on our board of directors, including as a result of newly created directorships, may, except as otherwise required by law, be filled only by the affirmative vote of a majority of directors then in office, even if less than a quorum;

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- provide that, stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide advance notice in writing, and also specify requirements as to the form and content of a stockholder's notice;
- do not provide for cumulative voting rights, thereby allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election; and
- provide that special meetings of our stockholders may be called only by the (i) the chairperson of the board; (ii) the president of our company; or (iii) a majority of the members of our board of directors then in office.

Section 203 of the Delaware General Corporation Law. We are subject to the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a three-year period following the time

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that this stockholder becomes an interested stockholder, unless the business combination is approved in a prescribed manner. Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- the interested stockholder owned at least 85% of the voting stock of the corporation outstanding upon consummation of the transaction, excluding for purposes of determining the number of shares outstanding (1) shares owned by persons who are directors and also officers and (2) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

• prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- • the interested stockholder owned at least 85% of the voting stock of the corporation outstanding upon consummation of the transaction, excluding for purposes of determining the number of shares outstanding (1) shares owned by persons who are directors and also officers and (2) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

• on or subsequent to the consummation of the transaction, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66-2/3% of the outstanding voting stock which is not owned by the interested stockholder.

Section 203 defines a business combination to include:

- any merger or consolidation involving the corporation and the interested stockholder;

• any merger or consolidation involving the corporation and the interested stockholder;

- any sale, transfer, lease, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;
- subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;

• any sale, transfer, lease, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;

- subject to exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; and
- • subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
  • subject to exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; and

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Exhibit 4.3

• the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

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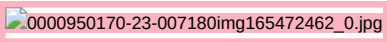
Listing

Our shares of common stock are listed for trading on the Nasdaq Global Market under the symbol "EYPT."

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A.

Exhibit 10.14



EMPLOYMENT AGREEMENT

This Employment Agreement (hereinafter the "Agreement") is made as of January 3, 2023 (the "Effective Date"), by and between **Dario Paggiarino, M.D.,** who currently resides at xxx("Employee") and **EyePoint Pharmaceuticals, Inc.** (hereinafter together with its subsidiaries, and related or affiliated entities referred to as the "Company"), having its headquarters at 480 Pleasant Street, Suite C-400, Watertown, Massachusetts 02472 (collectively the "Parties").

Recitals

WHEREAS, Employee serves as the Chief Development & Medical Officer of the Company;

WHEREAS, Employee has previously entered into an Employment Agreement with the Company, as amended to the date hereof (the "Existing Agreement"); and

WHEREAS, the Company desires to enter into a new employment agreement with Employee to ensure that Employee is retained on a full-time basis in accordance with the terms and conditions set forth herein.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Company and Employee hereby agree as follows:

1. Position, Duties and Place of Employment.

(a) Employee will be employed by the Company pursuant to this Agreement on a full-time basis, effective as of the Effective Date, and will serve as the Chief Development & Medical Officer, reporting to the President and Chief Operating Officer of the Company. This is an exempt position. During Employee's employment, Employee may be asked from time to time to serve as a director or officer of one or more of the Company's subsidiaries, in each case, without further compensation. If Employee's employment with the Company terminates for any reason, then concurrently with such termination, Employee will be deemed to have resigned from any director,

officer, trustee, or other positions Employee may hold with the Company, the Company's subsidiaries, or any of their respective related committees, trusts, or other similar entities, in each case unless otherwise agreed in writing by the Company and Employee.

(b) Employee agrees to perform the duties of Employee's position and such other duties as may reasonably be assigned to Employee consistent therewith from time to time. Employee also agrees that, while employed by the Company, Employee will devote Employee's full business time and best efforts, business judgment, skill and knowledge exclusively to the advancement of the business interests of the Company and to the discharge of all assigned duties and responsibilities for them. This does not preclude Employee from serving on Advisory and Corporate Boards, so long as doing so does not conflict or interfere with (i) the performance of Employee's duties and responsibilities pursuant to this Agreement or (ii) the advancement of the Company's business interests to the best of Employee's ability.

(c) Employee agrees that, while employed by the Company, Employee will comply with all Company policies, practices and procedures and all codes of ethics or business conduct applicable to Employee's position, as in effect from time to time.

(d) Employee shall, subject to reasonable business travel, perform Employee's duties and responsibilities hereunder on a remote basis from Employee's personal residence. Employee acknowledges and agrees that Employee may be required to travel from time to time for business reasons.

2. Compensation and Benefits. During Employee's employment, as compensation for all services performed by Employee for the Company and its subsidiaries and subject to Employee's full performance of Employee's obligations hereunder, the Company will provide Employee the following pay and benefits:

(a) Base Salary. The Company will pay Employee a base salary at the rate of Four Hundred Seventy-Eight Thousand Thirty-Five Dollars ($478,035) per year, payable in accordance with the regular payroll practices of the Company (as may be adjusted, from time to time, the "Base Salary").

(b) Bonus Compensation. For each fiscal year completed during Employee's employment under this Agreement, Employee will be eligible for an annual cash bonus. Employee's target bonus will be 45% of the Base Salary (the "Target Bonus"), with the actual amount of any such bonus being determined by the Board of Directors of the Company (the "Board") in its sole discretion, based on Employee's performance and that of the Company against goals established by the Board and consistent with any applicable plan or program documents and generally applicable Company policies. Except as otherwise expressly provided in Section 4 hereof, Employee must be employed through the date a bonus is paid in order to earn the bonus. If Employee's employment terminates, for any reason, prior to payout of the bonus, the bonus is not earned.

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(c) Participation in Employee Benefit Plans. Employee will be entitled to participate in the Company's employee benefit plans in effect for employees of the Company generally,

except to the extent such plans are duplicative of benefits otherwise provided Employee under this Agreement (e.g., a severance pay plan). Employee's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies, as the same may be in effect from time to time, and any other restrictions or limitations imposed by law.

(d) Vacations. Employee will be entitled to four (4) weeks of vacation per year, in addition to holidays observed by the Company. Vacation will accrue monthly on a pro-rated basis. Vacation may be taken at such times and intervals as Employee shall determine, subject to the business needs of the Company. Vacation shall otherwise be subject to the policies of the Company, as in effect from time to time.

(e) Business Expenses. The Company will pay or reimburse Employee for all reasonable business expenses incurred or paid by Employee in the performance of Employee's duties and responsibilities for the Company, subject to any maximum annual limit and other restrictions on such expenses set by the Company and to such reasonable substantiation and documentation as may be specified from time to time. Employee's right to payment or reimbursement for business expenses hereunder shall be subject to the following additional rules: (i) the amount of expenses eligible for payment or reimbursement during any calendar year shall not affect the expenses eligible for payment or reimbursement in any other calendar year, (ii) payment or reimbursement shall be made not later than December 31 of the calendar year following the calendar year in which the expense or payment was incurred, and (iii) the right to payment or reimbursement is not subject to liquidation or exchange for any other benefit.

3. Termination of Employment. Employee's employment under this Agreement shall continue until terminated pursuant to this Section 3.

(a) By the Company for Cause. The Company may terminate Employee's employment for Cause upon notice to Employee setting forth in reasonable detail the nature of the Cause. The following, as determined by the Board in its reasonable, good faith judgment, shall constitute "Cause" for termination: (i) material or willful failure to perform duties reasonably expected and/or requested of Employee (other than by reason of disability) if not cured within 30 days of written notice of such failure; (ii) material breach of this Agreement or any other agreement between Employee and the Company, including but not limited to any Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement if not cured within 30 days of written notice of such breach; (iii) commission of, or plea of nolo contendere to, a felony or other crime involving moral turpitude; (iv) commission of fraudulent or illegal act in performance of Employee's duties or otherwise with respect to the Company; (v) failure to adhere to moral and ethical business principles consistent with the Company's Code of Business Conduct and/or policies in effect from time to time; (vi) engaging in an act or series of acts constituting misconduct resulting in a misstatement of the Company's financial statements due to material non-compliance with any financial reporting requirement within the meaning of Section 304 of the Sarbanes-Oxley Act of 2002; or (vii) other conduct that is or could reasonably be expected to be harmful to the interests or reputation of the Company.

(b) By the Company Without Cause. The Company may terminate Employee's employment at any time other than for Cause upon thirty (30) days' notice to employee.

(c) By Employee for Good Cause. Employee may terminate Employee's employment for Good Cause by (A) providing notice to the Company specifying in reasonable detail the condition giving rise to the Good Cause no later than the thirtieth (30th) day following Employee's first becoming aware of such event or condition; (B) providing the Company a period of (30) days to remedy the event or condition; and (C) providing written notice to the Company terminating Employee's employment for Good Cause within fifteen (15) days following the expiration of the period to remedy if the Company fails to remedy the condition. The following, if occurring without Employee's consent, shall constitute "Good Cause" for termination by Employee: (i) a material diminution in the nature or scope of Employee's position, duties, or authority (other than temporarily while Employee is physically or mentally incapacitated to such a degree that Employee would be eligible for disability benefits under the Company's disability income plan or as required by applicable law); (ii) a material reduction in the Base Salary or the Target Bonus percentage; (iii) a material breach by the Company of this Agreement; or (iv) a requirement by the Company that Employee relocate to a location more than forty (40) miles from Employee's then-current remote office location.

(d) By Employee Without Good Cause. Employee may terminate Employee's employment at any time without Good Cause upon thirty (30) days' notice to the Company. The Board may elect to waive such notice period or any portion thereof; but in that event, the Company shall pay Employee the Base Salary for that portion of the notice period so waived.

(e) Death and Disability. Employee's employment hereunder shall automatically terminate in the event of Employee's death during employment. In the event Employee becomes disabled during employment and, as a result, is unable to continue to perform substantially all of Employee's duties and responsibilities under this Agreement, either with or without reasonable accommodation, the Company will continue to pay Employee the Base Salary and to provide Employee benefits in accordance with Section 2(c) above, to the extent permitted by plan terms, for up to twelve (12) weeks of disability during any period of three hundred sixty-five (365) consecutive calendar days. If Employee is unable to return to work after twelve (12) weeks of disability, the Company may terminate Employee's employment, upon notice to Employee. If any question shall arise as to whether Employee is disabled to the extent that Employee is unable to perform substantially all of Employee's duties and responsibilities for the Company and its subsidiaries, Employee shall, at the Company's request, submit to a medical examination by a physician selected by the Company to whom Employee or Employee's guardian, if any, has no reasonable objection to determine whether Employee is so disabled, and such determination shall for purposes of this Agreement be conclusive of the issue. If such a question arises and Employee fails to submit to the requested medical examination, the Company's determination of the issue shall be binding on Employee.

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4. Other Matters Related to Termination.

(a) Final Compensation. In the event of termination of Employee's employment with the Company, howsoever occurring, the Company shall pay Employee (i) the Base Salary for the

final payroll period of Employee's employment, pro-rated through the date that Employee's employment terminates; (ii) compensation at the rate of the Base Salary for any accrued, unused vacation time; and (iii) reimbursement, in accordance with Section 2(e) hereof, for business expenses incurred by Employee but not yet paid to Employee as of the date Employee's employment terminates; provided Employee submits all expenses and supporting documentation required within sixty (60) days of the date Employee's employment terminates, and provided further that such expenses are reimbursable under Company policies as then in effect (all of the foregoing, "Final Compensation"). Except as otherwise provided in Section 4(a)(iii), Final Compensation will be paid to Employee within thirty (30) days following the date of termination (or such shorter period required by law).

(b) Severance Payments. Subject to Section 4(c) below, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, the Company will pay Employee, in addition to Final Compensation, (i) the Base Salary for the period of twelve (12) months from the date of termination; (ii) the Target Bonus for the calendar year in which Employee's employment terminates, pro-rated through the date that Employee's employment terminates; (iii) one (1) times the Target Bonus; in cases (i), (ii) and (iii), payable in equal installments during the period of Base Salary continuation under clause (i); and (iv) provided Employee timely elects continuation coverage for Employee and Employee's eligible dependents under the federal law known as "COBRA" or similar state law, a monthly amount that equals the portion of the monthly health premiums paid by the Company on Employee's behalf and that of Employee's eligible dependents immediately preceding the date that Employee's employment terminates until the earlier of (A) the last day of the period of Base Salary continuation under clause (i) and (B) the date that Employee and Employee's eligible dependents become ineligible for COBRA coverage to the extent permissible by law and plan terms. The severance payments described in clauses (i) through (iv) above are referred to as the "Severance Payments". In addition, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, any unvested equity awards held by Employee as of immediately prior to Employee's termination of employment that would have vested as of the first anniversary of the date of Employee's termination of employment had Employee remained in continuous employment with the Company or any subsidiary through such first anniversary will vest upon Employee's termination of employment and any such equity awards that are subject to exercise shall remain exercisable until the earlier of three (3) months following the date of Employee's termination of employment and the last day of the option term (the "Equity Acceleration").

(c) Change of Control Severance Payments. In the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, in each case within sixty (60) days prior to, or within eighteen (18) months following, the occurrence of a Change of Control (the "Change of Control Period"), the Company will pay Employee, in addition to Final Compensation and in lieu of the Severance Payments and the Equity Acceleration set forth in Section 4(b) above, (i) the Base Salary for the period of eighteen (18) months from the date of termination; (ii) the Target Bonus for the calendar year in which Employee's employment terminates, pro-rated through the date that Employee's employment terminates; (iii) one and one-half (1.5) times the Target Bonus; in cases (i), (ii) and (iii), payable in a lump sum; and (iv) provided Employee timely elects continuation coverage for Employee and Employee's eligible dependents under the federal law known as "COBRA" or similar state law, a monthly amount that equals the portion of the monthly health premiums paid by the Company on Employee's behalf

and that of Employee's eligible dependents immediately preceding the date that Employee's employment terminates until the earlier of (A) the end of the eighteen (18) month period immediately following the date of termination and (B) the date that Employee and Employee's eligible dependents become ineligible for COBRA coverage to the extent permissible by law and plan terms. The severance payments described in clauses (i) through (iv) above are referred to as the "Change of Control Severance Payments". In addition, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, in each case during the Change in Control Period, all of Employee's then-outstanding equity awards shall immediately accelerate and vest in full upon such termination of employment and any such equity awards that are subject to exercise shall remain exercisable until the earlier of three (3) months following the date of Employee's termination of employment and the last day of the option term (the "Change of Control Equity Acceleration").

(d) Conditions to and Timing of Severance Payments. Any obligation of the Company to provide Employee the Severance Payments and the Equity Acceleration, or the Change of Control Severance Payments and the Change of Control Equity Acceleration, as applicable, is conditioned, however, on Employee's cooperation in the transition of Employee's duties and Employee's execution, return to the Company, and non-revocation of a Severance Agreement and General Release acceptable to the Company, which shall include a release of all claims against the Company, all affiliated and related entities, and/or persons deemed necessary by the Company (the "Release"). The Release may also include Confidentiality, Non-Disparagement, No-Reapply, Tax Indemnification, and/or other appropriate terms. Employee shall not be entitled to receive the Severance Payments and the Equity Acceleration, or the Change of Control Severance Payments and the Change of Control Equity Acceleration, as applicable, unless Employee executes and returns the Release to the Company, and such Release becomes effective and non-revocable, within sixty (60) days following Employee's termination of employment (or such shorter period provided for in the Release). Unless otherwise provided by this Agreement, the first payment of the Severance Payment or the Change of Control Severance Payment, as applicable, will be made on the Company's next regular payday following the effective date of the Release; but that first payment shall include all amounts accrued retroactive to the day following the date Employee's employment terminated. Notwithstanding anything contained herein to the contrary, in the event that the period during which

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Employee may review and revoke the Release begins in one calendar year and ends in the following calendar year, any severance payments hereunder that constitute non-qualified deferred compensation subject to Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), shall be paid to Employee no earlier than January 1 of the second calendar year.

(e) Benefits Termination. Except as provided in Sections 4(b) and (c) above or under COBRA, Employee's participation in all employee benefit plans shall terminate in accordance with the terms of the applicable benefit plans based on the date of termination of Employee's employment, without regard to any continuation of the Base Salary or other payment to Employee following termination and Employee shall not be eligible to earn vacation or other paid time off following the termination of Employee's employment.

(f) Assistance in Litigation. Employee agrees to reasonably cooperate with the Company in the defense or prosecution of any claims or actions that relate to events or occurrences that transpired while Employee is or was employed by the Company. Employee's cooperation

includes, but is not limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company as requested at mutually convenient times. Employee's cooperation also includes fully cooperating with the Company in connection with any investigation or review by any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while Employee is or was employed by the Company.

(g) Survival. Provisions of this Agreement shall survive any termination of employment if so provided in this Agreement or if necessary or desirable to accomplish the purposes of other surviving provisions, including without limitation Employee's obligations under Section 4. The obligation of the Company to make payments to Employee under Section 4, are expressly conditioned upon continued full performance of Employee's obligations under Section 4 hereof. Upon termination by either Employee or the Company, all rights, duties and obligations of Employee and the Company to each other shall cease, except as otherwise expressly provided in this Agreement.

5. Timing of Payments and Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, if at the time Employee's employment terminates, Employee is a "specified employee," as defined below, any and all amounts payable under this Agreement on account of such separation from service that would (but for this provision) be payable within six (6) months following the date of termination, shall instead be paid on the next business day following the expiration of such six (6) month period or, if earlier, upon Employee's death; except (A) to the extent of amounts that do not constitute a deferral of compensation within the meaning of Treasury regulation Section l.409A-1(b) (including without limitation by reason of a short-term deferral or the safe harbor set forth in Section l.409A l (b)(9)(iii), as determined by the Company in its reasonable good faith discretion); (B) benefits which qualify as excepted welfare benefits pursuant to Treasury regulation Section l.409Al(a)(5); or (C) other amounts or benefits that are not subject to the requirements of, or satisfy an exception from treatment as deferred compensation under, Section 409A. For purposes of this Agreement, all references to "termination of employment" and correlative phrases shall be construed to require a "separation from service" (as defined in Section l.409A-l(h) of the Treasury regulations after giving effect to the presumptions contained therein), and the term "specified employee" means an individual determined by the Company to be a specified employee under Treasury regulation Section l.409A-l(i).

(b) Each payment made under this Agreement shall be treated as a separate payment and the right to a series of installment payments under this Agreement is to be treated as a right to a series of separate payments.

(c) In no event shall the Company have any liability relating to the failure or alleged failure of any payment or benefit under this Agreement to comply with, or be exempt from, the requirements of Section 409A.

6. Definitions. For purposes of this Agreement, the term "Change of Control" means:

(a) The acquisition by any Person (defined for purposes of this definition as any individual, entity or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act of 1934, as amended ("Exchange Act")) of beneficial ownership (within the meaning of *Rule* 13d-3 promulgated under the Exchange Act) of 35% or more of the common stock of the Company; provided, however, that for purposes of this subsection (a), an acquisition shall not constitute a Change of Control if it is: (i) either by or directly from the Company, or by an entity controlled by the Company, (ii) by any employee benefit plan, including any related trust, sponsored or maintained by the Company or an entity controlled by the Company ("Benefit Plan"), or (iii) by an entity pursuant to a transaction that complies with clauses (i), (ii) and (iii) of subsection (c) below; or

(b) Individuals who, as of the effective date of this Agreement, constitute the Board (together with the individuals identified in the proviso to this subsection (b), the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the effective date of this Agreement whose election, or nomination for election by the Company's stockholders, was approved by at least a majority of the directors then comprising the Incumbent Board shall be treated as a member of the Incumbent Board unless he or she assumed office as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation involving the Company, or a sale or other disposition of all or substantially all of the assets of the Company (a "Transaction"), in each case unless, following such Transaction, (i) all or substantially all of the Persons who were the beneficial owners of the common stock of the Company outstanding immediately prior to such Transaction beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities of the entity resulting from such Transaction (including, without limitation, an entity that as a result of such Transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Transaction, of the outstanding common stock of the Company, (ii) no Person (excluding any entity or wholly-owned subsidiary of any entity resulting from such Transaction or any Benefit Plan

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of the Company or such entity or wholly-owned subsidiary of such entity resulting from such Transaction) beneficially owns, directly or indirectly, 35% or more of the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the transaction and (iii) at least a majority of the members of the board of directors or similar board of the entity resulting from such Transaction were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Transaction; or

(d) Approval by the stockholders of the Company of a liquidation or dissolution of the Company.

7. Conflicting Agreements. Employee hereby represents and warrants that the signing of this Agreement and the performance of Employee's obligations under it will not breach or be in conflict with any other agreement to which Employee is a party or is bound, and that Employee is

not subject to any covenants against competition or similar covenants or any court order that could affect the performance of Employee's obligations under this Agreement. Employee agrees that Employee will not disclose to or use on behalf of the Company any confidential or proprietary information of a third party without that party's consent.

8. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

9. Assignment. Neither Employee nor the Company may make any assignment of this Agreement or any interest in it, by operation of law or otherwise, without the prior written consent of the other; provided, however, the Company may assign its rights and obligations under this Agreement without Employee's consent to one of its subsidiaries or to any individual, corporation, limited liability company, association, partnership, estate, trust or any other entity or organization with whom the Company shall hereafter effect a reorganization, consolidate or merge, or to whom the Company shall hereafter transfer all or substantially all of its properties or assets. This Agreement shall inure to the benefit of and be binding upon Employee and the Company, and each of its respective successors, executors, administrators, heirs and permitted assigns.

10. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. Miscellaneous. This Agreement sets forth the entire agreement between Employee and the Company, and replaces all prior and contemporaneous communications, agreements and understandings, written or oral, with respect to the terms and conditions of Employee's employment, including, without limitation, the Existing Agreement, other than the **Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement**,dated January 3, 2023, a copy of which is attached as **Exhibit A** and incorporated herein by reference. This Agreement may not be modified or amended, and no breach shall be deemed to be waived, unless agreed to in writing by Employee and an expressly authorized representative of the Board.

12. Notice. Any notice required to, or permitted to, be given under this agreement shall be sufficient if in writing (a) delivered personally, (b) sent by first class certified mail, return receipt requested, postage and fees pre-paid, or (c) sent by prepaid overnight delivery service, to the Parties at the following addresses (or at such other addresses as shall be specified by the Parties in a like notice):

If to Company: EyePoint Pharmaceuticals, Inc.
480 Pleasant Street
Suite C-400
Watertown, MA 02472
Attention: Jennifer Leonard, Chief People Officer & SVP, IT

If to Employee: Dario Paggiarino, M.D.
xxx

All notices shall be deemed to have been given upon receipt if delivered personally, or by recognized overnight courier, or five (5) days after mailing if mailed.

13. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. Any claim arising out of, or relating to this Agreement including, without limitation, any action commenced by the Company for preliminary and permanent injunctive relief or other equitable relief, shall be instituted in any federal or state court in the Commonwealth of Massachusetts. Each party agrees not to assert by way of motion, as a defense or otherwise, in any such claim, that such party is not subject personally to the jurisdiction of such court, that the claim is brought in an inconvenient forum, that the venue of the claim is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party further irrevocably submits to the exclusive jurisdiction of such court in any such claim.

Any and all service of process and any other notice in any such claim shall be effective against any party if given personally or by registered mail, return receipt requested, mailed to such party as provided herein. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by law.

14. Usage. All pronouns and any variations thereof shall be considered to refer to the masculine, feminine or neuter, singular or plural, as the context may require. All terms defined in the Agreement in their singular or plural forms have correlative meanings when used herein in their

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singular or plural forms, respectively. Unless otherwise expressly provided the words “include” “includes” and “including” do not limit the preceding words or terms and shall be deemed followed by the words “without limitation.”

15. **Headings**. The headings in this Agreement are for reference only, and shall not affect the interpretation of this Agreement.

16. **Counterparts**. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts, together shall constitute one, and the same, instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above. MACROBUTTON DocID \\4136-9651-6430 v2

EyePoint Pharmaceuticals, Inc. Employee

By: /s/ Jennifer Leonard /s/ Dario Paggiarino

Jennifer Leonard Dario Paggiarino, M.D.

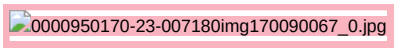
Chief People Officer & SVP, IT

Date: 01/03/2023 Date: 01/03/2023

EXHIBIT A

Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement

Exhibit 10.19 10.17



EMPLOYMENT AGREEMENT

This Employment Agreement (hereinafter the “Agreement”) is made as of January 3, 2023 (the “Effective Date”), by and between **Michael Pine**, who currently resides at xxx(“Employee”) and **EyePoint Pharmaceuticals, Inc.** (hereinafter together with its subsidiaries, and related or affiliated entities referred to as the “Company”), having its headquarters at 480 Pleasant Street, Suite C-400, Watertown, Massachusetts 02472 (collectively the “Parties”).

Recitals

WHEREAS, Employee serves as the Chief Corporate Development & Strategy Officer of the Company;

WHEREAS, Employee has previously entered into an Employment Agreement with the Company, as amended to the date hereof (the “Existing Agreement”); and

WHEREAS, the Company desires to enter into a new employment agreement with Employee to ensure that Employee is retained on a full-time basis in accordance with the terms and conditions set forth herein.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Company and Employee hereby agree as follows:

1. **Position, Duties and Place of Employment.**

(a) Employee will be employed by the Company pursuant to this Agreement on a full-time basis, effective as of the Effective Date, and will serve as the Chief Corporate Development & Strategy Officer, reporting to the Chief Executive Officer of the Company. This is an exempt position. During Employee's employment, Employee may be asked from time to time to serve as a director or officer of one or more of the Company's subsidiaries, in each case, without further compensation. If Employee’s employment with the Company terminates for any reason, then concurrently with such termination, Employee will be deemed to have resigned from any director,

officer, trustee, or other positions Employee may hold with the Company, the Company’s subsidiaries, or any of their respective related committees, trusts, or other similar entities, in each case unless otherwise agreed in writing by the Company and Employee.

(b) Employee agrees to perform the duties of Employee’s position and such other duties as may reasonably be assigned to Employee consistent therewith from time to time. Employee also agrees that, while employed by the Company, Employee will devote Employee’s full business

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time and best efforts, business judgment, skill and knowledge exclusively to the advancement of the business interests of the Company and to the discharge of all assigned duties and responsibilities for them. This does not preclude Employee from serving on Advisory and Corporate Boards, so long as doing so does not conflict or interfere with (i) the performance of Employee's duties and responsibilities pursuant to this Agreement or (ii) the advancement of the Company's business interests to the best of Employee's ability.

(c) Employee agrees that, while employed by the Company, Employee will comply with all Company policies, practices and procedures and all codes of ethics or business conduct applicable to Employee's position, as in effect from time to time.

(d) Employee shall, subject to reasonable business travel, perform Employee's duties and responsibilities hereunder on a remote basis from Employee's personal residence. Employee acknowledges and agrees that Employee may be required to travel from time to time for business reasons.

2. Compensation and Benefits. During Employee's employment, as compensation for all services performed by Employee for the Company and its subsidiaries and subject to Employee's full performance of Employee's obligations hereunder, the Company will provide Employee the following pay and benefits:

(a) Base Salary. The Company will pay Employee a base salary at the rate of Four Hundred Twenty Thousand Dollars ($420,000) per year, payable in accordance with the regular payroll practices of the Company (as may be adjusted, from time to time, the "Base Salary").

(b) Bonus Compensation. For each fiscal year completed during Employee's employment under this Agreement, Employee will be eligible for an annual cash bonus. Employee's target bonus will be 45% of the Base Salary (the "Target Bonus"), with the actual amount of any such bonus being determined by the Board of Directors of the Company (the "Board") in its sole discretion, based on Employee's performance and that of the Company against goals established by the Board and consistent with any applicable plan or program documents and generally applicable Company policies. Except as otherwise expressly provided in Section 4 hereof, Employee must be employed through the date a bonus is paid in order to earn the bonus. If Employee's employment terminates, for any reason, prior to payout of the bonus, the bonus is not earned.

(c) Participation in Employee Benefit Plans. Employee will be entitled to participate in the Company's employee benefit plans in effect for employees of the Company generally, except to the extent such plans are duplicative of benefits otherwise provided Employee under this

Agreement (e.g., a severance pay plan). Employee's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies, as the same may be in effect from time to time, and any other restrictions or limitations imposed by law.

(d) Vacations. Employee will be entitled to four (4) weeks of vacation per year, in addition to holidays observed by the Company. Vacation will accrue monthly on a pro-rated basis. Vacation may be taken at such times and intervals as Employee shall determine, subject to the business needs of the Company. Vacation shall otherwise be subject to the policies of the Company, as in effect from time to time.

(e) Business Expenses. The Company will pay or reimburse Employee for all reasonable business expenses incurred or paid by Employee in the performance of Employee's duties and responsibilities for the Company, subject to any maximum annual limit and other restrictions on such expenses set by the Company and to such reasonable substantiation and documentation as may be specified from time to time. Employee's right to payment or reimbursement for business expenses hereunder shall be subject to the following additional rules: (i) the amount of expenses eligible for payment or reimbursement during any calendar year shall not affect the expenses eligible for payment or reimbursement in any other calendar year, (ii) payment or reimbursement shall be made not later than December 31 of the calendar year following the calendar year in which the expense or payment was incurred, and (iii) the right to payment or reimbursement is not subject to liquidation or exchange for any other benefit.

3. Termination of Employment. Employee's employment under this Agreement shall continue until terminated pursuant to this Section 3.

(a) By the Company for Cause. The Company may terminate Employee's employment for Cause upon notice to Employee setting forth in reasonable detail the nature of the Cause. The following, as determined by the Board in its reasonable, good faith judgment, shall constitute "Cause" for termination: (i) material or willful failure to perform duties reasonably expected and/or requested of Employee (other than by reason of disability) if not cured within 30 days of written notice of such failure; (ii) material breach of this Agreement or any other agreement between Employee and the Company, including but not limited to any Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement if not cured within 30 days of written notice of such breach; (iii) commission of, or plea of nolo contendere to, a felony or other crime involving moral turpitude; (iv) commission of fraudulent or illegal act in performance of Employee's duties or otherwise with respect to the Company; (v) failure to adhere to moral and ethical business principles consistent with the Company's Code of Business Conduct and/or policies in effect from time to time; (vi) engaging in an act or series of acts constituting misconduct resulting in a misstatement of the Company's financial statements due to material non-compliance with any financial reporting requirement within the meaning of Section 304 of the Sarbanes-Oxley Act of 2002; or (vii) other conduct that is or could reasonably be expected to be harmful to the interests or reputation of the Company.

(b) By the Company Without Cause. The Company may terminate Employee's employment at any time other than for Cause upon thirty (30) days' notice to employee.

(c) By Employee for Good Cause. Employee may terminate Employee's employment for Good Cause by (A) providing notice to the Company specifying in reasonable detail the condition giving rise to the Good Cause no later than the thirtieth (30th) day following Employee's first becoming aware of such event or condition; (B) providing the Company a period of (30) days to remedy the event or condition; and (C) providing written notice to the Company terminating Employee's employment for Good Cause within fifteen (15) days following the expiration of the period to remedy if the Company fails to remedy the condition. The following, if occurring without Employee's consent, shall constitute "Good Cause" for

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termination by Employee: (i) a material diminution in the nature or scope of Employee's position, duties, or authority (other than temporarily while Employee is physically or mentally incapacitated to such a degree that Employee would be eligible for disability benefits under the Company's disability income plan or as required by applicable law); (ii) a material reduction in the Base Salary or the Target Bonus percentage; (iii) a material breach by the Company of this Agreement; or (iv) a requirement by the Company that Employee relocate to a location more than forty (40) miles from Employee's then-current remote office location.

(d) By Employee Without Good Cause. Employee may terminate Employee's employment at any time without Good Cause upon thirty (30) days' notice to the Company. The Board may elect to waive such notice period or any portion thereof; but in that event, the Company shall pay Employee the Base Salary for that portion of the notice period so waived.

(e) Death and Disability. Employee's employment hereunder shall automatically terminate in the event of Employee's death during employment. In the event Employee becomes disabled during employment and, as a result, is unable to continue to perform substantially all of Employee's duties and responsibilities under this Agreement, either with or without reasonable accommodation, the Company will continue to pay Employee the Base Salary and to provide Employee benefits in accordance with Section 2(c) above, to the extent permitted by plan terms, for up to twelve (12) weeks of disability during any period of three hundred sixty-five (365) consecutive calendar days. If Employee is unable to return to work after twelve (12) weeks of disability, the Company may terminate Employee's employment, upon notice to Employee. If any question shall arise as to whether Employee is disabled to the extent that Employee is unable to perform substantially all of Employee's duties and responsibilities for the Company and its subsidiaries, Employee shall, at the Company's request, submit to a medical examination by a physician selected by the Company to whom Employee or Employee's guardian, if any, has no reasonable objection to determine whether Employee is so disabled, and such determination shall for purposes of this Agreement be conclusive of the issue. If such a question arises and Employee fails to submit to the requested medical examination, the Company's determination of the issue shall be binding on Employee.

4. Other Matters Related to Termination.

(a) Final Compensation. In the event of termination of Employee's employment with the Company, howsoever occurring, the Company shall pay Employee (i) the Base Salary for the final payroll period of Employee's employment, pro-rated through the date that Employee's employment terminates; (ii) compensation at the rate of the Base Salary for any accrued, unused

vacation time; and (iii) reimbursement, in accordance with Section 2(e) hereof, for business expenses incurred by Employee but not yet paid to Employee as of the date Employee's employment terminates; provided Employee submits all expenses and supporting documentation required within sixty (60) days of the date Employee's employment terminates, and provided further that such expenses are reimbursable under Company policies as then in effect (all of the foregoing, "Final Compensation"). Except as otherwise provided in Section 4(a)(iii), Final Compensation will be paid to Employee within thirty (30) days following the date of termination (or such shorter period required by law).

(b) Severance Payments. Subject to Section 4(c) below, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, the Company will pay Employee, in addition to Final Compensation, (i) the Base Salary for the period of twelve (12) months from the date of termination (ii) the Target Bonus for the calendar year in which Employee's employment terminates, pro-rated through the date that Employee's employment terminates; (iii) one (1) times the Target Bonus; in cases (i), (ii) and (iii), payable in equal installments during the period of Base Salary continuation under clause (i); and (iv) provided Employee timely elects continuation coverage for Employee and Employee's eligible dependents under the federal law known as "COBRA" or similar state law, a monthly amount that equals the portion of the monthly health premiums paid by the Company on Employee's behalf and that of Employee's eligible dependents immediately preceding the date that Employee's employment terminates until the earlier of (A) the last day of the period of Base Salary continuation under clause (i) and (B) the date that Employee and Employee's eligible dependents become ineligible for COBRA coverage to the extent permissible by law and plan terms. The severance payments described in clauses (i) through (iv) above are referred to as the "Severance Payments". In addition, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, any unvested equity awards held by Employee as of immediately prior to Employee's termination of employment that would have vested as of the first anniversary of the date of Employee's termination of employment had Employee remained in continuous employment with the Company or any subsidiary through such first anniversary will vest upon Employee's termination of employment and any such equity awards that are subject to exercise shall remain exercisable until the earlier of three (3) months following the date of Employee's termination of employment and the last day of the option term (the "Equity Acceleration").

(c) Change of Control Severance Payments. In the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, in each case within sixty (60) days prior to, or within eighteen (18) months following, the occurrence of a Change of Control (the "Change of Control Period"), the Company will pay Employee, in addition to Final Compensation and in lieu of the Severance Payments and the Equity Acceleration set forth in Section 4(b) above, (i) the Base Salary for the period of eighteen (18) months from the date of termination; (ii) the Target Bonus for the calendar year in which Employee's employment terminates, pro-rated through the date that Employee's employment terminates; (iii) one and one-half (1.5) times the Target Bonus; in cases (i), (ii) and (iii), payable in a lump sum; and (iv) provided Employee timely elects continuation coverage for Employee and Employee's eligible dependents under the federal law known as "COBRA" or similar state law, a monthly amount that equals the portion of the monthly health premiums paid by the Company on Employee's behalf and that of Employee's eligible dependents immediately preceding the date that Employee's employment terminates until the earlier of (A) the end of the eighteen (18) month period

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immediately following the date of termination and (B) the date that Employee and Employee's eligible dependents become ineligible for COBRA coverage to the extent permissible by law and plan terms. The severance payments described in clauses (i) through (iv) above are referred to as the "Change of Control Severance Payments". In addition, in the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, in each case during the Change in Control Period, all of Employee's then-outstanding equity awards shall immediately accelerate and vest in full upon such termination of employment and any such equity awards that are subject to exercise shall remain exercisable until the earlier of three (3) months following the date of Employee's termination of employment and the last day of the option term (the "Change of Control Equity Acceleration").

(d) Conditions to and Timing of Severance Payments. Any obligation of the Company to provide Employee the Severance Payments and the Equity Acceleration, or the Change of Control Severance Payments and the Change of Control Equity Acceleration, as applicable, is conditioned, however, on Employee's cooperation in the transition of Employee's duties and Employee's execution, return to the Company, and non-revocation of a Severance Agreement and General Release acceptable to the Company, which shall include a release of all claims against the Company, all affiliated and related entities, and/or persons deemed necessary by the Company (the "Release"). The Release may also include Confidentiality, Non-Disparagement, No-Reapply, Tax Indemnification, and/or other appropriate terms. Employee shall not be entitled to receive the Severance Payments and the Equity Acceleration, or the Change of Control Severance Payments and the Change of Control Equity Acceleration, as applicable, unless Employee executes and returns the Release to the Company, and such Release becomes effective and non-revocable, within sixty (60) days following Employee's termination of employment (or such shorter period provided for in the Release). Unless otherwise provided by this Agreement, the first payment of the Severance Payment or the Change of Control Severance Payment, as applicable, will be made on the Company's next regular payday following the effective date of the Release; but that first payment shall include all amounts accrued retroactive to the day following the date Employee's employment terminated. Notwithstanding anything contained herein to the contrary, in the event that the period during which Employee may review and revoke the Release begins in one calendar year and ends in the following calendar year, any severance payments hereunder that constitute non-qualified deferred compensation subject to Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), shall be paid to Employee no earlier than January 1 of the second calendar year.

(e) Benefits Termination. Except as provided in Sections 4(b) and (c) above or under COBRA, Employee's participation in all employee benefit plans shall terminate in accordance with the terms of the applicable benefit plans based on the date of termination of Employee's employment, without regard to any continuation of the Base Salary or other payment to Employee following termination and Employee shall not be eligible to earn vacation or other paid time off following the termination of Employee's employment.

(f) Assistance in Litigation. Employee agrees to reasonably cooperate with the Company in the defense or prosecution of any claims or actions that relate to events or occurrences that transpired while Employee is or was employed by the Company. Employee's cooperation includes, but is not limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company as requested at mutually convenient times.

Employee's cooperation also includes fully cooperating with the Company in connection with any investigation or review by any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while Employee is or was employed by the Company.

(g) Survival. Provisions of this Agreement shall survive any termination of employment if so provided in this Agreement or if necessary or desirable to accomplish the purposes of other surviving provisions, including without limitation Employee's obligations under Section 4. The obligation of the Company to make payments to Employee under Section 4, are expressly conditioned upon continued full performance of Employee's obligations under Section 4 hereof. Upon termination by either Employee or the Company, all rights, duties and obligations of Employee and the Company to each other shall cease, except as otherwise expressly provided in this Agreement.

5. Timing of Payments and Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, if at the time Employee's employment terminates, Employee is a "specified employee," as defined below, any and all amounts payable under this Agreement on account of such separation from service that would (but for this provision) be payable within six (6) months following the date of termination, shall instead be paid on the next business day following the expiration of such six (6) month period or, if earlier, upon Employee's death; except (A) to the extent of amounts that do not constitute a deferral of compensation within the meaning of Treasury regulation Section l.409A-1(b) (including without limitation by reason of a short-term deferral or the safe harbor set forth in Section l.409A l (b)(9)(iii), as determined by the Company in its reasonable good faith discretion); (B) benefits which qualify as excepted welfare benefits pursuant to Treasury regulation Section l.409Al(a)(5); or (C) other amounts or benefits that are not subject to the requirements of, or satisfy an exception from treatment as deferred compensation under, Section 409A. For purposes of this Agreement, all references to "termination of employment" and correlative phrases shall be construed to require a "separation from service" (as defined in Section l.409A-l(h) of the Treasury regulations after giving effect to the presumptions contained therein), and the term "specified employee" means an individual determined by the Company to be a specified employee under Treasury regulation Section l.409A-l(i).

(b) Each payment made under this Agreement shall be treated as a separate payment and the right to a series of installment payments under this Agreement is to be treated as a right to a series of separate payments.

(c) In no event shall the Company have any liability relating to the failure or alleged failure of any payment or benefit under this Agreement to comply with, or be exempt from, the requirements of Section 409A.

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6. Definitions. For purposes of this Agreement, the term "Change of Control" means:

(a) The acquisition by any Person (defined for purposes of this definition as any individual, entity or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities

Exchange Act of 1934, as amended ("Exchange Act")) of beneficial ownership (within the meaning of *Rule* 13d-3 promulgated under the Exchange Act) of 35% or more of the common stock of the Company; provided, however, that for purposes of this subsection (a), an acquisition shall not constitute a Change of Control if it is: (i) either by or directly from the Company, or by an entity controlled by the Company, (ii) by any employee benefit plan, including any related trust, sponsored or maintained by the Company or an entity controlled by the Company ("Benefit Plan"), or (iii) by an entity pursuant to a transaction that complies with clauses (i), (ii) and (iii) of subsection (c) below; or

(b) Individuals who, as of the effective date of this Agreement, constitute the Board (together with the individuals identified in the proviso to this subsection (b), the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the effective date of this Agreement whose election, or nomination for election by the Company's stockholders, was approved by at least a majority of the directors then comprising the Incumbent Board shall be treated as a member of the Incumbent Board unless he or she assumed office as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation involving the Company, or a sale or other disposition of all or substantially all of the assets of the Company (a "Transaction"), in each case unless, following such Transaction, (i) all or substantially all of the Persons who were the beneficial owners of the common stock of the Company outstanding immediately prior to such Transaction beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities of the entity resulting from such Transaction (including, without limitation, an entity that as a result of such Transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Transaction, of the outstanding common stock of the Company, (ii) no Person (excluding any entity or wholly-owned subsidiary of any entity resulting from such Transaction or any Benefit Plan of the Company or such entity or wholly-owned subsidiary of such entity resulting from such Transaction) beneficially owns, directly or indirectly, 35% or more of the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the transaction and (iii) at least a majority of the members of the board of directors or similar board of the entity resulting from such Transaction were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Transaction; or

(d) Approval by the stockholders of the Company of a liquidation or dissolution of the Company.

7. Conflicting Agreements. Employee hereby represents and warrants that the signing of this Agreement and the performance of Employee's obligations under it will not breach or be in conflict with any other agreement to which Employee is a party or is bound, and that Employee is not subject to any covenants against competition or similar covenants or any court order that could affect the performance of Employee's obligations under this Agreement. Employee agrees that

Employee will not disclose to or use on behalf of the Company any confidential or proprietary information of a third party without that party's consent.

8. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

9. Assignment. Neither Employee nor the Company may make any assignment of this Agreement or any interest in it, by operation of law or otherwise, without the prior written consent of the other; provided, however, the Company may assign its rights and obligations under this Agreement without Employee's consent to one of its subsidiaries or to any individual, corporation, limited liability company, association, partnership, estate, trust or any other entity or organization with whom the Company shall hereafter effect a reorganization, consolidate or merge, or to whom the Company shall hereafter transfer all or substantially all of its properties or assets. This Agreement shall inure to the benefit of and be binding upon Employee and the Company, and each of its respective successors, executors, administrators, heirs and permitted assigns.

10. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. Miscellaneous. This Agreement sets forth the entire agreement between Employee and the Company, and replaces all prior and contemporaneous communications, agreements and understandings, written or oral, with respect to the terms and conditions of Employee's employment, including, without limitation, the Existing Agreement, other than the **Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement**,dated January 4, 2022, a copy of which is attached as **Exhibit A** and incorporated herein by reference. This Agreement may not be modified or amended, and no breach shall be deemed to be waived, unless agreed to in writing by Employee and an expressly authorized representative of the Board.

12. Notice. Any notice required to, or permitted to, be given under this agreement shall be sufficient if in writing (a) delivered personally, (b) sent by first class certified mail, return receipt requested, postage and fees pre-paid, or (c) sent by prepaid overnight delivery service, to the Parties at the following addresses (or at such other addresses as shall be specified by the Parties in a like notice):

If to Company: EyePoint Pharmaceuticals, Inc.

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480 Pleasant Street
Suite C-400
Watertown, MA 02472
Attention: Jennifer Leonard, Chief People Officer & SVP, IT

If to Employee: Michael Pine
xxx

All notices shall be deemed to have been given upon receipt if delivered personally, or by recognized overnight courier, or five (5) days after mailing if mailed.

13. **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. Any claim arising out of, or relating to this Agreement including, without limitation, any action commenced by the Company for preliminary and permanent injunctive relief or other equitable relief, shall be instituted in any federal or state court in the Commonwealth of Massachusetts. Each party agrees not to assert by way of motion, as a defense or otherwise, in any such claim, that such party is not subject personally to the jurisdiction of such court, that the claim is brought in an inconvenient forum, that the venue of the claim is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party further irrevocably submits to the exclusive jurisdiction of such court in any such claim.

Any and all service of process and any other notice in any such claim shall be effective against any party if given personally or by registered mail, return receipt requested, mailed to such party as provided herein. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by law.

14. **Usage**. All pronouns and any variations thereof shall be considered to refer to the masculine, feminine or neuter, singular or plural, as the context may require. All terms defined in the Agreement in their singular or plural forms have correlative meanings when used herein in their singular or plural forms, respectively. Unless otherwise expressly provided the words “include” “includes” and “including” do not limit the preceding words or terms and shall be deemed followed by the words “without limitation.”

15. **Headings**. The headings in this Agreement are for reference only, and shall not affect the interpretation of this Agreement.

16. **Counterparts**. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts, together shall constitute one, and the same, instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

EyePoint Pharmaceuticals, Inc. **Employee**
By: /s/ Jennifer Leonard /s/ Michael Pine
Jennifer Leonard Michael Pine
Chief People Officer & SVP, IT
Date: 01/03/2023 Date: 01/03/2023

EXHIBIT A
Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement
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Exhibit 10.20

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (“Agreement”) is made as of _____, 2023 - by and between EyePoint Pharmaceuticals, Inc., a Delaware corporation (the “Company”), and _____ - (“Indemnitee”). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering the subject matter of this Agreement.

RECITALS

WHEREAS, the Board of Directors of the Company (the “Board”) believes that highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

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WHEREAS, the Board has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Certificate of Incorporation of the Company (as amended, the "Certificate of Incorporation") requires indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware (the "DGCL"). The Certificate of Incorporation and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification may increase the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

Exhibit 10.17

WHEREAS, this Agreement is a supplement to and in furtherance of the Certificate of Incorporation and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

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WHEREAS, Indemnitee does not regard the protection available under the Certificate of Incorporation and insurance as adequate in the present circumstances, and may not be willing to serve or continue to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve or continue to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1.Services to the Company. Indemnitee agrees to serve as a director or officer, as applicable, of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any Enterprise), if any, is at will, and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Certificate of Incorporation, the Company's By-laws (the "By-laws"), and the DGCL. The foregoing notwithstanding, this Agreement shall continue in force after Indemnitee has ceased to serve as an officer or director of the Company, as provided in Section 16 hereof.

Section 2.Definitions. As used in this Agreement:

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(a) References to “agent” shall mean any person who is or was a director, officer, or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other enterprise at the request of, for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) A “Change in Control” shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company’s then outstanding securities unless the change in relative Beneficial Ownership of the

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Company’s securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director

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designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(b)(i), 2(b)(iii) or 2(b)(iv)) whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the Surviving Entity) more than 50% of the combined voting power of the voting securities of the Surviving Entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such Surviving Entity;

iv. Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company’s assets, including by license; and

v. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 2(b), the following terms shall have the following meanings:

(A) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended from time to time.

(B) “Person” shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(C) “Beneficial Owner” shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided,

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however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(d) "Surviving Entity" shall mean the surviving entity in a merger or consolidation or any entity that controls, directly or indirectly, such surviving entity.

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(c) "Corporate Status" describes the status of a person who is or was a director, officer, employee or agent of the Company or of any other corporation, limited liability company, partnership or joint venture, trust or other enterprise which such person is or was serving at the request of the Company.

(d) "Disinterested Director" shall mean a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) "Enterprise" shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, employee, agent or fiduciary.

(f) "Expenses" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses shall also include (i)Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 14(d) only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "Independent Counsel" shall mean a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the

Exhibit 10.17

Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees and

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expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(h) The term "Proceeding" shall include any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or

completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of Indemnitee's Corporate Status, by reason of any action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or failure to act) on Indemnitee's part while acting pursuant to Indemnitee's Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement. If the Indemnitee believes in good faith that a given situation may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.

(i) Reference to "other enterprise" shall include employee benefit plans; references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

Section 3.Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding had no reasonable cause to believe that Indemnitee's conduct was unlawful. The parties hereto intend that this Agreement shall provide to the fullest extent permitted by law for indemnification in excess of that expressly permitted by

statute, including, without limitation, any indemnification provided by the Certificate of Incorporation, the By-laws, vote of its stockholders or disinterested directors or applicable law.

Section 4.Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court (as hereinafter defined) or any

court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

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Section 5.Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 6.Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a witness or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

Section 7.Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8.Additional Indemnification.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) by reason of Indemnitee's Corporate Status.

(b) For purposes of Section 8(a), the meaning of the phrase "to the fullest extent permitted by applicable law" shall include, but not be limited to:

i. to the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL, and

ii. to the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 9.Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification payment in connection with any claim involving Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) hereof) or similar provisions of state statutory law or common law, (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act) or (iii) any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

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(c) except as provided in Section 14(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

Section 10.Advances of Expenses. Notwithstanding any provision of this Agreement to the contrary (other than Section 14(d)), the Company shall advance, to the extent not prohibited by law, the Expenses incurred by Indemnitee in connection with any Proceeding (or any part of any Proceeding) not initiated by Indemnitee or any Proceeding initiated by Indemnitee with the prior approval of the Board as provided in Section 9(c), and such advancement shall be made within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. In accordance with Section 14(d), advances shall include any and all Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. The Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement, which shall constitute an undertaking providing that the Indemnitee undertakes to repay the amounts advanced (without interest) to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. This

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Section 10 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 9.

Section 11.Procedure for Notification and Defense of Claim.

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. The omission by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

Section 12.Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 11(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to

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Indemnitee; or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Board, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) hereof, the Independent Counsel shall be selected as provided in this Section 12(b). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Board, and the Company shall give written notice to Indemnitee advising Indemnitee of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Delaware Court has determined that such objection is without merit. If, within twenty (20) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof and the final disposition of the Proceeding, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Delaware Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court shall designate, and the person with respect to whom all objections are so resolved

or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent

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Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

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(b) Subject to Section 14(e), if the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 13(b) shall not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 12(a) of this Agreement and if **(**A) within fifteen (15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) of this Agreement.

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(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolocontendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors or officers of the Enterprise (as defined below) in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser, financial advisor or other expert selected with reasonable care by or on behalf of the Enterprise. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any director, officer, trustee, partner, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

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Section 14.Remedies of Indemnitee.

(a) Subject to Section 14(e), in the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within ninety (90) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6 or 7 or the second to last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3, 4 or 8 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Company or any other person takes or threatens to take any action to declare this

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Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of Indemnitee's entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section

14(a). The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a denovo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company shall, to the fullest extent

permitted by law, indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company if, in the case of indemnification, Indemnitee is wholly successful on the underlying claims; if Indemnitee is not wholly successful on the underlying claims, then such indemnification shall be only to the extent Indemnitee is successful on such underlying claims or otherwise as permitted by law, whichever is greater.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

Section 15. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee

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may at any time be entitled under applicable law, the Certificate of Incorporation, the By-laws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Certificate of Incorporation and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment made by the Company under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of

Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable (or for which advancement is provided hereunder) hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such other corporation, limited liability company, partnership, joint venture, trust or other enterprise.

Exhibit 10.17

Section 16.Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) ten (10) years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company and (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement relating thereto. The indemnification and advancement of expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other Enterprise, and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

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Section 17.Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 18.Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the By-laws and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 19.Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of

any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

Section 20.Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 21.Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission or email, with receipt of oral confirmation that such transmission has been received:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(b) If to the Company to

EyePoint Pharmaceuticals, Inc.
480 Pleasant Street
Watertown, MA 02472
Attention: Chief Legal Officer
Facsimile: (617) 926-5050
Email: rhonig@eyepointpharma.com

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or to any other address as may have been furnished to Indemnitee by the Company.

Section 22.Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 23.Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with,

the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Court of Chancery of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably RL&F Service Corp., 920 North King Street, 2nd Floor, Wilmington, New Castle County, Delaware 19801 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 24.Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 25.Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

EYEPOINT PHARMACEUTICALS, INC. INDEMNITEE

By: _____ By: _____

Name: Ron Honig Name:
Office: Address:_____

Office: Chief Legal Officer Address: _____

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Schedule of Material Differences

The following directors and executive officers are parties to an Indemnification Agreement with the Company, each of which are substantially identical in all material respects to the representative Indemnification Agreement filed herewith as Exhibit 10.19 10.20 except as to the name of the signatory and the date of each signatory's Indemnification Agreement, which are listed below. The actual Indemnification Agreements are omitted pursuant to Instruction 2 to Item 601 of Regulation S-K.

Indemnitee	Effective Date
Nancy S. Lurker	September 15, 2016
Dario Paggiarino, M.D.	September 26, 2016
Jay S. Duker, M.D.	September 27, 2016
Göran Ando, M.D.	June 14, 2018
John Landis	October 30, 2018
David R. Guyer M.D.	January 25, 2019
Scott Jones	June 10, 2019
Wendy DiCicco	July 15, 2019
George Elston	November 14, 2019
Ye Liu	December 31, 2020
Michael C. Pine	January 10, 2022
Anthony P. Adamis, M.D.	June 23, 2022
Karen Zaderej	July 11, 2022
Stuart Duty	October 16, 2023

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CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY "[***]", HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Exhibit 10.26* 10.20

LEASE

Nonstatutory Stock Option
Executive Officer Inducement Award

1.Grant of Option.

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This Lease made this 23rd day of January, 2023, certificate evidences a nonstatutory stock option (this “Stock Option”) granted by and between V.E. Properties IX, LLC, a Delaware limited liability company, having its usual place of business at One Memorial Square, P.O. Box 67, Whitinsville, Massachusetts 01588 (hereinafter, with its successors and assigns, the “Lessor”) and EyePoint Pharmaceuticals, US, Inc., a Delaware corporation having its usual place (the “Company”), on ###GRANT_DATE### (the "Date of business at 480 Pleasant Street, Suite A210, Watertown, Massachusetts 02472 (hereinafter, with its successors and assigns, Grant") to ###PARTICIPANT_NAME### (the “Lessee” "Participant").

WITNESSETH

In consideration of the rents and covenants herein contained on the part of Lessee to be paid, performed and observed, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, subject This Stock Option is granted to the terms and provisions hereinafter set forth, certain premises located in a building to be constructed by Lessor to be known as “Building 6”, together with related improvements, all located at 600 Commerce Drive, Northbridge, Worcester County, Massachusetts (the “Demised Premises”, as hereinafter defined) and shown generally in the location labelled “Building 6” on Exhibit A attached hereto and incorporated herein by reference. The Demised Premises are a portion of “Osterman Commerce Park Condominium” as hereafter defined.

ARTICLE I

Reference Data: Demised Premises

Section 1. Definitions. Each reference in this Lease to any of the terms and titles contained or defined in this Article shall be deemed and construed to incorporate the matters set forth following such term or title in this Article unless the context clearly indicates otherwise:

Term	**Definition**
(a)Additional Rent:	Any amount due to Lessor from Lessee other than Minimum Rent.
(b)Building:	A Building to be constructed by Lessor to be situated generally in the location labelled “Building 6” on Exhibit A attached hereto and incorporated herein by reference, comprising approximately Forty Thousand (40,000) square feet, to be constructed in accordance with the Basis of Design (the “BOD”, attached hereto as Exhibit B and incorporated herein by reference) and the Final Plans (as defined herein). Upon completion of construction of the Building, Lessor and Lessee shall mutually agree upon the number of square feet of rentable floor area of the Building, whereupon all references herein to 40,000 square feet or approximately 40,000 square feet, shall be deemed to be replaced by said mutually agreed number. Neither Lessor nor Lessee shall have the right to remeasure the Building after the Lease Commencement Date until and unless Lessee has exercised the right to expand the Building.

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(c)Common Area:	Those portions of the Property, as they may from time to time exist, which are open generally to the public, including but not limited to the tenants and invitees of Osterman Commerce Park and the Building, including without limitation, the sidewalks, parking areas, driveways, landscaped areas, and the like, and being the “Common Areas and Facilities” as defined in the Master Deed (the “Master Deed”) of Osterman Commerce Park Condominium (the “Condominium”). No representation is hereby made concerning the existence or continuance of any Common Area either shown on Exhibit A or otherwise, all of which may be altered, modified, enlarged or decreased in accordance with the Master Deed, provided such changes do not: eliminate, prohibit, materially adversely affect, or otherwise interfere with Lessee’s use of the Demised Premises or vehicular or pedestrian access to the Demised Premises from a public right of way all as provided herein or Lessee’s use or access to a substantial portion of the appurtenant parking areas; or interfere with Lessee’s business operations. For purposes hereof, “substantial portion of the appurtenant parking areas” shall mean any of the anticipated 100 parking spaces. Lessor shall provide Lessee with commercially reasonable prior notice before making any changes to the Common Area outside of emergency situations and shall use commercially reasonable efforts to perform any such work to change the Common Area in such a manner so as not to interfere with Lessee’s business operations at the Property.

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(d)Common Area Maintenance:	The maintenance, operation, and repair of the Common Area, undertaken by the Trustees of the Condominium in accordance with the Master Deed, which shall include, but shall not necessarily limited to: i) lighting, cleaning, and striping of Commerce Park Drive, and removal of snow, ice, garbage, trash and debris therefrom; ii) maintenance of the storm and sanitary drainage systems and other utility systems, signs and markers, and traffic regulation and control signs and devices; iii) exterior landscaping; iv) seasonal decorations; vi) repair and replacement of any parking area within the Common Area; and v) maintenance of any machinery or equipment within and related to the Common Area.
(e)Default Interest Rate:	If any payment of Minimum Rent, Additional Rent or other sum due under this Lease is not paid within five (5) days of the due date, then such overdue amount shall thereafter bear interest from the due date until paid in full at a rate per annum equal to the lesser of eight (8%) percent or the highest legal rate.
(f)Demised Premises:	The Building and the land defined as "Unit 6 Limited Common Area" in the Master Deed, together with the non-exclusive right to use, in common with others lawfully entitled thereto, for access and egress, the Common Area, including but not necessarily

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	limited to the sidewalks, parking areas, and driveways, as the same shall be constructed from time to time, expressly reserving to Lessor the right (in accordance with the terms and conditions of this Lease) to install, maintain, use, repair, replace, alter, change, relocate and remove such Common Area from time to time, and including the right to change the size, type, location, nature and shape of the Common Area, the Property and the Building including any stairways, access ways and loading docks located in the Building, provided such changes do not prohibit or interfere with the day to day business operations in, or functionality of, the Demised Premises, adequate parking or permanent access to and entrance to the Demised Premises.
(g)Hazardous Materials:	"Oil", "hazardous materials", "hazardous waste", or "hazardous substances", as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., as amended, and the regulations promulgated thereunder, and all applicable federal, state and local laws, rules and regulations, including, without limitation, Massachusetts General Laws, Chapters 21C and 21E (collectively, "Environmental Laws").
(h)Initial Term:	The Initial Term of this Lease shall commence on the Lease Commencement Date and shall end fifteen (15) years and four (4) months from that date, unless an option to extend the Term is properly exercised, or the Term is otherwise extended or earlier terminated pursuant to the provisions of this Lease.
(i)Late Payment Charge:	If any payment of Minimum Rent, Additional Rent or other sum due under this Lease is not paid within five (5) days of the due date, Lessee shall pay Lessor one hundred ($100.00) dollars per day accruing from the due date of such payment to the date of actual receipt of such payment.
(j)Lease Commencement Date:	The date Lessor has substantially completed all of the work set forth on the Final Plans (as hereinafter defined), including the base building, interior finish, and common area construction (subject to reasonable punch list items that do not interfere with Lessee's use of the Demised Premises for its intended purpose), as evidenced by the issuance of a certificate of occupancy by the authority having jurisdiction (or equivalent final permit or certificate) to allow Lessee to occupy the Building for its business purposes is issued (which shall be obtained by Lessor) (all of the foregoing sometimes referred to herein as the "Lessor Improvements"). The Lease Commencement Date is estimated to occur August 1, 2024 (the "Target Lease Commencement Date"). In the event of any delays in the Lease Commencement Date beyond the Target Lease Commencement Date, the Rent

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Commencement Date (but not the Termination Date) shall be extended on a day-for-day basis for each day of such delay to the extent not directly caused by or attributed to Lessee Risk Event (as hereinafter defined). For any such delays beyond sixty (60) days after the Target Lease Commencement Date, Lessee shall receive two (2) days' abatement of Rent hereunder for every single day of such delay to be applied starting on the Rent Commencement Date. In the event Lessor is unable to substantially complete the Lessor Improvements and deliver the Building to Lessee prior to December 31, 2024, Lessee, at no cost to Lessee, will have the right to terminate this Lease by written notice to Lessor.

Notwithstanding the foregoing or anything to the contrary herein contained, in the event that Lessor or Lessee shall be delayed or hindered in or prevented from the performance of any act required hereunder, by reason of Force Majeure (as defined in Article XXIV), or default of the other party, or other reason beyond its reasonable control, then performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, lack of funds shall not be deemed to be a cause beyond control of either party.

(k)Lease Year: Each period of twelve (12) consecutive calendarmonths during the Term starting on the Rent Commencement Date, except that if the Rent Commencement Date is not on the first day of a month, the first Lease Year shall begin on the Lease Commencement Date and end on the last day of the full calendar year following the first day of the calendar month next following the Rent Commencement Date.

(l)Lessee's Share of Real Estate Taxes: All real estate taxes and other *ad valorem* taxes, including, without limitation, betterments or other assessments imposed, assessed or levied upon the Building or the Demised Premises. Until such time as the Building or the Demised Premises is separately assessed and taxed by the Town of Northbridge, Lessee's Share of Real Estate Taxes shall be determined by dividing the area of the Demised Premises by the aggregate total area of all of the land constituting the Property. At such time as the Building or the Demised Premises is separately assessed and taxed by the Town of Northbridge, Lessee's Share of Real Estate Taxes shall equal the real estate tax allocated to the Building, the Demised Premises, or both, as the case may be, by the Town of Northbridge.

(m)Lessor's Common Area Maintenance Fee: The amount paid by Lessor to the Trustees of the Condominium as Lessor's share of the common expense of the Condominium in accordance with the Master Deed.

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(n)Minimum Rent: As long as Lessee is only leasing the Demised Premises as defined herein, Minimum Rent during the Initial Term shall be based on rentable floor area ("RSF") (in square feet) of the Building, as follows:

Period	Minimum Rent (per RSF)
Rent Commencement Date through the end of Lease Year 1	$61.00 "Base Rent Rate" (BRR)
Lease Year 2	BRR + $1.00 per RSF
Lease Year 3	BRR + $2.00 per RSF
Lease Year 4	BRR + $3.00 per RSF
Lease Year 5	BRR + $4.00 per RSF
Lease Year 6	BRR + $5.00 per RSF
Lease Year 7	BRR + $6.00 per RSF
Lease Year 8	BRR + $7.00 per RSF
Lease Year 9	BRR + $8.00 per RSF
Lease Year 10	BRR + $9.00 per RSF
Lease Year 11	BRR + $10.00 per RSF
Lease Year 12	BRR + $11.00 per RSF

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Lease Year 13	BRR + $12.00 per RSF
Lease Year 14	BRR + $13.00 per RSF
Lease Year 15	BRR + $14.00 per RSF

As long as Lessee is only leasing the Demised Premises as defined herein, Minimum Rent during any Option Term shall be based on RSF of the Building, as follows:

Period	Minimum Rent
First Option Term:	
Years 16-20 or	95% of FMV
Years 16-25	95% of FMV
Second Option Term:	
Years 21-25 or	95% of FMV
Years 21-30 or	95% of FMV
Years 26-30 or	95% of FMV
Years 26-35	95% of FMV

(o)Mortgage & Mortgagee: For purposes hereof, the term Mortgage shall mean any real estate mortgage, ground lease or superior lease, deed of trust or any other security agreement or indenture affecting the Property or the Demised Premises; the term Mortgagee shall mean the holder of any such real estate mortgage, any ground lessor or superior lessor, or any trustee or holder of any such deed of trust, security agreement or indenture.

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(p)Permitted Use: Lessee shall use and occupy the Demised Premises for general and executive office, commercial manufacturing, lab and Research and Development purposes or any other lawful use supporting Lessee's day-to-day business operations subject, however, to applicable zoning and other regulatory requirements and to any limitations expressly set forth herein, and for no other use.

(q)Property: The "Property" known as "Osterman Commerce Park", situated on the southerly side of Church Street Extension, in the Town of Northbridge, County of Worcester and Commonwealth of Massachusetts, shown as "Lot B2" on a plan of land entitled "Osterman Commerce Park, a Planned Business Development, Plan of Land in Northbridge, Massachusetts" prepared by Allen Engineering & Associates, Inc. dated May 7, 2021, and recorded with Worcester District Registry of Deeds in Plan Book 961, Plan 57.

(r)Proposition 2½: Massachusetts General Laws Chapter 59, Section 21C.

(s)Rent Commencement Date: That date which is four (4) months following the Lease Commencement Date.

(t)Tax Year: "Tax Year" means each twelve (12) month period (deemed, for the purposes of this lease, to have 365 days) established as the real estate tax year by the taxing authorities having lawful jurisdiction over the Property. At present, the Tax Year is July 1 through June 30.

(u)Term: The Initial Term, except that if any option to extend the Initial Term of this Lease is properly exercised, the resulting Term shall end at midnight on the last day of any such extension.

(v)Termination Date: Fifteen (15) years from the Rent Commencement Date, unless an option to extend the Term is properly exercised, or the Term is earlier terminated pursuant to the provisions of this Lease, in which case the Termination Date shall be the date on which any Option Term expires or earlier termination occurs, as the case may be. Notwithstanding the foregoing, in no event shall any delays in the Rent Commencement Date as described in Section 1(j) above serve to extend the Termination Date.

Section 2. Common Area Rights. The Demised Premises are leased together with the non-exclusive right to use, in common with others lawfully entitled thereto, the Common Area, as the same may exist from time to time, for access, egress, parking, sidewalks, parking areas, driveways and service areas, The Trustees of the Condominium shall have the right to install, maintain, use, repair, replace, alter, change, relocate and remove the Common Area from time to time, including the right to change the size, type, location, nature and shape of the Common Area or the Property, provided such changes do not prohibit or unreasonably interfere with the adequate parking or permanent access to and entrance to the Demised Premises or affect Lessee's ability to run its day to day operations. Lessor reserves the right (without thereby assuming the obligation) to install, maintain, use, repair and replace all pipes, ducts, wires, meters,

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utility lines and other equipment or materials which now are or hereafter may be, in the judgment of Lessor, required to be in the Demised Premises provided such changes do not unreasonably interfere with adequate parking, day to day ability of Lessee to run its operations or unreasonably impair Lessee's permanent access to the Demised Premises. The Demised Premises are leased subject to the mortgages and other existing encumbrances of record, if any, and Lessor represents and warrants that as of the Lease Commencement Date there are no existing encumbrances of record that would prohibit or have an adverse effect on Lessee's use and enjoyment of the Demised Premises as set forth in this Lease.

ARTICLE II

Term and Commencement

Section 1. Term. Lessee shall have and hold the Demised Premises beginning on the Lease Commencement Date and ending on the Termination Date unless extended or sooner terminated as provided herein.

Section 2. Recording. At Lessee's request, Lessor and Lessee shall execute and deliver a Notice of Lease suitable for recording and setting forth the name of Lessor and Lessee, the term of this Lease, an appropriate description of the Demised Premises, and such other information as is required by Massachusetts General Laws Chapter 183, Section 4. Said Notice of Lease shall be prepared and recorded by Lessee. A copy of this Lease shall not be recorded in any Registry of Deeds or Land Court Registry District. No Notice of Lease so executed and recorded shall, under any circumstances: include any financial terms of this Lease; be deemed to alter or revise any term or provision of this Lease; be deemed a construction of this Lease; or, in the event of conflict, control or otherwise affect any term of this Lease.

Section 3. Holdover. Lessee shall have the right to extend the Initial Term or any Option Term for two (2) months, upon written notice to Lessor given not less than six (6) months prior to the end of the then current term, at the then-current Minimum Rent and Additional Rent rate during such two-month extension. In the event that Lessee remains in possession of the Demised Premises after any two-month extension, then such holdover by Lessee shall not be deemed to create any tenancy and Lessee shall be a tenant at sufferance, subject only to all of Lessee's obligations set forth herein, and shall pay rent at the rate of one hundred twenty five percent (125%) of the Minimum Rent paid by Lessee during the immediately prior Initial Term or Option Term, one hundred percent (100%) of any Additional Rent paid by Lessee during the immediately prior Initial Term or Option Term, one hundred percent (100%) of the cost of electricity and all other utilities supplied to the Demised Premises, and one hundred percent (100%) of other charges provided for under this Lease. Lessor's acceptance of any sum or purported rent check after the Termination Date shall not create any tenancy, including but not limited to a tenancy at will, it being agreed that Lessee's status shall remain that of a tenant at sufferance, at the aforesaid daily rate. Any reference in this Lease to Lessee's obligations continuing during the period of any holdover shall not be deemed to grant Lessee the right to a holdover or imply Lessor's consent to any such holdover. In no event shall Lessee be liable for any special, punitive, or consequential damages Participant in connection with any holdover.

ARTICLE III

Rent

Section 1. Minimum Rent. Lessee shall yield his entering into employment with the Company and pay to Lessor is regarded by the Minimum Rent during the Term hereof, all such rent to be payable in equal monthly installments in advance beginning on the Rent Commencement Date, and thereafter on the first day of each calendar month during the Term without offset or deduction and without previous demand therefore.

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Section 2. Taxes

(a) Except parties as otherwise set forth herein, beginning on the Rent Commencement Date, Lessee shall pay to Lessor Lessee's Share of Real Estate Taxes for each Tax Year during the term hereof. Lessee's Share of Real Estate Taxes shall include, but shall not be limited to, reasonable attorney's fees, appraiser's fees and Lessor's reasonable administrative costs of any contest or appeal pursued by either Lessee or Lessor in an effort to reduce the tax or assessment on which any tax or other imposition provided for in this Section is based.

(b) Lessee shall pay, prior to delinquency, any and all taxes and assessments levied, assessed or imposed during the Term hereof upon or against all furniture, fixtures, signs and equipment and any other personal property installed or located within, or for the exclusive benefit of, the Demised Premises.

(c) The provisions of this Article are predicated upon the present system of taxation in the Commonwealth of Massachusetts. If taxes upon rentals or otherwise pertaining inducement material to the Demised Premises shall be substituted, Participant's entering into employment within the meaning of Nasdaq Listing Rule 5635(c). Under this Stock Option, the Participant may purchase, in whole or in part, for on the present ad valorem real estate taxes or assessed in addition thereto, then Lessor's obligation to pay such taxes shall be based upon such substituted taxes, to the extent to which the same shall be terms herein provided, a substitute for present ad valorem real estate taxes, and Lessee shall be responsible for any additional taxes.

In the event total of any Proposition 2½ override, Lessee shall pay the portion###TOTAL_AWARDS### shares of common stock of the tax bill attributable Company (the "Shares") at ###GRANT_PRICE### per Share, which is not less than the fair market value of a Share on the Date of Grant.

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The latest date on which this Stock Option, or any part thereof, may be exercised is 5:00 P.M. Eastern Time on ###EXPIRY_DATE### (the "Final Exercise Date"). The Stock Option evidenced by this certificate is intended to the override.

In the event Proposition 2½ be, and is repealed, Lessor's obligation to pay taxes shall be limited hereby designated, a nonstatutory option, meaning an option that does *not* qualify as follows: In the first fiscal year during which Proposition 2½ is no longer an incentive stock option as defined in effect, Lessor shall pay taxes in an amount equal to the taxes due in the prior fiscal year plus the lesser of 2½% of such amount or the actual increase in the tax bill from the prior fiscal year. Lessee's Percentage Share (100%) of all taxes in excess section 422 of the amount allocated to Lessor shall be paid by Lessee. This process shall continue each year with the base tax payment always being the tax paid by Lessor in the prior fiscal year and with the percentage increase being calculated based on the change in the amount Internal Revenue Code of the tax bill from the prior year. The only exception to the determination of Lessor's base tax calculation is that Lessor shall also be responsible for any tax obligation attributed to an increase in the value of the Property 1986, as determined by the Northbridge Assessor or such other valuation as may result from any appeal of the Assessor's determination.

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By way of example only, assuming a hypothetical Lessee's percentage share of 50.21%, if Proposition 2½ is repealed in March of 2024 and the repeal is in effect starting with fiscal 2025, if the fiscal year 2024 tax bill is $100.00 and the tax bill increases 4% to $104.00 for fiscal year 2025, but the assessed value of the Property does not change, Lessor shall pay the first $102.50 ($100 x 1.025) taxed in fiscal year 2025 and Lessee shall pay 50.21% of the remaining $1.50 (.75¢). Assuming the tax bill then increases 2.5% to $106.60 in fiscal year 2026, but the assessed value of the Property does not change, Lessor shall pay $105.83 ($103.25 x 1.025) and Lessee shall pay the remaining .77¢ ($106.60 - $105.83). If the bill then increases 2% to $108.73 in fiscal year 2027, but the assessed value of the Property does not change, Lessor shall pay $107.95 ($105.83 x 1.02) and Lessee shall pay the remaining .78¢ ($108.73 – $107.95). If the tax bill for fiscal 2024 increases by 6% to $115.25 and two thirds of the increase is attributable to an increase in the assessed value of the Property, Lessor shall pay $114.42 ($107.95 x 1.06) and Lessee shall pay the remaining .83¢. This hypothetical example is shown below.

Fiscal Year	Tax Bill	Increase from Prior Year	Portion of Increase Due to Increased Assessed Value	Portion of Increase Allocable to Lessee (50.21% x amount of the increase not resulting from an increase in value)	Lessor's Portion	Lessee's Portion
2024	$100.00	N/A	N/A	N/A	$100.00	-----
2025	$104.00	4%	0	2.0084%	$103.25	.75¢
2026	$106.60	2½%	0	1.25525%	$105.83	.77¢
2027	$108.73	2%	0	1.0042%	$107.95	.78¢
2028	$115.25	6%	4%	1.0042%	$114.42	.83¢

The Town of Northbridge currently taxes residential and commercial properties at the same rate (the "Single Rate"). If the Town of Northbridge ever adopts a system resulting in different rates for residential and commercial property (the "Split Rate"), Lessor's obligation to pay taxes shall be limited as follows: In the first fiscal year during which the Single Rate is no longer in effect, Lessor shall pay taxes in an amount equal to the taxes due in the prior fiscal year plus the lesser of 2½% of such amount or the actual increase in the tax bill from the prior fiscal year. Lessee's Share of Real Estate Taxes in excess of the amount allocated to Lessor shall be paid by Lessee. This process shall continue each year with the base tax payment always being the tax paid by Lessor in the prior fiscal year and with the percentage increase being calculated based on the change in the amount of the tax bill from the prior year. The only exception to the determination of Lessor's base tax calculation is that Lessor shall also be responsible for any tax obligation attributed to an increase in the value of the Property as determined by the Northbridge Assessor or such other valuation as may result from any appeal of the Assessor's determination.

By way of example only, assuming a hypothetical Lessee's percentage share of 50.21%, if the Town of Northbridge adopts a Split Rate in March of 2024 and the change is in effect starting with fiscal 2025, if the fiscal year 2024 tax bill is $100.00 and the tax bill increases 4% to $104.00 for fiscal year 2025, but the assessed value of the Property does not change, Lessor shall pay the first $102.50 ($100 x 1.025) taxed in fiscal year 2025 and Lessee shall pay 50.21% of the remaining $1.50 (.75¢). Assuming the tax bill

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then increases 2.5% to $106.60 in fiscal year 2026, but the assessed value of the Property does not change, Lessor shall pay $105.83 ($103.25 x 1.025) and Lessee shall pay the remaining .77¢ ($106.60 - $105.83). If the bill then increases 2% to $108.73 in fiscal year 2027, but the assessed value of the Property does not change, Lessor shall pay $107.95 ($105.83 x 1.02) and Lessee shall pay the remaining .78¢ ($108.73 – $107.95). If the tax bill for fiscal 2028 increases by 6% to $115.25 and two thirds of the increase is attributable to an increase in the assessed value of the Property, Lessor shall pay $114.42 ($107.95 x 1.06) and Lessee shall pay the remaining .83¢. This hypothetical example is shown below.

Fiscal Year	Tax Bill	Increase From Prior Year	Portion of Increase Due to Increased Assessed Value	Portion of Increase Allocable to Lessee (50.21% x amount of the increase not resulting from an increase in value)	Lessor's Portion	Lessee's Portion
2024	$100.00	N/A	N/A	N/A	$100.00	-----
2025	$104.00	4%	0	2.0084%	$103.25	.75¢
2026	$106.60	2½%	0	1.25525%	$105.83	.77¢
2027	$108.73	2%	0	1.0042%	$107.95	.78¢
2028	$115.25	6%	4%	1.0042%	$114.42	.83¢

Section 3. Payment of Rent. All payments of Minimum Rent, Additional Rent or other sums due under this Lease shall be made payable to Lessor, and sent to the address to which notices hereunder to Lessor are to be delivered or to such other payee or at such other address as Lessor may designate in writing amended from time to time.

For the Tax Years in which the Rent Commencement Date and the Termination Date occur, the provisions of this Section shall apply, but Lessee's liability for any taxes for such year time (the "Code"). This Stock Option shall be subject to a pro rata adjustment based upon the number of days of such Tax Year falling within the period on and after the Rent Commencement Date or on or before the Termination Date during which the Demised Premises are leased to Lessee.

ARTICLE IV

Condition of the Demised Premises

Section 1. Lessee Design and Space Planning. Lessee shall have the express right to use its selected architect for the preparation of its initial fit plans and the BOD attached hereto as Exhibit B and incorporated herein. Lessor shall be responsible for all construction drawings including MEP-FPs (Mechanical, Electrical and Plumbing and Fire Protection) related to the construction of the exterior and interior of the Building. Lessor and Lessee shall mutually agree upon the complete MEP-FP design which shall be consistent with the BOD, and approved governed by, both parties shall become the "Final Plans". All costs for space plans/fit plans, revisions, mechanical and electrical, plumbing, and fire protection plans, and construction drawings are to be borne by Lessor.

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The parties acknowledge and agree that the intent is for the Lessor Improvements to be done on a so-called "turn-key" basis at Lessor's sole cost and expense and without a cap and shall be completed in accordance with the BOD construed and Final Plans, and that such work will include installation of all building equipment and building systems specifically included in the BOD and Final Plans, and responsibility for fully commissioning and qualifying the same to the applicable requirements of the United States Food and Drug Administration. The parties will cooperate in good faith throughout the design and construction process to value engineer the Lessor Improvements to achieve a mutually satisfactory solution, each acting reasonably and promptly, but in all events within the time periods required by the terms of this Lease for responses. Lessor has the right to review and reasonably agree or offer alternatives to be reviewed and agreed upon mutually to any and all Lessee architectural plans, designs and layouts for its fit plans to confirm finish costs are within Lessor's scope of work. Any net incremental cost of changes from the Final Plans shall be at the sole cost and expense of Lessee. Lessee agrees that to the extent the failure to timely meet any deadline under the schedule, time being of the essence, is due to a Lessee Risk Event (as defined herein), the same shall not be a Lessor delay, as the risk of such delay in connection with such delayed performance shall be borne by Lessee. The term "Lessee Risk Event" shall mean an instance whereby Lessee requests Material Changes to the agreed upon BOD after the date hereof, but before the Final Plans have been approved that is: x) not consistent with the requirements hereunder regarding Lessor Improvements; and/or y) not consistent with the types of comments lessees typically and customarily make as part of the construction process, but which is made due to Lessee having changed Lessee's preference from the preferences previously agreed upon between the parties as of the date hereof and as set forth in the BOD. For purposes hereof "Material Changes" shall mean only the following: a) when the character of the work and/or the design intent as altered differs materially in kind or nature from that involved or included in the original proposed construction; or b) when the measured quantity of any item of work is increased in excess of the original proposed quantity. Failure of Lessor to promptly incorporate the same or to cooperate with Lessee to value engineer any such changes and minimize their impact on the construction budget and schedule, under the circumstances, may entitle Lessee to the remedies set forth in Article I, Section 1(j) above. Lessor must provide Lessee with a detailed budget estimate showing the specific materials and labor required to complete the Lessee Risk Event and also showing the specific materials and labor savings from any offsetting value engineering events. Lessee shall only be liable for the net incremental increase in the costs of Lessor Improvements to the extent the same are directly attributable to a Lessee Risk Event. All Lessee Risk events and value engineering events will be tracked and on a quarterly basis and the net incremental amounts, if any, shall be billed to Lessee and shall be paid within forty-five (45) days after

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receipt of a detailed invoice from Lessor, provided both parties have mutually agreed upon Lessee's responsibility for the cost of such items. For the avoidance of doubt, Lessor waives the right to claim Lessee changes were a Lessee Risk Event if Lessor does not provide notice to Lessee of such determination prior to finalizing the Final Plans. Once the Final Plans are complete and approved by both parties, any Lessee initiated requested changes will be evaluated by both parties to assess the impact and Lessor and Lessee will cooperate to minimize the impact of such changes. Lessor must provide Lessee with a detailed budget estimate showing the specific materials and labor required to complete the Lessee initiated change and also showing the specific materials and labor savings from any offsetting value engineering events. All Lessee initiated changes and value engineering changes will be tracked and on a quarterly basis any net incremental amount shall be billed to Lessee and shall be paid within forty-five (45) days after receipt of a detailed invoice from Lessor, and any credits accrued by Lessee from such value engineering can be applied to any additional changes to the project scope initiated by Lessee.

At Lessor's expense, for Lessee's exclusive use, Lessor shall construct a fully paved parking field able to accommodate a minimum of one hundred (100) cars (to include spaces for hybrid cars and the number of handicapped spaces required by applicable laws), and including exterior lighting.

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Lessor will provide a copy of Lessor's construction contract for the Lessor Improvements to Lessee prior to finalizing the same and agrees to provide Lessee with an opportunity to review and comment on the same. Lessor shall incorporate any reasonable comments received from Lessee into such construction contract and insure the final contract meets with Lessee's approval, which approval shall not be unreasonably withheld, conditioned or delayed. In addition, Lessor shall require Lessor's contractor to provide detailed monthly reports to Lessor with a copy each month to Lessee which report shall include job photos, an updated schedule, and a summary of issues and open items.

Section 2. Lessor Improvements. Within thirty (30) days of the date hereof, Lessor shall deliver to Lessee a plan of the proposed improvements at the Property depicting the location of the Building and the utilities, sidewalks, parking areas, driveways, service areas, and landscaped areas necessary to serve the Building (the "Site Plan"). Within ten (10) business days of receipt of the Site Plan, Lessee will acknowledge the sufficiency of the Site Plan, or give Lessor notice of any specific deficiencies in the Site Plan. In the event that Lessee shall fail or neglect to acknowledge the sufficiency of the Site Plan, or give Lessor notice of any specific deficiencies in the Site Plan within such ten (10) business day period, and such failure continues for three (3) business days following a second written notice from Lessor to Lessee together with email notification from Lessor sent to: [***]; Lessee shall be deemed to have accepted the sufficiency of the Site Plan. Upon mutual approval of the Site Plan, Lessor shall use commercially reasonable efforts to obtain all Necessary Approvals (as hereinafter defined) for the Lessor Improvements including applying for any such permits within five (5) days after such mutual approval and thereafter diligently pursuing the same. Upon receipt of a Building Permit and any and all related approvals from any and all governmental authorities, including but not limited to the Town of Northbridge, necessary to construct the Building and the Lessor Improvements (the "Necessary Approvals"), Lessor, at Lessor's sole cost and expense, shall construct the Building and the Lessor Improvements in accordance with the Site Plan and the Final Plans, and upon completion of the Building shall deliver the Building to Lessee with such Lessor Improvements substantially completed (including all qualified clean rooms), with the Property and Building in compliance with all applicable laws, including the ADA, and free from Hazardous Materials and latent defects, with all Building mechanical electrical, plumbing and HVAC in good working order condition and repair, and the envelope of the Building weather tight.

Section 3. Lessee Self-Help. In the event Lessor fails to commence construction of the Lessor Improvements within 15 days following obtaining the building permit and any and all of the Necessary Approvals, or stops work on the Lessor Improvements for a period of 15 consecutive days or more at any point, and the same was not caused by a Lessee Risk Event or a Force Majeure event, then Lessee shall have the right to elect to manage the outstanding Lessor Improvements upon providing five (5) business days' advance notice to Lessor; provided Lessee's notice of such election shall be void in the event Lessor re-commences construction of the Lessor Improvements within such 5-business day period. In the event Lessor does not so re-commence construction, Lessor shall within three (3) business days following the expiration of the initial 5-business day period, assign its rights under any and all third-party contracts concerning the performance of the Lessor Improvements to Lessee. Lessee shall have the right to offset and deduct the actual out of pocket costs of any such outstanding Lessor Improvements (completed in accordance with the BOD and Final Plans) incurred by Lessee from any Minimum Rent and additional rent as the same becomes due under this Lease until fully reimbursed for costs incurred; provided, however, Lessee shall have no right to offset Minimum Rent for amounts incurred by Lessee for any changes made by Lessee to the Final Plans. In the event Lessee elects to undertake such self-help, the Lease Commencement Date shall be modified (notwithstanding anything to the contrary contained in this Lease) to be the date Lessee substantially completes the Lessor Improvements and the Rent Commencement Date shall be modified (notwithstanding anything to the contrary contained in this Lease) to be the date which is four (4) months following the date Lessee substantially completes the Lessor Improvements.

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ARTICLE V
Maintenance

Section 1. Lessee's Maintenance. Lessee shall be responsible for performing the following work related to the Building and the Demised Premises ("Lessee's Maintenance"):

(a) Interior cleaning and interior maintenance of the Building; and

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(b) Exterior maintenance to Building caused by normal wear and tear, limited to glass, window frames, windows, doors, door frames and signs, except that during the one-year period immediately following the Lease Commencement Date, to the extent that such maintenance is covered by the builder's warranty to Lessor, if any, Lessor shall be responsible for such maintenance. Lessor shall warrant the Building, roof, and any equipment installed by Lessor or any Lessor contractor as part of the Lessor Improvements for the same period of time as any warranties obtained from Lessor's general contractors performing the initial installation of the same (which in no event shall run for less than one (1) year following the Lease Commencement Date) and shall transfer or assign the right to pursue enforcement of any such third-party warranties to Lessee during the Term (and any Option Term if exercised) to the extent Lessee seeks to enforce the same.

In the event Lessor is not satisfied with the timing or quality of Lessee's performance of any of Lessee's Maintenance, upon thirty (30) days prior written notice thereof from Lessor, Lessee shall promptly perform the maintenance and repair described in Lessor's notice. If Lessee shall fail, neglect or refuse to perform such maintenance or repair within such thirty (30) day period, then Lessor may, at Lessor's option, perform such maintenance or repair and charge Lessee for the reasonable, out-of-pocket cost thereof actually incurred by Lessor as Additional Rent.

Section 2. Lessor's Maintenance. Lessor shall be responsible at Lessor's sole cost and expense for repair and replacement of: the Demised Premises (excluding the Building except as provided herein); the structure of the Building (including the structural walls insulated wall panels, structural steel, underground conduits, underground piping, roof, roof membrane, roof insulation, roof decking, and foundation thereof); the utilities systems constructed or installed by Lessor; and the space heating and cooling equipment installed by Lessor ("Lessor's Maintenance"). Subject to reimbursement by Lessee as Additional Rent administered in accordance with, the terms and conditions of this Lease, Lessor shall be responsible for: a) lawn mowing, shrub pruning, and spring and fall cleanup of all portions of the Demised Premises adjacent to and exclusively serving the Building; b) sweeping, striping, and repairing the pavement within the parking lot adjacent to and exclusively serving the Building, and clearing the storm drains serving such parking lot as needed; c) snow removal from the parking lot adjacent to and exclusively serving the Building; and d) snow removal (including shoveling) and applying ice melting materials on all walkways and areas adjacent to and exclusively serving the Building. Notwithstanding anything to the contrary herein contained, should any of Lessor's Maintenance be necessitated by the negligence or acts of Lessee or anyone acting for or on behalf of Lessee, or by the act or omission of any of Lessee's customers, vendors, agents, licensees, suppliers, contractors, invitees, guests, employees, or any others acting pursuant to their relationship with Lessee, Lessee shall reimburse Lessor as Additional Rent for the cost of such work within thirty (30) days of receipt of written notice from Lessor.

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Section 3. Common Area Maintenance.

(a) Lessee shall reimburse Lessor, as Additional Rent hereunder, Lessor's Common Area Maintenance Fee paid to the Trustees of the Condominium.

(b) Notwithstanding anything to the contrary contained in this Lease, Lessor's Common Area Maintenance Fee shall not include:

i. leasing commissions, fees and costs, advertising and promotional expenses and other costs incurred in procuring tenants or in selling the Building or the Property;

ii. legal fees or other expenses incurred in connection with enforcing leases with other tenants in the Building, if any;

iii. costs of renovating or otherwise improving or decorating space for any tenant or other occupant of the Building or the Property, including Lessee, or relocating any tenant;

iv. financing costs including interest and principal amortization of debts and the costs of providing the same;

v. except as otherwise expressly provided above, depreciation;

vi. rental on ground leases or other underlying leases and the costs of providing the same;

vii. salaries, wages, benefits and other compensation paid to officers or executive employees of Lessor who are not assigned in whole or in part to the operation, management, maintenance or repair of the Property, except for one manager who is routinely and materially involved in property management matters for the Property;

viii. the property management fee of any third-party property manager or any affiliate management company of Lessor, whom Lessor may elect to engage Company's 2023 Long Term Incentive Plan (as from time to time to perform management services hereunder, that is in excess effect, the "Plan"), which terms and conditions are incorporated herein by reference. A copy of the lesser Plan has been made available to the Participant. Notwithstanding the foregoing, this Stock Option is not awarded under the Plan and the grant of 2% this Stock Option shall not reduce the number of gross revenue shares of Stock available for issuance under awards issued pursuant to the Plan.

2.Vesting.

(a) During Employment. This Stock Option will vest according to the following schedule and become exercisable; provided that, and subject to Section 2(c) below, upon a cessation of the Demised Premises (meaning all amounts paid Participant's Employment by Lessee to Lessor under this Lease during the applicable Lease Year) or the property management fee paid to property managers to manage properties similar to the Demised Premises and situated reason of an involuntary termination without Cause (as defined in the same general locale existing Employment Agreement between the Company and the Participant ("Employment Agreement") ("Cause")) or a voluntary

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termination for Good Cause (as defined in the Employment Agreement ("Good Cause")) any unvested portion of this Stock Option that would have vested as of the Demised Premises;

ix. Any liabilities, costs or expenses associated with or incurred first anniversary of the cessation of the Participant's Employment had the Participant continued in connection with Employment through such first anniversary will vest immediately prior to such cessation of Employment.

###VEST_SCHEDULE_TABLE###

(b) Termination of Employment. Notwithstanding the evaluation, investigation, removal, enclosure, encapsulation or other handling foregoing, and subject to Section 2(c) below, the following rules will apply if a Participant's Employment ceases regardless of Hazardous Materials in, on or about the Building or Property circumstances: automatically and immediately upon the cessation of Employment, this Stock Option will cease to be exercisable and will terminate, except that: a.) existed

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(I) such portion, if any, of this Stock Option as is held by the Participant immediately prior to the Lease Commencement Date; b.) are incurred solely by Lessor; or c.) are caused by another tenant (other than Lessee or an affiliate of Lessee) cessation of the Building or Property (collectively, "Excluded Hazardous Materials Events") and the cost of investigating, negotiating, defending against claims in regard to Participant's Employment for any Excluded Hazardous Materials Events;

x. costs of any items for which Lessor is paid or reimbursed by insurance;

xi. increased insurance premiums resulting from claims relating to acts or omissions of any party reason other than Lessee;

xii. charges for electricity, water, Cause or other utilities, services or goods and applicable taxes for which Lessee or any other tenant, occupant, person or other party is obligated to reimburse Lessor or to pay to third parties;

xiii. the cost of any HVAC, janitorial or other services provided to other tenants of the Building on an extra cost basis after regular business hours (to the extent such costs are charged to Lessee,

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the same shall be deducted from Lessor's Common Area Maintenance Fee hereunder);

xiv. the cost of installing, operating and maintaining any specialty service, such as a cafeteria, observatory, broadcasting facilities, child or daycare which is not requested by Lessee;

xv. costs actually covered by warranties, or the cost of correcting defects or deficiencies in the design, construction or equipment of: (x) the Lessor Improvements for 1 year following the date of Substantial Completion thereof; and (y) the structural portions of the Building for the entire Term;

xvi. cost of any work or service performed on an extra cost basis for any other tenant in the Building or the Property to a materially greater extent or in a materially more favorable manner than furnished generally to the other tenants and occupants;

xvii. cost of any work or services performed for any facility other than the Building or Property;

xviii. any cost representing an amount paid to a person, firm, corporation or other entity related to or performed by affiliates of Lessor that is in excess of the amount which would have been paid in the absence of such relationship;

xix. cost of initial cleaning and rubbish removal from the Building or the Property to be performed before final completion of the Building or tenant space;

xx. cost of initial landscaping of the Building or the Property;

xxi. cost of any item that, under GAAP, are properly classified as capital expenses;

xxii. lease payments for rental equipment (other than equipment for which depreciation is properly charged as an expense) that would constitute a capital expenditure if the equipment were purchased;

xxiii. cost of the initial stock of tools and equipment for operation, repair and maintenance of the Building or the Property;

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xxiv. late fees or charges incurred by Lessor due to late payment of expenses, or any penalties, fines, or assessments levied against Lessor pursuant to the Condominium Documents unless and only to the extent directly caused by the acts or omissions of Lessee;

xxv. cost of acquiring, securing, cleaning or maintaining sculptures, paintings and other works of art;

xxvi. charitable or political contributions;

xxvii. reserve funds;

xxviii. all other items for which another party compensates or pays so that Lessor shall not recover any item of cost more than once;

xxix. Lessor's general overhead and any other expenses not directly attributable to the operation and management of the Building and the Property (e.g. the activities of Lessor's officers and executives or professional development expenditures);

xxx. costs and expenses incurred in connection with compliance with or contesting or settlement of any claimed violation of law or requirements of law;

xxxi. costs of mitigation or impact fees or subsidies (however characterized), imposed or incurred prior to the date of the Lease or imposed or incurred solely as a result of another tenant's Participant's death and as is then exercisable (after giving effect to any accelerated vesting owing to a cessation of Employment by reason of an involuntary termination without Cause or tenants' use of the Property or their respective premises; and

xxxii. costs related a voluntary termination for Good Cause pursuant to public transportation, traffic mitigation, transit and vanpools, including special assessments levied against the Building or Property related thereto, unless such transit

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services are specifically requested by Lessee.

(c) In the event that the Trustees of the Condominium have not determined Lessor's Common Area Maintenance Fee on or before the Lease Commencement Date, then for the period beginning on the Lease Commencement Date and ending will remain exercisable until (i) 5:00 P.M. Eastern Time on the last day of the calendar month immediately preceding three-month period commencing on the delivery by Lessor to Lessee date of such cessation of Employment or (ii) the first annual statement described in the next paragraph, the foregoing charge shall be based upon industry standards for comparable developments. For subsequent periods, Lessor's Common Area Maintenance Fee shall be the amount determined Final Exercise Date, if earlier, and will thereupon terminate;

(II) such portion, if any, of this Stock Option as is held by the Trustees of Participant immediately prior to the Condominium, subject to Section 4(b) above. Commencing on the Rent Commencement Date, Lessor's Common Area Maintenance Fee shall be paid in monthly installments Participant's death and as is then exercisable, will remain exercisable until (i) 5:00 P.M. Eastern Time on the first day anniversary of each calendar month, in advance, together with Minimum Rent. Within ninety (90) days following the end Participant's death or (ii) the Final Exercise Date, if earlier, and will thereupon terminate; and

(III) such portion, if any, of each calendar year, Lessor shall furnish Lessee with a statement provided to Lessor this Stock Option as is held by the Trustees Participant immediately prior to the cessation of the Condominium, setting forth in reasonable detail the costs and expenses that are the basis Participant's Employment for Cause will immediately terminate.

(c) Change of Lessor's Common Area Maintenance Fee. Lessor shall request from the Trustees, if so requested by Lessee, back-up invoices, receipts and such Control. Notwithstanding any other data as shall be reasonably necessary for Lessee to verify the amount provision of Lessor's Common Area Maintenance Fee. If the total amount paid by Lessee under this paragraph for any such year shall be less than the actual amount due from Lessee for such year as shown on such statement, Lessee shall pay to Lessor the difference between the amount paid by Lessee and the actual amount due, such deficiency to be paid within thirty (30) days after the furnishing of each such statement. If the total amount paid by Lessee hereunder for any such year shall exceed such actual amount due from Lessee for such year, such excess shall be credited against the next installment due from Lessee to Lessor under this paragraph or paid to Lessee within thirty (30) days if this Lease has expired. Notwithstanding the foregoing or anything Section 2 to the contrary, herein contained, no if a Change of Control occurs, whether or not the Change of Control also constitutes a Covered Transaction, and within the 24 months thereafter there is a cessation of the Participant's Employment by reason of an involuntary termination without Cause or a voluntary termination for Good Cause, the provisions of this Section 2(c) shall apply:

(I) This Stock Option, if it survives the Change of Control, including any stock option granted in substitution for this Stock Option in connection with the Change of Control, shall automatically vest and become exercisable immediately prior to such credit shall be paid during any Holdover period, cessation of Employment and will remain exercisable until (i) 5:00 P.M. Eastern Time on the expiration first anniversary of the Holdover date of such cessation of Employment or (ii) the Final Exercise Date, if earlier, and will thereupon terminate; provided that, in the event of the Participant's death during such extended exercise period following a Change of Control, any such credit portion of this Stock Option as is held by the Participant immediately prior to the Participant's death will be immediately paid remain exercisable until (i) 5:00 P.M. Eastern Time on the first anniversary of the Participant's death or (ii) the Final Exercise Date, if earlier, and will thereupon terminate.

(II) Any and all performance or other vesting conditions imposed pursuant to Lessee. A fair and equitable adjustment shall be made Section 7(a)(5) of the Plan with respect to any such payments due from Lessee to Lessor stock, cash or other property delivered in exchange for this Stock

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Option in connection with the last period Change of Control shall automatically be deemed to have been satisfied immediately prior to such cessation of Employment.

(III) For purposes of this Section 2(c), "Employment" shall be deemed to include employment with any successor to the Term, where the same does not coincide with the payment periods involved.

(d) Lessor estimates, but does not guarantee, that Lessor's Common Area Maintenance Fee will be as follows: for exterior maintenance, approximately $1.00 per RSF; for condominium fees, approximately $1.00 per RSF. Lessor estimates, but does not guarantee, that Lessee's Share of Real Estate Taxes will be approximately $1.75 per RSF.

(e) Lessor agrees that Lessee may audit, at Lessee's sole cost and expense (except as expressly provided below), Lessor's Common Area Maintenance Fee and Lessee's Share of Real Estate Taxes charged by Lessor for a period up to three (3) years following the receipt of any statement of expenses for an operating year, in the case of operating expenses, and three (3) years from the later of (i) the receipt of any real estate tax statement for a tax year and (ii) the final determination by the taxing authority of real estate taxes for a tax year, in the case of real estate taxes. Lessee may use any firm of its choosing to perform the audits and any method of compensating such firm. If such audit discloses that the amount paid by Lessee as Lessor's Common Area Maintenance Fee and/ Company's business or Lessee's Share of Real Estate Taxes, or of other Additional Rent payable by Lessee hereunder, has been overstated by more than five percent (5%), then, in addition to immediately repaying such overpayment to Lessee, Lessor shall also pay the reasonable costs incurred by Lessee assets in connection with such audit. a Change of Control.

(IV) For purposes of this Stock Option, "Change of Control" shall mean:

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(f) In

(A) the event that acquisition by any Person (defined as any individual, entity or group (within the Trustees meaning of Section 13(d)(3) or Section 14(d)(2) of the Condominium fail, neglect, Securities Exchange Act of 1934, as amended ("Exchange Act"))) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 35% or refuse to undertake more of the common stock of the Company; provided, however, that for purposes of this subsection (a), an acquisition shall not constitute a Change of Control if it is: (i) either by or conduct any Common Area Maintenance required to be undertaken directly from the Company, or conducted by an entity controlled by the Trustees Company, (ii) by any employee benefit plan, including any related trust, sponsored or maintained by the Company or an entity controlled by the Company ("Benefit Plan"), or (iii) by an entity pursuant to a transaction that complies with the clauses (i), (ii) and (iii) of subsection (C) below; or

(B) individuals who, as of the Condominium, then Lessee may undertake Date of Grant, constitute the Board (together with the individuals identified in the proviso to this Section 2(c)(IV)(B), the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the Date of Grant whose election, or conduct any such Common Area Maintenance not undertaken or conducted nomination for election by the Trustees Company's stockholders, was approved by at least a majority of the Condominium and may deduct Lessee's actual, out-of-pocket cost to undertake or conduct any such Common Area Maintenance from Additional Rent due hereunder. Lessor hereby appoints Lessee as its attorney in fact for directors then comprising the purpose of exercising any such self-help rights held by Lessor Incumbent Board shall be treated as a Unit Owner member of the Condominium.

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ARTICLE VI

Covenants

Lessee covenants and agrees Incumbent Board unless he or she assumed office as follows:

(a) To pay, when due, Minimum Rent and Additional Rent at the times and in the manner set forth herein;

(b) To procure any licenses and permits required for any use to be made a result of the Demised Premises by Lessee;

(c) To pay promptly when due the entire cost of any work an actual or threatened election contest with respect to the Demised Premises undertaken by Lessee so that the Demised Premises shall, at all times, be free election or removal of liens for labor and materials; to procure all necessary permits before undertaking such work; to do all directors or other actual or threatened solicitation of such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements; to provide Lessor with a complete set of as built plans

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once the work is complete; and to save Lessor harmless and indemnified from all injury, loss, claims proxies or damage to any person or property occasioned by or growing out of such work including, without limitation, reasonable attorneys' fees. No such work may be performed without Lessor's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, and all of such work shall be performed only by qualified, licensed contractors. Notwithstanding the foregoing, or anything in this Lease to the contrary, Lessee shall be permitted to perform non-structural work costing up to $100,000 per year without the need for Lessor's consent provided that Lessee has first provided Lessor a description of any such work to be undertaken by Lessee together with a copy of any and all plans and specifications commission consents by or on behalf of Lessee for such work ("Permitted Alterations"). Upon receipt a Person other than the Board; or

(C) consummation of written notice from Lessor, Lessee shall take over Lessor's defense in any action related to work undertaken by Lessee on a reorganization, merger or consolidation involving the Demised Premises. Except in the case of an emergency Company, or unless Lessor is accompanied by an employee of Lessee, Lessor will not enter any area in which Lessee has given Lessor clear written notice that there are medical records stored and Lessor agrees to take all commercially reasonable steps to maintain, and to require its contractors, subcontractors and agents to maintain, the privacy and confidentiality of such in the event they enter such areas. Lessee, without Lessor consent and without notice to Lessor and without the requirement to provide plans to Lessor, shall be permitted to complete any aesthetic alterations including such items such as carpets, hanging of artwork, painting of walls, and the likeness of.

(d) Subject to Lessee's security requirements, to permit Lessor and Lessor's agents to examine the Demised Premises during normal business hours , providing a minimum of 24 hour prior notice (except in the case of an emergency for which there are no timing requirements, but notice of which shall be given as soon as possible) and to show the Demised Premises to prospective lenders, purchasers or tenants, but Lessor shall not show the Demised Premises to prospective tenants until the last nine (9) months of the Term; to permit Lessor to enter the Demised Premises (upon prior notice to Lessee except in the case of an emergency for which there are no timing requirements, but notice of which shall be given as soon as possible) to make such repairs, improvements, alterations or additions thereto as may be required in order to comply with the requirements of any public authority having jurisdiction over the Demised Premises, or as may be desired by Lessor or required of Lessor under the terms of this Lease, provided that in each case Lessor uses commercially reasonable efforts to exercise the foregoing rights in a manner and at such times so as to minimize disruption to Lessee's business operations in the Demised Premises to the maximum extent possible.

(e) To pay, when due, any and all State, Federal or local taxes based upon Lessee's use or occupation of the Demised Premises or pertaining to Lessee's personal property or resulting from any alterations,

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additions or improvements made on Lessee's behalf or by Lessee to the Demised Premises.

(f) To comply with all applicable laws, orders, and regulations of any governmental authorities pertaining to Lessee's use and occupation of the Demised Premises.

(g) To refrain from doing anything, taking any action or failing to act in such a manner that will cause any increase in the fire insurance rates pertaining to the Demised Premises or the Building and to comply with any rules, regulations or recommendations of the National Board of Fire Underwriters, any rating bureau, or any similar association performing such function and failing same, to pay to Lessor any increase in premiums resulting therefrom.

(h) To keep the Building adequately heated for the protection of the plumbing therein to the extent the same is within Lessee's control.

(i) To permit no waste with respect to the Demised Premises.

ARTICLE VII

Use of Demised Premises

Section 1. Permitted Use Only. Lessee shall have the right to use the Demised Premises for the Permitted Use and for no other purposes whatsoever without Lessor's prior written permission, which consent may be withheld or conditioned at Lessor's sole discretion.

Section 2. Lessee shall not engage in any trade or occupation in the Demised Premises or use made thereof which will be unlawful, improper, excessively noisy or contrary to any applicable law or any municipal by-law or ordinance in effect in the Town of Northbridge, now or in the future. Lessee shall give prompt written notice to Lessor of any written notice it receives of the violation of any law or requirement of public authority, and at its own expense shall comply with all laws and requirements of authorities which shall, with respect to the Demised Premises or Lessee's use and occupation thereof, or the abatement of any nuisance, impose any obligation, order, or duty on Lessor or Lessee arising from (i) Lessee's use of the Demised Premises, (ii) the manner of conduct of Lessee's business or operation of its installations, equipment, sale or other property, (iii) any cause or condition created by or on behalf disposition of Lessee or (iv) breach of obligations of Lessee under this Lease.

Section 3. Use Restrictions. Lessee shall conform to the following provisions during the Term of this Lease:

(a) Lessee shall follow all applicable town, state, and federal laws with regard to all matters related to its use of the Demised Premises, including but not limited to the disposal of medical waste and Hazardous Materials;

(b) Except in connection with any Permitted Transfer or an assignment approved by Lessor, Lessee shall always conduct its operations in the Demised Premises under Lessee's name as set forth herein, or as it may be legally changed or altered, or upon prior notice to Lessor of Lessee conducting its operations in the Demised Premises a name other than Lessee's name as set forth herein;

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(c) Lessee shall not use the sidewalks, parking areas, driveways or other Common Area for advertising without the prior written consent of Lessor;

(d) Lessee shall, at its own cost and expense, be responsible for the prompt removal of all Lessee's trash, refuse and the like, from the Demised Premises and shall ensure that same be kept in a covered container at all times;

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(e) Lessee shall take whatever measures are reasonably necessary to ensure that floor load limitations are not exceeded in the Demised Premises;

(f) Lessee shall not permit nor cause any offensive odors (which, for purposes of this Lease, include any odors that violate any applicable local, state, or federal rule or regulation governing such odors) or loud noise (including, but without limitation, the use of loudspeakers) to emanate from the Demised Premises or the Property, nor shall Lessee constitute a nuisance or menace to any other occupant or other persons in the Property or in neighboring buildings provided that the Permitted Use shall not be deemed to be a violation of this subsection;

(g) Lessee shall not in any way, directly interfere with, the business operations of Osterman Propane LLC at the Property or other tenants located within the Property so long as such entities are held to the same standards as Lessee;

(h) Lessee shall have the right to install a controlled access security system servicing the Building, including maintenance and monitoring, at Lessee's sole cost and expense, provided, however that portions of the same will need to be coordinated with and installed as part of the Lessor Improvements and any wiring associated with such system will be installed by Lessor at Lessor's expense as part of the Lessor Improvements, and following such installation any alterations or improvements to such controlled access security system servicing the Building shall be completed at Lessee's sole cost and expense; and

(i) Lessee shall have access to the Building 24 hours per day, 365 days a year.

ARTICLE VIII

Repairs and Alterations

Section 1. Lessee's Work. Except for work for which Lessor is specifically responsible pursuant to this Lease, and subject to reasonable wear and tear and casualty and condemnation, Lessee shall do all work necessary to keep and maintain the Demised Premises, and all facilities and systems (to the extent exclusively serving the Demised Premises) inside the Demised Premises (or outside of the Demised Premises if such facility or system only serves the Demised Premises), in a neat, clean, sanitary condition and in good working order and repair, and in compliance with all applicable laws, ordinances or regulations of any public authorities having jurisdiction, including, without limitation, all electrical, plumbing, gas, heating, air-conditioning and sewage facilities, sprinklers, fixtures, walls, floors, ceilings, signs, building appliances and similar equipment, windows, window frames, doors, door frames, and all other glass or plate glass thereon. Lessor shall remain responsible for the repair and maintenance of the structural elements of the Building as set forth in Article V.

Section 2. Surrender of Demised Premises. Lessee shall, at the expiration or earlier termination of this Lease, remove its goods and effects and clean up and/or remove any Hazardous Materials to the extent placed on the Property by Lessee and peaceably yield up the Demised Premises, clean and in good working order, repair and condition, with any injury done to the Demised Premises or the Property by the installation or removal of Lessee's fixtures or other property being promptly repaired by Lessee in a good and workmanlike manner, reasonable wear and tear, damage caused by any party other than Lessee or Lessee's agents or invitees, casualty and condemnation excepted. Lessee shall be deemed to be occupying the Demised Premises until the Demised Premises is in the condition required herein.

In the event Lessee fails to leave the Property in the condition required above, Lessee's personal property shall be deemed abandoned and may be disposed of by Lessor in any way Lessor sees fit, and Lessor shall not be accountable to Lessee for the disposal of such property, and Lessor may clean up and

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dispose of any Hazardous Materials left at the Property. Lessee shall promptly reimburse Lessor for all costs and expenses related to such disposal, cleanup and/or removal.

Notwithstanding the foregoing, Lessee shall not be obligated to restore the Demised Premises, nor remove any cabling or wiring, during or at the end of the Term. In the event that Lessor approves any later alterations (i.e., following the initial buildout), Lessor shall inform Lessee at the time of approval, in writing, whether the same will need to be removed at the end of the Term.

Section 3. Alterations. Except for Permitted Alterations, Lessee shall obtain Lessor's prior written consent for any alterations, improvements or additions to the Demised Premises, which shall not be unreasonably withheld, conditioned or delayed. All such work, including Permitted Alterations, shall be performed in accordance with all applicable laws, rules and regulations and in a good and workmanlike manner and shall not impair the safety or the structure of the Building, nor diminish the value of the Building as then constituted. At the expiration or earlier termination of this Lease, at Lessee's expense, Lessee shall remove such alterations, improvements or additions as Lessor may request (provided such request is made at the same time Lessor approves the such alteration, improvement or addition) and shall return the Demised Premises to the condition it was in prior to such alterations, improvements or additions, less ordinary wear and tear, casualty, condemnation and any damage not caused by Lessee or Lessee's agents or invitees. All such work shall be performed in accordance with all applicable laws, rules and regulations and in a good and workmanlike manner. Lessee shall be deemed to be occupying the Demised Premises until such work is completed.

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Section 4. Future Expansions/Term Extension. Lessee, or a Related Entity or assignee otherwise approved by Lessor shall have the exclusive right to expand the Building by not greater than twenty thousand (20,000) rentable square feet of space upon notice to Lessor of Lessee's intention to expand the Building. The exact terms and conditions of any such expansion shall be mutually agreed upon by Lessee and Lessor. In the event that the date that Lessor receives notice of such expansion occurs during the last five (5) years of the Term, then the Term shall be extended by five (5) years. No sublessee may have the right to expand the Building.

ARTICLE IX

Utilities

Lessee shall pay for all utility services provided to the Demised Premises, including, without limitation, electricity, gas, water, telephone, heat and sewage charges applicable to the Demised Premises. Lessor shall install at Lessor's sole expense separate meters for electricity, water and sewer for the Demised Premises. Except as otherwise set forth herein, Lessor shall not be liable for any interruption of electricity (both inside and outside of the Building), gas, water, telephone, sewage, heat or other utility service supplied to the Demised Premises, unless such disruption is due to the negligence or willful misconduct of Lessor or its employees or vendors. Lessee shall pay, on being billed therefore, any water and/or sewer use tax imposed by any governmental authority, which is directly or indirectly applicable to the Demised Premises. In the event Lessee's utility services are interrupted due to Lessor's negligence or willful misconduct or Lessee's use of or access to the Demised Premises is interrupted by reason of any repairs or improvements being made by Lessor, and the interruption lasts for more than three (3) business days, Lessee shall receive a day-for-day abatement of Minimum Rent and Additional Rent commencing on the day following such third consecutive business day until service, use, or access, as applicable, is restored. Any utilities servicing the Building, including propane supply, shall be competitively priced per market rates. Lessee shall have the right to bid out any utility services required by Lessee for the Building.

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ARTICLE X

Liability

Section 1. Indemnity. Each party shall save the other harmless and indemnified from all injury, loss, claims or damage of whatever nature to any person or property in the Demised Premises or about the Property arising from any act, omission or negligence of the other party, or the employees, agents, contractors, suppliers, licensees or invitees of any of the foregoing, except as set forth below. Lessor shall indemnify and hold harmless Lessee against any pre-existing hazardous materials contained in the Building or Property that were introduced prior to Lessee's occupancy or by any party other than Lessee, except that Lessor shall neither indemnify nor hold harmless Lessee against any material that is nonhazardous and in compliance with applicable laws and regulations as of the Lease Commencement Date unless later reclassified otherwise or exacerbated by anyone other than Lessee or its agents or invitees.

Section 2. Lessor's Non-Liability. Neither Lessor nor any agent or employee of Lessor shall be liable for any damage to the person or property of Lessee, or of any subtenant, or concessionaire, or of any employee, customer, patient, licensee, invitee, contractor or supplier, or guest of any of the foregoing except to the extent that such damage arises as a direct result of Lessor's negligence or willful misconduct in the performance or failure to perform any of the obligations of Lessor under and pursuant to the terms and provisions of this Lease. Without in any way limiting the generality of the foregoing, Lessor, Lessor's agents or employees, shall not be liable, in any event, for any damage resulting from (a) the interruption to business or damage to property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Demised Premises, or from the pipes, appliances or plumbing or from dampness or any other cause, or (b) any hidden defect in the Demised Premises.

Section 3. Notwithstanding anything to the contrary herein, Lessor shall be responsible for the repair of any structural and latent defects in the Building during the Term of the Lease, including any extension and/or option periods, at Lessor's sole cost and expense. And for the avoidance of doubt, such costs and expenses shall be excluded from Lessor's Common Area Maintenance Fee.

ARTICLE XI

Insurance

Section 1. Lessor's Casualty and Liability Insurance. Lessor shall maintain, at all times during the Term of this Lease, with respect to the Building, insurance against loss or damage by fire the so-called special causes of loss coverage (which includes loss of rental income) for an amount of not less than one hundred percent (100%) of the full replacement cost and commercial general liability coverage with inclusive limits of not less than One Million Dollars ($1,000,000.00) per occurrence, Two Million Dollars ($2,000,000.00) in the aggregate, in the event of bodily injury or death. If Lessee's use of any portion of the Demised Premises shall result in an increase in Lessor's insurance premium, such increase shall be paid by Lessee promptly upon receipt of written notice from Lessor.

Section 2. Lessee's Insurance. Lessee shall maintain, during the Term of this Lease, at its own expense, commercial general liability coverage with responsible companies qualified to do business in Massachusetts which shall insure Lessor (as a named, insured party), and all persons claiming under Lessor, as well as Lessee, against all claims for injuries to persons (including death) and property damage in an amount of no less than Five Million Dollars ($5,000,000.00) per occurrence. Lessee shall furnish Lessor with certificates for such insurance prior to the Lease Commencement Date and at least ten (10) days prior

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to the expiration date of any of such policies. Each policy shall be non-cancelable with respect to Lessor's interest without at least thirty (30) days prior written notice to Lessor from the insurer.

Lessee shall, at its own expense, maintain such insurance as it deems necessary or appropriate, including but not limited to workman's compensation insurance, and fire and comprehensive casualty insurance of adequate amounts with respect to its own fixtures, merchandise, equipment and other property contained in the Demised Premises.

ARTICLE XII

Signs

Lessee shall have exclusive naming and signage rights on the interior and exterior of the Building and for the entry into the Building driveway (exclusive of and separate from signage for other tenants on the property). All signs erected or placed by Lessee shall be at Lessee's sole cost and expense and only in compliance with the zoning by-laws of the Town of Northbridge, building code and other governmental permits and approvals necessary under any applicable laws, regulations, codes, orders, ordinances, rules and statutes now in effect. Lessee shall maintain its sign(s) at Lessee's sole cost and shall obtain and maintain any and all permits therefore as may be required. Lessee shall maintain and keep its signs in good repair and shall remove such signs upon the expiration or earlier termination of this Lease. Lessee shall promptly repair any damage related to the erection or removal of such signs.

ARTICLE XIII

Assignment or Subletting

Lessee shall neither assign nor permit any assignment of this Lease by operation of law or otherwise, nor sublet any portion of the Demised Premises or permit occupation of the whole or any part thereof by another without, on each occasion, first obtaining Lessor's written approval. Lessor's approval shall not be unreasonably withheld, conditioned or delayed.

Notwithstanding the foregoing, Lessee may assign this Lease or sublease all or a portion of the Demised Premises to any entity that Lessee directly or indirectly controls, that is controlled by or under common control with Lessee, or that succeeds to all or substantially all of the assets and business of Lessee, whether by merger, consolidation, or transfer of assets (each a "Related Entity" and together, "Related Entities" the Company, (a "transaction") without Lessor's approval. Any Related Entity may use the Demised Premises without Lessor's approval. In addition, Lessee may assign this Lease or sublease in each case unless, following such transaction, (i) all or a portion of the Demised Premises to the following entities without Lessor's consent:

(i) to an entity which purchases substantially all of the interests in Persons who were the beneficial owners of the common stock of the outstanding immediately prior to such transaction beneficially own, directly or assets indirectly, more than 50% of an operating division, department the combined voting power of Lessee, or which purchases the majority then outstanding voting securities of Lessee's business as c in the Demised Premises;

(ii) to entity resulting from such transaction (including, without limitation, an entity which as a result of such transaction owns the Company or entitie by all or substantially all of the division of Lessee into Company's assets either directly or through one or more separate corp partnerships, subsidiaries) in substantially the same proportions as their ownership, immediately prior to such transaction, of the outstanding stock of the Company, (ii) no Person (excluding any entity or other entities; wholly owned subsidiary of any entity resulting from such transacti Benefit Plan of the Company or such entity or wholly owned subsidiary of such entity resulting from such transaction) beneficially owns, d indirectly, 35% or more of the combined voting power of the then outstanding voting securities of such entity except to the extent that such o existed prior to the transaction and (iii) at least a majority of the members of the board of directors or similar board of the entity resulting f transaction were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing transaction; or

(D) approval by the stockholders of the Company of a liquidation or dissolution of the Company.

(d) Notwithstanding the foregoing provisions of this Section 2, this Stock Option shall not vest or become eligible to vest on any date specified above unless the Participant has

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(iii) continuously been, since the Grant Date until the date immediately prior to such termination of Employment, Employed by the C Affiliates, its subsidiaries, or, following a Change of Control, any successor to the Company's business or assets in connection w offering Change of Control.

3. Exercise of Stock Option.

The Participant may exercise the vested and exercisable portion of this Stock Option by logging in to his or her the Solium Shareworks website at eyepoint.solium.com (or the website of any other stock plan administrator selected by

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Company in the future), and exercising the Stock Option and paying the aggregate exercise price and any required tax withholdings that are due upon exercise through one of the stock methods provided for on such website, which methods include: (i) exercise and sell all Shares (also known as “cashless exercise”), (ii) exercise and sell at least such number o any affiliated or successor entity of Lessee, or any entity created in connection Shares sufficient to pay for the exercise p required tax withholdings, with the “spin-off” of an operating division, group, remaining Shares issued to the Participant (as “sell to cover”) or department of Lessee.

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(iii) exercise and hold all Shares (also known as “exercise and hold”). The transfer of any stock or other ownership interest in including, without limitation, a majority or controlling interest in Lessee, shall not constitute an assignment of this Lease. Lessee m into desk-sharing licenses with entities with which it has a business relationship, without Company reserves the consent of Lessor. With Lessor’s prior approval, which shall not be unreasonably withheld, conditioned or delayed, Lessee may seek to assign this sublease all or a portion of the Demised Premises to a third party, Lessor shall respond to Lessee within twenty (20) days following request to sublease or assign, and if Lessor shall fail to respond and Lessee gives a second notice to Lessor, Lessor’s consent deemed given if Lessor fails to respond within three (3) business days. Lessor may not deny consent to another tenant of the wishing to sublet its premises or assign its lease to Lessee. Lessor shall have no right to “recapture” change the means of exercising or option administration at any portion of the Demised Premises which is the subject of a permitted assignment or subletting, and a from subleasing shall be retained by Lessee. All lease rights hereunder shall inure to the benefit of Lessee’s assignee. time.

In the event of an assignment the Participant’s death or sublease incapacity, the vested and exercisable portion of this Stock Option may be exer writing, signed by the Participant’s executor, administrator, or legally appointed representative (in the event of the Demised Premises, Lessee’s assignee Participant’s incapacity) or sublessee (being collectively hereinafter called “Assignee”) the person or persons to whom this Stock Optio transferred by will or the applicable laws of descent and Lessee shall promptly execute, acknowledge distribution, and deliver received by the Co its principal office, accompanied by this certificate and payment in full as provided in the Plan. Subject to Lessor an agreement in form and subs satisfactory to Lessor whereby Assignee shall agree to be bound by and upon all the covenants, obligations, agreements, further terms provisio conditions set forth provided in the Plan, the exercise price may be paid as follows: (i) by delivery of cash or check acceptable to the Administrat through a broker-assisted exercise program acceptable to the Administrator; or (iii) by any other means acceptable to the Administrator, or (iv) b combination of the foregoing means of exercise. In the event that this Lease on Stock Option is exercised by one of the part of Lessee foregoing permitted transferees, the Company will be under no obligation to be performed, and whereby Assignee shall expressly agree that the provision Article shall, notwithstanding such assignment or subletting, continue to be binding upon it with respect to all future assignments and subleases, any such event, Lessee shall remain liable for all obligations of Lessee deliver Shares hereunder unless and until it is satisfied as to the authority permitted transferee to exercise this Lease is further amended or extended. Stock Option.

Any 4. Withholding.

Except as otherwise determined by the Administrator, this Stock Option may not be exercised unless the person exercising Stock Option timely remits to the Company, in cash, all amounts required to be withheld upon exercise (all as determined by the Administrator) or makes other attempted transfer, subletting, assignment, license arrangements satisfactory to use, hypothecation th Administrator for the payment of such taxes.

5. Nontransferability of Stock Option.

This Stock Option is not transferable by the Participant otherwise than by will or other alienation the laws of this Lease with Lessor’s written consent shall be void descent and shall confer no rights thereto. Lessor shall not unreasonably withhold, condition o its consent to any other requested transfer, assignment or subletting, provided however that distribution, and is exercisable during th Participant's lifetime only by the Participant (or in the event of an assignment the Participant's incapacity, the person or sublease, Le shall remain liable for all persons legally appointed to act on the Participant's behalf).

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6. Provisions of the obligations of Lessee hereunder unless and until this Lease Plan.

This Stock Option is further amended or extended, and the subtenant or assignee shall also agree to be responsible for all obligations.

No consent by Lessor to an assignment or sublease shall be deemed to constitute any consent to any further assignment or sublease, or relie from its obligations under this Lease, and Lessee hereby guarantees the prompt and timely payment of all Minimum Rent, Additional Rent charges hereunder. No indulgence or favor at any time granted by Lessor to Lessee or to anyone claiming under Lessee, nor acceptance of rer other dealing with, anyone claiming under Lessee, shall be deemed to be an assignment, sublease. Lessee and all persons claiming under Les be deemed to have waived any and all suretyship defenses. Lessor may require as a condition of any assignment or subletting, that the As sublessee execute an agreement directly with Lessor agreeing to perform and observe all of the obligations of Lessee hereunder, or ur sublease as applicable.

The parties acknowledge and agree that upon the establishment of Unit 6 of the Condominium, Lessor intends to convey its fee interest in U newly created entity under common control with Lessor and intends to simultaneously assign its interest in this Lease to such newly creat Lessor agrees that the terms of this Lease shall be binding upon its heirs, successors, and assigns and any transferee of all or any portions o interest under this Lease, and Lessor and Osterman Management LLC agree that no assignment or transfer of Lessor's interest under this Le release or be deemed to release the guaranty of Osterman Management LLC (provided below) and that such guaranty shall remain in full effect until the Lease Commencement Date regardless of any assignment or transfer by Lessor. Lessor shall provide copies of the Con Documents to Lessee for review and comment prior to recording

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the same and the Condominium Documents shall be subject to approval by Lessee prior to such recording, which approval shall not be unre withheld, conditioned or delayed. In the event the Condominium is never created, Lessor shall remain liable for providing the services th otherwise have been provided by the Trustees of the Condominium, including, without limitation, maintenance, repair, and replacement of comm as shown on the Condominium Documents as of the date hereof, and provision of utilities and vehicular access to the Demised Premises from way.

ARTICLE XIV

Subordination

Section 1. Subordination by Lessee. Lessee shall, from time to time, upon request of Lessor, subordinate this Lease to: a) any existi future Mortgage, heretofore or hereafter placed upon the Property or any part thereof, to any renewal, modification, replacement or extensio Mortgage, and to any and all advances made or to be made thereunder, provided that in the instrument of subordination the Mortgagee agrees and its successors and assigns, that so long as Lessee shall not be in default beyond any applicable notice and cure periods under this L Mortgagee and its successors and assigns will not disturb the peaceful, quiet enjoyment of the Demised Premises by Lessee or any other Lessee under this Lease; and b) the Master Deed (as now or hereafter established), the Declaration of Trust of Osterman Commerce Park Con Trust, and any and restatement, amendment, or modification from time to time thereof, and any and all documents establishing, creating, or a the Condominium (collectively, the "Condominium Documents, provided that in the instrument of subordination the parties executing on beh Condominium agree, for themselves and their successors and assigns, that so long as Lessee shall not be in default beyond any applicable n cure periods under this Lease, they will not disturb the peaceful, quiet enjoyment of the Demised Premises by Lessee or any other rights of Less this Lease and in the event of a conflict between the terms of the Condominium Documents and the terms of this Lease, the terms of this Le control. Lessor represents and warrants to Lessee that it has obtained any and all consents or approvals needed from any third parties in orde into this Lease.

Upon Lease execution, as related to the Building and all associated land, and with respect to any existing or future first lien mortgag of trust, ground leases, or other liens entered into by and between Lessor and/or its successor(s) in interest (collectively referred to as Mortgagee"), Lessor and/or its successor(s) in interest shall secure and deliver to Lessee, in a form reasonably acceptable to Lessee, a subor non-disturbance and attornment agreement ("Lessee SNDA") from and executed by each such Lessor's Mortgagee for the benefit of Les provision or such Lessee SNDA shall survive and convey with all subsequent changes in ownership and/or subsequent financing of the Buildi the land underneath and any obligation to subordinate the future Lessor Mortgagees shall be conditioned upon receipt of a Lessee SNDA f party.

Upon written request of Lessor, Lessee shall promptly execute and return to Lessor any commercially reasonable instrument reasonably acceptable to Lessee proffered by Lessor necessary to establish of record the subordination of this Lease to the Condominium Docu

Section 2. Lender Estoppels and Notices. Lessee will, upon request by Lessor or any Mortgagee, execute and deliver to such pa Estoppel Letter as to factual matters related to this Lease in form reasonably satisfactory to such party and (b) a copy of any written notice delivered by Lessee to Lessor at the same time and in the same manner as to Lessor, provided Lessee has been given the appropriate notic

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for such Mortgagee in advance. Lessee shall execute such commercially reasonable consents, estoppel certificates, and like agreements as re Lessor from time to time and withing fifteen (15) days of receipt of such document.

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Section 3. Mortgagee Not Liable. With reference to any assignment by Lessor of Lessor's interest in this Lease, or the rents and ot payable hereunder, conditional in nature or otherwise, which assignment is made to a Mortgagee, Lessee agrees that the execution thereof b and the acceptance thereof by such Mortgagee, shall not be treated as an assumption by such Mortgagee of any of the obligations of Lessor h unless such Mortgagee shall, by written notice sent to Lessee, specifically otherwise elect. Absent such an election, Lessor shall retain its o herein. Nevertheless, Lessee shall, upon receipt of written notice from Lessor and any such Mortgagee to whom Lessor may from time to time a rents or other sums due hereunder, make payment of such rents or other sums to such Mortgagee, and Lessor agrees to credit Lessee for a payments made, unless and until Lessee receives a subsequent written notice to the contrary.

ARTICLE XV

Self-Help

If Lessee shall default in the performance or observance of any obligation, agreement or condition in this Lease contained on its p performed or observed other than a payment obligation, and shall not cure such default within thirty (30) days after written notice from Lessor th Lessor may at any time thereafter, at its option and without waiving any claim for breach of agreement, cure such default for the account of Le make all necessary payments in connection therewith. Any amount paid by Lessor in so doing shall be deemed paid for the account of Le Lessee agrees to promptly reimburse Lessor therefore such sums as Additional Rent; provided that Lessor may cure any such default as a without notice, if the curing of such default is reasonably necessary to protect the real estate or Lessor's interest therein, or to prevent injury o to persons or property.

If Lessor shall default in the performance or observance of any obligation, agreement or condition in this Lease contained on its p performed or observed, and shall not cure such default within ten (10) days after written notice from Lessee of the default (or such shorter perio as is necessary if the nature of such default in Lessee's reasonable discretion presents an imminent risk to persons or property), Lessee may at thereafter, at its option and without waiving any claim for breach of agreement, cure such default for the account of Lessor and make all r payments in connection therewith. Any amount paid by Lessee in so doing shall be deemed paid for the account of Lessor and Lessor agrees to reimburse Lessee therefore such sums or to allow Lessee at Lessee's election to offset such amounts against Rent and Additional Rent co hereunder if the Lease has not expired or been terminated.

ARTICLE XVI

Mutual Waiver of Subrogation

Each party (or anyone claiming by, through or under such party by way of subrogation or otherwise) hereby releases the other party h from any and all liability or responsibility for any loss or damage to property and hereby agrees that it shall cause such a clause or endorsem included in all of its insurance policies required herein, to provide the other party with evidence thereof, and if necessary, pay any additional prem may be charged therefor.

ARTICLE XVII

Damage by Fire, Etc.

Section 1. Restoration by Lessor. If the Demised Premises or the Building shall be damaged or destroyed by fire, windstorm, or other casualty by Lessor's casualty or liability insurance policies required to be carried pursuant to the provisions of Article XI hereof, Lessee shall immedi notice

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thereof to Lessor, and unless this Lease is terminated as hereinafter provided, Lessor at its own expense shall reasonably promptly repair or r same so as to restore the Demised Premises to substantially the same condition they were in as of the Rent Commencement Date (exclu alterations, additions or improvements made by Lessee), subject, however, to zoning and building laws then in existence, provided that Lessor be responsible for any delay in such repair or reconstruction Plan, which may result from any cause beyond its reasonable control and provid that in no event shall Lessor be obligated to expend for such repair or reconstruction more than the amount of the insurance proceeds (net o and fees incurred by Lessor in collecting the same) received by Lessor on account thereof. In that event, until the Demised Premises are re Lessor, the payment of Minimum Rent and Additional Rent and other charges shall cease or be fairly apportioned according to whether the dest the Demised Premises or the Building is entire or partial.

Section 2. Termination Rights. If the Demised Premises or the Building shall be damaged or destroyed by fire or other casualty to the thirty percent (30%) or more of the sound insurable value thereof, or if any part of the Demised Premises or the Building shall be damag

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uninsured casualty by any cause to the extent of thirty percent (30%) or more of its sound insurable value, Lessor or Lessee may elect by writ to the other, may terminate this Lease.

Section 3. Lessee's Restoration. In the event that the Demised Premises or the Building are damaged or destroyed by any cause above, then, unless this Lease is terminated as above provided, Lessee, at its own expense and proceeding with all reasonable dispatch, after notice from Lessor that it has elected to repair and rebuild, shall repair or replace suitably all damaged or destroyed alterations, additions, impro trade fixtures, equipment, signs or other property installed by or belonging to Lessee.

Section 4. Cooperation. Lessor and Lessee agree to cooperate with each other to enable the prompt repair or replacement of the Premises and the Building arising from any insured loss. Failure by either party to fulfill its obligations hereunder shall be a default under the ter Lease. In no event shall Lessee or any person or entity claiming an interest in the Demised Premises by, through, or under Lessee claim, ma prosecute any action or suit at law or in equity against Lessor for any loss, cost or damage caused by or resulting from fire or other risk or casu Demised Premises or any part thereof.

ARTICLE XVIII

Eminent Domain, Condemnation

Section 1. Lessor and Lessee Right of Termination. If all the Demised Premises are taken by eminent domain, this Lease shall terminate when required to vacate the Demised Premises or such earlier date as Lessee is required to begin the payments of rent to the taking authority. I taking by eminent domain results in so much of the Demised Premises being taken as to render the Demised Premises or a material portio unsuitable for Lessee's continued use and occupancy, as determined by Lessor in its reasonable discretion, either Lessor or Lessee ma terminate this Lease. In the event Lessor or Lessee terminates this Lease pursuant to this Section 1, Lessee shall only make such payments other payments as are due related to periods until and including the date when Lessee is required to and does vacate the Demised Premis portion thereof is so taken or access is so taken. If, following any such taking neither Lessee nor Lessor terminate this Lease, then Lessor, a expense, but only to the extent of the award for any such taking, and proceeding with all reasonable dispatch, subject to delays beyond its re control, shall make such alterations, repairs and replacements of the improvements originally constructed by Lessor pursuant to Article IV, a necessary to put the remainder of the

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Demised Premises in proper condition for Lessee's business or to provide alternative access, as the case may be. In that event, Minimum Additional Rent and other charges shall be fairly abated according to the nature, extent, and affect of the taking.

Section 2. Damages. Lessor reserves all rights to damages to the Building, Property, the Demised Premises and the leasehold hereby created, with respect thereto, then or thereafter accruing, by reason of any taking by eminent domain or by reason of anything lawfully done or require public authority, and Lessee grants to Lessor all of Lessee's rights, if any, to such damages, except with respect to relocation expenses and th Lessee's personal property which may be compensated by separate award and Lessee shall execute and deliver to Lessor such further instru assignment thereof as Lessor may from time to time request.

ARTICLE XIX

Defaults By Lessee and Remedies

Section 1. Lessee's Default. Each of the following shall be an event of default ("Event of Default") hereunder: (A) if Lessee shall fail t installment of Minimum Rent, Additional Rent or any other payment due under this Lease, and such failure shall continue for a period of five (5) days following Lessor's written notice of same to Lessee; (B) if Lessee or any guarantor or surety of Lessee's obligations hereunder shall general assignment for the benefit of creditors; (ii) commence any proceeding for relief, or seeking reorganization, arrangement, adjustment, li dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all substantial part of its property; (iii) become the subject of any such proceeding which is not dismissed within ninety (90) days after its filing or en die or suffer a legal disability (if Lessee, guarantor or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence guarantor or surety is a corporation, partnership or other entity); (C) Lessee shall fail to discharge or bond over any lien placed upon the Premises in violation of this Lease within thirty (30) days after Lessee receives notice that any such lien or encumbrance is filed against the Premises; and (D) if Lessee shall fail to comply with any provision of this Lease, other than those specifically referred to hereinabove and, otherwise expressly provided therein, such default shall continue for more than thirty (30) days after Lessor shall have given Lessee written such default, or such longer period if such default cannot be reasonably cured within such thirty (30) day period, provided that Lessee commences the cure within the thirty (30) day period and diligently prosecutes such cure to completion. Upon the occurrence of an Event defined as aforesaid, then in any such case, notwithstanding any waiver or other indulgence of any prior default, Lessor may terminate this written notice to Lessee sent at any time thereafter, but before Lessee has cured or removed the cause for such termination. Such termination effect on the later of (i) the last day of the month in which Lessee receives the notice, or (ii) twenty-one (21) days after Lessee receives the n shall be without prejudice to any remedy Lessor might otherwise have for any prior breach of covenant.

Section 2. Lessor's Election. Upon each occurrence of an Event of Default and so long as such Event of Default shall be continuin may at any time thereafter, at its election by written notice to Lessee: (i) terminate this Lease or Lessee's right of possession, but Lessee sh

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liable as hereinafter provided; and/or (ii) pursue any remedies provided for under this Lease or at law or in equity. Upon the termination of this termination of Lessee's right of possession, it shall be lawful for Lessor, without formal demand or notice of any kind, to re-enter the Demised by summary dispossession proceedings or any other action or proceeding authorized by law and to remove Lessee and all persons and therefrom. If Lessor re-enters the Demised Premises, Lessor shall have the right to keep in place

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and use, or remove and store all of the fixtures, equipment and other property of Lessee left at the Demised Premises or elsewhere at the Prope

If Lessor elects not to terminate this Lease, but terminates Lessee's right of possession, Lessor may recover from Lessee the sur Minimum Rent, Additional Rent and all other amounts accrued hereunder to the date of such termination of possession; plus ii) the costs s Section 10.3 below; plus iii) an amount equal to (A) the Minimum Rent and Additional Rent which would have been payable by Lessee under t had Lessee's right to possession under this Lease not been so terminated for the period commencing after said termination of possession and the last day of the Term with such amounts becoming due and payable by Lessee on such dates as Minimum Rent would otherwise become payable hereunder, less (B) the fair market rents that would have been received during such period and the net rents received by Lessor from the Demised Premises (or any portion(s) thereof) for the period commencing after said termination of possession and ending on the last day of such net rents to be determined by first deducting from the gross rents received by Lessor from such re-letting the expenses incurred or paid by connection with said termination and in re-entering the Demised Premises and in securing possession thereof, as well as the actual and re expenses of re-letting (including, without limitation, altering and preparing the Demised Premises for new lessees and any broker's comm determined pursuant to Section 3 below). Any such re-letting may be for a shorter or longer period than the remaining Term, and in no event sha be entitled to receive any excess of such net rents over the Minimum Rent payable by Lessee to Lessor under this Lease. Even if Lessee has this Lease beyond any applicable notice and cure period, this Lease shall continue in effect for so long as Lessor does not terminate the Le Lessor may enforce all its rights and remedies under this Lease, including the right to recover Minimum Rent and Additional Rent as it becomes such payments due Lessor shall be made on the dates that Minimum Rent or such Additional Rent would otherwise come due under this Le Lessee agrees that Lessor may file suit to recover any sums falling due from time to time. Notwithstanding any such re-letting without terminatio may at any time thereafter elect in writing to terminate this Lease for such previous breach.

If Lessor elects to terminate this Lease and terminate Lessee's right of possession, Lessor may upon written notice to Lessee acc payments of Minimum Rent due hereunder in an amount not to exceed the lesser of: [***]

Section 3. Reimbursement of Lessor's Expenses. In the case of termination of this Lease or termination of Lessee's right of po pursuant to Section 2 above, Lessee shall reimburse Lessor for all actual expenses arising out of such termination, including, without limita costs actually incurred in collecting such amounts due from Lessee under this Lease (including reasonable attorneys' fees actually incurred and of litigation and the like but only if Lessor is successful in its litigation); ii) all customary and necessary expenses incurred by Lessor in attempti the Demised Premises or parts thereof (including advertisements, brokerage commissions, lessee's allowances, lease inducements, costs of space, and the like); and iii) all Lessor's other expenditures necessitated by the termination. The reimbursement from Lessee shall be due an within thirty (30) days following written notice from Lessor that an expense has been incurred with documentation substantiating such expense regard to whether the expense was incurred before or after the termination.

Section 4. Termination of Right of Possession. Even though Lessee has breached this Lease and abandoned the Demised Prem Lease shall continue in effect for so long as Lessor does not terminate this Lease (even though it has terminated Lessee's right of possess Lessor may enforce all its rights and remedies under this Lease, including the right to recover Minimum Rent and Additional Rent as it becomes such payments due Lessor shall be made on the dates that Minimum Rent and Additional Rent would otherwise come due under this Lease, an agrees that Lessor may file suit to recover

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any sums falling due from time to time. Notwithstanding any such termination of possession only, Lessor may at any time thereafter elect in terminate this Lease for such previous breach.

Section 5. Mitigation. Lessor shall use commercially reasonable efforts to relet the Demised Premises which efforts shall be subj reasonable requirements of Lessor to lease to high quality lessees and to develop the Demised Premises in a harmonious manner with an ap mix of uses, lessees, and terms of tenancies, and the like and factoring in the location and nature of the Demised Premises. It is agreed tha reputable leasing broker to lease the Demised Premises and cooperating in good faith with such broker shall satisfy the requirement that Le commercially reasonable efforts to relet.

Section 6. Claims in Bankruptcy. Nothing herein shall limit or prejudice the right of Lessor to prove and obtain in a proceeding for ba insolvency, arrangement or reorganization, by reason of the termination, an amount equal to the maximum allowed by the statute of law in eff

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time when, and governing the proceedings in which, the damages are to be provided, whether or not the amount is greater to, equal to, or less amount of the loss or damage which Lessor has suffered.

Section 7. Lessor's Right to Cure Defaults. Lessor may, but shall not be obligated to cure, at any time any default by Lessee under t after the applicable notice and cure period (if any) has expired. In curing such defaults, Lessor may enter upon the Demised Premises and t action thereon as may be necessary to effect such cure. In the case of an emergency threatening serious injury to persons or property, Lessor such default without notice. All costs and expenses incurred by Lessor in curing a default, including reasonable attorneys' fees actually incurred with interest thereon at a rate equal to the lesser of (a) eight percent (8%) per annum, or (b) the highest lawful rate of interest which Lessor ma to Lessee without violating any applicable law from the day of payment by Lessor shall be paid by Lessee to Lessor on demand. Lessor ma Security Deposit to effectuate any such cure.

Section 8. No Waiver. Exercise by Lessor of any one or more remedies hereunder granted or otherwise available shall not be deemed acceptance of surrender of the Demised Premises and/or a termination of this Lease by Lessor, whether by agreement or by operation of law understood that such surrender and/or termination can be effected only by the written agreement of Lessor and Lessee. Lessee and Lessor furt that forbearance or waiver by either party to enforce its rights pursuant to this Lease, or at law or in equity, shall not be a waiver of such party enforce one or more of its rights in connection with any subsequent default. A receipt by Lessor of rent with knowledge of the breach of any hereof shall not be deemed a waiver of such breach, and no waiver by Lessor of any provision of this Lease shall be deemed to have been ma expressed in writing and signed by Lessor. No payment by Lessee, or acceptance by Lessor, of a lesser amount than shall be due from Lessee shall be treated otherwise than as a payment on account of the earliest installment of any payment due from Lessee under the provisions he acceptance by Lessor of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, lesser amount is payment in full, shall be given no effect, and Lessor may accept such check without prejudice to any other rights or remed Lessor may have against Lessee.

Section 9. Default Interest. If any payment of Minimum Rent, Additional Rent or any other payment payable hereunder by Lessee shall not be paid within five (5) days of when due, Lessor may impose, at its election, interest on the overdue amount from the date when the s payable until the date paid at a rate equal to the lesser of (a) eight percent (8%) per annum, or (b) the highest lawful rate of interest which Le charge to Lessee without violating any applicable law. Such interest shall constitute Additional Rent payable hereunder.

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ARTICLE XX

Bankruptcy or Insolvency

Section 1. If Lessee shall become a Debtor under the United States Bankruptcy Code (the "Code"), and the Trustee or Lessee sha assume this Lease under authority then given by the Code, whether for the purpose of assigning the same or otherwise, such election and as may only be made if all the terms and conditions of Article XX (b) hereof are fully satisfied. If the Trustee or the Debtor shall fail to elect to as Lease within sixty (60) days after the filing of any such petition, this Lease shall be deemed to have been rejected, Lessor thereupon immediately entitled to possession of the Demised Premises without further obligation to Lessee or the Trustee, and this Lease shall be termi Lessor's right to be compensated for damages both at law and as provided in Article XIX hereof shall survive. "Elect to assume," for the purpos paragraph, shall be deemed to mean that the Trustee or the Debtor shall have filed a motion to assume this Lease in the Debtor's b proceedings and the Bankruptcy Court in such proceedings shall have allowed such motion.

Section 2. If the Trustee or Debtor-In-Possession has assumed this Lease pursuant to the provisions of Article XX (a) hereof for the of assigning (or electing to assign) pursuant to the Code, Lessee's interest under this Lease or the estate created thereby, to any other pers interest or estate may be so assigned only if Lessor shall acknowledge in writing that the intended assignee has provided adequate assuran future performance (as defined in this subparagraph (b)) of all of the terms, covenants and conditions of this Lease to be performed by Lessee purpose of this subparagraph (b), Lessor and Lessee acknowledge that, in the context of a bankruptcy proceeding of Lessee, at a minimum, " assurance of future performance" shall mean that each of the following conditions shall have been satisfied, and Lessor has so acknowledged in

(i) The assignee has submitted a current financial statement audited by a Certified Public Accountant which shows a net capital in amounts (which amounts shall in no event be less than the total of those of Lessee and any guarantor of L hereunder at the time of execution of this Lease) determined to be sufficient by Lessor to assure the future performance b Lessee's obligations under this Lease;

(ii) The assignee, if requested by Lessor, shall have obtained guarantees in form and substance satisfactory to Lessor from o who satisfy Lessor's standards of credit;

(iii) The assignee has submitted in writing evidence, satisfactory to Lessor, of substantial business experience in the sale of services permitted under this Lease;

(iv) Lessor has obtained all consents and waivers from any third party required under any lease, mortgage, financing ar agreement by which Lessor is bound to permit Lessor to consent to such assignment; and

(v) The assignee has supplied such additional information required to be supplied by this subparagraph (b) and has comp provisions, conditions and requirements set forth in subparagraph (a) for an assignment of Lessee's interest in this Lease o

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thereby.

(a) When, pursuant to the Code, the Trustee, or Debtor-In-Possession shall be obligated to pay reasonable use and occupancy ch the use of the Demised Premises or any portion thereof, such charges shall not be less than the rent specified hereunder, without limitation, ar deduction or set-off of any kind.

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(b) Neither Lessee's interest in this Lease, nor any lesser interest of Lessee herein, nor any estate of Lessee created hereby, sha any trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of having jurisdiction of the person or property of Lessee unless Lessor shall consent to such transfer in writing. No acceptance by Lessor of re other payments from any such trustee, receiver, assignee, person or other entity shall be deemed to have waived, nor shall it waive the need Lessor's consent or Lessor's right to terminate this Lease for any transfer of Lessee's interest under this Lease without such consent.

ARTICLE XXI

Notices

Any notice or other communication relating to this Lease shall be deemed to be duly given if in writing and sent by (i) email, (ii) reg certified mail, postage prepaid, return receipt requested, or (iii) by nationally recognized overnight delivery company, addressed to the party for w intended at such place as shall have been last designated by such party, either in this Article or in a notice given as herein provided as its ad receiving notices hereunder. Notwithstanding anything to the contrary herein, any notification of default given by either party shall be del registered or certified mail, postage prepaid, return receipt requested. Until further notice, Lessor designates Vincent Osterman, P.O. Box 67, W Massachusetts 01588, with a copy to W. Robert Knapik, Law Office of W. Robert Knapik, P.C., 1279 Providence Road, Whitinsville, Mass 01588 for such purpose, and Lessee designates Ron Honig, Esq., EyePoint Pharmaceuticals US, Inc., 480 Pleasant Street, Suite A210, W Massachusetts 02472, with a copy to Geoffrey H. Smith, Esq., Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., One Financial Cente Massachusetts 02111.

ARTICLE XXII

Hazardous Materials

Lessee shall not use any portion of the Demised Premises for the use, generation, treatment, storage or disposal of Hazardous Mater than those Hazardous Materials now or hereafter typically used in general and executive offices and for commercial manufacturing, lab and and Development purposes, without the express written prior consent of Lessor, which consent shall not be unreasonably withheld, cond delayed and, if required, its Mortgagees, and then only to the extent that the presence of the Hazardous Materials is (i) properly licensed and by all appropriate governmental officials and in accordance with all applicable laws and regulations including but not limited to laws and re related to disposal of such Hazardous Materials and (ii) in compliance with any terms and conditions stated in said prior written approvals by Le Mortgagees. Lessee shall promptly provide Lessor with copies of any notice of violations, notice of responsibility or demand for action from an state or local authority or official in connection with the presence of Hazardous Materials in or about the Demised Premises that Lessee receiv event of any release at the Property of Hazardous Materials by Lessee or its agents, employees, or contractors, Lessee shall promptly re problem in accordance with all applicable laws and requirements and shall indemnify and hold Lessor and its Mortgagees harmless from and a loss, costs, liability and damage, including reasonable attorney's fees and the cost of litigation arising from the presence or release of Hazardous Materials in or on the Demised Premises or the Common Area. The obligations of Lessee under this Article XXII shall survive exp termination of this Lease. Lessor represents that, to the best of its knowledge, there are presently no Hazardous Materials on any portion of the and Lessor agrees to indemnify and hold Lessee harmless from and against all loss, costs, liability and damage, including reasonable attorney's the cost of litigation arising from the presence or release of any such Hazardous Materials in or on the

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Demised Premises or the Common Area as of the Lease Commencement Date of this Lease, or any Hazardous Materials to the extent c exacerbated by or brought in or on the Demised Premises or the Common Area, by anyone other than Lessee at any time, whether before o Lease Commencement Date of this Lease. If Lessee becomes aware of a release or threat of release of Hazardous Materials, Lessee shall im advise Lessor in writing and provide to Lessor all available details regarding such release or threat of release of Hazardous Materials.

ARTICLE XXIII

Option

Section 1. Lessee is hereby granted and shall, if not at the time in default under this Lease continuing beyond any applicable notice periods, have two (2) options to extend the term of this Lease (each an "Option Term"), for either five (5) years or ten (10) years each, on the sa covenants and conditions and subject to the same restrictions and exceptions herein contained, except that Minimum Rent for each year of a Term shall be at 95 percent of fair market value of the Demised Premises (all relevant factors considered), as set forth below.

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Lessee shall exercise Lessee's first right and option to extend the Initial Term (the "First Option Term"), if at all, by notice in writing delivered no later than one hundred twenty (120) days prior to the expiration of the Initial Term, and shall notify Lessor whether Lessee elects the Initial Term for a First Option Term of five (5) years; or a First Option Term of ten (10) years, and upon receipt of such notice the Initial Term extended for a First Option Term of five (5) years or a First Option Term of ten (10) years, as the case may be.

If Lessee shall have exercised Lessee's right and option to extend the Initial Term for a First Option Term, then Lessee shall exercise second right and option to further extend the Term (the "Second Option Term"), if at all, by notice in writing to Lessor delivered no later than one twenty (120) days prior to the expiration of the First Option Term, and shall notify Lessor whether Lessee elects to further extend the Term for Option Term of five (5) years; or a Second Option Term of ten (10) years, and upon receipt of such notice the Term shall be extended for a Second Term of five (5) years or a Second Option Term of ten (10) years, as the case may be.

For the purposes of this section, Minimum Rent during any Option Term shall reflect a reasonable determination of 95% of the fair market that would be agreed upon between a landlord and a tenant entering into a new lease on or about the date on which the applicable (First or Option Term is to begin for a comparable term and for space comparable to the Demised Premises and a building comparable to the Building s the Worcester County, Massachusetts market area (the "Market Area"). Such determination of fair market value shall take into account any economic differences between the terms of this Lease and any comparable lease, such as rent abatements, construction costs and other con and the manner, if any, in which the landlord under any such comparable lease is reimbursed for operating expenses and taxes. The determinat market value shall also take into consideration any reasonably anticipated changes in rental conditions from the time such fair market value determined and the date upon which the applicable Option Term will begin.

If Lessee timely exercises any option to extend the Term, then not later than ten (10) days following Lessor's receipt of Lessee's notic shall notify Lessee in writing of Lessor's determination of the Minimum Rent during such Option Term ("Lessor's Rental Notice"). If Lessee object to Lessor's determination of the Minimum Rent, by written notice to Lessor within ten (10) days after the date of

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Lessor's Rental Notice, then Lessee shall be deemed to have accepted the Minimum Rent set forth in Lessor's Rental Notice for the entirely o applicable Option Term.

If Lessee timely objects to Lessor's Rental Notice, and the parties cannot agree within thirty (30) days after Lessor receives Lessee's objection, on the Minimum Rent to be paid during such Option Term, then the Term shall automatically be extended and Minimum Rent for su Term shall be submitted to arbitration as follows: Minimum Rent shall be determined by impartial arbitrators (who shall be qualified real estate a or brokers with at least ten (10) years of experience dealing with like types of properties in the Market Area), one to be chosen by Lessor, chosen by Lessee, and a third to be selected, if necessary, as below provided, and the arbitrators shall agree upon the rent that would be landlord by a tenant entering into a new lease on or about the date on which the applicable Option Term is to begin for a comparable term and comparable to the Demised Premises and a building comparable to the Building located within the Market Area, taking into account any economic differences between the terms of this Lease and any comparable lease, such as rent abatements, construction costs and other con and the manner, if any, in which the landlord under any such comparable lease is reimbursed for operating expenses and taxes. The unanimo agreement of the two chosen arbitrators (without selection and participation of a third arbitrator), or otherwise the written agreement of a majorit arbitrators chosen and selected as set forth below, shall be conclusive and binding upon Lessor and Lessee as to Minimum Rent to be paid du Option Term. Lessor and Lessee shall each notify the other of its chosen arbitrator within ten (10) days following a demand for arbitration. If arbitrators shall not have reached agreement within thirty (30) days after their designation, they shall select an impartial third arbitrator to Minimum Rent as defined above. Such third arbitrator and the first two arbitrators shall render their decision within thirty (30) days following th appointment of the third arbitrator, and upon notification of such decision to Lessor and Lessee, such decision shall be conclusive and bind Lessor and Lessee as to Minimum Rent to be paid during such Option Term. Lessor and Lessee shall each pay the expenses of its own arbi shall share the payment of expenses of the third arbitrator equally, regardless of the outcome of arbitration. If the dispute between the parties Minimum Rent for the Option Term has not been resolved before the commencement of the Option Term, Lessee shall pay Minimum Rent for t Term based upon the Minimum Rent designated by Lessor in the Lessor's Rental Notice until either (i) agreement of the parties as to the fair ma or (ii) decision of the arbitrators, as the case may be, at which time Lessee shall promptly pay any underpayment of Minimum Rent to Lessor, shall credit the overpayment of Minimum Rent against the next installment of rental or other charges due to Lessor.

Section 2. Lessee shall give written notice of its exercise of each option at least one hundred twenty (120) days prior to the expirat Initial Term or then current Option Term, as applicable. If any of the Option Terms are not extended strictly within the time periods provided h then the option to extend will automatically terminate.

ARTICLE XXIV

Miscellaneous Provisions

Section 1. No consent or waiver, express or implied, by either party to or of any breach in the performance by the other party, of its ag hereunder shall be construed as a consent or waiver to or of any other breach of the same agreement at a different time or of any other co agreement. No acceptance by Lessor of any rent or other payment hereunder, even with the knowledge of any such breach, shall be deemed

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thereof nor shall any acceptance of rent or other such payment in a lesser amount than is herein required to be paid by Lessee, regardle endorsement on any check or any statement in any letter accompanying the payment of the same, be construed as an accord and satisfaction o

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manner other than as a payment on account by Lessee, unless otherwise agreed to in writing. No reference in this Lease to any sublessee, licensee or concessionaire, or acceptance by Lessor from other than Lessee of any payment due hereunder shall be construed as a consent to any assignment or subletting by Lessee, or to give to Lessee any right to permit another to occupy any portion of the Demised Premises herein expressly provided. No waiver by Lessor in respect of any one tenant shall constitute a waiver with respect to any other tenant. Failure o of Lessor to complain of any action or non-action on the part of Lessee or to declare Lessee in default, no matter how long such failure may shall not be deemed to be a waiver by Lessor of any of its rights hereunder.

Section 2. If Lessor makes any actual, out of pocket expenditures, including but not limited to architectural, engineering or attorney' incurs any obligations for the payment of money in connection with any proposed assignment or subletting (whether the assignment or sul approved or not), or for any other matter for which Lessor's approval or permission is sought, in the performance of any of Lessee's obligatio Lessee fails to timely perform (whether as self-help or otherwise), in all cases, such sums paid or costs or obligations incurred, including but not reasonable attorney's fees, with interest at the Default Interest Rate, up to an amount not to exceed $3,000 per request, shall be paid to L Lessee as Additional Rent within thirty (30) days after Lessor gives Lessee written notice thereof.

Section 3. In no case shall mention of specific instances under a more general provision be construed to limit the generality of said pro

Section 4. If any provision of this Lease or the application thereof to any person or circumstance shall be to any extent unenforceable, the remainder of this Lease and its application to persons or circumstances other than those as to which it is invalid or unen shall not be affected thereby and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 5. Lessor agrees that upon Lessee's paying the rent and performing and observing the agreements, conditions and other prov its part to be performed and observed, Lessee shall and may peaceably and quietly have, hold and enjoy the Demised Premises and the ap rights thereto as set forth in this Lease during the Term of this Lease without any manner of hindrance or molestation from Lessor or anyone under Lessor, subject, however, to the rights of holders of present and future Mortgages, and to the terms and provisions of this Lease.

Section 6. The obligations, conditions and agreements in this Lease contained to be kept and performed by the parties hereto shall b upon and inure to the benefit of said respective parties, their legal representatives, successors and assigns, and the same shall be con covenants running with the land. Wherever in this Lease reference is made to either of the parties, it shall be held to include and apply to the su and assigns of such party as if in each case so expressed, unless the context requires otherwise and regardless of the number or gender of su provided, however, that the term "Lessor" as used in this Lease means only the owner for the time being of the land of which the Demised Prem a part so that in the event of any sale or sales of such land and Demised Premises or of said Lease, Lessor shall be and hereby is entirely relea covenants and obligations of Lessor hereunder arising after the date upon which the new owner of the Property takes ownership.

Section 7. This Lease shall constitute the only agreement between the parties relative to the Demised Premises and no oral statemen prior written matter not specifically incorporated herein shall be of any force or effect. In entering into this Lease, each party relies solely representations and agreements contained herein. This Lease shall not be modified except by a writing executed by both parties.

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Section 8. The section and article headings throughout this Lease are for convenience and reference only and the words containe shall in no way be held to limit, define or describe the scope or intent of this Lease or in any way affect this Lease.

Section 9. Except as expressly set forth in this Lease, neither party shall be liable for a delay or failure in the commencement, perfor completion of any of its obligations hereunder where such delay or failure is attributable to strikes or other labor conditions, inability or d obtaining materials services, wars, delays due to weather, or other cause beyond the reasonable control of the party against which enforcement and in no event shall either party be liable to the other for incidental or consequential damages as a result of any such delay or failure. The pro this section shall not operate to excuse either party from the payment of any payment requirements under the terms of this Lease.

Section 10. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorist activities, inability to obtain services, labor, or materials or reasonable substitutes therefore, governmental actions, civil commotions, f earthquake or other casualty, governmental declared state of emergencies, government-declared public health emergencies, government-de World Health Organization-declared pandemic (specifically including COVID-19), government mandated quarantines, government-declared stay orders or travel bans and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations with regard to Minimum Rent, Additional Rent and other sums due under or to be paid by either party pursuant to this Lease (collectively, Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time perio

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extended by the period of any delay in such party's performance caused by a Force Majeure. In addition, Lessee shall not withhold or abate Rent, Additional Rent and other sums to be paid by Lessee pursuant to this Lease based on a claim of Force Majeure.

Section 11. If Lessor shall at any time be an individual, joint venture, tenancy in common, corporation or partnership (general or l trust, or any other type of entity, it is specifically understood and agreed that there shall be no personal liability of Lessor or any joint ventur partner, trustee, shareholder, beneficiary or holder of a beneficial interest thereof under any of the provisions hereof or arising out of the oblig forth in this Lease. In the event of a breach or default by Lessor of any of its obligations hereunder, Lessee shall look solely to Lessor's cas liability insurance for the satisfaction of Lessee's remedies, and it is expressly understood and agreed that Lessor's liability under the terms, c conditions, warranties and obligations of this Lease shall in no event exceed funds paid pursuant to such insurance. It is further understood ar that the liability of any party who is a Lessor (whether the original Lessor or any successor Lessor) shall be limited to defaults occurring or arisi the period for which such party shall have been a Lessor, and such party shall not be liable for defaults occurring or arising at any time before s obtained its interest as Lessor or after such party disposed of its interest as Lessor.

Section 12. Real Estate Brokerage Fees. [***]

Section 13. Employees or agents of Lessor have no authority to make or agree to make a lease or any other agreement or unde connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservati Demised Premises, and this document shall become effective and binding only upon the execution and delivery hereof by both Lessor and Less

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Section 14. The obligations of Lessor hereunder shall be binding upon Lessor and each succeeding owner of Lessor's interest hereu during their respective periods of such ownership, and Lessor, and each succeeding owner, shall have no liability whatsoever except for its o during their own respective period of ownership. If Lessor fails to perform any covenant, term or condition of this Lease upon Lessor's p performed, and if as a consequence of such default Lessee recovers a money judgment against Lessor, such judgment shall be satisfied only proceeds of sale received upon execution of such judgment and levied thereon against the right, title and interest of Lessor in the Property, ar Lessor nor the Members or Managers comprising the entity which is Lessor herein, nor any shareholder, trustee, officer, employee or agent the be liable for any deficiency.

Section 15. Lessor and Lessee shall execute a Notice of Lease in the form attached hereto as Exhibit C. Lessee may record the Lease, at its sole expense.

Section 16. Roof Equipment. Lessee may install additional mechanical systems and or satellite assemblies on the roof of the Buildir additional charge or cost provided that:

1) the plans for such systems or assemblies have been approved in writing by Lessor, such approval not to be unre conditioned or delayed as relates to structural integrity of the Building and avoiding an unsightly installation and appearance
2) such assemblies comply with all applicable rules, laws and regulations; and
3) Lessee is responsible for any and all damage caused by the installation or removal of such assemblies or resulting from the such assemblies, including but not limited to injuries caused by such assemblies.

Section 17. Backup Generators. At all times during the Term and during any Option Term, Lessee shall have the right to place, at Lessee's sole expense, multiple generators on the Demised Premises (in addition to the generators being installed as part of the Lessor Improvements at expense), without additional ongoing fees payable to Lessor and without additional charge in Minimum Rent or Additional Rent to Lessee, subj reasonable written approval of Lessor only as relates to: a) the structural integrity of the Building and avoiding an unsightly installation and app or b) approval from any and all required governmental authorities.

Section 18. In the event that any party claiming to have supplied labor and/or materials to the Demised Premises at Lessee's (or agents') request shall file a mechanic's lien or other claim, Lessee shall promptly take such steps as may be required to have the mecha released or the claim resolved, including bonding over or discharging the same.

Section 19. Notwithstanding anything to the contrary herein, Lessor shall have no restrictions or limitations of any kind concerning rent space in any building situated in the Osterman Commerce Park or other property owned by Lessor (or any related entity), so long as s maintains the same standards as the existing Lessees within Osterman Commerce Park.

Section 20. Lessor represents, to the best of Lessor's knowledge, that upon the Lease Commencement Date, the Building and the Premises, including but not limited to: a) entrance doors; b) lobby areas; c) stairwells, HVAC mechanical systems; and d) restrooms; shall comp statutes, laws, by-laws, ordinances, rules, regulations, directives, orders and requirements of all governmental, quasi-governmental or r authorities or agencies having jurisdiction over the Building and the Demised Premises including, without limitation, police, fire, health and envir authorities or agencies, including but not limited to the Americans With Disabilities Act and the most modern ASHRE standard for fresh air breach of such representation shall: a) be corrected by

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Lessor at its sole cost and expense without any pass thru expenses to Lessee; and b) be completed prior to the Lease Commencement Date o thereafter as is reasonably practical. Lessee may engage a certified environmental engineer to perform periodic indoor air quality tests, and sh the results of such tests with Lessor; in the event that any deficiency not caused by Lessee is identified by such tests, Lessor shall use com reasonable efforts to remediate same, at Lessor's sole expense.

Section 21. Lessor represents, to the best of Lessor's knowledge, that upon Lessee's occupancy of the Demised Premises, the Bu Property shall be free of all hazardous materials, including but not limited to PCBs and asbestos, and that the Building and Property shall be m in compliance with all environmental laws, rules, and regulations. So long as such actions are not the fault of Lessee or its employees or invitees, Lessor shall indemnify Lessee against any preexisting, or future litigation that may arise to the extent the same are not caused by violation of any Environmental Laws.

Section 22. Lessee Incentive Financing. Lessor represents that it will support and, as required by all applicable policies or statutes, b any municipal tax increment financing agreement or other tax or non-tax incentive agreements potentially available to Lessee, be they offer Town of Northbridge, the Commonwealth of Massachusetts, or other taxing jurisdiction. Lessor shall pass on any and all abatements and real savings resulting from a municipal tax increment financing agreement to Lessee, as any such abatements accrue, via a credit against the otherwise due, or via another instrument mutually agreed upon by all parties pursuant to the terms of this Lease.

ARTICLE XXV

Exhibits

Exhibits A – C, attached hereto, are incorporated herein by reference.

A - copy of the Plan of Demised Premises, Property, Common Area

B - Description of Lessor's Work

C - Notice of Lease

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IN WITNESS WHEREOF, the parties hereto have executed this Lease under seal as in effect on the day date of the grant of this Sto has been furnished to the Participant. By accepting this Stock Option, the Participant agrees to be bound by the terms of the Plan and year fi written.

LESSOR:	**LESSEE:**
V.E. Properties IX, LLC	**EyePoint Pharmaceuticals US, Inc.**
/s/ Vincent Osterman Vincent Osterman, Manager	/s/ Nancy Lurker Nancy Lurker, President
	/s/ George O. Elston George O. Elston, Treasurer
Trustees of Osterman Commerce Park Condominium dated _____:	**Osterman Management LLC**
/s/ Vincent Osterman _____, Duly Authorized	/s/ Vincent Osterman
The Trustees execute this Lease with the consent of all Unit Owners (as defined in the Declaration of Trust of Osterman Park Condominium Trust) for the purpose of acknowledging the appointment of Lessee as attorney in fact for Lessor and agree Lessee shall have the self-help rights as provided in Article V, Section 3(f) of this Lease.	Osterman Management LLC executes this Lease for the purpose guaranteeing all of the monetary and non-monetary obligations Lessor relating to the Lessor Improvements set forth in this Lea until the Lease Commencement Date, following which Osterm Management LLC shall have no continuing liability. This guaran shall remain in full force and effect until the Lease Commenceme Date regardless of any assignment or transfer of Lessor's intere under this Lease in whole or in part, and upon the Lea Commencement Date this guaranty shall be deemed void and of further force or effect without the need for any further affirmati action of any party, including but not limited to Osterm Management LLC.

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EXHIBIT A

Plan of Demised Premises, Property, Common Area

[***]

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EXHIBIT B

Basis of Design

[***]

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EXHIBIT C

Notice of Lease

[***]

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Exhi

SECOND AMENDMENT

TO

LOAN AND SECURITY AGREEMENT

This Second Amendment to Loan and Security Agreement (this"Amendment") is entered into this 6th day of December, 2022, by ar
(a) **SILICON VALLEY BANK** ("Bank") and (b) (i) **EYEPOINT PHARMACEUTICALS, INC.**, a Delaware corporation ("Parent"), (ii) **E**
PHARMACEUTICALS US, INC., a Delaware corporation ("EyePoint US"), and (iii) **ICON BIOSCIENCE, INC.**, a Delaware corporation ("Icon"
with Parent and EyePoint US, individually and collectively, jointly and severally, certificate. All initially capitalized terms used herein will
"Borrower") whose address is 480 Pleasant Street, Suite A210, Watertown, Massachusetts 02472.

RECITALS

A. Bank and Borrower have entered into that certain Loan and Security Agreement dated as of March 9, 2022, as amended by th
First Amendment to Loan and Security Agreement dated as of June 2, 2022 (as the same may from time to time be further amended,
supplemented or restated, the "Loan Agreement").

B. Bank has extended credit to Borrower for the purposes permitted meaning specified in the Loan Agreement. Plan, unless another
is specified herein.

7.Other Agreements.

C. Borrower has requested that Bank amend the Loan Agreement to make certain revisions to the Loan Agreement as more fully set forth her

D. Bank has agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, s
the conditions The Company and in reliance upon the representations and warranties set forth below.

AGREEMENT

NOW, THEREFORE, Participant agree, in consideration of the foregoing recitals grant of this Stock Option, and other good and valuable consider
receipt and adequacy of which is hereby mutually acknowledged, that the provisions of Section 2 shall supersede the provisions of any other a
between the Company and intending Participant regarding the vesting and exercise of this Stock Option following a cessation of the Pa
Employment by reason of an involuntary termination without Cause or a voluntary termination for Good Cause.

IN WITNESS WHEREOF, the Company has caused this instrument to be legally bound, executed by its duly authorized officer.

EyePoint Pharmaceuticals, Inc.

By ###SIGNATURE###

Dated: ###GRANT_DATE###

Acknowledged and agreed:

By: _____

###PARTICIPANT_NAME###

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Dated: ###GRANT_DATE###

Exhibit 10.21

CONSULTING AGREEMENT
between
EYEPOINT PHARMACEUTICALS US, INC.
and
John Landis, PhD

THIS Consulting Agreement (the "Agreement"), effective as of December 18, 2023 (the "Effective Date"), is entered into between John Landis, PhD ("Consultant") and EyePoint Pharmaceuticals US, Inc. ("EyePoint"), a corporation organized under the parties hereto laws of the State of Delaware.

EyePoint desires to retain the services of Consultant in a consulting capacity with respect to certain activities as described in this Agreement, and Consultant is willing to so act.

NOW THEREFORE, Consultant and EyePoint agree as follows:

1. Definitions. Services Capitalized terms used but . EyePoint hereby retains Consultant as a consultant to EyePoint and Consultant hereby agrees to perform for EyePoint the consulting services described in **Exhibit A** hereto (the "Services"). Consultant agrees to perform the Services personally and will not defined in this Amendment shall have subcontract any Services without the meanings given to them in the Loan Agreement. prior written consent of EyePoint.

2. Amendment to Loan Agreement.

2.1 Nature of RelationshipSection 12.2 (Definitions). Clause (n) of the definition of "Eligible Accounts" set forth i 12.2 Consultant is deleted in its entirety and replaced with the following:

" (n) Accounts owing from an Account Debtor where goods or services have not yet been rendered to the Account Deb three (3) Business Days of the invoice date (sometimes called memo billings or pre-billings);"

3.Limitation of Amendments.

3.1 The amendments set forth in Section 2, above, are effective for the purposes set forth herein an limited precisely as written independent contractor and shall not be deemed to (a) be a consent to any other

amendment, waiver or modification an employee of EyePoint for the purposes of any other term employee benefit programs, income tax wi FICA taxes, unemployment benefits or condition of otherwise. Consultant shall not enter into any Loan Document, agreement or (b) prejudice incur any right obligations on EyePoint's behalf or remedy which Bank may now have or may have commit EyePoint in the future u connection with any Loan Document. manner without EyePoint's prior written consent.

3.2 3.Term and Expiration. This Amendment Agreement shall be construed in connection with and become effective as part of the Loan Documents Effective Date and all terms, conditions, representations, warranties, covenants and agreements remain in effect through December 31, 2024, (the "Term"), unless earlier terminated as provided herein.

4. Compensation. In consideration for the Services to be provided, EyePoint will pay Consultant a fee, as more specifically set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

4.Representations and Warranties. To induce Bank to enter into this Amendment, Borrower hereby represents and w to Bank as follows: **Exhibit B** hereto.

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contair Loan Documents are true, accurate, and complete in all material respects as of the date hereof (except to the extent such representations and w relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

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4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its o under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Bank on the Effective Date, remain true, and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrov obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrov obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any law or regulation binding on o Borrower, (b) any contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any court or other govern public body or authority, or subdivision thereof, binding on Borrower, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrov obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on except as already has been obtained or made; and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obl Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, in reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights

5. [Intentionally omitted] Expenses. EyePoint will reimburse Consultant for only those specific expenses set forth in **Exhibit B** hereto. No other expenses shall be incurred on behalf of Company; nor shall any other expenses be reimbursed to Consultant by Company. All expenses require proper receipts in addition to documented approval as set forth in **Exhibit B**.

6. Intellectual Property, Proprietary Information, Confidentiality and Publicity.

6. (a) **[Intentionally omitted]**.Consultant shall promptly and fully disclose to EyePoint all inventions, improvements, discoveries, developments, original works of authorship,

7.Integration. This Amendment and the Loan Documents represent the entire agreement

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about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, represe warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge Amendment and the Loan Documents.

8.Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together deemed to constitute one and the same instrument.

9.Effectiveness. This Amendment shall be deemed effective upon (a) the due execution and delivery to Bank of this Amendmen party hereto and (b) Borrower's payment to Bank of Bank's legal fees and expenses in connection with the negotiation and preparatio Amendment.

[Signature page follows.]

In Witness Whereof, the parties hereto have caused this Amendment as of the date first written above.

BANK	**BORROWER**
SILICON VALLEY BANK	EYEPOINT PHARMACEUTICALS, INC.
By: /s/ John Sansone	By: /s/ George Elston
Name: John Sansone	Name: George Elston
Title: Vice President	Title: Chief Financial Officer and Head of Corporate Development

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EYEPOINT PHARMACEUTICALS US, INC.

By: /s/ George Elston

Name: George Elston

Title: Chief Financial Officer

ICON BIOSCIENCE, INC.

By: /s/ Philip Hoffstein

Name: Philip Hoffstein

Title: President

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